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BILL ANALYSIS

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Senate Bill 382 (as reported without amendment)
Sponsor: Senator Michael D. Bishop
Committee: Finance

Date Completed: 7-24-06

RATIONALE

Reportedly, an increasing number of Michigan public school districts are establishing foundations to raise money for educational programs and projects that the districts cannot otherwise afford to fund. While the goal of the foundations is to support the public school system, taxpayers who donate to the foundations are not eligible to claim a credit against their income tax for their contributions. Some people believe that taxpayers would be more likely to make donations to educational foundations if they received a tax credit for 50% of their donation.

CONTENT

The bill would amend the Income Tax Act to allow a taxpayer to credit against his or her annual income tax an amount equal to 50% of the aggregate amount of charitable contributions made during the tax year to an educational facility or organization, including donations to educational foundations and certain educational programs offered by school districts or public school academies.

The Act allows a taxpayer to credit against his or her income tax for the tax year an amount, subject to applicable limitations, equal to 50% of the aggregate amount of charitable contributions made by the taxpayer during the tax year to certain types of nonprofit entities. The maximum allowable credit is $100 for a taxpayer, or $200 for a husband and wife filing a joint return. Under the bill, a taxpayer also could claim the credit for charitable contributions to an educational facility or organization.

A contribution to the endowment fund of a community foundation or other entity providing overnight accommodation, food, or meals to indigents could not be used in calculating the credit.

"Educational facility or organization" would mean either an educational foundation, or a continuing education, community education, or adult education program operated by a school district or a public school academy.

"Education foundation" would mean an organization that applied for certification by April 1 of the tax year for which the taxpayer was claiming the credit that annually submitted to the Department of Treasury documentation that demonstrated continued compliance with the Act, and that the Department certified for that tax year as meeting all of the following requirements:

-- Qualified for exemption from Federal income taxation under Section 501(c)(3) of the Internal Revenue Code.
-- Maintained an ongoing program to attract new funds by seeking gifts and bequests from a wide range of potential donors in the community or area served.
-- Was publicly supported as defined by the regulations of the U.S. Department of Treasury.
-- Met the requirements for treatment as a single entity contained in the regulations of the U.S. Department of Treasury.
-- Was incorporated or established as a trust at least six months before the beginning of the tax year for which the credit was claimed.
-- Had an independent governing body representing the general public's interest

and that was not appointed by a single outside entity.

-- Was subject to a program review each year and an independent financial audit every three years and provided copies of the review and audit to the Department of Treasury within three months after the review or audit was completed.

The Department also would have to certify that all funds, gifts, and bequests were exclusively dedicated to a school district or public school academy or a foundation described in Section 509(a)(1) or 509(a)(3) of the Internal Revenue Code (which describe various types of charitable organizations) that was located in the community or area served and that was located in the State.

MCL 206.260

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

Educational foundations provide valuable resources to educators and students, sometimes through grants to teachers seeking funding for school-related projects or activities. Since educational foundations serve primarily as a method for parents and other members of the community to funnel additional money into the classroom, the State should encourage donations by offering an income tax credit.

Currently, under the Income Tax Act, a taxpayer may receive a credit for donating to a community foundation, but not for donating to a public school foundation. Because tax-exempt community foundations may give money to school foundations, some taxpayers seeking a credit and wanting to support education might donate to a community foundation, which, in turn, may pass the money on to an educational foundation. This complicates the process of making a donation for the taxpayer and reduces the money that otherwise could go to the educational foundation, because the community foundation keeps a portion of the donation as a transaction fee. By allowing a taxpayer to claim a credit for a donation made directly to an educational foundation, the bill would simplify the process and create an incentive for taxpayers to contribute to public education.

Opposing Argument

While a tax credit for donations to educational foundations would be a boon for school districts that have active foundations and where individuals are willing and able to donate money, it could end up hurting the State's poorer districts where fewer taxpayers could afford to contribute, because the School Aid Fund would lose some revenue as a result of the credit. Increased donations probably would offset the lost revenue in affluent districts, but it is unlikely that the increase in foundation donations would offset the lost School Aid Fund revenue in the State's poorest districts.

Response: The benefits of the increased donations to educational foundations statewide would outweigh the School Aid Fund revenue lost as a result of the tax credit. The tax credit would be for only 50% of a contribution, and most of the revenue loss would affect the General Fund.

Opposing Argument

Public schools have only begun forming educational foundations in the past few years, but many of Michigan's private schools have had educational foundations for decades. By providing a tax credit for donations to educational foundations for public schools only, the bill would make it more difficult for private school foundations to compete for donations. If properly drafted, the bill could allow the credit also for donations to educational foundations supporting private schools without raising constitutional issues.

Legislative Analyst: J.P. Finet

FISCAL IMPACT

This bill would reduce income tax revenue an estimated $15 million in the initial year and about $20 million to $25 million in subsequent fiscal years. It is estimated that 80% to 90% of this loss in revenue would affect the General Fund/General Purpose budget, and the remaining loss would affect the School Aid Fund. School districts would benefit from increases in contributions that would be generated by this new tax credit, but other local governments would not be directly affected by this bill. Under current law, about 290,000 taxpayers, or about

6.0% of all income tax filers, claim about $25 million in public contribution tax credits.

Fiscal Analyst: Jay Wortley