AN ACT

Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," in educational tax credits, further providing for definitions and for limitations.

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

Section 1. The definitions of "educational improvement organization," "eligible pre-kindergarten student," "eligible student," "eligible student with a disability," "maximum annual household income," "opportunity scholarship organization," "PASS-THROUGH ENTITY," "pre-kindergarten scholarship organization" and "scholarship organization" in section 2002-B of the act of March 10, 1949 (P.L.30, No.14), known as the
Public School Code of 1949, amended June 22, 2018 (P.L.241, No.39), are amended AND THE SECTION IS AMENDED BY ADDING A DEFINITION to read:

Section 2002-B. Definitions.

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

* * *

"Educational improvement organization." A nonprofit entity which:

(1) is exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.); and

(2) contributes at least 90% of its annual receipts as grants to a public school, a chartered school as defined in section 1376.1, or a private school approved under section 1376, for innovative educational programs.

For purposes of this definition, a nonprofit entity "contributes" its annual cash receipts when it expends or otherwise irrevocably encumbers those funds for expenditure during the then-current fiscal year of the nonprofit entity or during the next succeeding fiscal year of the nonprofit entity.

A nonprofit entity shall include a school district foundation, public school foundation, charter school foundation or cyber charter school foundation.

* * *

"Eligible pre-kindergarten student." A student, including an eligible student with a disability, who is enrolled in a pre-kindergarten program and is either:

(1) a member of a household with a maximum annual household
income as increased by the applicable income allowance[.] or
(2) received a scholarship or opportunity scholarship in any
prior year.

"Eligible student." A school-age student, including an
eligible student with a disability, who is enrolled in a school
and is either:

(1) a member of a household with a maximum annual household
income as increased by the applicable income allowance[.] or
(2) received a scholarship or opportunity scholarship in any
prior year.

"Eligible student with a disability." A pre-kindergarten
student or a school-age student who meets all of the following:

(1) Is enrolled in a special education school or has
otherwise been identified, in accordance with 22 Pa. Code Ch.
14 (relating to special education services and programs), as
a "child with a disability," as defined in 34 CFR § 300.8
(relating to child with a disability).

(2) Needs special education and related services.

(3) Is enrolled in a pre-kindergarten program or in a school.

(4) Is either a member of a household with a household
income of not more than the maximum annual household income
or received a scholarship or opportunity scholarship in any
prior year.

* * *

"Maximum annual household income."

(1) Subject to adjustment under paragraphs (2) and (3),
the amount of [\$85,000] $95,000, plus the applicable income
allowance.

(2) With respect to an eligible student with a
disability, as calculated by multiplying:

(i) the applicable amount under paragraph (1); by
(ii) the applicable support level factor according
to the following table:

<table>
<thead>
<tr>
<th>Support Level</th>
<th>Support Level Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1.50</td>
</tr>
<tr>
<td>2</td>
<td>2.993</td>
</tr>
</tbody>
</table>

(3) Beginning July 1, 2014, the department shall annually adjust the income amounts under paragraphs (1) and (2) to reflect any upward changes in the Consumer Price Index for All Urban Consumers for the Pennsylvania, New Jersey, Delaware and Maryland area in the preceding 12 months and shall immediately submit the adjusted amounts to the Legislative Reference Bureau for publication as a notice in the Pennsylvania Bulletin.

* * *

"Opportunity scholarship organization." A nonprofit entity which:

(1) Is exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.); and

(2) Contributes at least 90% of the entity's annual cash receipts to an opportunity scholarship program. For the purposes of this definition, a nonprofit entity contributes the entity's cash receipts to an opportunity scholarship program when the entity expends or otherwise irrevocably encumbers those funds for distribution during the then-current fiscal year of the nonprofit entity or during the next succeeding fiscal year of the nonprofit entity.

* * *

"Pre-kindergarten scholarship organization." A nonprofit entity which:

(1) is exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 or is operated as a separate segregated fund by a scholarship organization that has been qualified under section 2003-B; and

(2) contributes at least 90% of its annual cash receipts to a pre-kindergarten scholarship program by expending or otherwise irrevocably encumbering those funds for distribution during the then-current fiscal year of the organization or during the next succeeding fiscal year of the organization.


"Scholarship organization." A nonprofit entity which:

(1) is exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986; and

(2) contributes at least 90% of its annual cash receipts to a scholarship program.

For purposes of this definition, a nonprofit entity
"contributes" its annual cash receipts to a scholarship program when it expends or otherwise irrevocably encumbers those funds for distribution during the then-current fiscal year of the nonprofit entity or during the next succeeding fiscal year of the nonprofit entity.

* * *

Section 2. Section 2006-B(a) of the act, amended June 22, 2018 (P.L.241, No.39), is amended to read:

Section 2006-B. Limitations.

(a) Amount.--

(1) The total aggregate amount of all tax credits approved for contributions from business firms to scholarship organizations, educational improvement organizations and pre-kindergarten scholarship organizations shall not exceed $160,000,000 plus any increased dollar amounts calculated under subparagraph (i)(A) in a fiscal year,

with each category as follows:

(i) No less than $110,000,000 of the total aggregate amount shall be used to provide tax credits for contributions from business firms to scholarship organizations. The following shall apply:

(A) Beginning July 1, 2019, the department shall annually increase the dollar amounts under this subparagraph if more than 90% of the total aggregate amount of tax credits under this subparagraph was used by taxpayers during the prior fiscal year and the General Assembly has not otherwise enacted an increase to the dollar amount under this subparagraph. The amount of the increase required under this clause for the total aggregate amount
under this subparagraph shall be 10% and shall be allocated to the program under this subparagraph.

(B) The department shall immediately submit the increased dollar amounts under clause (A) to the Legislative Reference Bureau for publication as a notice in the Pennsylvania Bulletin.

(ii) No less than $37,500,000 of the total aggregate amount shall be used to provide tax credits for contributions from business firms to educational improvement organizations.

(iii) The total aggregate amount of all tax credits approved for contributions from business firms to pre-kindergarten scholarship organizations shall not exceed $12,500,000 in a fiscal year.

(2) The total aggregate amount of all tax credits approved for contributions from business firms to opportunity scholarship organizations shall not exceed $50,000,000 in a fiscal year.

* * *


Section § 4. This act shall take effect July 1, 2019, or immediately, whichever is later.