

Department of Legislative Services
 Maryland General Assembly
 2007 Session

FISCAL AND POLICY NOTE

House Bill 853
 Ways and Means

(Delegate Boteler, *et al.*)

Family Education Tax Credit Program

This bill creates State tax credits related to (1) tuition and fees paid on behalf of children in primary or secondary education who attend a nonpublic school, are in a home schooling program, or attend a public school that is not in the student’s district; and (2) contributions to organizations that provide scholarships to students attending qualifying nonpublic schools and public schools outside the student’s district.

The bill takes effect July 1, 2007 and applies to tax year 2007 and beyond.

Fiscal Summary

State Effect: General fund revenues could decrease by \$309.8 million in FY 2008, which reflects credits claimed for students attending qualifying schools and home schooled students and contributions to organizations that provide scholarships. General fund expenditures could increase by \$195,000 in FY 2008 due to administrative costs at the Comptroller’s Office.

(\$ in millions)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
GF Revenue	(\$309.8)	(\$322.4)	(\$335.5)	(\$349.3)	(\$363.6)
GF Expenditure	.2	0	0	0	0
Net Effect	(\$310.0)	(\$322.4)	(\$335.5)	(\$349.3)	(\$363.6)

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

Local Effect: Local government revenues would decrease as a result of tax credits being claimed against the corporate income tax. Seventy-six percent of corporate income tax revenues is distributed to the general fund, and 24% is distributed to the Transportation Trust Fund (TTF). Of the 24% distributed to the TTF, approximately 30% is distributed to local jurisdictions in the form of local highway user revenues.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The bill provides for State tax credits for the eligible tuition and fees paid by parents of eligible students who attend qualifying schools or are in a home school program. In addition, the bill provides for a tax credit for individuals or corporations who contribution to organizations that provide specified scholarships.

Tax Credit for Students Attending Qualifying Schools or Home School Program

Tax credits can be claimed for expenses incurred for eligible students that are attending a qualifying school or a home school program. In order to qualify for a tax credit, the bill establishes an income threshold for the family of the student. The “student’s family” taxable income in the preceding year cannot exceed 2.5 times the income standard used to qualify for a reduced lunch program established by the National Free or Reduced Lunch Program. In addition to this income threshold, the student must be enrolled full-time in a qualifying school or in a State-approved home school program, be a resident of the State, and not have graduated high school or reached 21 years of age.

For parents claiming the credit for home schooled children, eligible expenses include tutoring and academic lessons (to the extent not conducted by the parent), textbooks, school supplies, and membership fees in an organization that sets academic standards or provides educational curricula for home schooling students. Eligible expenses for parents of eligible children attending qualifying schools include tuition and fees, administrative expenses, transportation costs, and academic program fees. A taxpayer can claim a separate tax credit for expenses incurred for each eligible child. Taxpayers can assign the tax credit to the student’s qualifying school. The value of the credit is equal to the eligible expenses incurred for each child. The bill establishes that for an individual who is claiming the credit, if the “income of the individual” does not exceed the income threshold established by the bill, the tax credit is refundable.

Tax Credits for Contributions to Scholarship Granting Organizations

The bill provides that individuals and corporations can claim tax credits for contributions to a scholarship granting organization (SGO). SGOs are defined as organizations that provide educational scholarships to elementary and secondary students attending either a qualifying nonpublic school or a public school outside of the student’s district. The value of the credit is equal to the amount contributed, not to exceed 50% of the taxpayer’s total State income tax liability. The credit is nonrefundable and can be carried forward three

tax years. Educational scholarships can be used to defray the costs of tuition and fees at a qualifying school including transportation to a public school outside the student's district.

SGOs are required to • notify the Comptroller of its intent to provide educational scholarships; • demonstrate its bona fide nonprofit status; • distribute scholarship payments endorsed by the qualifying student directly to the student's school; • distribute as scholarships a minimum of 90% of its total donations and all of the organization's investment income; • spend in each year a portion of its scholarships equal to the percentage of low-income individuals in the county where the majority of the SGO expends its scholarships on eligible low-income individuals; • verify that a student receiving a scholarship resides in a household with income less than the income threshold; • submit to the Comptroller annually an audited financial report; • if it is expected to receive more than \$50,000 in donations in the coming year (a) file a surety bond payable to the State equal to the amount of expected annual contributions; and (b) file with the Comptroller financial information that demonstrates its financial viability; and • ensure that a school receiving scholarship money (a) complies with applicable health and safety codes; (b) holds a valid occupancy permit if required; (c) has a nondiscriminatory admissions policy; and (d) provides regular student progress reports to parents.

Comptroller Requirements

The Comptroller is required to • disseminate information on the tax credit; • establish guidelines for parents to easily transfer tax credits to a student's qualifying school; • require SGOs to register and submit annual reports; • report annually to the General Assembly on SGOs and the amount of credits claimed by eligible parents; and • adopt regulations that allow for a taxpayer to divert a prorated amount of State income withholdings to an SGO of the taxpayers choice up to the maximum credit allowed.

Current Law: No similar State tax credit exists.

Background: Under the National School Lunch Program, children from families with incomes below specified thresholds are eligible for free or reduced-priced school meals. **Exhibit 1** lists the qualifying income in effect from July 1, 2007 to June 30, 2008, and the income threshold that cannot be exceeded in order to qualify for the tax credit for student expenses under HB 853.

Exhibit 1
Qualifying Income Threshold – National School Lunch Program

<u>Family Size</u>	<u>Reduced or Free Lunch</u>	<u>HB 853 Income Threshold</u>
1	\$18,889	\$47,223
2	25,327	63,318
3	31,765	79,413
4	38,203	95,508
5	44,641	111,603

State Revenues: Tax credits could be earned beginning in tax year 2007 for • tuition and fees paid on behalf of eligible students who receive home instruction or attend a qualifying nonpublic or public school; and • contributions to SGOs. **Exhibit 2** lists the estimated fiscal impact of the bill.

Exhibit 2
HB 853 Fiscal Impact
(\$ in Millions)

	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>
Home School Programs	\$20.2	\$22.2	\$24.4	\$26.7	\$29.1
Nonpublic Schools	264.6	275.1	286.1	297.6	309.5
SGO Contributions	25.0	25.0	25.0	25.0	25.0
Total	\$309.8	\$322.4	\$335.5	\$349.3	\$363.6

This estimate is based on the following facts and assumptions.

Tax Credit for Children in Home School Programs: • 24,329 children in the State received home instruction in the 2005-2006 school year; • in the 2005-2006 school year, there were 1.6 children receiving home instruction per family; • the number of children receiving home instruction increases by 5.3% annually; • it is estimated that each family would have \$2,500 in eligible expenses annually; and • half of families would not qualify due to the income threshold established by the bill.

Tax Credit for Children in Qualifying Nonpublic Schools: • according to the Maryland State Department of Education, there were 141,322 students attending primary and secondary nonpublic schools; • expenses for 60% of these students would not qualify due to the restrictions established by the bill; • eligible expenses for each student total \$4,500 annually; and • total eligible expenditures increase 4% annually.

Tax Credit for SGO Contributions: This estimate is based on the experience of other states that award similar tax credits and adjusted for state population and differences in credit amounts that can be claimed. The revenue loss estimated could be larger due to the large amount of tax credits that could be claimed by individuals or corporations. The exact distribution between credits claimed against the corporate and personal income tax cannot be reliably estimated.

This estimate does not include individuals who are attending a public school outside of the individual's school district.

State Expenditures: General fund expenditures could increase by an estimated \$195,000 in fiscal 2008 for one-time computer programming expenses. This amount includes data processing changes to the SMART income tax return processing and imaging systems and systems testing.

Small Business Effect: Small businesses could incur substantial expenditures in order to divert an employee's withholdings to a qualifying school as provided under the bill.

Additional Information

Prior Introductions: HB 998 of 2005, an identical bill, received an unfavorable report from the House Ways and Means Committee.

Cross File: None.

Information Source(s): Comptroller's Office, Maryland State Department of Education, U.S. Census Bureau, U.S. Department of Agriculture, Department of Legislative Services

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