

DEPARTMENT OF TAXATION

2022 Fiscal Impact Statement

1. **Patron** Frank M. Ruff, Jr.

2. **Bill Number** SB 27

3. **Committee** Senate Finance and Appropriations

House of Origin:

X **Introduced**

 Substitute

 Engrossed

4. **Title** Expansion of the Neighborhood Assistance Act
Tax Credit and Education Improvement
Scholarships Tax Credit

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would increase the annual cap on Neighborhood Assistance Act Tax Credits for education programs from \$9 million to \$25 million. In making equitable allocations of credits among neighborhood organizations, this bill would require the Department of Social Services ("DSS") to consider the portion of a neighborhood organization's revenues and expenses that are used to serve low-income individuals and eligible students with disabilities and not rely solely on the amount of credits allocated to the neighborhood organization in the previous year.

This bill would also allow certified public accountants to receive Education Improvement Scholarships Tax Credits for in-kind services donations to scholarship foundations. This bill would permit scholarship foundations that qualify to receive donations for purposes of the credit to use donated funds to provide scholastic assistance to eligible students in need of a safer school environment.

If this bill is passed during the 2022 General Assembly session, the bill would be effective on July 1, 2022.

6. **Budget amendment necessary:** Yes.

Item(s): Page 1, Revenue Estimates

Item 135, Department of Education

7. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

7a. **Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2022-23	\$218,186	2	GF
2023-24	\$218,186	2	GF
2024-25	\$218,186	2	GF
2025-26	\$218,186	2	GF
2026-27	\$218,186	2	GF
2027-28	\$218,186	2	GF

8. Fiscal implications:

Administrative Costs

Department of Taxation and Department of Social Services

The Department of Taxation (“the Department”) and DSS consider implementation of this bill as routine and do not require additional funding.

Department of Education

This bill would result in administrative costs to DOE of \$218,186 in Fiscal Year 2023 and each fiscal year thereafter. Such funding would include salary and benefit costs for hiring two full-time employees to vet any additional organizations that may qualify to receive an allocation of credits if this bill is enacted.

Revenue Impact

This bill would have an unknown negative general revenue impact in Fiscal Year 2023 and thereafter. The Neighborhood Assistance Act Tax Credit is currently subject to an annual credit cap of \$9 million for education proposals. However, actual credit requests have historically exceeded this cap and the credit is, therefore, oversubscribed. Increasing the annual credit cap to \$25 million would have an unknown negative revenue impact because it is uncertain to what extent additional credits will be requested and claimed. However, the negative revenue impact of this portion of this bill would be limited to a maximum of \$16 million per fiscal year.

The following table provides information regarding the amount (in millions) of Neighborhood Assistance Act Tax Credits requested for Fiscal Years 2014-2020 for education proposals as well as the corresponding annual credit cap for such fiscal years:

Fiscal Year	Credit Requests	Credit Cap
2014	\$11.10	\$8.00
2015	\$17.80	\$8.50
2016	\$19.40	\$9.00
2017	\$18.10	\$9.00
2018	\$13.98	\$9.00
2019	\$14.15	\$9.00
2020	\$16.09	\$9.00

This bill would also expand eligibility for the Education Improvement Scholarships Tax Credit by allowing certain certified public accountants to qualify by donating accounting services to a scholarship foundation. This portion of the bill would result in an unknown negative General Fund revenue impact because it is unknown to what extent certified public accountants would qualify for and claim credits.

The following table provides information regarding the amount (in millions) of Education Improvement Scholarships Tax Credits issued for Fiscal Years 2013-2021:

Fiscal Year	Credits Issued
2013	\$0.10
2014	\$1.47
2015	\$3.73
2016	\$6.75
2017	\$9.75
2018	\$11.50
2019	\$10.78
2020	\$9.50
2021	\$12.88

The other provisions of this bill that would amend both credit programs would likely have a minimal revenue impact.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Education
Department of Social Services

10. Technical amendment necessary: Yes.

This bill would add “in-kind services donations” to the type of donations that qualify for purposes of the Education Improvement Scholarships Tax Credit. It appears that in-kind should also be included elsewhere in the statutory language regarding donation types that qualify for the credit. If that is the Patron’s intent, we recommend the following technical amendments:

Page 5, Line 297, after monetary
Strike: or marketable securities
Insert: , marketable securities, or in-kind

Page 5, Line 300, after monetary
Strike: or marketable securities
Insert , marketable securities, or in-kind

Page 6, Line 307, after monetary
Strike: or marketable securities
Insert: , marketable securities, or in-kind

This bill would amend requirements with respect to DSS’s regulations regarding the equitable allocation of Neighborhood Assistance Act Tax Credits. See Lines 55-58. However, this amendment and Line 59 of the existing language also impose requirements on the Superintendent of Public Instruction. It appears that this portion of the statute should refer only to the Commissioner of Social Services and noneducation proposals. If that is the Patron’s intent, we recommend the following technical amendments:

Page 1, Line 55 after Service
Strike: or the Superintendent of Public Instruction

Page 1, Line 57 persons
Strike: and eligible students with disabilities

Page 2, Line 59 after Service
Strike: or the Superintendent of Public Instruction

The bill adds and defines the term “scholastic assistance” for purposes of the Education Improvement Scholarships Tax Credit. However, the identical term is used and defined in the Neighborhood Assistance Act Tax Credit and is defined to have a different meaning. If the Patron intends these terms to be defined the same, we recommend a technical amendment to make the definition identical for purposes of both credit programs.

11. Other comments:

Neighborhood Assistance Act Tax Credit

The Neighborhood Assistance Act provides an income tax credit to business firms and individuals that donate to neighborhood organizations for approved programs that benefit impoverished people. DSS and DOE are responsible for approving programs proposed by neighborhood organizations and allocating Neighborhood Assistance Act Tax Credits to neighborhood organizations with approved programs. A business firm or individual that makes a donation to a neighborhood organization for an approved program is then eligible to receive an income tax credit from that neighborhood organization.

The amount of the credit for an individual who donates professional services or a business firm making any qualified donation to a neighborhood organization for an approved program is equal to 65 percent of the value of the donation. No credit less than \$400 may be granted to an individual who provides professional services, or business firm for any donation. Therefore, an individual who provides professional services or a business firm must make a donation with a value of at least \$616 to meet the minimum credit threshold, and receive an allocation of credits.

The amount of the credit for an individual who makes a monetary donation or marketable securities donation to a neighborhood organization for an approved program is equal to 65 percent of the value of such donation. To receive an allocation of credits, an individual is required to make a donation of at least \$500. For purposes of determining the amount of credits allocated to an individual, the value of the individual's donation is limited to the lesser of the actual value of the donation or \$125,000. The \$125,000 cap on the value of donations caps the credit at \$81,250 per taxpayer.

Under current law, the total amount of credits that may be granted to such neighborhood organizations for each fiscal year is subject to an annual cap of \$9 million for education proposals and \$8 million for other proposals.

Both DSS and DOE are required to allocate available credits equitably among approved proposals submitted by neighborhood organizations. Under current law, DSS is required to consider the past performance of neighborhood organizations that have received allocations of credits, including reviewing of performance metrics, success in reaching targeted goals, or other measures of accountability that may be established by regulations or guidelines. The decisions of DSS and DOE regarding the neighborhood organization proposals and allocation of credits are final and not subject to review or appeal.

Education Improvement Scholarships Tax Credits

The Education Improvement Scholarships Tax Credit provides an income tax credit to taxpayers equal to 65 percent of value of the monetary or marketable securities donations they made to a qualifying scholarship foundation. Tax credits are awarded to taxpayers on a first-come, first-served basis. The DOE is responsible for approving scholarship foundations and allocating Education Improvement Scholarships Tax Credits, and these decisions are final and are not subject to review or appeal. A taxpayer that makes a donation to a scholarship foundation is eligible to receive an income tax credit from that scholarship foundation.

No tax credit is allowed if the donation is less than \$500. No more than \$125,000 in tax credits may be issued to an individual in a taxable year. The \$125,000 limitation does not apply to tax credits issued to any business entity, including a sole proprietorship. In addition, taxpayers may carry forward unused credits for up to five taxable years.

The Education Improvement Scholarships Tax Credit is subject to an annual credit cap of \$25 million.

Proposed Legislation

This bill would make several amendments to expand the availability of the Neighborhood Assistance Act Tax Credits and Education Improvement Scholarships Tax Credit.

Neighborhood Assistance Program

This bill would increase the annual cap on Neighborhood Assistance Act Tax Credits for education programs from \$9 million to \$25 million. In making equitable allocations of credits among neighborhood organizations, this bill would require the DSS to consider the portion of a neighborhood organization's revenues and expenses that are used to serve low-income individuals and eligible students with disabilities and not rely solely on the amount of credits allocated to the neighborhood organization in the previous year.

Education Improvement Scholarships Tax Credits

This bill would allow certified public accountants to receive Education Improvement Scholarships Tax Credits for in-kind services donations to scholarship foundations. "In-kind service donations" would be defined as "a donation by a person licensed as a certified public accountant of audit, review, compilation or other accounting services to a scholarship foundation." Under current law, only monetary or marketable security donations qualify for the tax credit. In determining the value of an in-kind services donation, the Superintendent of Public Instruction would be required to consider the fair market value of the services rendered by the person, including the time spent by the person on audit, review, compilation, or other accounting services.

This bill would permit scholarship foundations that qualify to receive donations for purposes of the Education Improvement Scholarships Tax Credit to use donated funds to provide scholastic assistance to eligible students in need of a safer school environment. "Scholastic assistance" would be defined as "counseling or supportive services to elementary or secondary school students or their parents in developing a postsecondary academic or vocational educational plan, including college financing options for such students or their

parents, provided by a scholarship foundation at a public school with which the foundation is under contract.” Under current law, only students may receive assistance, and scholarship foundations may receive Education Improvement Scholarships Tax Credit funding only for the purpose of providing scholarships.

This bill would also allow taxpayers and scholarship foundations to seek judicial review of decisions from DOE regarding the qualification of a scholarship foundation or the awarding of Education Improvement Scholarships Tax Credits.

If this bill is passed during the 2022 General Assembly session, the bill would be effective on July 1, 2022.

Similar Bills

Senate Bill 16 would increase the annual cap on the Education Improvement Scholarships Tax Credits from \$25 million to \$50 million, the value of the credit from 65 percent to 80 percent of the value of donations made, and repeal the credit’s January 1, 2028 sunset date.

House Bill 982 would increase the value of the Education Improvement Scholarships Tax Credit from 65 percent to 100 percent of the value of a donation made, repeal the credit cap, repeal the required donation thresholds, and make other technical changes to this credit program.

Senate Bill 788 would increase the amount of the Education Improvement Scholarships Tax Credit from 65 percent to 75 percent of the value of a donation of money or marketable securities made to an eligible scholarship foundation.

Senate Bill 709 would repeal the sunset date for the Education Improvement Scholarships Tax Credit and make other technical changes to the credit.

House Bill 294 would make several changes to the Education Improvement Scholarships Tax Credit to provide scholarships to certain students in need of a safer school environment.

cc : Secretary of Finance

Date: 1/27/2022 RWC
SB27F161