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Senate Bill 772 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Dale L. Shugars
Committee: Finance

Date Completed: 8-4-00

RATIONALE

The passage of Proposal A in 1994 created the State's current system for financing public schools. Proposal A significantly increased the State's share of financial support to the schools, and restricted the ability of school districts to increase local school taxes. In some districts, school boards and administrators have turned their efforts to raise funds for extra resources and programs from millage proposals to the promotion of private donations. Schools can accept donations directly, while in some districts educational foundations have been established to accept donations, raise funds, and make investments for the purpose of providing additional funding for schools. Reportedly, many community foundations also issue grants to support public schools. It has been pointed out that while donors to community foundations and many other public and charitable entities may claim an income tax credit for donations (as explained in **BACKGROUND**), no credit is allowed for gifts to a school or an educational foundation. Some people believe that the State should allow people to claim a credit for such donations.

CONTENT

The bill would amend the Income Tax Act to allow a taxpayer, after December 31, 1999, to claim a credit against the tax equal to 50% of total contributions made by the taxpayer in a tax year to an "educational organization". The maximum credit allowed would be \$100, or \$200 for a joint return. If the credit claimed exceeded the taxpayer's tax liability for the tax year, the excess portion of the credit would have to be refunded. A contribution used by a taxpayer to calculate the credit could not be used to claim a credit for a contribution to a community foundation, shelter for homeless persons, food kitchen, food bank, or other entity whose primary purpose is to provide accommodations or meals to the indigent.

Under the bill, an "educational organization" would be a school district, local act school district, or intermediate school district, as defined in the

Revised School Code; a public school academy operated under the Code; a continuing, community, or adult education program operated by a school district or a public school academy; or an "educational foundation". An educational foundation would be an organization that applied for certification by April 1 each year, and that the Department of Treasury certified as meeting the following requirements: 1) qualified for a 501(c)(3) Federal income tax exemption under the Internal Revenue Code; 2) maintained an ongoing program to attract new endowment funds, by seeking gifts and bequests from a wide range of potential donors in the community or area served; 3) dedicated all funds, gifts, and bequests exclusively to a school district or public school academy or a foundation exempt from Federal tax, located in Michigan in the community or area served by the educational foundation; 4) was publically supported as defined by U.S. Department of Treasury regulations, and submitted to the State Department of Treasury each year documentation that demonstrated continued compliance with the bill's requirements; 5) met the requirements of the U.S. Department of Treasury for treatment as a single entity; 6) was incorporated or established as a trust at least six months before the beginning of the tax year in which a credit was claimed; 7) had an independent governing body that represented the general public's interest and that was not appointed by a single outside entity; and 8) was subject to an annual independent financial audit, and provided a copy of the audit to the State Department of Treasury within three months after it was completed.

Proposed MCL 206.267

BACKGROUND

The Income Tax Act allows a taxpayer to claim a partial, nonrefundable credit against the tax for donations or gifts to various public and charitable entities. A taxpayer may claim a credit for donations to Michigan colleges and universities; the Michigan Colleges Foundation; the State Art in Public Places

Fund; the State Museum; public libraries; public broadcasting stations; a municipality; the State, for preservation of the State archives; and art institutes; and for artwork given to the State or a municipality for display.

A taxpayer also may claim a credit for donations to a certified community foundation. To maintain or obtain certification from the Department of Treasury, a community foundation must meet certain requirements specified in the Act, including that it qualify for exemption from Federal income tax as a 501(c)(3) organization, support a broad range of charitable activities within a specified region, and seek donations from a wide range of potential donors. There were 105 certified community foundations for the 1999 tax year.

In addition, a taxpayer may claim a credit for donations to a qualified shelter for homeless persons, a food bank, food kitchen, or other entity whose primary purpose is to provide overnight accommodations, food, or meals to indigent persons.

For each of the three credits described above, the maximum credit allowed is \$100, or \$200 for a joint return, in a tax year.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The existing credits were granted to encourage taxpayers to contribute to worthwhile organizations and institutions. The bill would treat contributions to local school districts, and to educational foundations that support them, in the same manner that contributions to other organizations are treated under the Act, and thus would encourage private donations to public schools. Since schools are now restricted in their ability to raise local school operating taxes, private fund-raising has become an important tool for some districts. In particular, in some areas educational foundations make substantial annual grants to schools to enhance existing programs, or to fund extra resources for both students and teachers that districts may be unable to provide from normal revenues. The bill would promote and reward taxpayer donations to educational foundations and schools.

Opposing Argument

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

There are currently 555 local school districts, 57 intermediate school districts, and 183 public school academies. Allowing a credit for donations to all of these schools would likely have a significant impact on State income tax collections. That issue aside, it also must be questioned whether the bill is necessary. Many school districts are already successful in soliciting direct private donations, or donations from educational foundations. Further, the State recently enacted legislation (Public Act 231 of 2000) that allows school boards to transfer gifts and donations to community foundations, which can later transfer funds or grants back to a school district. (A community foundation can add gifts to its existing endowment fund, which it can invest in instruments that school districts cannot use.) This method of enhancing the value of donations to schools should be allowed to function for some time, before consideration is given to expanding credits for such donations.

Legislative Analyst: G. Towne

FISCAL IMPACT

This bill would reduce income tax liabilities by an estimated \$21 million for the 2001 tax year (FY 2001-02), which is the first tax year it would be fully in effect. In addition, because this credit would go into effect retroactively in the 1999 tax year, contributions made in 1999 and 2000 could not be claimed under this credit until FY 2000-01, so there also would be some reduction in revenues, of a lesser amount, in FY 2000-01. The estimated \$21 million reduction in income tax revenue in FY 2001-02 would reduce General Fund/General Purpose revenue an estimated \$20 million and School Aid Fund revenue \$1 million.

Fiscal Analyst: J. Wortley