

APR 13 2005
WAYS & MEANS CALENDAR

HOUSE FILE 853
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 320)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing that contributions made to certain school
2 tuition organizations may be treated as credits under the
3 individual income tax and including an applicability date
4 provision.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 853

1 Section 1. NEW SECTION. 422.11K SCHOOL TUITION
2 ORGANIZATION TAX CREDIT.

3 1. The taxes imposed under this division less the credits
4 allowed under sections 422.12 and 422.12B shall be reduced by
5 a school tuition organization tax credit equal to sixty-five
6 percent of the amount of the voluntary cash contributions made
7 by the taxpayer during the fiscal year ending in the tax year.

8 2. To be eligible for this credit, all of the following
9 shall apply:

10 a. A deduction pursuant to section 170 of the Internal
11 Revenue Code for any amount of the contribution is not taken
12 for state tax purposes.

13 b. The contribution does not designate that any part of
14 the contribution be used for the direct benefit of any
15 dependent of the taxpayer or for any other student designated
16 by the taxpayer.

17 c. Each school tuition organization shall apply for tax
18 credits on behalf of the taxpayers making contributions to the
19 organization. The application shall be filed with the
20 department by August 15 following the end of the fiscal year
21 and shall contain a listing of each taxpayer, the taxpayer's
22 contribution, and the ratio that the contributions that are
23 used for educational scholarships and tuition grants for
24 public and private nonprofit preschools are to the total
25 contributions used for educational scholarships and tuition
26 grants. The department shall compute the amount of credits
27 attributable to contributions benefiting preschools and those
28 benefiting elementary and secondary schools. The total amount
29 of credits that may be approved for any fiscal year for
30 contributions benefiting preschools is three million dollars
31 and for contributions benefiting elementary and secondary
32 schools is seven million dollars. If tax credits exceed the
33 limit, the amount available to each taxpayer shall be
34 prorated. If all the tax credits available for one type of
35 contribution are not used, the excess may be used to increase

1 the limit for the other type of contribution.

2 Notwithstanding any other provision, the maximum tax credit
3 a taxpayer may receive shall not exceed an amount equal to
4 fifty thousandths of one percent of the combined available
5 credits for both types for married taxpayers filing jointly or
6 equal to twenty-five thousandths of one percent of the
7 combined available credits for both types for all other
8 taxpayers.

9 The department shall notify the school tuition organization
10 of the amount of each taxpayer's tax credit by November 1 of
11 the tax year. The school tuition organization shall notify
12 the taxpayers of their amount of tax credit by December 1 of
13 the tax year.

14 3. Any credit in excess of the tax liability is not
15 refundable but the excess for the tax year may be credited to
16 the tax liability for the following five tax years or until
17 depleted, whichever is the earlier.

18 4. Married taxpayers who file separate returns or file
19 separately on a combined return form must determine the tax
20 credit based upon their combined net income and allocate the
21 total credit amount to each spouse in the proportion that each
22 spouse's respective net income bears to the total combined net
23 income. Nonresidents or part-year residents of Iowa must
24 determine their tax credit in the ratio of their Iowa source
25 net income to their all source net income. Nonresidents or
26 part-year residents who are married and elect to file separate
27 returns or to file separately on a combined return form must
28 allocate the tax credit between the spouses in the ratio of
29 each spouse's Iowa source net income to the combined Iowa
30 source net income of the taxpayers.

31 5. For purposes of this section:

32 a. "Qualified school" means a public or private nonprofit
33 preschool, as defined in section 237A.1, in this state or a
34 nonpublic elementary or secondary school in this state which
35 is accredited under section 256.11 and adheres to the

1 provisions of the federal Civil Rights Act of 1964 and chapter
2 216.

3 b. (1) "School tuition organization" means a charitable
4 organization in this state that is exempt from federal income
5 taxation under section 501(c)(3) of the Internal Revenue Code
6 and that allocates at least ninety percent of its annual
7 revenue for educational scholarships or tuition grants to
8 children to allow them to attend any qualified school of their
9 parents' choice.

10 (2) A school tuition organization shall only award
11 educational scholarships and tuition grants to children who
12 reside in Iowa. In addition, to qualify as a school tuition
13 organization, the charitable organization shall provide
14 educational scholarships or tuition grants to students without
15 limiting availability to only students of one school and shall
16 prioritize the provision of such scholarships and grants to
17 students from families whose incomes are less than two hundred
18 percent of the federal poverty level, as defined by the most
19 recently revised income guidelines published by the United
20 States department of health and human services.

21 6. A school tuition organization that receives a voluntary
22 cash contribution pursuant to this section shall report to the
23 department, in a form prescribed by the department, by August
24 15 of each fiscal year all of the following information:

25 a. The name, address, and contact name of the school
26 tuition organization.

27 b. The total number of contributions received during the
28 previous fiscal year.

29 c. The total dollar amount of contributions received
30 during the previous fiscal year.

31 d. The total number of children awarded educational
32 scholarships or tuition grants during the previous fiscal
33 year.

34 e. The total dollar amount of educational scholarships and
35 tuition grants awarded during the previous fiscal year.

1 f. For each school to which educational scholarships or
2 tuition grants were awarded all of the following shall be
3 provided:

- 4 (1) The name and address of the school.
- 5 (2) The number of educational scholarships and tuition
6 grants awarded during the previous fiscal year.
- 7 (3) The total dollar amount of educational scholarships
8 and tuition grants awarded during the previous fiscal year.

9 Sec. 2. APPLICABILITY DATE. This Act applies to tax years
10 beginning on or after January 1, 2006.

11 EXPLANATION

12 This bill provides for an individual income tax credit
13 equal to 65 percent of the voluntary contributions made to a
14 school tuition organization that is exempt from federal income
15 tax. The tax credit is limited to .025 percent of the tax
16 credits available in the case of a single filer and .05
17 percent of the tax credits available in the case of joint
18 filers. If married individuals file separately, the credit is
19 divided between them based upon each individual's net income.
20 At least 90 percent of total contributions must be used by the
21 school tuition organization to provide educational
22 scholarships or tuition grants to children attending public or
23 private nonprofit preschools or nonpublic elementary or
24 secondary schools that are accredited under state law and
25 adhere to the federal Civil Rights Act of 1964 and the state
26 civil rights law. The contribution may not be deducted as a
27 charitable deduction for state tax purposes or be designated
28 for the direct benefit of the taxpayer's dependents or another
29 student designated by the taxpayer. The prioritization of the
30 scholarships and grants shall be to families with incomes of
31 less than 200 percent of the federal poverty level. All
32 assistance must go to students residing in Iowa and must be
33 available to students in more than one school.

34 The school tuition organization must report annually to the
35 department of revenue information related to the amount of

1 contributions made to the organization, and the number,
2 school, and amount of scholarships and grants awarded.

3 To receive the credits the organization shall apply on
4 behalf of each contributor to the department of revenue.

5 The total amount of credits that may be granted by the
6 department of revenue is \$10 million per fiscal year with \$3
7 million for contributions used for preschools and \$7 million
8 used for elementary and secondary schools. If the amount of
9 tax credits exceeds the appropriate limit, the department is
10 to prorate the credits.

11 The bill applies to tax years beginning on or after January
12 1, 2006.

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HOUSE FILE 853

H-1402

1 Amend House File 853 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. NEW SECTION. 422.11K SCHOOL
5 CHARITABLE ORGANIZATION TAX CREDIT.

6 1. The taxes imposed under this division less the
7 credits allowed under sections 422.12 and 422.12B
8 shall be reduced by a school charitable organization
9 tax credit equal to twenty-five percent of the amount
10 of voluntary cash contributions made by the taxpayer
11 during the tax year to a school charitable
12 organization, not to exceed either of the following:

13 a. Two thousand five hundred dollars for a single
14 individual.

15 b. Five thousand dollars for a married couple.

16 2. The taxpayer shall not be entitled to the
17 credit unless the credit is preapproved by the
18 department as provided in subsection 4.

19 3. To be eligible for this credit, all of the
20 following shall apply:

21 a. A deduction pursuant to section 170 of the
22 Internal Revenue Code for any amount of the
23 contribution is not taken for state tax purposes.

24 b. The contribution does not designate that any
25 part of the contribution be used for the direct
26 benefit of any dependent of the taxpayer or any other
27 child designated by the taxpayer.

28 4. To receive the tax credit, the taxpayer shall
29 apply for the credit to the department by January 31
30 following the end of the calendar year in which a
31 contribution was made. If the taxpayer and school
32 charitable organization qualify, the department shall
33 approve the application for credit and so notify the
34 taxpayer by April 1 following receipt of the
35 application. However, the department of revenue shall
36 only grant approval under this section for a total of
37 five million dollars in credits in the fiscal year
38 beginning July 1, 2006, and for a total of ten million
39 dollars in credits in the fiscal years beginning on or
40 after July 1, 2007. Once the qualified applications
41 total more than five million dollars or ten million
42 dollars, as applicable, in credits, the department
43 shall award the approved credits on the basis of the
44 date of application for credit and the remaining
45 approved credits shall be awarded in the subsequent
46 fiscal year. The department shall notify the taxpayer
47 of the year for which the credit is approved. The
48 department shall prepare application forms which may
49 be made available to charitable organizations that may
50 qualify as school charitable organizations.

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1 5. Any credit in excess of the tax liability is
2 not refundable but the excess for the tax year may be
3 credited to the tax liability for the following five
4 tax years or until depleted, whichever is the earlier.

5 6. Married taxpayers who file separate returns or
6 file separately on a combined return form must
7 determine the tax credit under subsection 1, paragraph
8 "b", based upon their combined net income and allocate
9 the total credit amount to each spouse in the
10 proportion that each spouse's respective net income
11 bears to the total combined net income. Nonresidents
12 or part-year residents of Iowa must determine their
13 tax credit in the ratio of their Iowa source net
14 income to their all source net income. Nonresidents
15 or part-year residents who are married and elect to
16 file separate returns or to file separately on a
17 combined return form must allocate the tax credit
18 between the spouses in the ratio of each spouse's Iowa
19 source net income to the combined Iowa source net
20 income of the taxpayers.

21 7. For purposes of this section:

22 a. "Qualified school" means a public or private
23 nonprofit preschool, as defined in section 237A.1,
24 located in this state or a public or nonpublic
25 elementary or secondary school in this state which is
26 accredited under section 256.11 and adheres to the
27 provisions of the federal Civil Rights Act of 1964 and
28 chapter 216. A qualified school shall not
29 discriminate on the basis of race, creed, color,
30 national origin, sex, age, or disability.

31 b. (1) "School charitable organization" means a
32 charitable organization in this state that is exempt
33 from federal taxation under section 501(c)(3) of the
34 Internal Revenue Code, whose governing board consists
35 of, but is not limited to, parents, teachers, and
36 members of the general public, and that allocates at
37 least ninety percent of its annual revenue for
38 educational expenses, scholarships, or tuition grants
39 to children to allow them to attend any qualified
40 school of their parents' choice.

41 (2) A school charitable organization shall not
42 discriminate on the basis of race, creed, color,
43 national origin, sex, age, or disability. A school
44 charitable organization shall only award educational
45 expense payments, scholarships, and tuition grants to
46 children who reside in Iowa. In addition, to qualify
47 as a school charitable organization, the charitable
48 organization shall only provide educational expense
49 payments, scholarships, or tuition grants to children
50 from families whose incomes are less than two hundred

1 percent of the federal poverty level, as defined by
2 the most recently revised income guidelines published
3 by the United States department of health and human
4 services.

5 8. A school charitable organization that receives
6 a voluntary cash contribution pursuant to this section
7 shall report to the department, on a form prescribed
8 by the department, by February 28 of each year all of
9 the following information:

10 a. The name, address, and contact name of the
11 school charitable organization.

12 b. The total number of contributions received
13 during the previous calendar year.

14 c. The total dollar amount of contributions
15 received during the previous calendar year.

16 d. The total number of children awarded
17 educational expense payments, scholarships, or tuition
18 grants during the previous calendar year.

19 e. The total dollar amount of educational expense
20 payments, scholarships, and tuition grants awarded
21 during the previous calendar year.

22 f. For each school to which educational expense
23 payments, scholarships, or tuition grants were awarded
24 all of the following shall be provided:

25 (1) The name and address of the school.

26 (2) The number of educational expense payments,
27 scholarships, and tuition grants awarded during the
28 previous calendar year.

29 (3) The total dollar amount of educational expense
30 payments, scholarships, and tuition grants awarded
31 during the previous calendar year.

32 9. The department shall annually file a report
33 with the chairpersons and ranking members of the
34 senate and house committees on ways and means
35 detailing a compilation of the information received
36 from the reports of all school charitable
37 organizations filed pursuant to the requirements of
38 subsection 8.

39 Sec. 2. APPLICABILITY DATE. This Act applies to
40 tax years beginning on or after January 1, 2006, but
41 before January 1, 2014."

By HOGG of Linn

Fiscal Services Division
Legislative Services Agency
Fiscal Note

HF 853 - Tuition Tax Credit (LSB 2637 HV)

Analyst: Jeff Robinson (Phone: (515) 281-4614) (jeff.robinson@legis.state.ia.us)

Fiscal Note Version – New

Requested by Representative Carmine Boal

Description

House File 853 creates an income tax credit for taxpayers donating to qualified school tuition organizations. The qualified school tuition organization must allocate at least 90.0% of its annual revenue for educational scholarships or tuition grants to children attending a qualified school of their parents' choice. A qualified school is defined as:

- A public or private nonprofit preschool in Iowa.
- A nonpublic elementary or secondary school in Iowa.

The total amount of tax credits issued in one year is limited to \$7.0 million for elementary/secondary schools and \$3.0 million for preschools. If the credit applications for one portion are not sufficient to utilize the entire amount, the unused portion may be utilized by the other portion of the program. If applications for the tax credits exceed the two caps, the Department of Revenue shall prorate the credit.

A taxpayer's tax credit is limited to 65.0% of the amount contributed. The maximum tax credit is further limited to an annual maximum of \$5,000 for married filers and \$2,500 for single/separate filers.

Tax credits earned by a taxpayer are not refundable, but may be carried forward up to five tax years. The act is effective for tax years beginning on or after January 1, 2006.

Fiscal Impact

The fiscal impact of the school tuition organization tax credit created in HF 853 will be a maximum net State General Fund revenue reduction of \$10.0 million per year, beginning FY 2007.

Tax credits that reduce the income tax liability of Iowans in areas of the State with a local option school infrastructure surtax also reduce the yield of that surtax. Statewide, the surtax raises approximately 3.0% of the net amount raised by the State income tax. Therefore, the new tax credit will reduce surtax revenue to public schools by a maximum of \$300,000 per year.

The Bill does not require any portion of the contributions to be used for scholarships to students currently attending (or who will attend) public schools in Iowa. However, the availability of scholarships will make private school more affordable, and this could increase private school enrollment and decrease the enrollment of public schools.

We are not able to determine the effect on enrollment at the public schools. Reduced public school enrollment reduces the State Foundation Aid appropriation from the State General Fund by approximately \$4,500 per student.

Sources

Legislative Services Agency
Department of Education Annual Condition of Education Report

/s/ Holly M. Lyons

April 19, 2005

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

HOUSE FILE 854

H-1403

1 Amend House File 854 as follows:

2 1. Page 8, lines 28 and 29, by striking the words
3 "~~attached to the policy when~~" and inserting the
4 following: "attached to the policy when issued or
5 shall be".

6 2. Page 17, by striking lines 8 through 27 and
7 inserting the following: "the administrator may by
8 rule require financial responsibility standards."

9 3. By striking page 36, line 22 through page 37,
10 line 1, and inserting the following:

11 "Sec. ____ . NEW SECTION. 522B.17A INJUNCTIVE
12 RELIEF.

13 1. An association with at least twenty-five
14 insurance producer members may bring an action in
15 district court to enjoin a person from selling,
16 soliciting, or negotiating insurance in violation of
17 section 522B.2. However, before bringing an action in
18 district court to enjoin a person pursuant to this
19 section, an association shall file a complaint with
20 the insurance division alleging that the person is
21 selling, soliciting, or negotiating insurance in
22 violation of section 522B.2.

23 2. If the division makes a determination to
24 proceed administratively against the person for a
25 violation of section 522B.2, the complainant shall not
26 bring an action in district court against the person
27 pursuant to this section based upon the allegations
28 contained in the complaint filed with the division.

29 3. If the division does not make a determination
30 to proceed administratively against the person for a
31 violation of section 522B.2, the division shall issue,
32 on or before ninety days from the date of filing of
33 the complaint, a release to the complainant that
34 permits the complainant to bring an action in district
35 court pursuant to this section.

36 4. The filing of a complaint with the division
37 pursuant to this section tolls the statute of
38 limitations pursuant to section 614.1 as to the
39 alleged violation for a period of one hundred twenty
40 days from the date of filing the complaint.

41 5. Any action brought in district court by a
42 complainant against a person pursuant to this section,
43 based upon the allegations contained in the complaint
44 filed with the division, shall be brought within one
45 year after the ninety-day period following the filing
46 of the complaint with the division, or the date of the
47 issuance of a release by the division, whichever is
48 earlier.

49 6. If the court finds that the person is in
50 violation of section 522B.2 and enjoins the person

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1 from selling, soliciting, or negotiating insurance in
2 violation of that section, the court's findings of
3 fact and law, and the judgment and decree, when final,
4 shall be admissible in any proceeding initiated
5 pursuant to section 522B.17 by the commissioner
6 against the person enjoined and the person enjoined
7 shall be precluded from contesting in that proceeding
8 the court's determination that the person sold,
9 solicited, or negotiated insurance in violation of
10 section 522B.2."

11 4. By renumbering as necessary.

By HOFFMAN of Crawford

H-1403 FILED APRIL 19, 2005

ADOPTED