

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 602 Session of 2021

INTRODUCED BY OWLETT, O'NEAL, ECKER, PICKETT, BOBACK, SCHLEGEL, CULVER, STAATS, MILLARD, KAUFFMAN, CIRESI, SCHLOSSBERG, LONGIETTI, R. BROWN, GROVE, SAYLOR, ROWE, PISCIOTTANO, CONKLIN, HAMM, STRUZZI, B. MILLER, GAYDOS, RYAN, WHEELAND, GLEIM, HARKINS, CAUSER, MARSHALL, WARNER, N. NELSON, KINSEY, SHUSTERMAN, RADER, TOOHL, MERSKI, SMITH, DOWLING, DAVIDSON, BURGOS, MUSTELLO, GUENST, KEEFER, PENNYCUICK, IRVIN, MERCURI AND GUZMAN, MARCH 16, 2021

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MAY 5, 2021

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," providing for the Career and
6 Technical Education Investment Incentive Program.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. The act of March 10, 1949 (P.L.30, No.14), known
10 as the Public School Code of 1949, is amended by adding an
11 article to read:

ARTICLE XX-K

CAREER AND TECHNICAL EDUCATION

INVESTMENT INCENTIVE PROGRAM

15 Section 2001-K. Scope of article.

16 This article relates to the Career and Technical Education

1 Investment Incentive Program.

2 Section 2002-K. Definitions.

3 The following words and phrases when used in this article
4 shall have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 "Applicable tax." The liability for taxes imposed under
7 Articles III, IV, VI, VII, VIII, IX, XV or XX of the Tax Reform
8 Code of 1971 or a tax under Article XVI of the act of May 17,
9 1921 (P.L.682, No.284), known as The Insurance Company Law of
10 1921. The term shall not include a tax withheld by an employer
11 from an employee under Article III of the Tax Reform Code of
12 1971.

13 "Area career and technical education school." A specialized
14 public secondary school established under subarticle (c) of
15 Article XVIII which is used exclusively or principally for the
16 provision of career and technical education programs to
17 individuals preparing to enter the labor market or pursue
18 postsecondary education.

19 "Business firm." An entity authorized to do business in this
20 Commonwealth and subject to taxes imposed under Article III, IV,
21 VI, VII, VIII, IX, XV or XX of the Tax Reform Code of 1971 or a
22 tax under Article XVI of The Insurance Company Law of 1921. The
23 term includes a pass-through entity, including a pass-through
24 entity whose purpose is the making of contributions under this
25 article and whose shareholders, partners or members are composed
26 of owners or employees of other business firms.

27 "Career and technical education partnership organization." A
28 nonprofit entity which meets all of the following:

29 (1) Is exempt from Federal taxation under section 501(c)
30 (3) of the Internal Revenue Code of 1986 (Public Law 99-514,

1 26 U.S.C. § 501(c)(3)).

2 (2) Provides support or expands access to career and
3 technical education programs.

4 (3) Contributes based on one of the following:

5 (i) At least 80% of its annual cash receipts as
6 contributions to a participating school for program-
7 related costs. For purposes of this subparagraph, a
8 nonprofit entity "contributes" its annual cash receipts
9 when it expends or otherwise irrevocably encumbers those
10 funds for expenditure during the then-current fiscal year
11 of the nonprofit entity or during the next succeeding
12 fiscal year of the nonprofit entity. A nonprofit entity
13 shall also include a school district foundation, public
14 school foundation, charter school foundation or area
15 career and technical education school foundation.

16 (ii) At least 80% of its annual cash receipts to an
17 enrollment expansion program. For purposes of this
18 subparagraph, a nonprofit entity "contributes" its annual
19 cash receipts to an enrollment expansion program when it
20 expends or otherwise irrevocably encumbers those funds
21 for distribution during the then-current fiscal year of
22 the nonprofit entity or during the next succeeding fiscal
23 year of the nonprofit entity.

24 (iii) At least 80% of its annual cash receipts to a
25 combination of expenditures under subparagraphs (i) and
26 (ii).

27 "Career and technical education program."

28 (1) A vocational education program approved by the
29 Department of Education under 22 Pa. Code Ch. 339 (relating
30 to vocational education); and

1 (2) A program that provides educational activities which
2 meet all of the following:

3 (i) Offer a sequence of courses that:

4 (A) Provide individuals with content aligned
5 with academic standards and technical knowledge and
6 skills needed to prepare for further education and
7 careers in a high-priority occupation.

8 (B) Provide technical skill proficiency, an
9 industry-recognized credential or a certificate.

10 (ii) Include competency-based applied learning that
11 contributes to the academic knowledge, higher-order
12 reasoning and problem-solving skills, work attitudes,
13 general employability skills, technical skills,
14 occupation-specific skills and knowledge of all aspects
15 of an industry, including entrepreneurship, of an
16 individual.

17 "Charter school." As defined in section 1703-A.

18 "Contribution." The donation of any of the following:

19 (1) Cash to a career and technical education partnership
20 organization to be used to pay program-related costs.

21 (2) Cash to a career and technical education partnership
22 organization to be used for an enrollment expansion program.

23 (3) Personal property, including equipment and supplies,
24 as approved by the participating school.

25 (4) Services, the value of which is the net cost of the
26 donation to the donor or the pro rata hourly wage, including
27 benefits, of the individual performing the service, as
28 approved by the participating school.

29 "Cyber charter school." As defined in section 1703-A.

30 "Department." The Department of Community and Economic

1 Development of the Commonwealth.

2 "Eligible student." An individual who:

3 (1) Is of school age, as defined in section 2002-B.

4 (2) Is enrolled in a school entity.

5 (3) Intends to enroll in an age-appropriate career and
6 technical education program.

7 (4) Is a current resident of this Commonwealth.

8 "Enrollment expansion program." A program established to pay
9 the costs associated with increasing the enrollment of eligible
10 students in a career and technical education program at
11 participating schools.

12 "High-priority occupation." A profession that:

13 (1) is high-wage and high-skill for which there is
14 excess employer demand as identified in the Department of
15 Labor and Industry's current year's high-priority or in-
16 demand occupations list or the State System of Higher
17 Education's workforce needs assessment; or

18 (2) requires a credential, certification, licensing,
19 postsecondary training, associate's degree, bachelor's
20 degree, master's degree or doctoral or first professional
21 degree.

22 "Participating school." A public school, area career and
23 technical education school, charter school or regional charter
24 school that chooses to participate in the program.

25 "Pass-through entity." A partnership as defined in section
26 301(n.0) of the Tax Reform Code of 1971, a single-member limited
27 liability company treated as a disregarded entity for Federal
28 income tax purposes or a Pennsylvania S corporation as defined
29 in section 301(n.1) of the Tax Reform Code of 1971. The term
30 includes a pass-through entity that owns an interest in a pass-

1 through entity.

2 "Program." The Career and Technical Education Investment
3 Incentive Program established under this article.

4 "Program-related costs." Cost and fees for rental or
5 purchase of equipment, materials or supplies used in instructing
6 a career and technical education program at a participating
7 school.

8 "Public school." A public elementary school or a public
9 secondary school at which a resident of this Commonwealth may
10 legally fulfill the compulsory school attendance requirements of
11 this act and which meets the applicable requirements of Title VI
12 of the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat.
13 241).

14 "Regional charter school." As defined in section 1703-A.

15 "School entity." A public school, area career and technical
16 education school, charter school, regional charter school or
17 cyber charter school.

18 "Secondary school." A school with an eleventh grade.

19 "Tax Reform Code of 1971." The act of March 4, 1971 (P.L.6,
20 No.2), known as the Tax Reform Code of 1971.

21 Section 2003-K. Declaration of policy.

22 The Commonwealth recognizes that businesses need educated and
23 trained workers. It is the intent of the General Assembly to
24 foster and encourage private investment in career and technical
25 education programs and the repair, upkeep, replacement and
26 upgrading of industry-grade materials and instructional
27 equipment. Furthermore, it is the intent of the General Assembly
28 that private investment will open doors of opportunity for
29 students and enable them to develop the knowledge and skills for
30 high-demand careers under this article.

1 Section 2004-K. School participation in program.

2 (a) Election to participate.--By October 1, 2021, and each
3 January 1 thereafter, a school entity other than a cyber charter
4 school may elect to participate in the program under this
5 article for the following school year.

6 (b) Notice.--A school entity that elects to participate
7 under subsection (a) shall notify the department of the intent
8 to participate on a form developed by the department. The notice
9 under this subsection shall specify all of the following:

10 (1) That the school entity intends to be a participating
11 school.

12 (2) The amount of program-related costs attributable to
13 each eligible student. The amount under this paragraph shall
14 not exceed the amount that would have been attributed to a
15 student outside of the enrollment expansion program.

16 (c) Participating school responsibilities.--The following
17 responsibilities shall apply to a participating school:

18 (1) Prior to enrollment of a student, a participating
19 school shall inform the parent of a student of the rules,
20 policies and procedures of the participating school,
21 including any academic policies, disciplinary rules or
22 administrative procedures. Enrollment of a student in a
23 participating school shall constitute acceptance of any
24 rules, policies or procedures of the participating school.

25 (2) A participating school may enroll an eligible
26 student in a career and technical education program until the
27 participating school's available seats are filled.

28 Section 2005-K. Establishment and qualification by
29 organizations.

30 (a) Qualification.--

1 (1) In order to qualify for contributions under this
2 article, a career and technical education partnership
3 organization must certify to the department that the
4 organization is eligible to participate in the program.

5 (2) A career and technical education partnership
6 organization must agree to annually report by October 1,
7 2022, and each September 1 thereafter, on a form provided by
8 the department, the following information:

9 (i) The organization is exempt from taxation under
10 section 501(c)(3) of the Internal Revenue Code of 1986
11 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) ~~or is formed~~ <--
12 as a nonprofit corporation under the laws of this
13 Commonwealth.

14 (ii) The total number of eligible students and the
15 total amount of contributions awarded per participating
16 school during the immediately preceding school year
17 through an enrollment expansion program.

18 (iii) Where the career and technical education
19 partnership organization collects information on a
20 county-by-county basis, the total number of eligible
21 students and the total amount of contributions awarded
22 during the immediately preceding school year through an
23 enrollment expansion program to residents of each county.

24 (iv) The names and descriptions of career and
25 technical education programs and the total amount of the
26 contributions made to those programs during the
27 immediately preceding school year.

28 (v) The name of each participating school that works
29 with businesses that offer internships, apprenticeships
30 and mentoring programs.

1 (vi) The name of each participating school where
2 career and technical education programs that received
3 contributions were implemented as a result of the
4 contribution during the immediately preceding school
5 year.

6 (vii) Where the career and technical education
7 partnership organization collects information on a
8 county-by-county basis, the total number and the total
9 amount of contributions made during the immediately
10 preceding school year for career and technical education
11 programs at participating schools in each county in which
12 the contributions were made.

13 (viii) The number of credentials earned, including,
14 but not limited to, a certificate, industry certification
15 or State license, and the industry or occupation to which
16 the credential is linked to this program during the
17 immediately preceding school year.

18 (ix) The number of students employed in high-
19 priority occupations as a result of participating in the
20 program.

21 (x) The number of students who secured internships
22 or apprenticeships for high-priority occupations.

23 (xi) The organization's Federal Form 990 or other
24 Federal or State form indicating the tax status of the
25 organization for Federal and State tax purposes, if any,
26 and a copy of a compilation, review or audit of the
27 organization's financial statements conducted by a
28 certified public accounting firm, including an itemized
29 list of expenditures.

30 (3) A career and technical education partnership

1 organization shall provide information under paragraph (2) to
2 the best of the career and technical education partnership
3 organization's ability.

4 (4) The department shall provide forms to interested
5 career and technical education partnership organizations and
6 shall post the forms on its publicly accessible Internet
7 website.

8 (5) The department may not require any other information
9 to be provided by career and technical education partnership
10 organizations, except as expressly authorized under this
11 article.

12 (6) A career and technical education partnership
13 organization that does not meet the certification
14 requirements of this article shall not be eligible to
15 participate in the program.

16 (b) Publication.--The department shall post and update as
17 necessary a list of each career and technical education
18 partnership organization qualified under this section on the
19 department's publicly accessible Internet website.

20 Section 2006-K. Contributions.

21 (a) Designation of contribution.--A contribution made by a
22 business firm under this article shall be designated for:

23 (1) an enrollment expansion program; or

24 (2) program-related costs in a career and technical
25 education program.

26 (b) Use of cash contributions.--A participating school shall
27 keep all cash contributions received under this article in a
28 restricted account which shall only be used for program-related
29 costs and enrollment expansion programs.

30 Section 2007-K. Tax credit.

1 (a) Application.--A business firm may apply to the
2 department for a tax credit certificate for contributions made
3 to a career and technical education partnership organization
4 under section 2006-K. A business firm that receives a tax credit
5 under this article shall be subject to the limitations in this
6 section and section 2008-K.

7 (b) Time of application for credits.--

8 (1) Except as provided under paragraph (2), the
9 department may accept applications for tax credits available
10 during fiscal year 2021-2022 no earlier than January 1, 2021,
11 and for tax credits available each fiscal year thereafter no
12 earlier than July 1.

13 (2) The application of a business firm for tax credits
14 available during a fiscal year as part of the second year of
15 a two-year commitment or as a renewal of a two-year
16 commitment which was fulfilled in the previous fiscal year
17 may be accepted no earlier than May 15 preceding the fiscal
18 year.

19 (c) Tax credit.--The Department of Revenue shall on a first-
20 come, first-served basis grant a tax credit against an
21 applicable tax to a business firm providing proof of a
22 contribution to a career and technical education partnership
23 organization in the taxable year in which the contribution is
24 made in accordance with the following:

25 (1) The tax credit shall not exceed 75% of the total
26 amount contributed during the taxable year by the business
27 firm.

28 (2) Except as provided under subsection ~~(i)~~ (H), the tax <--
29 credit may not exceed \$750,000 annually per business firm for
30 contributions made to career and technical partnership

1 organizations.

2 (d) Priority.--Priority for a tax credit certificate under
3 subsection (c) shall be given to:

4 (1) A business firm that did not receive a tax credit
5 under Article XX-B in the prior fiscal year.

6 (2) A business firm that makes a contribution to a
7 career and technical education partnership organization
8 located in the business firm's workforce development area as
9 described in the Workforce Innovation and Opportunity Act
10 (Public Law 113-128, 128 Stat. 1425).

11 (e) Additional amount.--Subject to the limitations of
12 section 2008-K, and in accordance with this section, the
13 department shall grant a tax credit certificate of up to 90% of
14 the total amount contributed during the taxable year if the
15 business firm demonstrates a written commitment to provide the
16 career and technical education partnership organization with the
17 same amount for at least two consecutive tax years at the time
18 of application.

19 ~~(f) Restriction on applicability of credits.--No tax credit~~ <--
20 ~~granted under this section may be applied against tax withheld~~
21 ~~by an employer from an employee under Article III of the Tax~~
22 ~~Reform Code of 1971.~~

23 ~~(g) (F) Approval of tax credits.--Unless all authorized tax~~ <--
24 ~~credits have already been awarded, the department shall give~~
25 ~~written notice of its approval to each business firm that~~
26 ~~submits a completed application within 30 days following the~~
27 ~~date postmarked on the envelope of the completed application.~~

28 ~~(h) (G) Waiting list.--The department shall maintain a~~ <--
29 ~~waiting list of each business firm whose application has not~~
30 ~~been approved because all available tax credits have been~~

1 awarded. A business firm that is not awarded a tax credit due to
2 a lack of available tax credits shall be notified of a place on
3 the waiting list. When a tax credit becomes available, the
4 department shall award the tax credit to the business firms in
5 the order in which the business firms were placed on the waiting
6 list.

7 ~~(i)~~ (H) Temporary increase in maximum tax credits <--
8 available.--

9 (1) If all tax credits authorized under this section for
10 contributions to career and technical education partnership
11 organizations have not been awarded as of October 1 of a
12 fiscal year, the limitations specified in subsection (c)
13 shall not apply. The following shall apply:

14 (i) The department may accept applications from
15 October 1 through November 30 from a business firm,
16 including a business firm that already applied for the
17 maximum tax credits available under subsections (a) and
18 (e).

19 (ii) Tax credits awarded under this subsection shall
20 not exceed 75% of the total amount contributed during the
21 taxable year by a business firm pursuant to an
22 application filed under this subsection.

23 (iii) The provisions of subsection (b) shall not
24 apply to applications for tax credits made under this
25 subsection.

26 (2) The tax credits awarded under this subsection shall
27 be awarded on a first-come, first-served basis.

28 ~~(j)~~ (I) Timing of contribution.--A contribution by a <--
29 business firm to a career and technical education partnership
30 organization shall be made no later than 30 days following the

1 approval of an application under subsection (a).

2 Section 2008-K. Limitations.

3 (a) Amount.--The total aggregate amount of all tax credits
4 approved for contributions from business firms to career and
5 technical education partnership organizations may not exceed
6 \$15,000,000 in a fiscal year. The following shall apply:

7 (1) No more than 10% of the total aggregate amount of
8 tax credits under this subsection shall be distributed to a
9 business making a contribution to be used for an enrollment
10 expansion program.

11 (2) No less than 90% of the total aggregate amount of
12 tax credits under this subsection shall be distributed to a
13 business making a contribution to pay program-related costs
14 and for services and personal property contributions.

15 (b) Activities.--No tax credit may be approved for
16 activities that are a part of a business firm's normal course of
17 business.

18 (c) Tax liability.--

19 (1) Except as provided under paragraph (2), a tax credit
20 granted for a taxable year may not exceed the tax liability
21 of a business firm.

22 (2) In the case of a credit granted to a pass-through
23 entity which elects to distribute the tax credit under this
24 article, a tax credit granted for a taxable year and
25 distributed to a shareholder, member or partner may not
26 exceed the tax liability of the shareholder, member or
27 partner.

28 (d) Use.--A tax credit not used by the applicant in the
29 taxable year the contribution was made or in the year designated
30 by the shareholder, member or partner to whom the credit was

1 transferred under this article may not be carried forward or
2 carried back and is not refundable or transferable.

3 ~~(c) Activities. No tax credit shall be approved for~~ <--
4 ~~activities that are not a part of a business firm's normal~~
5 ~~course of business.~~

6 Section 2009-K. Notice of participating schools.

7 By November 1, 2021, and each February 1 thereafter, the
8 department shall provide all career and technical education
9 partnership organizations with a list of each participating
10 school in this Commonwealth located within each county.

11 Section 2010-K. Guidelines.

12 Within 45 days of the effective date of this section, in
13 consultation with the Department of Education, Department of
14 Revenue and the Department of Labor and Industry, the department
15 shall develop guidelines to implement the program.

16 Section 2011-K. Annual report to General Assembly.

17 (a) Submittal.--The following shall apply:

18 (1) No later than December 1, 2022, and each December 1
19 thereafter, the Secretary of Community and Economic
20 Development shall submit a report to the General Assembly
21 summarizing the impact of the program provided under this
22 article. The department shall post the report on its publicly
23 accessible Internet website.

24 (2) The report shall be submitted to all of the
25 following:

26 (i) The chairperson and minority chairperson of the
27 Appropriations Committee of the Senate.

28 (ii) The chairperson and minority chairperson of the
29 Appropriations Committee of the House of Representatives.

30 (iii) The chairperson and minority chairperson of

1 the Education Committee of the Senate.

2 (iv) The chairperson and minority chairperson of the
3 Education Committee of the House of Representatives.

4 (b) Contents.--The report shall include the following
5 information:

6 (1) The amount of tax credits claimed for contributions
7 to a career and technical education partnership organization
8 during the fiscal year.

9 (2) The total cash, personal property and service
10 contributions made from business firms to career and
11 technical education partnership organizations.

12 (3) A list of all career and technical education
13 partnership organizations receiving contributions from a
14 business firm granted a tax credit under this article.

15 (4) The number of high-priority industries participating
16 in the program.

17 (5) The regional disbursement of tax credits.

18 (6) Other data points deemed relevant or necessary by
19 the department administering the program.

20 (c) Provision of information.--The department shall provide
21 information under subsection (b) to the best of the department's
22 ability.

23 Section 2. Within 10 days of the development of the
24 guidelines under section 2010-K of the act, the Department of
25 Community and Economic Development shall transmit notice of the
26 development of the guidelines to the Legislative Reference
27 Bureau for publication in the Pennsylvania Bulletin.

28 Section 3. The addition of Article XX-K of the act shall
29 apply to taxable years commencing after December 31, 2021.

30 Section 4. This act shall take effect as follows:

1 (1) The following shall take effect immediately:
2 (i) This section.
3 (ii) Section 2 of this act.
4 (iii) Section 3 of this act.
5 (iv) The addition of sections 2001-K, 2002-K and
6 2010-K of the act.
7 (2) The remainder of this act shall take effect
8 immediately upon publication in the Pennsylvania Bulletin of
9 the notice under section 2 of this act.