

**Department of Legislative Services**  
 Maryland General Assembly  
 2007 Session

**FISCAL AND POLICY NOTE**

House Bill 1080 (Delegate Pena-Melnyk, *et al.*)  
 Economic Matters and Ways and Means

**Education - Creation of the Maryland Education Fund**

This bill establishes a Maryland Education Fund to be supported with the remaining balances on gift certificates and gift cards that have been inactive for a period of four years from the date of purchase. The fund may only be used to finance public school education, and money expended from the fund is supplemental to funding that would otherwise be appropriated for public education.

**Fiscal Summary**

**State Effect:** Special fund revenues and expenditures would increase by an estimated \$11.9 million in FY 2008 due to the collection of unspent balances on gift cards and gift certificates. Future year revenue estimates reflect annualization, increases in gift card purchases, and the impact of the existing prohibition against the expiration of gift cards in less than four years. All funds would be spent to supplement appropriations for public education.

(\$ in millions)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
SF Revenue	\$11.9	\$33.9	\$42.3	\$79.4	\$99.2
SF Expenditure	11.9	33.9	42.3	79.4	99.2
Net Effect	\$0	\$0	\$0	\$0	\$0

*Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** Local school revenues from State aid could increase by an estimated \$11.9 million in FY 2008 and by an estimated \$99.2 million in FY 2012.

**Small Business Effect:** Meaningful.

## Analysis

**Bill Summary:** The bill provides that a gift certificate that has been inactive for a period of four years from the date of purchase is presumed to be abandoned. By March 1 of each year, a person who sells or issues gift certificates must remit to the Comptroller the remaining balance on each certificate that was presumed to be abandoned during the previous year. The Comptroller must distribute the revenues to the Maryland Education Fund. Notice of the four-year presumption of abandonment must be included on each gift certificate sold or issued.

A person that sells or issues gift certificates in Maryland has to maintain records on the certificates for at least two years after the date the certificate is presumed to be abandoned, and make the records available to the Comptroller upon request. The bill also narrows the definition of a gift certificate by excluding: (1) a gift certificate sold by a charitable or nonprofit organization; (2) a card issued by an employer to an employee as proof of wages paid to the employee; and (3) a card issued by a public transit facility for the payment of any transit fares, parking fees, or transit-related expenses.

The Maryland Education Fund consists of revenue distributed to the fund, investment earnings, and any other money accepted for the benefit of the fund. The State Superintendent of Schools will administer the fund and adopt necessary regulations. Expenditures may only be made in accordance with the State budget.

**Current Law:** A person may not sell or issue a gift certificate that is subject to expiration or a fee within four years after the date it is purchased. An expiration or fee that takes effect more than four years after the date of purchase must be printed on the gift certificate, on a sticker permanently affixed to the gift certificate, or on an envelope containing the gift certificate.

A sum payable on a written instrument, including a check, certificate of deposit, draft, or money order, is generally presumed abandoned three years from the date of issuance. The holder of property that is presumed abandoned must send written notice to the owner of the property before filing a required report with the Comptroller on the nature of the abandoned property. After the required notification procedures have been performed, the property must be delivered or paid to the Comptroller and the State takes custody of the property. Gift certificates and gift cards are not subject to these laws.

In fiscal 2008, mandated State funding for public elementary and secondary education will total \$5.1 billion.

**Background:** Over the last five years, State funding for public education in Maryland has increased by \$1.6 billion, from \$2.9 billion in fiscal 2002 to \$4.5 billion in fiscal 2007, and has been the fastest-growing category in the State budget. The annual increase in State funding for education has set a record in each of the last three fiscal years, and the proposed fiscal 2008 State budget includes an increase for public schools of \$683 million, \$213 million more than the \$470 million increase provided in fiscal 2007. The distribution of proposed fiscal 2008 education funding is shown in **Exhibit 1**.

The large annual increases in State education aid over the last several years are mostly due to the Bridge to Excellence in Public Schools Act of 2002, which established a new framework for State education aid that has the goal of achieving adequate funding levels for school systems by fiscal 2008. Fiscal 2008 is the final year of the Bridge to Excellence phase-in schedule; beginning in fiscal 2009, annual education funding increases will be determined by inflation and enrollment changes and are not expected to be as large they have been during the Bridge to Excellence phase-in.

A handful of states have enacted laws that allow unspent funds from gift cards and gift certificates to be turned over to their state treasuries after specified periods of time. In Illinois and Tennessee, gift cards that have expiration dates or fees escheat to the state. In New Hampshire, gift cards over \$100 cannot have an expiration date that is earlier than the date the funds escheat to the state. Typically, any unspent funds on a gift card would eventually be booked as revenues for the company issuing the card. Estimates of the share of gift card funds that go unused generally range from 5% to 10%, although the Comptroller advises that Consumer Reports estimates a 19% unspent balance rate. Chapter 456 of 2005 prohibited gift cards issued in Maryland after July 1, 2006 from having an expiration date prior to four years from the date the card was issued.

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**Exhibit 1**  
**Proposed Fiscal 2008 State Aid for Elementary and Secondary Education**

<u>County</u>	<u>Total Aid (\$ in Millions)</u>	<u>Estimated Aid Per Pupil</u>
Allegany	\$88.5	\$9,940
Anne Arundel	311.0	4,355
Baltimore City	881.9	11,213
Baltimore	579.4	5,729
Calvert	95.3	5,572
Caroline	45.1	8,478
Carroll	158.6	5,602
Cecil	107.5	6,682
Charles	160.2	6,124
Dorchester	32.1	7,336
Frederick	220.6	5,515
Garrett	28.2	6,409
Harford	231.8	6,012
Howard	221.4	4,560
Kent	11.7	5,443
Montgomery	512.1	3,790
Prince George's	978.4	7,815
Queen Anne's	33.8	4,462
St. Mary's	98.2	6,117
Somerset	25.9	9,440
Talbot	13.1	3,123
Washington	147.6	6,907
Wicomico	113.7	7,892
Worcester	22.2	3,485
Unallocated	<u>44.1</u>	<u>54</u>
<b>Total</b>	<b>\$5,162.2</b>	<b>\$6,264</b>

Source: Department of Legislative Services

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**State Revenues:** Revenues credited to the Maryland Education Fund would total an estimated \$11.9 million in fiscal 2008 and climb to an estimated \$99.2 million by fiscal 2012. The information and assumptions used to derive these estimates are stated below.

- The Comptroller reports an estimated \$60.8 billion spent nationally on gift cards and gift certificates in calendar 2005; however, approximately \$10 billion is attributable to bank cards that can be used in many stores and do not fall under the statutory definition of gift certificates.
- If Maryland consumers purchased 2% of the remaining \$50.8 billion in gift cards sold nationally, approximately \$1.0 billion in gift cards were sold in the State in 2005. The Comptroller projects annual 25% increases in gift card sales for 2006 through 2008.
- Based on available estimates, it is assumed that 6% of gift card purchases go unspent in Maryland. The unspent funds would be collected by the Comptroller and placed in the Maryland Education Fund.
- Due to the bill's October 1, 2007 effective date and the March 1 collection date, the State will collect revenues in fiscal 2008 from approximately one-quarter of Maryland gift card purchases from calendar 2003 and one-sixth of gift card purchases in calendar 2004. Future year revenue estimates reflect a full year of revenue.
- The Comptroller estimates that approximately one-third of the gift cards and gift certificates sold prior to July 1, 2006 have expiration dates earlier than four years after the date of issuance; therefore, revenues will not be collected for approximately one-third of the cards that were sold before that date. This would reduce Maryland Education Fund revenues in fiscal 2008 through 2010.

To the extent that language in the bill limits State collections to only those gift cards that have never been used over the four-year life of the cards, revenues could be significantly less.

**State Expenditures:** Based on the established revenues, expenditures from the Maryland Education Fund could total an estimated \$11.9 million in fiscal 2008 and an estimated \$99.2 million in fiscal 2012. This funding must supplement existing State funding for public education, which totals \$5.2 billion fiscal 2008 and is estimated at \$6.2 billion for fiscal 2012.

The bill requires the State Superintendent of Schools to adopt regulations to carry out the purpose of the fund but does not indicate how the funds would be distributed. It is assumed, however, that most or all of the revenues would be distributed to the 24 local school systems. In fiscal 2008, \$11.9 million would provide an estimated \$14 per pupil statewide; by fiscal 2012, the additional funds would equal approximately \$121 per public school student in the State.

**Local Revenues:** Revenues for local school systems could increase by an estimated \$11.9 million in fiscal 2008 and \$99.2 million in fiscal 2012. The bill does not specify how the funds would be distributed.

**Small Business Effect:** Small businesses that issue gift certificates would forfeit any unspent funds from the gift certificates, although they would retain any interest they make on the money that was originally used to purchase the gift certificates. Currently, businesses keep the unspent monies and the interest earned. Businesses may also incur administrative expenses relating to added bookkeeping responsibilities.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Comptroller's Office, Maryland State Department of Education, Office of the Attorney General (Consumer Protection), Department of Legislative Services

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Analysis by: Mark W. Collins

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510