

**Department of Legislative Services**  
2012 Session

**FISCAL AND POLICY NOTE**

Senate Bill 844

(Senator DeGrange, *et al.*)

Budget and Taxation

**Partnership for Student Education and Community Investment Tax Credit**

This bill creates an income tax credit for 60% of the contributions made by a business or nonprofit organization to an eligible nonprofit organization that provides specified financial assistance to students at public or eligible nonpublic K-12 schools. The amount of credits that the Department of Business and Economic Development (DBED) can award in each year cannot exceed the amount of money appropriated to a reserve fund established by the bill. The bill states that it is the intent of the General Assembly that the appropriation to the reserve fund does not exceed \$15 million in a fiscal year.

The bill takes effect July 1, 2012, and applies to tax year 2012 and beyond.

**Fiscal Summary**

**State Effect:** Potential significant general fund expenditure increase beginning in FY 2013. The amount of the expenditure increase depends on the amount of money, if any, appropriated to the reserve fund each year. If the credit is funded at \$15.0 million, general fund expenditures will increase by \$15.0 million annually. Administrative costs increase by \$171,800 in FY 2013 and by \$98,500 in FY 2017. Potential significant decrease in general fund expenditures for State education aid beginning in FY 2014.

(\$ in millions)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	15.2	15.1	15.1	15.1	15.1
Net Effect	(\$15.2)	(\$15.1)	(\$15.1)	(\$15.1)	(\$15.1)

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

**Local Effect:** Local highway user revenues distributed from the Transportation Trust Fund will decrease as a result of credits claimed against the corporate income tax. Local expenditures are not affected.

**Small Business Effect:** Minimal.

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## **Analysis**

**Bill Summary:** The bill establishes a Partnership for Student Education and Community Investment Tax Credit Reserve Fund. The total amount of initial tax credit certificates issued by DBED in each fiscal year cannot exceed the amount appropriated to the reserve fund in the State budget. The Governor may appropriate money to the reserve fund but the bill does not require an amount. The bill states that it is the intent of the General Assembly that any appropriation to the reserve fund does not exceed \$15 million. Any amount of money in the fund that is not expended in the fiscal year must be rolled over into the next fiscal year.

DBED can approve a maximum of 60% of the total amount appropriated to the reserve fund for donations to student assistance organizations (SAOs) that provide financial assistance for qualified education expenses at eligible nonpublic K-12 schools and 40% to SAOs that provide assistance to students attending public K-12 schools. Qualified education expenses include expenses as defined in Section 530(B)(3)(5) of the Internal Revenue Code.

The value of the credit is equal to 60% of the eligible contribution, not to exceed \$200,000. Organizations claiming the credit are required to add back the amount of the credit claimed to Maryland adjusted gross income or Maryland modified income.

SAOs seeking the tax credit must apply to DBED for each contribution it intends to make 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 DBED.

An eligible SAO must be a 501(c)(3) charitable organization and apply to DBED for approval in each year and submit other required information that verifies eligibility for the program.

DBED is required to (1) approve tax credit applications; (2) publish an annual list of eligible SAOs; (3) adopt regulations to implement the bill; and (4) report specified information about the tax credit to the Governor and the General Assembly by January 10 of each year.

**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:** Eight states offer similar programs that grant tax credits for contributions to organizations that provide scholarships for children to attend private schools. Other states, including Minnesota and Illinois, offer tax credits or deductions for the eligible costs of attending a private school. **Exhibit 1** shows information on the scholarship tax credit programs, including whether individuals or businesses can qualify for the tax credit, the total annual amount of tax credits available, and the number of students receiving a scholarship under the program. The total amount of funding shown in certain states may include tax credits designated for public school education grants. State programs also vary in the value of the credit offered, scholarship eligibility, and number of programs offered. For example, most programs restrict scholarship eligibility based on the income of the student’s family and limit eligibility to students who are entering kindergarten or who previously attended a public school. Unlike most states, Florida allows scholarships to be granted to low-income students to attend a public school outside the student’s school district.

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**Exhibit 1**  
**State Scholarship Tax Credit Programs**

<u>State</u>	<u>Year Enacted</u>	<u>Credit Availability</u>		<u>Funds Expended or Donated in 2010-2011 (\$ in Millions)</u>	<u>Participating Students<sup>1</sup></u>
		<u>Individuals</u>	<u>Businesses</u>		
Arizona	1997 <sup>2</sup>	X	X	\$60.6 <sup>3</sup>	31,247
Florida	2001		X	140.0	34,550
Georgia	2008	X	X	24.5 <sup>4</sup>	6,125
Indiana	2009	X	X	0.4	219
Iowa	2006	X		10.8	10,208
Oklahoma	2011	X	X	n/a <sup>5</sup>	n/a
Pennsylvania	2001		X	51.8	42,339
Rhode Island	2006		X	1.3	460

<sup>1</sup>Number of students receiving scholarships under the program in the 2010-2011 school year.

<sup>2</sup>Arizona added a corporate tax credit in 2006 and a special needs education tax credit in 2009.

<sup>3</sup>Amount shown is total tax credit claims in the 2010-2011 school year.

<sup>4</sup>Georgia has a \$50 million cap that is adjusted annually for inflation.

<sup>5</sup>Oklahoma’s program will provide a maximum of \$5.0 million in tax credits annually.

Source: American Federation for Children; Florida Department of Education; National Conference of State Legislatures

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The Pennsylvania Educational Improvement Tax Credit offers tax credits for businesses that contribute to eligible scholarship organizations at nonpublic schools or educational improvement organizations for “innovative programs” at public schools. The credit is equal to 75% of the contribution made, not to exceed \$300,000. The value of the credit can be increased to 90% of the contribution if the business agrees to provide the same amount for two consecutive tax years. For contributions to prekindergarten scholarship organizations, a business may receive a tax credit equal to 100% of the first \$10,000 contributed and up to 90% of the remaining amount contributed, for a maximum annual credit of \$150,000. Annual program funding increased from \$60.0 million in fiscal 2011 to \$75.0 million in fiscal 2012.

### **State Fiscal Effect:**

#### *Appropriations to the Reserve Fund*

The bill provides that the Governor may appropriate funds to the reserve fund, but does not require an amount that should be appropriated. The bill does, however, state that it is the intent of the General Assembly that the amount appropriated to the fund not exceed \$15 million in a fiscal year. If the program is funded at this level, general fund expenditures will increase by \$15 million annually.

To the extent that the Governor provides less or no money to the reserve fund in any year, the increase in general fund expenditures will be less. There is no limit on the amount that can be appropriated to the reserve fund. Although the tax credit can be claimed beginning in tax year 2012, appropriations to the reserve fund may be made beginning in fiscal 2013.

#### *State Education Aid Impact*

A portion of the credits that can be claimed are for contributions made to an eligible nonprofit organization that provides financial assistance to students at an eligible nonpublic K-12 school. To the extent that this financial assistance reduces public school enrollment beginning with the 2012-2013 school year, general fund expenditures for State education aid may decrease beginning in fiscal 2014. The actual amount of the decrease, if any, depends on the amount of credits that can be awarded in each fiscal year, the portion of credits that are for financial assistance for students attending nonpublic schools, and the amount of financial assistance that results in a public school student attending a nonpublic school.

### *Administrative Costs*

The bill requires DBED to implement and administer the tax credit. DBED indicates it would need one administrator to implement and administer the program. General fund expenditures will increase by an estimated \$87,800 in fiscal 2013, which reflects the bill's July 1, 2012 effective date. This estimate includes a salary, fringe benefits, and ongoing operating expenses.

The Comptroller's Office reports that it would incur a one-time expenditure increase of \$84,000 in fiscal 2013 to add the credit to the personal and corporate income tax form. This amount includes data processing changes to the SMART income tax return processing and imaging systems and systems testing.

Position	1
Salary and Fringe Benefits	\$82,774
Operating Expenses	<u>5,035</u>
<b>DBED Expenditures</b>	<b>\$87,809</b>
<b>Comptroller Expenditures</b>	<b>84,000</b>
<b>Total FY 2013 Expenditures</b>	<b>\$171,809</b>

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 1216 (Delegate Walker) - Ways and Means.

**Information Source(s):** Department of Business and Economic Development, Comptroller's Office, Department of Legislative Services

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