

DEPARTMENT OF TAXATION

2022 Fiscal Impact Statement

1. **Patron** Bill R. DeSteph, Jr.

3. **Committee** Senate Education and Health

4. **Title** Education Improvement Scholarships Tax
Credit: Removal of Sunset Dates

2. **Bill Number** SB 709

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would repeal sunset dates for the Education Improvement Scholarships Tax Credit. The overall credit is currently scheduled to sunset for taxable years beginning on or after January 1, 2028. In addition, amendments that relax requirements and enhance scholarships with respect to eligible students with a disability are currently scheduled to expire for taxable years beginning before January 1, 2024.

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

6. Budget amendment necessary: No.

7. No Fiscal Impact: (See Line 8.)

8. Fiscal implications:

Administrative Costs

The Department of Taxation and the Department of Education consider implementation of this bill as routine, and do not require additional funding.

Revenue Impact

Because the extension of the sunset dates for the Education Improvement Scholarships Tax Credit are assumed in the official General Fund revenue forecast, this bill would have no impact on General Fund revenue.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Education

10. Technical amendment necessary: No.

11. Other comments:

Education Improvement Scholarships Tax Credits

The Education Improvement Scholarship 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 Department of Education is responsible for approving scholarship foundations and allocating Education Improvement Scholarship Tax Credits. 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 Scholarship Tax Credit is subject to an annual credit cap of \$25 million. The credit is currently scheduled to expire for taxable years beginning on or after January 1, 2028.

During the 2019 Session, the General Assembly enacted legislation that relaxed requirements and enhanced scholarships with respect to eligible students with a disability. Such amendments are currently scheduled to expire for taxable years beginning before January 1, 2024.

Sunset Dates for New Income Tax Credits and Sales Tax Exemptions

Section 3-5.14 of the 2020 Appropriation Act provides that any new sales tax exemption or tax credit enacted by the General Assembly after the 2019 Session, but prior to the 2024 Session, must have a sunset date of not later than June 30, 2025. In addition, this provision provides that no sunset date on any existing sales tax exemption or tax credit may be advanced beyond June 30, 2025. However, the legislation that advanced the sunset date of the Education Improvement Scholarships Tax Credit to Taxable Year 2028 was enacted before this budget provision came to fruition.

During the 2012 Session, the General Assembly enacted House Bill 246, which prohibits any committee of the General Assembly from reporting any legislation that would add a new credit or renew an existing credit unless the legislation contains a sunset date of no longer than five years from the effective date of the new or renewed credit. However, the statutory language regarding the Education Improvement Scholarships Tax Credit's sunset date includes an exception to this prohibition.

Proposed Legislation

This bill would repeal sunset dates for the Education Improvement Scholarships Tax Credit. The overall credit is currently scheduled to sunset for taxable years beginning on or after January 1, 2028. In addition, amendments that relax requirements and enhance

scholarships with respect to eligible students with a disability are currently scheduled to expire for taxable years beginning before January 1, 2024.

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

Similar Bills

House Bill 294 would permit scholarship foundations that qualify to receive donations for purposes of the Education Improvement Scholarships Tax Credit to use donated funds to provide scholarships to eligible students in need of a safer school environment.

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 27 would increase the annual cap on Neighborhood Assistance Act Tax Credit from \$9 million to \$25 million, and expand the availability of the Education Improvement Scholarships Tax Credit.

House 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.

cc : Secretary of Finance

Date: 1/26/2022 RWC
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