

March 24, 2009

Larry Marchant
The Palmetto Policy Group, LLC
PO Box 11457
Columbia, SC 29211

Re: Revenue Impact

Dear Larry:

You have asked for a General Fund revenue impact statement for S.520, the South Carolina Educational Opportunity Act. This Act provides certain state tax credits in order to provide greater educational opportunities for children in public schools. For purposes of this analysis, I assume the bill will go into law this calendar year. My revenue impact analysis will cover only the revenue impact in calendar years 2009 – 2010.

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Raleigh

From a timing perspective I assume the bill will go into law on June 2009, and the tax credits will be available to parents who enroll their eligible children in private schools in August – September of 2009. They will then claim the credit on their tax returns filed on April (or August) 15, 2010. The bill also provides credits for contributions to SSOs, which I will also discuss below. Lastly, the bill allows certain students to transfer to other public schools. I have not examined the revenue impact to the General Fund of this provision, which is expected to be negligible.

By way of background, the pupil count for public schools is projected to be 690,363, some 87,818 of these will be attending public schools rated as failing, of which 12,000 were at or under 100% of the federal poverty level. Some 71,755 students attend 456 private schools and it is estimated 18,047 are homeschooled.

H.4800, the General Appropriations bill for fiscal year 2008 – 2009, projected state General Fund average funding to be \$4,867 per pupil, with a base student cost of \$2,578. The actual per pupil funding for each school district varies dramatically, from \$11,049 in Allendale County to \$2,389 in Beaufort County.

In April of 2005, the BEA produced several revenue impact studies for H.3652. H.3652 provided (at the time of the BEA analysis) a somewhat richer credit than the current bill, to wit the lesser of 80% of tuition paid or 51% of the average of all state appropriations for K-12, which was expected to total \$4,810 per pupil.

The BEA estimated in the first year that 3,790 students currently in public schools and 2,021 home schooled students would qualify and utilize the respective credits. The BEA estimated that yearly expenses for home schooled students would be \$750, \$1,250 and \$1,750 per student for the lower, middle and upper grades respectively.

For purposes of my analysis I use the BEA estimates, except as otherwise stated.

A. Revenue Impact of Tuition Tax Credits for Students in Public Schools

The Credit is limited to parents of students who are South Carolina residents and who are currently enrolled (in 2009) in public schools. The credit is limited to the lesser of: (1) 50% of the state's average per pupil allocation to the school district in which the student resides, or (2) actual tuition paid. The former is generally the lesser number, so I will ignore the latter. The maximum credit per student using the statewide average of \$4,867 is \$2,433.50.

The BEA assumed 3,790 students would take advantage of the credit the first year. The credit is limited to 50% of the average per pupil allocation to the school district. Using the state wide average of \$4,867, the credit has a revenue impact of \$9,222,965 ($\$2,433.50 \times 3,790$ students.) Of course the General Fund has a corresponding offset in the amount of \$4,867 per pupil which it would otherwise have to send to the school district, to wit 3,790 students times \$4,867, or \$18,455,930. Consequently the provision has a net positive revenue impact to the General Fund of \$9,222,965.

The actual net positive revenue impact is likely to be larger. Logically, students at failing schools will be more likely to pursue the independent school option, and state per pupil funding at these schools tends to be higher than the statewide average. (This is not always the case as some failing schools are located in districts that are at or below the statewide average.)

B. Tax Credit for Home Schooled

The bill also provides a tax credit of up to \$1,000 per instruction related expenditures for parents who home school their children. According to the Home School Association there are some 18,000 students who are currently being home schooled. The BEA estimated that 2,021 of home schooled students would take the

credit, with expenses ranging from \$750 to \$1,750. Since the credit is capped at \$1,000 this represents an average credit of \$1,000. This represents a potential General Fund revenue loss of \$2,021,000 (2,021 students x \$1,000).

C. Tax Credits for Contributions to SSOs

Lastly, the bill provides a tax credit for contributions by any taxpayer to a Student Scholarship Organization. The credit is limited to the lesser of \$50,000 or 50% of the donor's tax liability. The BEA estimated a revenue impact of the unlimited tax credit contained in H.3652 to total \$16,598,157 in the first year. Given the 50% limitation contained in the current bill, the maximum revenue impact would accordingly be \$8,299,078. The Legislation requires 90% of the Funds received by a SSO to be distributed in the form of scholarships to students with a household income of two hundred percent of the federal poverty level, or \$41,304 for a four person household. This represents at least \$7,469,170 in scholarship funds (90% of \$8,299,078). If you assume the average private school tuition of \$5,000, this represents 1,494 student scholarships (\$7,469,170/\$5,000). In a report prepared by the Florida Office of Program Policy Analysis & Governmental Accountability (OPPAGA), an Office of the Florida Legislature, OPPAGA estimated 90% of the students in Florida who received a scholarship came from public schools. Accordingly, assuming 90% of the 1,494 students in South Carolina (1,344) came from public schools, this represents an offset of \$6,541,248 (\$4,867 x 1344) to the General Fund. Consequently the net revenue impact is \$1,757,830 (\$8,299,078 - \$6,541,248).

I could not find a survey of tuition charged by private schools in South Carolina, although a national survey estimated an average tuition of \$6,600. I was furnished a survey of tuition charged by private schools in Charleston County which tend to be the most expensive in the state. These tuitions ranged from \$1,800 to \$17,993. Two schools charged between \$0 and \$2,000; nineteen between \$2,001 and \$4,000; twenty-two between \$4,001 and \$6,000; eleven between \$6,001 and \$8,000; four between \$8,001 and \$10,000; five between \$10,001 and \$12,000; two between \$12,001 and \$14,000; three between \$14,001 and \$16,000; and three between \$16,001 and \$18,000.

D. Conclusion

The Tax Credit provisions produce the net General Fund revenue gain in the first year of implementation of \$9,222,965.

The home school provisions have a negative General Fund impact of \$2,021,000.

Larry Marchant
March 24, 2009
Page 4

The SSO provisions have a negative impact of \$1,757,830.

As a whole, the Bill has a positive General Fund impact of \$5,444,135
(\$9,222,965 - \$2,021,000 - \$1,757,830).

Very truly yours,

A handwritten signature in cursive script that reads "Burnet".

Burnet R. Maybank, III

BRM/caa



Burnet R. Maybank, III

Member

Columbia, South Carolina

Charleston, South Carolina

E bmaybank@nexsenpruet.com

T 803.771.8900

F 803-727-1472

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- University of North Carolina, B.A.
- University of South Carolina, J.D.

Burnie Maybank is a member in the firm's economic development and banking & finance practice groups. He represents both public and private entities. Mr. Maybank returned to the firm's Columbia office in 2006 after serving as Director of the South Carolina Department of Revenue under Governor Mark Sanford from 2003 through 2005. He also served in that position under Governor David Beasley from 1995 to 1999.

Mr. Maybank's practice focuses on:

- Economic Development incentives
- State and Local Tax Controversy Work
- Exempt Organizations and Charitable Giving, including Conservation Easements
- Alcohol Beverage Control
- Regulatory Work before the Public Service Commission
- Public Finance

At the request of Senate President *Pro Tempore* Glenn McConnell, Maybank serves on the South Carolina Transportation Infrastructure Study Committee. The Senate created the group in August 2008 to examine the feasibility and benefits of public/private partnerships to improve the state's roads, highways and bridges.

Maybank received national press in 2005 regarding the Department of Revenue's investigation of potentially abusive conservation easement donations, as well as the Department's investigation under IRS Circular 230 of tax professionals who were involved in tax shelters.

CAREER HIGHLIGHTS

- S.C. Transportation Infrastructure Study Committee

- Emory University, LL.M.
in Taxation

Burnet R. Maybank, III, *continued*

- Director of the SC Department of Revenue (2003-2005)
- South Carolina's first Director of the Department of Revenue and Taxation (1995-1999)
- Member of the Coordinating Council for Economic Development and Chair of the Enterprise Zone Subcommittee (1995-99 and 2003-05)
- Legal Counsel to SC Governor Carroll Campbell
- Commissioner on the SC Public Service Commission
- Member of the Board of South Carolina's Department of Health and Environmental Control
- Received Order of the Palmetto from both Governor Campbell and Governor Beasley
- SC Deputy Securities Commissioner in SC Secretary of State's Office
- General Counsel in the SC Secretary of State's Office
- Received the Compleat Lawyer Award from USC School of Law
- (1998)
- Past and Current Board Member, South Carolina Economic Developers Association (SCEDA)
- L.H. "Sonny" Siau Award of Excellence from the South Carolina Association of Auditors, Treasurers, and Tax Collectors
- Past President, S.C. Agency Directors Organization.
- Mr. Maybank served on the Transition Team for Governor Mark Sanford. Mr. Maybank is co-author of a number of books and law review articles including *South Carolina Tax Incentives for Economic Development*; *Local, State, and Federal Tax Incentives for Conservation Easements*; and *State Tax Crimes*, all published for the Department of Revenue; as well as *South Carolina Limited Liability Companies & Limited Liability Partnerships* (1st & 3rd Editions); *The Law of Automobile Insurance* (1st-5th Editions); and *South Carolina Nonprofit Corporate Practice Manual* (2007), published by the South Carolina Bar.

CIVIC AND PROFESSIONAL MEMBERSHIPS

- Past and Current Board Member, South Carolina Economic Developers Association (SCEDA)