

Department of Legislative Services  
 Maryland General Assembly  
 2008 Session

FISCAL AND POLICY NOTE  
 Revised

Senate Bill 373

(Senator DeGrange, *et al.*)

Budget and Taxation

Ways and Means

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) provides scholarships to eligible students or teachers at a nonpublic K-12 school; or (2) provides 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. The amount of credits that MSDE can award in each year cannot exceed the lesser of \$5 million or the amount of money appropriated to a reserve fund established by the bill.

The bill takes effect July 1, 2008 and applies to tax year 2009 and beyond.

Fiscal Summary

**State Effect:** General fund expenditures could increase by \$5 million annually beginning in FY 2009, which reflects the maximum amount of credits being awarded. General fund expenditures could also increase by \$176,300 beginning in FY 2009, which reflects implementation costs at MSDE and the Comptroller’s Office. Future years reflect estimated ongoing implementation costs at MSDE.

(\$ in millions)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	5.2	5.2	5.2	5.2	5.2
Net Effect	(\$5.2)	(\$5.2)	(\$5.2)	(\$5.2)	(\$5.2)

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

**Local Effect:** Local highway user revenues distributed from the TTF would decrease. Expenditures would not be affected.

**Small Business Effect:** Minimal.

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## Analysis

**Bill Summary:** The bill establishes a Building Opportunities for All Students and Teachers Reserve Fund. The total amount of initial credit certificates issued by the State Superintendent of Schools 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 or specify a recommended amount. The Governor may not reduce an appropriation to the reserve fund that is approved by the General Assembly. For each fiscal year, if funds are transferred from the reserve fund as a result of any law, the amount of total credits that can be approved by the Superintendent is reduced by the amount of money transferred. Any amount of money in the fund that is not expended in the fiscal year can be rolled over into the next fiscal year.

The bill authorizes MSDE to approve the lesser of the amount of money in the reserve fund each year or \$5 million annually in tax credits for organizations that contribute to eligible educational scholarship organizations (ESOs) or innovative educational organizations (IEOs). A total of \$3 million is allocated to donations to ESOs and \$2 million is allocated to IEOs. 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 90 days of the date of the notification letter, and provide proof of the contribution to MSDE. Otherwise, the tax credit is rescinded.

An eligible ESO must • be a 501(c)(3) charitable organization; • provide scholarship money to eligible students or teachers at a nonpublic K-12 school; • 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; • contribute a maximum of 25% of its annual contributions that qualify for the tax credit to teacher scholarships at eligible nonpublic

schools; • 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; • apply to MSDE for approval by December 1 of each year and submit other required information that verifies its eligibility for the program; and • provide scholarships to at least four different nonpublic schools annually.

An eligible IEO must • be a 501(c)(3) charitable organization; • 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; • spend at least 85% of contributions that qualify for the tax credit on grants, services, or programs for public schools and teachers in the year in which the contribution was received; • contribute a maximum of 25% of its annual contributions that qualify for the tax credit to teacher grants; and • 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 • hold a certificate of approval from or be registered with the State Board of Education; • cannot charge tuition that is greater than the statewide average per pupil expenditure by the local education agency, as calculated by MSDE; and • comply with Title VI of the Civil Rights Act of 1964 as amended.

MSDE is required to • approve ESO and IEO and tax credit applications; • publish a list of eligible ESOs and IEOs; • report specified information about the tax credit to the General Assembly by January 10 of each year; and • 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:** Act 4 of 2001 established Pennsylvania's Educational Improvement Tax Credit for businesses that contribute to eligible scholarship organizations or educational improvement organizations. Subsequent legislation has increased the annual amount of credits authorized from \$30 million to \$75 million. In fiscal 2008, \$44.7 million was allocated to scholarship organizations, \$22.3 million to improvement organizations, and \$8 million to pre-K scholarship organizations. As of February 2008, all money was expended for innovation organizations, \$7.5 million remained for scholarship organizations, and \$1.1 million remained for pre-K organizations.

Similar tax credit programs exist in several other states, including Arizona, Florida, Iowa, and Rhode Island.

### **State Fiscal Effect:**

#### *Appropriations to the Reserve Fund*

The bill provides that the Governor may appropriate funds to the reserve fund beginning in fiscal 2009. The bill does not require or suggest an amount that should be appropriated. The bill does state, however, that MSDE may not award more than \$5 million in credits in each calendar year. Assuming a viable and fully funded program based on existing programs in other states, State expenditures would increase by \$5 million annually beginning in fiscal 2009. This reflects the maximum amount of credits than can be awarded annually. To the extent that the Governor provides less or no money to the reserve fund in any year, general fund expenditures would be less.

#### *Revenue Effects from Reserve Fund Transfers*

The bill requires the Comptroller to transfer money from the reserve fund to the general fund in an amount that is anticipated to offset credits that would be claimed during the fiscal year. Credits claimed against the corporate income tax will reduce Transportation Trust Fund (TTF) and Higher Education Investment Fund (HEIF) revenues as well as general funds. About 20% of corporate income tax revenues are distributed to the TTF and 6% are distributed to HEIF. All the money transferred from the reserve fund by the Comptroller in anticipation of credits being claimed is to be deposited in the general fund and losses to the TTF and HEIF would not be offset. Credits could be claimed beginning in tax year 2009. As a result, general fund revenues could increase and TTF and HEIF revenues could decrease beginning in fiscal 2010 due to money being transferred back to the general fund for tax credits claimed against the corporate income tax.

It is also assumed that taxpayers claim the credit in the tax year that corresponds to the fiscal year in which the Comptroller transfers funds to the general fund on notification of a certified credit. To the extent that taxpayers claim the credit in a tax year after the fiscal year in which the transfer is made, general fund revenues could increase in earlier fiscal years and potentially decrease by a corresponding amount in later fiscal years. The extent of this lag, if any, cannot be reliably estimated at this time. This timing issue, however, does not alter the total cost of the bill.

### *Administrative Costs*

The bill requires MSDE to implement and administer the tax credit program. MSDE indicates it would need two full-time budget specialists and one support staff position. General fund expenditures could increase by an estimated \$142,335 in fiscal 2009, which reflects a three-month implementation period before credits can be approved. This estimate includes salaries, fringe benefits, and ongoing operating expenses.

The Comptroller's Office reports that it would incur a one-time expenditure increase of \$34,000 in fiscal 2009 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.

Positions	3
Salaries and Fringe Benefits	\$124,002
Operating Expenses	<u>18,333</u>
<b>MSDE Expenditures</b>	<b>\$142,335</b>
<b>Comptroller Expenditures</b>	<b>\$34,000</b>
<b>Total FY 2009 Expenditures</b>	<b>\$176,335</b>

Future year expenditures reflect • 4.4% annual increases in salaries and 3% employee turnover and • 2% annual increases in ongoing operating expenses.

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### **Additional Information**

**Prior Introductions:** Similar bills were introduced in the 2007 session as SB 265/HB 973 and in the 2006 session as SB 946. SB 265 and HB 973 received unfavorable reports from the Senate Budget and Taxation Committee and House Ways and Means Committee, respectively. SB 946 was not reported from the Senate Budget and Taxation Committee.

**Cross File:** HB 812 (Delegate Proctor, *et al.*) – Ways and Means.

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

**Fiscal Note History:** First Reader - February 11, 2008  
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