

Department of Legislative Services  
 Maryland General Assembly  
 2007 Session

FISCAL AND POLICY NOTE

House Bill 973  
 Ways and Means

(Delegate Proctor, *et al.*)

**Building Opportunities for All Students and Teachers (BOAST) in Maryland  
 Tax Credit**

This bill creates an income tax credit for 75% of the contributions made by a business or nonprofit organization to an eligible nonprofit organization that either: (1) provide scholarships to eligible students or teachers at a nonpublic K-12 school; or (2) provide grants to public schools to support innovative educational programs that are not part of the regular academic program in order to achieve the goals of the Bridge to Excellence in Public Schools Act of 2002 or to public school teachers to assist in the cost of graduate-level education or certification coursework. The Maryland State Department of Education (MSDE) can approve a maximum of \$25 million in credits annually.

The bill takes effect July 1, 2007 and applies to tax year 2008 and beyond.

**Fiscal Summary**

**State Effect:** General fund revenues could decrease by \$20.7 million annually beginning in FY 2009. Transportation Trust Fund (TTF) revenues could decrease by \$2.8 million annually beginning in FY 2009. General fund expenditures could increase by \$169,300 beginning in FY 2008, which reflects implementation costs at MSDE and the Comptroller’s Office. Future years reflect estimated ongoing implementation costs at MSDE.

(\$ in millions)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
GF Revenue	\$0	(\$20.7)	(\$20.7)	(\$20.7)	(\$20.7)
SF Revenue	0	(2.8)	(2.8)	(2.8)	(2.8)
GF Expenditure	.2	.2	.2	.2	.2
Net Effect	(\$.2)	(\$23.7)	(\$23.7)	(\$23.7)	(\$23.7)

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

**Local Effect:** If half of the credits were claimed against the corporate income tax, local highway user revenues distributed from the TTF would decrease by \$847,100 annually beginning in FY 2009. Expenditures would not be affected.

**Small Business Effect:** Minimal.

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## Analysis

**Bill Summary:** The bill authorizes MSDE to approve \$25 million annually in tax credits for organizations that contribute to eligible, educational scholarship organizations (ESOs) or innovative educational grant organizations (IEGOs). A total of \$15 million is allocated to donations to ESOs and \$10 million is allocated to IEGOs. No more than 25% of the total credits in each year can be authorized for any single county or Baltimore City. The value of the credit is equal to 75% of the eligible donation, not to exceed \$200,000. Any unused amount of the credit may not be carried forward to any other tax year. Organizations claiming the credit are required to add back the amount of credit claimed to Maryland adjusted gross income.

Organizations seeking the tax credit must apply to MSDE for each contribution it intends on making in the tax year; applications are approved on a first-come first-served basis until the total cap for the year is reached. In order for a contribution to qualify for the tax credit, the contribution must be made to an organization approved by MSDE. Upon receipt from MSDE that the business has been approved for the tax credit, the business must make its contribution within 30 days of the date of the notification letter, and provide proof of the contribution to MSDE. If MSDE does not receive proof that the contribution was made within 30 days of the date of the notification letter, the tax credit is rescinded.

An eligible ESO must: (1) be a 501(c)(3) charitable organization; (2) provide scholarship money to eligible students or teachers at a nonpublic K-12 school; (3) spend at least 85% of its annual contributions that qualify for the tax credit on scholarships in the year in which the contribution was received; (4) contribute a maximum of 25% of its annual contributions that qualify for the tax credit to teacher scholarships at eligible nonpublic schools; (5) provide scholarships on a priority basis to students who qualify for a free- or reduced-price school lunch program under the National School Lunch Act and other students based on financial need; (6) apply to MSDE for approval by December 1 of each year and submit other required information that verifies its eligibility for the program; and (7) provide scholarships to at least four different nonpublic schools annually.

An eligible IEGO must: (1) be a 501(c)(3) charitable organization; (2) provide grants to public schools to support innovative educational programs that are not part of the regular

academic program in order to achieve the goals of the Bridge to Excellence in Public Schools Act of 2002; or public school teachers to assist in the cost of graduate-level education or certification coursework; (3) spend at least 85% of contributions that qualify for the tax credit on scholarships to students in the year in which the contribution was received; (4) contribute a maximum of 25% of its annual contributions that qualify for the tax credit to teacher grants; and (5) apply to MSDE for approval by December 1 of each year and submit information that verifies its eligibility for the program.

Eligible nonpublic schools must: (1) hold a certificate of approval from or be registered with the State Board of Education; (2) cannot charge tuition that is greater than the statewide average per pupil expenditure by the local education agency, as calculated by MSDE; and (3) comply with Title VI of the Civil Rights Act of 1964 as amended.

MSDE is required to: (1) approve ESO and IEGO and tax credit applications; (2) publish a list of eligible ESOs and IEGOs; (3) report specified information about the tax credit to the General Assembly by January 10 of each year; and (4) adopt regulations jointly with the Comptroller to implement the program.

**Current Law:** No similar tax credit exists, although businesses can typically deduct contributions for scholarships as charitable donations; which typically lowers federal and State income tax liability.

**Background:** Similar tax credit programs exist in several other states. Act 4 of 2001 established Pennsylvania's Educational Improvement Tax Credit and authorized \$30 million annually in tax credits for businesses that contribute to eligible scholarship organizations or educational improvement organizations. Act 48 of 2003 increased the total annual cap on tax credits to \$40 million, of which \$26.7 million was allocated to donations to scholarship organizations and \$13.3 million was allocated to educational improvement organizations. An additional \$5 million is allocated under a separate program for pre-K students. Chapter 225 of 2001 established Florida's Corporate Tax Credit Scholarship Program that provided for tax credits for contributions to eligible scholarship funding organizations.

**State Revenues:** MSDE could approve a maximum of \$25 million in credits beginning in tax year 2008. As a result, general fund revenues could decrease by \$20.7 million annually beginning in fiscal 2009. TTF revenues could decrease by \$2.8 million annually beginning in fiscal 2009. Based on existing programs in other states and the value of the credit, it is assumed that MSDE approves the maximum amount of credits in each year. Any credit amount claimed is required to be added back to Maryland adjusted gross income. It is assumed that credits would be claimed equally between corporate and personal income taxes, resulting in additional tax liabilities of \$1.5 million.

**State Expenditures:** The bill requires MSDE to implement and administer the tax credit program. MSDE believes it would need two full-time budget specialists and one support staff position. General fund expenditures could increase by an estimated \$135,310 in fiscal 2008, which reflects a three-month implementation time before credits can be approved. This estimate includes salaries, fringe benefits, and ongoing operating expenses.

Positions	3
Salaries and Fringe Benefits	\$118,247
Operating Expenses	<u>17,063</u>
<b>MSDE Expenditures</b>	<b>\$135,310</b>
<b>Comptroller Expenses</b>	<b>\$34,000</b>
<b>Total FY 2008 Exenditures</b>	<b>\$169,310</b>

Future year expenditures reflect: (1) 4.5% annual increases in salaries and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

The Comptroller's Office reports that it would incur a one-time expenditure increase of \$34,000 in fiscal 2008 to add the credit to the personal income tax form. This amount includes data processing changes to the SMART income tax return processing and imaging systems and systems testing.

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### Additional Information

**Prior Introductions:** SB 946 of 2006, a similar bill, was not reported from the Senate Budget and Taxation Committee.

**Cross File:** SB 265 (Senator DeGrange, *et al.*) – Budget and Taxation.

**Information Source(s):** Comptroller's Office, Maryland State Department of Education, Department of Legislative Services

**Fiscal Note History:** First Reader - February 19, 2007  
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