

TAX CREDIT FOR PURCHASES OF SCHOOL SUPPLIES BY TEACHERS

House Bill 4261(Substitute H-3)

Sponsor: Paul Condino

House Bill 4525 (Substitute H-5)

Sponsor: Matt Milosch

Committee: Tax Policy

First Analysis (2-13-04)

THE APPARENT PROBLEM:

Every year teachers across the state and the nation individually spend hundreds, and sometimes thousands, of dollars on supplies and equipment for their classrooms. In announcing the introduction of a bill to enact the federal Teacher Tax Relief Act of 2003, Michigan Congressman Dave Camp said, “[t]he average teacher spends \$521 of their own money on supplies for their classroom each year. This places a lasting burden on their personal finances. If we want to attract and retain the brightest and the best to the teaching profession, we need to help them manage the added expenses.” Along similar lines, it has been suggested that the state also offer a tax break to teachers for any out-of-pocket expenses for classroom supplies.

THE CONTENT OF THE BILLS:

Together the bills would amend the Income Tax Act to provide school teachers and administrators with a nonrefundable credit equal to one-half of the costs paid by the taxpayer in the tax year for classroom supplies, up to \$100 for one qualifying taxpayer or up to \$200 if both taxpayers filing a joint return qualify.

House Bill 4261 would make the credit available to secondary school teachers and administrators. House Bill 4525 would make the credit available to teachers and administrators in an elementary school or employed by an intermediate school district. The term “school” would be defined in both bills as a public school, public school academy, or state-approved nonpublic school, as those terms are defined in the Revised School Code. House Bill 4525 would define “classroom supplies”, for the purposes of both bills, to mean books, computer programs, art supplies, classroom decorations, supplies and equipment for experiments, prizes, and similar materials.

BACKGROUND INFORMATION:

A similar “above the line” deduction, up to \$250, for “qualified expenses” is available under the federal Internal Revenue Code to a K-12 teacher, instructor, counselor, principal, or aide who works at least 900 hours during the school year in a school that provides elementary or secondary education, as determined under state law. Under federal tax law, “qualified expenses” include any unreimbursed expenses paid or incurred for books, supplies, computer equipment, and supplementary materials used in the classroom. To be deductible, the qualified expenses must be more than (1) the interest on qualified U.S savings bonds excluded from income because the taxpayer paid “qualified higher education expenses”, (2) any distribution from a qualified tuition program excluded from income, or (3) any tax-free withdrawals from a Coverdell education savings account.

The federal deduction was initially available for the 2002 and 2003 tax years following the enactment of the Job Creation and Worker Assistance of 2002 (P.L. 107-147). In early 2003, Congressman Camp introduced H.R. 785, which would amend the federal Internal Revenue Code to increase the deduction to \$400 and extend the current federal deduction beyond the 2003 tax year. In late November 2003, the House of Representatives voted to extend the deduction to apply to the 2004 tax year (see H.R. 3521).

FISCAL IMPLICATIONS:

The House Fiscal Agency has estimated that the combination of the two bills would reduce income tax revenue by as much or more than \$14 million at the upper end. However, since the credits are nonrefundable, it is possible that the full amount may not be taken in some instances. Thus, the likely fiscal impact should be about \$11 million to \$12 million.

The fiscal agency notes that there are about 90,000 elementary and secondary teachers in Michigan in public schools and public school academies. In addition, there about 20,000 special needs and vocational teachers that might qualify, as well as roughly 5,500 administrators. Finally, there are about 15,000 private school educators. Survey data from Market Data Retrieval suggests that on average, teachers spend about \$400 per year out of pocket in supplies for their classrooms. Thus, most, if not all, teachers would qualify for the full credit. (HFA analysis dated 2-11-04)

ARGUMENTS:

For:

The tax credits offered under the bills are necessary to offset the costs of classroom supplies paid by teachers. In the vast majority of instances, teachers individually pay several hundred dollars for classroom supplies. Also, most first-year teachers spend more money than many veteran teachers. Indeed, one teacher in the Southfield School District reported that when she was a first-year teacher, she spent well over \$4,000 for her classroom and her students. In many instances, teachers spend their own money for basic supplies such as pencils, pens, erasers, and paper. In other instances, teachers spend their own money to provide their students with supplies when the supplies they need cannot be obtained by the school in a timely manner. Also, while many teachers spend their own money out of necessity (to provide students with the basics), a good number of other teachers go above the call of duty and willingly spend their own money to enhance the educational experience of their students. Providing teachers with a tax credit for their out-of-pocket expenses will help offset some of the financial hardship teachers must endure when they spend money on their students.

Against:

There is some concern that the providing the credit to non-public school teachers could be constitutionally problematic, in light of Article 8, Section 2 of the state constitution, which states, in part, “[n]o public monies or property shall be appropriated or paid or any public credit utilized, by the legislature or any other political subdivision or agency of the state directly or indirectly to aid or maintain any private, nondenominational or other nonpublic, pre-elementary, elementary, or secondary school. No payment, credit, tax benefit, exemption or deductions, tuition voucher, subsidy, grant or loan of public monies or property shall be provided directly

or indirectly, to support the attendance of any student or the employment of any person at any such nonpublic school or at any location or institution where instruction is offered in whole or in part to such nonpublic school students.”

Response:

The bills would grant a tax credit to teachers at public and private schools based on their voluntary purchases of supplies for their classrooms. Is this really prohibited by the language in the state constitution? Perhaps, the constitutionality of such a contribution needs to be tested in the state courts. The existing federal deduction applies to private school teachers. At the federal level, there have been two divergent viewpoints in the U.S. Supreme Court’s jurisprudence regarding the establishment clause of the First Amendment of the U.S. Constitution: separation and neutrality. [The First Amendment states, in pertinent part, that Congress (and the states through application of the 14th Amendment) shall make no law respecting the establishment of religion, nor shall it prohibit free exercise of religion.] Writing for the majority in a recent decision on school vouchers, Chief Justice Rehnquist noted that the court’s Establishment Clause jurisprudence can be broken down along two lines: cases that involve government programs that provide direct aid to religious institutions and cases regarding government programs that involve “true private choice, in which government aid reaches religious schools only as a result of the genuine and independent choice of private individuals.” In the case in question, the court held that a Cleveland school voucher program to be a program of true private choice, in that the program “is neutral in all respects toward religion.” Using similar logic, it is possible that state courts would allow a state tax credit for teachers in private and religious schools teachers.

Reply:

Michigan’s state constitution is more restrictive on this issue. It specifically prohibits educational programs that the federal courts might find acceptable in other states (with different state constitutions), such as tuition voucher programs and tuition tax credits.

Against:

Rather than “spending” state tax dollars through a tax credit, it would be better to adequately fund schools in the state so as to not “require” teachers and administrators to spend their own money. If schools - particularly poorer schools - were better funded, there would be little need for teachers to spend their own money.

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

Against:

Notwithstanding the apparent merits of the bill, this credit further erodes the base of the income tax. Rather than proliferating exemptions and credits that complicate the state tax code and shift tax burdens, the legislature should work toward simplifying the tax and lowering the overall rate, thereby providing tax relief to all taxpayers in the state, not just teachers. Moreover, this bill is being proposed at a time when the state faces a tenuous budget situation.

POSITIONS:

The Department of Treasury opposes the bills. (2-12-04)

The Michigan Education Association opposes the bills. (2-12-04)

The Michigan Catholic Conference supports the bills. (2-12-04)

Several teachers from the Southfield Public School District testified in support of the bills (1-21-04)

Analyst: M. Wolf
