COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0086-01
Bill No.: HB 417
Subject: Children and Minors; Health Care; Revenue Dept.; Tax Credits; Taxation and Revenue - Income
Type: Original
Date: April 1, 2009

Bill Summary: Would establish Bryce's Law, authorizing a tax credit for individuals who donate to a scholarship-granting organization if the donation is not claimed on their federal income tax return.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on General Revenue Fund	**(Unknown)**	**(Unknown)**	**(Unknown)**

*** The fiscal impact for the tax credits could be divided between the General Revenue Fund and the County Foreign Insurance Fund (which ultimately goes to local school districts) if some of the tax credits are utilized against insurance premium taxes.**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	Unknown	Unknown	Unknown
Total Estimated Net Effect on FTE	**Unknown**	**Unknown**	**Unknown**

☐ Estimated Total Net Effect on All funds expected to exceed $100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed $100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Local Government	**$0**	**Unknown to (Unknown)**	**Unknown to (Unknown)**

*** The fiscal impact of the tax credits could be divided between the General Revenue Fund and the County Foreign Insurance Fund (which ultimately goes to local school districts) if some of the tax credits are utilized against insurance premium taxes.**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Secretary of State** (SOS) stated that many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than $2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Officials from the **Department of Higher Education** assume this proposal would have no fiscal impact on their organization.

Officials from the **Department of Elementary and Secondary Education** (DESE) stated that this proposal would authorize a state income tax credit for contributions to scholarship granting organizations. No taxpayer could be issued more than $800,000 in tax credits authorized under the proposal; however, there appears to be no ceiling limiting the cumulative amount of tax credits in any one fiscal year.

DESE officials indicated an unknown cost to the General Revenue Fund for tax credits taken, but also noted that the proposal could also result in an unknown reduction of the state cost for the Foundation Formula. DESE officials also indicated an impact ranging from $0 to (Unknown) for the cost of educating a student if that cost exceeds the scholarship provided for that student, and for a potential reduction in state aid to that school.

ASSUMPTION (continued)

In response to a similar proposal in the previous session (HB 1886 LR 4675-04, 2008) officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** state it is unknown how many insurance companies will choose to participate in this program and take advantage of the tax credits. Premium tax revenue is split 50/50 between General Revenue and County Foreign Insurance Fund except for domestic Stock Property and Casualty Companies who pay premium tax to the County Stock Fund. The County Foreign Insurance Fund is later distributed to school districts through out the state. County Stock Funds are later distributed to the school district and county treasurer of the county in which the principal office of the insurer is located. It is unknown how each of these funds may be impacted tax credits each year.

Officials from the **Department of Economic Development** (DED) stated that this proposal would have an unknown impact on their organization. In response to a similar proposal in the previous session (HB 1886 LR 4675-04, 2008) DED officials stated that the proposal would create a special needs scholarship tax credit program referred to as Bryce's Law for scholarships to special needs students. There is no limit on the amount of credits that could be issued. The credit program gives an 80% tax credit to someone who contributes to the program. The credits can be sold, transferred, or carried forward 4 years. DED would be responsible for certifying scholarship granting organizations and for giving out the tax credits. DED would also be required to determine the number of students with an "individualized education program"; ten percent of those would be eligible for a special needs scholarship. DED would have to work with DESE to make that determination.

DED officials assumed the program would go into effect in August 2008 and would be claimed on 2008 tax returns filed in 2009. DED did not provide an estimate of the cost of the credits. DED officials assume the need for one person for each $20 million in credits issued. There are other administrative items for which DED would be responsible. DED would answer questions as well as promote and oversee the program. DED would need an unknown amount of funding to administer the program. DED also assumed some computer programming would be needed to adjust existing systems to track the credits claimed and keep a list of scholarship organizations.

DED officials also stated that, for similar legislation, ITSD indicated 240 hours of programing time for a Computer Information Technologist III to do initial programing plus recurring costs to maintain the program. Costs are shown as unknown as there is no cap on the number of credits.

ASSUMPTION (continued)

Officials from the **Office of Administration, Division of Budget and Planning** did not respond to our request for information.

Officials from the **Department of Revenue** (DOR) assume this proposal would a create new tax credit program which would reduce the amount of tax due and reduce total state revenue.

Beginning on or after January 1, 2009 a taxpayer, as defined in the proposal, could claim a tax credit in an amount equal to 80% of the amount such taxpayer contributed to a scholarship granting organization. No taxpayer could be issued more than $800,000 in tax credits per tax year. The amount of the tax credit claimed could not exceed 50% of a taxpayer's state tax liability for the taxable year for which the credit is claimed. Unused credits could be carried forward 4 succeeding tax years, and the credits could be transferred, sold, or assigned.

Each scholarship granting organization would be required to provide information concerning the identity of each taxpayer making a contribution; and the Department of Economic Development would certify the credit to DOR. Up to 10% of the students involved in an individualized educational program could receive scholarships.

Modifications to individual income tax forms and instructions would be required, modifications to corporate income tax forms and instructions would be required, modifications to the Premium Insurance Tax system would be required, modifications to the MINITS system would be required, and modifications to the COINS and CAFÉ systems would be required.

The proposal places defines the requirements for scholarship granting organization participating in the program, requires the Department of Economic Development to adopt rules and regulations, and requires DOR to provide a standardized form for a receipt to be issued by the scholarship granting organization to the taxpayer.

The proposal would also require the Department of Economic Development to conduct a study of the program with other than state funds, and would define what is to be assessed in the study.

ASSUMPTION (continued)

DOR officials provided an estimate of the cost to implement this proposal including three additional employees and the related equipment and expenditures totaling $115,843 for FY 2010, $123,257 for FY 2011, and $126,954 for FY 2012. In response to a similar proposal in the previous session (HB 1886 LR 4675-04, 2008) DOR officials estimated that one additional employee would be required. Oversight will use the prior year's DOR estimate. If unanticipated costs are incurred or if multiple proposals are implemented which increase the DOR workload, resources could be requested through the budget process.

Oversight has, for fiscal note purposes only, changed the starting salary for the additional employee to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research. Oversight has adjusted the DOR estimate of equipment and expenditures in accordance with OA budget guidelines, and Oversight assumes that a limited number of additional employees could be accommodated in existing office space.

Oversight also assumes that tax returns utilizing the new credit would not be filed with the Department of Revenue until January, 2010; therefore, Oversight will estimate the cost of the additional FTE for DOR for only six months in FY 2010 and for a full year starting in FY 2011. Oversight is unsure if enough credits would be filed with tax returns to warrant the additional FTE for DOR; therefore, Oversight will range the cost of the DOR FTE from $0 to the estimated cost.

DOR officials provided this estimate of the IT cost to implement the proposal.

Officials from the **Office of Administration, Information Technology Service Division** (ITSD DOR) estimated the cost to implement the IT portion of this request. ITSD/DOR officials assumed that one FTE existing CIT III for 2 months for system modifications to the MINITS system, and three FTE existing CIT III for 1 month for system modifications to the COINS, Café and E-file systems would be required at a total cost of $22,205. ITSD/DOR officials assume the IT portion of this proposal could be implemented with existing resources; however, if priorities shift, additional FTE or overtime would be needed.

Oversight assumes ITSD/DOR could implement the proposal with existing resources.

ASSUMPTION (continued)

Oversight assumes the fiscal impact of the new tax credit program would range from $0 (no additional tax credits issued) to an unknown amount since the program has no annual limit. Oversight assumes there would be some positive economic benefit to the state as a result of the changes in this proposal; however, Oversight considers these benefits to be indirect and therefore has not reflected them in the fiscal note.

This proposal could reduce Total State Revenues.

FISCAL IMPACT - State Government	FY 2010 (10 Mo.)	FY 2011	FY 2012
GENERAL REVENUE FUND			
Cost - Department of Revenue			
Salaries	$0 to ($9,450)	$0 to ($23,360)	$0 to ($24,061)
Fringe benefits	$0 to ($4,595)	$0 to ($11,360)	$0 to ($11,701)
Expense and equipment	$0 to ($5,505)	$0 to ($863)	$0 to ($889)
Total	$0 to ($19,550)	$0 to ($35,563)	$0 to ($36,651)
Cost - Department of Economic Development	(Unknown)	(Unknown)	(Unknown)
Revenue reduction - tax credits	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	**(Unknown)**	**(Unknown)**	**(Unknown)**
Estimated net FTE effect on General Revenue Fund	Unknown FTEs	Unknown FTEs	Unknown FTEs

Note: The fiscal note does not reflect the possibility that some of the tax credits could be utilized by insurance companies against insurance premium taxes. If this occurs, the loss in tax revenue would be split between the General Revenue Fund and the County Foreign Insurance Fund, which ultimately goes to local school districts.

FISCAL IMPACT - Local Government	FY 2010 (10 Mo.)	FY 2011	FY 2012
LOCAL SCHOOL DISTRICTS			
Income - scholarships for children attending new school districts	$0	Unknown	Unknown
Savings - school districts that lose students would realize savings from not incurring education expenses specific to these students with developmental disabilities	$0	Unknown	Unknown
Loss - districts that lose students would not receive as much state funding	$0	$0	(Unknown)
Costs - districts that receive students based upon this proposal would incur additional educational expenses higher than what the state would provide as a scholarship	$0	(Unknown)	(Unknown)
ESTIMATED NET EFFECT TO LOCAL SCHOOL DISTRICTS	**$0**	**Unknown to (Unknown)**	**Unknown to (Unknown)**

FISCAL IMPACT - Small Business

This proposal could have a direct fiscal impact to small businesses if the small business used the tax credits.

FISCAL DESCRIPTION

This proposal would authorize a tax credit for individuals who donate to a scholarship-granting organization if the donation is not claimed on their federal income tax return.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Secretary of State
Department of Elementary and Secondary Education
Department of Higher Education
Department of Revenue

NOT RESPONDING

Office of Administration
Division of Budget and Planning

Mickey Wilson, CPA
Director
March 31, 2009