

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 1

PRINTER'S NO. 1711

AMOUNT

FY 2012-13 -- \$42,633,265
FY 2013-14 -- \$81,406,662
FY 2014-15 -- \$89,380,332
FY 2015-16 -- \$94,264,095

FUND

General

DATE INTRODUCED

January 26, 2011

PRIME SPONSOR

Senator Piccola

HISTORY OF BILL

Referred to EDUCATION, Jan. 26, 2011
Reported as amended, March 1, 2011
First consideration, March 1, 2011
Second consideration, March 7, 2011
Re-referred to APPROPRIATIONS, March 7, 2011
Re-reported as amended, April 11, 2011
Re-referred to EDUCATION, April 27, 2011
Re-reported as amended, Oct. 25, 2011

DESCRIPTION AND PURPOSE OF BILL

Senate Bill 1 establishes a new Article XXV-B (Opportunity Scholarships and Educational Improvement Tax Credit) to provide for public to public and nonpublic school choice programs, reestablishes the Educational Improvement Tax Credit Program with amendments and makes changes to the Charter School Law.

Opportunity Scholarships

Establishes the Opportunity Scholarship Program for low-income children to attend nonresident public schools and nonpublic schools. A low-income child is defined as school-age with a household income not greater than 185% of the Federal poverty level, the same amount as eligibility for a reduced price lunch under the Federal Free Lunch Program.

Provides for the opportunity scholarship for students with household income not greater than 130% of the Federal poverty level in an amount to be equivalent to the lesser of a student's resident school district's per pupil share of state revenue, minus transportation reimbursements, for the prior year or the actual tuition at the nonresident public school or nonpublic school the student attends. For students with household income above 130% of the Federal poverty level up to 185%, the scholarship amount is reduced by 25%.

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Provides for the Commonwealth to make payments for opportunity scholarships for all eligible students who in the previous year were enrolled in their resident school district, a charter school or a cyber charter school. In the second consecutive year the student is enrolled in a nonresident public school or nonpublic school, the Commonwealth deducts the funds from the student's resident school district. For the purpose of receiving future state subsidies, the bill allows these students to continue to be counted in their resident school district's average daily membership.

Allows school districts the option to provide for local scholarships for low-income students to attend a nonresident public school in addition to the opportunity scholarship amount. The local scholarship is to be from local funds in an amount equivalent to at least 10% of the school district's share of its total per pupil revenue.

For students who already attend a nonpublic school and are eligible for a scholarship, the Commonwealth is responsible to provide funding for the opportunity scholarships.

Students apply directly to the Department of Education for opportunity scholarships. Payments for scholarships for students enrolling in a nonresident public school are made directly by the Department. Payments for scholarships for students enrolling in or already enrolled in a nonpublic school are made by the Department to parents by check endorsable only to the nonpublic school.

Any opportunity scholarship funds remaining in excess of the of a student's actual tuition charge are placed in the Opportunity Scholarship Account to be used in subsequent years.

Tuition charged by nonresident public schools for scholarship recipients is limited to the sum of the opportunity scholarship amount and the local scholarship amount, if provided. Nonresident public schools and nonpublic schools are prohibited from charging opportunity scholarship recipients higher tuition rates than other students.

For students with disabilities attending a nonresident public school, costs in excess of the opportunity scholarship and local scholarship amounts are to be deducted from the resident school district's special education subsidy, provided that the amount does not exceed the current year costs of the services if they were to be provided in the resident school district.

Funding available for opportunity scholarships is limited to the amount of monies appropriated by the General Assembly and monies in the Opportunity Scholarship Account. In the event insufficient monies are available for opportunity scholarships, the Department shall make pro rata reductions in the amount received by each scholarship recipient.

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Opportunity Scholarship Program Implementation

Beginning in FY 2012-13, low-income students currently attending one of the Commonwealth's 143 low achieving schools will be eligible to receive an opportunity scholarship.

A low achieving school is defined as a public elementary or secondary school that has scored in the lowest 5% of its designation as elementary or secondary based on the most recent state assessment and, beginning in FY 2018-19, a public elementary or secondary school in which 50 percent or fewer students scored proficient or above in either reading or math will also be considered a low achieving school.

Beginning in FY 2013-14, all low-income students residing within the attendance boundaries of one of the low achieving schools, including students attending nonpublic schools, will be eligible to receive an opportunity scholarship.

Optional Local Tuition Grant Program

Provides that a school district may use state funds it receives to establish its own tuition grant program to allow resident students attend a nonresident public school or nonpublic school.

Education Opportunity Board

Establishes the Education Opportunity Board to advise the Department concerning the implementation and administration of the opportunity scholarship program, approve guidelines regarding the program and prepare a report no later than December 1, 2012, and each year thereafter, describing the manner in which the board carries out its powers and duties. The board is to be comprised of three members appointed by the Governor with consent from the Senate. Members are prohibited from receiving compensation but may be reimbursed for expenses.

Educational Improvement Tax Credit (EITC)

Increases tax credits available under the EITC program from \$75 million to \$100 million beginning in FY 2012-13. As drafted, \$92 million in credits would be made available to scholarship organizations (SOs) and educational improvement organizations (EIOs) and \$8 million would be made available to prekindergarten scholarship organizations. Of the \$92 million available to the SOs and EIOs, 75% will be reserved for the SOs and 25% for the EIOs.

Increases tax credits available under the EITC program from \$100 million to \$125 million beginning in FY 2014-15. As drafted, \$115 million in credits would be made available to scholarship organizations (SOs) and educational improvement organizations (EIOs) and \$10 million would be made available to prekindergarten scholarship organizations. Of the \$115 million available to the SOs and EIOs, 75% will be reserved for the SOs and 25% for the EIOs.

Beginning in FY 2015-16, in any year when the amount of credits for the prior year exceeds 90% of the amount available, the amount of credits available will increase by 5%.

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Provides for applications for tax credits to be filed beginning on May 15 for tax credits available for the fiscal year beginning July 1 and provides for the applications to be approved in the following priority: 1) Any business firm entering the second year of a two-year commitment; 2) any business firm renewing a two-year commitment; and, 3) any other firm making a new application. If applications for credits exceed the amount of credits available, the credits are to be prorated. It also sets aside 20% of the tax credits available for EIOs, for the EIOs specifically related to school foundations. Nonschool foundation EIOs may access the remaining credits and the set-aside amount if it is not fully utilized.

Allows approved private schools and the charter schools for the deaf and blind to receive funding for innovative education programs from EIOs.

Charter School Funding Advisory Committee

Provides for the Department to establish a 15-member advisory committee to examine the financing of charter and cyber charter schools. Members are to receive no compensation for their service but shall be reimbursed for travel and expenses. The committee is to review and make recommendations on funding formulas, student residency, transportation, special education funding and eligibility to receive grants and other funding. Charges the committee with issuing a report of its findings to the General Assembly and the Governor no later than November 30, 2012.

Charter School Concurrent Enrollment and Accreditation

Specifies that charter and cyber charter schools may enter into concurrent enrollment agreements and seek accreditation.

Charter School Use of Sectarian Facilities

Allows charter and cyber charter schools to utilize sectarian facilities if it covers or removes religious objects to the extent reasonably feasible.

Charter School Trustees and Boards of Trustees

Provides that a charter or cyber charter school trustee is a public official subject to the Ethics Act and required to file an annual statement of financial interest. Prohibits conflicts of interest by a trustee and provides for the removal of a trustee for conviction of a felony and other crimes. Provides for procedures to remove a trustee that neglects to perform the duties required under this act. For a school chartered after the effective date of the act, it prohibits an individual from serving as a trustee, if the individual or immediate family member is employed by or is a member of the local board of school directors. Requires a charter or cyber charter school board of trustees to have more than five unrelated members and add a parent member to its board within one year of the effective date of the act.

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Charter School Administrators

Provides that a charter or cyber charter school administrator is a public employee subject to the Ethics Act and required to file an annual statement of financial interest. Prohibits conflicts of interest by an administrator and provides for the dismissal of an administrator for conviction of a felony and other crimes. Prohibits an administrator from receiving compensation from another charter school, cyber charter school or education management service provider, unless the administrator has provided the school's board with details of the work to be performed for another entity and receives the permission of the board. Prohibits an administrator or immediate family member from serving as a voting member of the board of trustees of that person's school.

Charter School Establishment

Allows a school district board of directors to convert a public school building to a charter school by a majority vote. Requires applications for the charter school created through the conversion process to be solicited through a competitive request for proposal by the local school board of directors. Removes provisions requiring teachers and parents support a conversion and provisions requiring a charter school to obtain signatures of residents to appeal to the state charter school appeal board.

Charter School Applications

Requires the Department to create a standard application for charter and cyber charter school applicants. The application is to include: an organizational chart; a description of the roles and responsibilities of the board of trustees; a description of the method of appointment or election of the trustees; standards for board performance; specific information regarding any contracts with an education management service provider; policies regarding truancy, absences, withdrawal of students; how the school intends to meet performance standards; and, whether or not the school will seek accreditation.

Charter Terms and Amendments

Increases the initial term of a charter or cyber charter school's charter from 3 to 5 years and a renewal from 5 to 10 years. Establishes a process for a charter or cyber charter school to amend its existing charter agreement.

State Charter School Appeal Board

Increases the membership on the state charter school appeal board from 7 to 9 members by requiring the addition of a charter or cyber charter school administrator and a parent of a charter or cyber charter school student.

Charter School Facilities and Taxation

Clarifies that charter and cyber charter schools and associated non-profits are tax exempt. Allows a school district to permit a charter school to operate at more than one location.

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Charter School Enrollments

Removes language allowing a charter or cyber charter schools to agree to enrollment caps as part of its charter. Requires a charter or cyber charter school to notify a student's school district of residence within 10 days of enrollment and establishes procedures to resolve residency disputes. Requires school districts to provide all records relating to an enrolling student to the charter or cyber charter school within 10 days and establishes a procedure to resolve records disputes.

Charter School Funding

Provides for direct payment of state funding to charter and cyber charter schools in 12 monthly payments and establishes procedures to resolve funding disputes. Funds are to be deducted from subsidies due to the student's school district of residence. Presently, charter and cyber charter schools receive funding directly from a student's school district of residence.

Charter School Financial Reports and Assessments

Provides local school board directors ongoing access to a charter school's financial records, reports, aggregate standardized test scores, and teacher certification and personnel records. Requires a charter school form an independent audit committee to annually review a completed certified audit of its operations. Provides for a charter school's audit and annual budget to be public documents and available on the Internet. Provides that a charter school is subject to audit by the Auditor General. Requires a charter school provide the school district and the department with its annual budget that identifies sources of funding, the amount and use of funds provided by a charter school foundation and the salaries of administrators. Requires a charter schools and related foundations to make their budget and tax filings available upon request and on the Internet.

Charter School Performance Matrix

Requires the Department to develop a performance matrix to evaluate charter and cyber charter school performance within one year of the effective date of the act. The performance matrix is to utilize objective criteria including, but not limited to: the Pennsylvania System of School Assessment Test, Keystone Exams; annual growth as determined by the Pennsylvania Value Added Assessment System; attendance; attrition rates; graduation rates; accreditation; school safety and other measures of school quality. The Department is to develop the matrix with input from charter and cyber charter school operators and may contract for consulting services with an entity experienced in developing matrices.

Charter School Alcohol Use Prohibited

Provides that alcoholic beverages are not to be available for consumption, purchase or sale in any charter or cyber charter school facility and provides for penalties for violating this provision.

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FISCAL IMPACT:

Fiscal Year 2012-13 -- \$42,633,265

Using information obtained from the Department of Education related to the Free Lunch Program's enrollment, there are approximately 70,044 eligible low-income students attending the 143 low achieving schools in the Commonwealth. Assuming that 3% (1,943) of the Free Lunch eligible students and 5% (270) of the Reduced Price Lunch eligible students attending the low achieving schools apply for and receive opportunity scholarships, the cost to the Commonwealth is estimated to be \$15,281,260.

The Commonwealth will incur \$852,005 in additional costs to reimburse school districts for transportation of nonpublic school pupils.

Administrative costs to the Department of Education for the development the charter school performance matrix, implementing computer systems with specialized software to process scholarship applications and provide for direct payments to charter and cyber charter schools is estimated to cost \$1,500,000.

The increase to the EITC will reduce state revenue by \$25,000,000.

Fiscal Year 2013-14 -- \$81,406,662

Assuming that 5% (3,238) of the Free Lunch eligible students and 7% (366) of the Reduced Price Lunch eligible students in the 143 low achieving schools apply for and receive opportunity scholarships and all low-income students (7,190) residing within the attendance boundaries of the low achieving schools that already attend nonpublic schools apply for and receive opportunity scholarships, the cost to the Commonwealth is estimated to be \$76,022,576.

The Commonwealth will incur \$1,387,540 in additional costs to reimburse school districts for transportation of nonpublic school pupils.

Administrative costs to the Department of Education to process scholarship applications and provide for direct payments to charter and cyber charter schools is estimated to cost \$500,000.

The increase to the EITC will reduce state revenue by \$25,000,000.

The deduction of school district subsidies for costs of opportunity scholarship recipients enrolled for the second consecutive year (\$15,281,260) and funds accumulated in the Opportunity Scholarship Account (\$4,834,654) will offset costs by \$20,115,914.

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Fiscal Year 2014-15 -- \$89,380,332

Assuming that 7% (4,532) of the Free Lunch eligible students and 9% (479) of the Reduced Price Lunch eligible students in the 143 low achieving schools apply for and receive opportunity scholarships and all low-income students (7,190) residing within the attendance boundaries of the low achieving schools that already attend nonpublic schools apply for and receive opportunity scholarships, the cost to the Commonwealth is estimated to be \$86,319,983.

The Commonwealth would incur \$1,929,235 in additional costs to reimburse school districts for transportation of nonpublic school pupils.

Administrative costs to the Department of Education to process scholarship applications and provide for direct payments to charter and cyber charter schools is estimated to cost \$500,000.

The increase to the EITC will reduce state revenue by \$50,000,000.

The deduction of school district subsidies for costs of opportunity scholarship recipients (\$24,897,391) and funds accumulated in the Opportunity Scholarship Account (\$22,542,260) will offset costs by \$47,439,651.

Fiscal Year 2015-16 -- \$94,264,095

Assuming that 9% (5,834) of the Free Lunch eligible students and 11% (580) of the Reduced Price Lunch eligible students in the 143 low achieving schools apply for and receive opportunity scholarships and all low-income students (7,190) residing within the attendance boundaries of the low achieving schools that already attend nonpublic schools apply for and receive opportunity scholarships, the cost to the Commonwealth is estimated to be \$96,554,428.

The Commonwealth would incur \$2,469,390 in additional costs to reimburse school districts for transportation of nonpublic school pupils.

Administrative costs to the Department of Education to process scholarship applications and provide for direct payments to charter and cyber charter schools is estimated to cost \$500,000.

The increase to the EITC will reduce state revenue by \$56,250,000.

The deduction of school district subsidies for costs of opportunity scholarship recipients enrolled (\$34,653,103) and remaining funds accumulated in the Opportunity Scholarship Account (\$24,387,230) will offset costs by \$59,040,333.

Senate Bill 1 -- Cost Summary

	Year 1 (FY 2012-13)	Year 2 (FY 2013-14)	Year 3 (FY 2014-15)	Year 4 (FY 2015-16)
Lowest Performing Schools				
Scholarships Former Public School Students	\$ 15,281,260	\$ 24,897,391	\$ 34,653,103	\$ 44,347,393
Nonpublic Transportation	\$ 852,005	\$ 49,737,645	\$ 49,737,645	\$ 49,737,645
Subtotal	\$ 16,133,265	\$ 1,387,540	\$ 1,929,235	\$ 2,469,990
Education Improvement Tax Credit (EITC)				
	\$ 25,000,000	\$ 25,000,000	\$ 50,000,000	\$ 56,250,000
Administration				
	\$ 1,500,000	\$ 500,000	\$ 500,000	\$ 500,000
School District Deduction	\$ (15,281,260)	\$ (15,281,260)	\$ (24,897,391)	\$ (34,653,103)
Opportunity Scholarship Account	\$ (4,834,654)	\$ (4,834,654)	\$ (22,542,260)	\$ (24,387,230)
Subtotal Deductions	\$ (20,115,914)	\$ (20,115,914)	\$ (47,439,651)	\$ (59,040,333)
Total State Costs (Program Costs minus Deductions)	\$ 42,633,265	\$ 81,406,662	\$ 89,380,332	\$ 94,264,095
Other Statistics				
Estimated Tuition Cost	\$ 10,446,606	\$ 52,092,776	\$ 60,003,519	\$ 68,178,977
Opportunity Scholarship Account (Est. Tuition Less Scholarships)	\$ 4,834,654	\$ 22,542,260	\$ 24,387,230	\$ 25,906,061
Est. Student Participation				
# Public Eligible Students	70,044	70,044	70,044	70,044
Free Lunch Eligible (3%)	1,943	3,238	4,532	5,834
Reduced Price Lunch Eligible (5%)	270	366	479	580
Total Participation	2,213	3,604	5,011	6,414
Est. Student Participation				
# Public Eligible Students	70,044	70,044	70,044	70,044
Free Lunch Eligible (9%)	5,834	4,532	4,532	5,834
Reduced Price Lunch Eligible (11%)	580	479	479	580
Total Participation	7,190	7,190	7,190	7,190
Est. Student Participation				
# Nonpublic Eligible Students	7,190	7,190	7,190	7,190
Free Lunch Eligible	6,649	6,649	6,649	6,649
Reduced Price Lunch Eligible	541	541	541	541
Total Participation	13,604	13,604	13,604	13,604