MDCEP
MARYLAND CENTER ON ECONOMIC POLICY

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# Maryland Should Roll Back Federal Tax Law's Private School Tax Break

## Position statement in support of Senate Bill 761

*Given before the Senate Budget and Taxation Committee*

Great public schools are part of a thriving state, and the General Assembly is likely to take action this year to reverse a decade of underinvestment and build the world-class school system children deserve. These ambitious reforms will require us to strengthen our investments in public schools—which is only possible if Maryland has an effective revenue system. Senate Bill 761 would improve Maryland's revenue system by repealing a special tax break for private schools that Congress inserted into Maryland's tax code without any input from Maryland lawmakers. For these reasons, the Maryland Center on Economic Policy supports Senate Bill 761.

The Trump administration's signature federal tax overhaul fundamentally changed the purpose of 529 plans. These tax-advantaged savings vehicles have always been intended as a way to help families pay the increasingly unaffordable price of higher education. Like many other states, Maryland provides additional tax breaks for 529 plan savings on top of the subsidies in federal law. However, the 2017 federal tax overhaul changed the meaning of "'qualified higher education expense' to include expenses for tuition in connection with enrollment or attendance at an elementary or secondary public, private, or religious school."[i] Because Maryland's 529 subsidies are coupled to federal law, this change automatically created a state tax break for private schools without any input from Maryland lawmakers.

Senate Bill 761 would remove any state tax breaks for so-called "qualified higher education expenses" that are in reality used for private K-12 education. Repealing this new state tax break created by Congress would save Maryland an estimated $20 million per year—a modest but meaningful step in fixing Maryland's tax code.

As lawmakers consider the ambitious reforms called for in the Kirwan Commission recommendations, they should work to build an effective revenue system that can sustain world-class public schools and other essential services for decades to come. Senate Bill 761 takes an important step in that direction by ending tax breaks for private schools that Marylanders never asked for.

**For these reasons, the Maryland Center on Economic Policy respectfully requests that the Budget and Taxation Committee make a favorable report on Senate Bill 761.**

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**Equity Impact Analysis: Senate Bill 761**

*Bill summary*

Senate Bill 761 would eliminate state subsidies for 529 expenditures used for expenses associated with private K-12 education.

*Background*

The original purpose of 529 plans was to provide tax breaks to help families save for higher education. Like many other states, Maryland provides additional subsidies for 529 plans on top of the subsidies in federal law.

The 2017 federal tax overhaul fundamentally changed the purpose of 529 plans by redefining "qualified higher education expense" to include expenditures for private K-12 education. Because Maryland's 529 program is coupled to federal law, this automatically created new state tax breaks for private schools that Maryland lawmakers never approved. These tax breaks add to the "BOOST" state voucher program created by Gov. Hogan.

*Equity Implications*

Maryland's current education policies pose significant equity concerns:

- As of 2017, only six of the state's 24 school districts were funded at or above 95 percent of the Bridge to Excellence standard, despite higher academic expectations that render that standard inadequate.
- More than half of Black students in Maryland went to school in a district that was funded at least 15 percent below the Bridge to Excellence standard in 2017, as did 37 percent of Latinx students and 13 percent of white students.
- Maryland public schools are among the most racially segregated in the United States.[ii] Segregation is intrinsically harmful and must ultimately be solved by meaningful integration; furthermore, inequitable school funding creates greater racial imbalances in a segregated school system.
- Multiple independent analyses have found that the wealthiest schools in Maryland are better funded than the least wealthy schools.
- Inadequate funding for special education in the current funding formula makes it harder for schools to guarantee students with disabilities the high-quality education they are entitled to under federal law.
- Inequitable access to high-quality pre-K-12 education contributes to inequitable opportunities later in life—to pursue higher education, to build a fulfilling and well-paying career, or to have a safe home in a thriving community.

Senate Bill 761 would help mitigate these concerns by removing a special interest tax break from Maryland's revenue system, making it easier to invest in world-class public schools.

*Impact*

Senate Bill 761 would likely **improve racial, and economic equity** in Maryland.

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i Senate Bill 761 Fiscal and Policy Note

ii Gary Orfield, Jongyeun Ee, Erica Frankenberg, and Genevieve Siegel-Hawley, "*Brown* at 62: School Segregation by Race, Poverty and State," Civil Rights Project / *Proyecto Derechos Civiles*, UCLA, 2016, https://www.civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/brown-at-62-school-segregation-by-race-poverty-and-state/Brown-at-62-final-corrected-2.pdf