Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bills 1015, 1016, and 1017 (as introduced 3-13-12)
Sponsor: Senator Rebekah Warren (S.B. 1015)
Senator Morris Hood (S.B. 1016)
Senator Hoon-Yung Hopgood (S.B. 1017)
Committee: Finance

Date Completed: 5-1-12

CONTENT

Senate Bill 1015 would create the "Michigan Higher Education Grant Act" to establish the Michigan Higher Education Grant Program, which would award grants to eligible students who received a high school diploma or GED certificate in Michigan and were accepted or enrolled in a bachelor's degree, associate's degree, or postsecondary vocational program at a public university or community college in this State. The bill would do the following:

-- Require the Michigan Higher Education Assistance Authority (MHEAA) to administer the grant program.
-- Establish eligibility criteria for students to receive a grant.
-- Require the MHEAA to disburse a grant to the educational institution where a student was enrolled, and require the student to use the grant for tuition, fees, and eligible expenses.
-- Set the base amount of a grant in the 2012-2013 academic year as the median cost of tuition for a full-time student at a public university in the 2011-2012 academic year; and require the MHEAA to adjust the base amount in subsequent years.
-- Provide that the annual cost of the total number of grants paid in a fiscal year could not exceed the amount appropriated for them; and require the MHEAA to establish a maximum grant level if appropriations were insufficient to provide each student with the amount for which he or she was eligible.
-- Establish the Michigan Higher Education Grant Trust Fund, which would receive amounts appropriated and money from other sources.
-- Require the Department of Treasury to establish a restricted account in the General Fund for the grant program.
-- Express a legislative intent that the first $1.8 billion realized from the elimination of tax expenditures (identified under Senate Bill 1017) be used to fund the Trust Fund.

Senate Bill 1016 would amend the Legislative Council Act to:

-- Require the Senate and House Fiscal Agencies to develop and implement a letter rating system to evaluate each bill that would amend or create a new tax expenditure (as defined in Senate Bill 1017).
-- Require each analysis prepared by either Fiscal Agency for such a bill to contain a letter rating from "A" to "F", with "A" being the highest rating and "F" being the lowest or failing rating.
-- Require the Fiscal Agency to make the letter rating on the basis of the rate of return per job created or proposed to be created.

Senate Bill 1017 would amend the Legislative Council Act to:

- **-- Create the Legislative Tax Expenditure Review Commission.**
- **-- Require the Commission, by December 31, 2012, to evaluate each tax expenditure, determine whether it was generating a good return on investment, and determine which tax expenditures should be continued, changed, or repealed.**
- **-- Require the Commission, by October 1, 2013, to report its determinations to the Legislature and the Governor.**

Senate Bill 1015 is tie-barred to Senate Bill 1017. Those two bills are described in detail below.

Senate Bill 1015

MHEAA Responsibilities

The Michigan Higher Education Assistance Authority would be required to do all of the following:

-- Award grants to eligible students under the proposed Act.
-- Develop a grant agreement to be entered into by a grant recipient and the MHEAA that contained the terms of a grant made under the Act and the rights and obligations of the recipient and the Authority.
-- Conduct periodic audits of grant recipients to ensure compliance with the terms of the agreements and take necessary steps to enforce the agreements.
-- Promulgate any rules that the MHEAA determined were necessary to implement and administer the Act.

Grant Eligibility Criteria

Beginning in the 2012-2013 academic year, the MHEAA would have to award a grant to an individual if the Authority determined that he or she met all of the following eligibility criteria:

-- Continuously resided in this State for the 12 months before the date of his or her application and was not a resident of any other state.
-- Received a high school diploma from a school district, nonpublic school, or home school located in Michigan or successfully completed the General Education Development (GED) test and received a GED certificate from this State.
-- Was enrolled or had been accepted into a qualified program.
-- Signed a written grant agreement with the MHEAA.
-- Provided satisfactory proof that he or she had submitted a Free Application for Federal Student Aid (FAFSA) to the U.S. Department of Education to determine his or her eligibility for Federal grants or scholarships.
-- Provided satisfactory proof that he or she had applied for any grants or scholarships offered by this State for which the individual was eligible.
-- If the student had received a Michigan higher education grant in the prior academic year, made satisfactory academic progress, as defined by the State educational institution in which he or she was enrolled, since receiving the previous grant.
-- Was in compliance with the proposed Act and the rules promulgated under it.
-- Met any other eligibility criteria established in rules.

Also, the individual would have to have received the high school diploma or GED certificate within the two-year period before the grant application. If the student joined the U.S. Armed Forces or Peace Corps during that two-year period and served for four years or less, the MHEAA could extend the two-year period by a period equal to the number of days the student served in the Armed Forces or Peace Corps. The Authority also could extend the two-year period because of an illness, disability, or other family emergency of the student or in his or her immediate family.

A "qualified program" would be a bachelor's degree, associate's degree, or postsecondary vocational training program at a State educational institution, i.e., a degree- or certificate-granting public university or community college in this State.

Amount, Use, & Number of Grants

In the 2012-2013 academic year, the base amount of a grant would be an amount equal to the median cost of tuition for a full-time student enrolled at a public university in the 2011-2012 academic year. For each subsequent year, the MHEAA would have to adjust the base amount to reflect the cumulative annual percentage change in the Detroit consumer price index in the preceding one-year period.

The MHEAA would have to determine the amount of a student's grant for an academic year by subtracting from the base amount the amount of any other State or Federal grants or scholarships the student was eligible to receive in that year.

A student would have to use the grant money to pay for his or her tuition and fees at the State educational institution. If the amount of the grant exceeded the amount of tuition and fees, the student could use the grant money to pay other eligible expenses related to that academic year. The student would have to return any remaining balance to the MHEAA.

("Eligible expenses" would include a student's cost of attendance, expenses for books, supplies, transportation, and miscellaneous personal expense, including a reasonable allowance for the documented rental or purchase of a personal computer, as determined by the MHEAA.)

A student attending a State educational institution full-time could not receive a grant in more than five academic years. If a student were attending at least half-time but not full-time, the MHEAA would have to determine the number of academic years for which he or she could receive a grant. A student attending less than half-time could not receive a grant.

The MHEAA would have to disburse a student's grant money to the State educational institution in which the student was enrolled on his or her behalf, according to a payment procedure the Authority established by rule.

Cost of Grants

The annual cost of the total number of grants paid in a fiscal year could not exceed the amount appropriated by the Legislature for Michigan higher education grants in that fiscal year. If there were not sufficient funds appropriated to provide each student with a grant in the amount to which he or she was eligible in an academic year, the MHEAA would have to establish a maximum grant level for that year. In any fiscal year, the Authority could adjust the amount of a grant available to eligible students, based on its determination of available resources and amounts appropriated.

Grant Trust Fund; Restricted Account

The Michigan Higher Education Grant Trust Fund would be established in the Department of Treasury. The Trust Fund would consist of the following:

-- Money allocated to it as provided by law.
-- Money appropriated to it.
-- Donations of money from any source.
-- Interest and earnings from Trust Fund investments.

The Department would have to establish and administer a restricted account in the General Fund for the Michigan Higher Education Grant Program. The Department would have to credit to the account money appropriated from the Trust Fund or received from any other source, including interest and earnings from account investments and any money returned to the MHEAA in excess of tuition, fees, and eligible expenses.

The Department could use the money in the account only to provide funds to the MHEAA for grants awarded under the proposed Act.

Money in the Trust Fund and in the account at the close of a fiscal year would remain in the Fund and the account, respectively, and not revert to the General Fund. The State Treasurer would have to direct the investment of the Trust Fund and the account, and the Department of Treasury would be the administrator of the Fund and the account for auditing purposes.

Annual Report

By November 1 each year, the MHEAA would have to submit a report of its activities under the proposed Act to the Senate and House Fiscal Agencies and the State Budget Director. The report would have to contain at least the number of Michigan higher education grants awarded, the maximum amount of a grant paid, and the total amount paid out for grants in the preceding fiscal year.

Tax Expenditure Elimination

The bill states, "It is the intent of the legislature that the first $1,800,000,000.00 savings realized from the elimination of tax expenditures identified by the legislative tax expenditure review commission…shall be used to fund the Michigan higher education grant trust fund…".

Senate Bill 1017

The bill would create the Legislative Tax Expenditure Review Commission within the Legislative Council. The Commission would have to consist of the following five members:

-- An economist associated with the University of Michigan, appointed by the Speaker of the House.
-- An economist associated with Michigan State University, appointed by the minority leader of the House.
-- An economist associated with Michigan Technological University, appointed by the Senate Majority Leader.
-- An economist associated with Wayne State University, appointed by the minority leader of the Senate.
-- A person associated with the Upjohn Institute or a successor entity, jointly selected by the Speaker of the House and the Senate Majority Leader.

Members would have to be appointed within 60 days after the bill's effective date. If a vacancy occurred, the member would have to be replaced in the same manner as the original appointment.

Members would have to serve a three-year term, and would have to discharge their duties in a nonpartisan manner, with good faith, and with that degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances.

Members would have to serve without compensation but could be reimbursed for reasonable and necessary expenses incurred in the performance of their official duties as Commission members, subject to available appropriations.

The Commission would be subject to the Open Meetings Act and the Freedom of Information Act.

The Speaker of the House would have to call the first Commission meeting within 60 days after the bill's effective date. The member appointed by the House Speaker and the member appointed by the Senate Majority Leader would be co-chairpersons of the Commission, with the position rotating monthly. After its first meeting, the Commission would have to meet at least monthly.

By December 31, 2012, the Commission would have to do all of the following:

-- Review, investigate, and collect information regarding tax expenditures.
-- Evaluate each tax expenditure and determine whether it was generating a good return on investment, as determined by the Commission.
-- Determine which tax expenditures would be continued, modified, or repealed.

By October 1, 2013, the Commission would have to make specific determinations of those items and report the determinations to each house of the Legislature and the Governor.

The bill would define "tax expenditure" as the tax credits, deductions, and exemptions enumerated in Public Act 72 of 1979, and any other tax credit, deduction, or exemption as determined by the Commission. (That Act requires the Governor, at a minimum, to report specific tax credits, deductions, and exemptions with the annual budget message to the Legislature. The Act is described below.)

MCL 4.1501 & 4.1601 (S.B. 1016)
Proposed MCL 4.1791 & 4.1792 (S.B. 1017)

BACKGROUND

Public Act 72 of 1979 requires the Governor, in the annual budget message, to report the following compiled pursuant to the Income Tax Act:

-- Number and amount of personal exemptions by household or adjusted gross income (AGI) class.
-- Number of special or extra exemptions by household or AGI class.
-- Number and amount of property tax credits by household or AGI class and by type of claimant.

-- Number and amount of city income tax credits by household or AGI class.
-- Number of positive check-offs and the amount checked off for the State Campaign Fund.
-- Amount and type of subtractions from taxable income as provided on the State income tax form.
-- The number and amount of credits granted under development rights agreements, by income class.
-- Other deductions and credits as provided by law.

The Governor also must report the estimated State equalized valuation and amount of tax foregone in each county because of the exemptions granted under the General Property Tax Act, with specific estimates made for specific exemptions if possible.

In addition, the Governor must report the amount of tax foregone from the exemptions granted under each of the following:

-- The General Sales Tax Act.
-- The Use Tax Act.
-- The Michigan Estate Tax Act.
-- Public Act 48 of 1929, which imposes a severance tax on oil and gas.
-- Public Act 282 of 1905, which provides for assessments on utility property.
-- The Motor Carrier Fuel Tax Act.
-- The Real Estate Transfer Tax Act.
-- The Motor Carrier Act.
-- The Aeronautics Code.
-- The Michigan Vehicle Code.
-- Part 781 (Michigan State Waterways Commission) of the Natural Resources and Environmental Protection Act (NREPA).
-- Part 801 (Marine Safety) of NREPA.
-- The City Income Tax Act.
-- The Business Corporation Act.
-- The Insurance Code.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Senate Bill 1015

The annual cost of the Michigan Higher Education Grant Program would depend on the number of eligible students, the amount of Federal grants and other scholarships students received, and the available funding in the Michigan Higher Education Grant Trust Fund. This analysis is based on current circumstances. The estimate does not include the impact that this program could have on the demand for postsecondary education at public institutions from individuals who would not otherwise attend college, students who otherwise would attend private institutions, and capacity limitations at public institutions.

According to the Michigan Higher Education Institutional Data Inventory, the average cost of tuition and fees for resident undergraduates at Michigan public universities for fiscal year (FY) 2011-12 is $10,416. Based on the most recent data for fiscal year equated students (FYES), there were 188,498 resident undergraduate FYES enrolled in Michigan public universities in FY 2010-11. Grants and scholarships from Federal and State sources amounted to $440.0 million, resulting in a net cost of $1.5 billion. Based on community college financial statements, and FY 2010-11 data on FYES and average tuition costs, the cost to fund community college tuition and fees for Michigan residents would be approximately $420.0 million. Total annual costs to the Michigan Higher Education Grant Trust Fund for resident community college and university undergraduate students would be $1.9 billion.

Actual costs would be affected by the future level of Federal grants and scholarships and the extent to which these funds would reduce grants from the Michigan Higher Education Grant Trust Fund, tuition increases, and the unknown impact that the program would have on demand.

The level of funding that would be provided to the Trust Fund is unknown and would be subject to appropriation. The bill would not create a statutory earmark against an existing revenue source but indicates the intent to use $1.8 billion in revenue from tax expenditures that are assumed to be eliminated as a result of provisions in Senate Bill 1017. It is unknown what tax expenditures would be recommended for reduction or elimination, whether the Legislature would adopt those recommendations, or whether any associated increase in revenue would be appropriated to the Fund.

Based on estimates from the Department of Treasury and tax provisions effective in

2013 and later, generating $1.8 billion in reduced or eliminated tax expenditures would likely require reductions in tax expenditures under the sales and use taxes and the individual income tax. With the elimination of the Michigan Business Tax for most taxpayers, the most significant tax expenditures remaining under business taxes are the certificated credits, estimated to reduce revenue by approximately $475.0 million in FY 2012-13, and the small business credit/alternate tax under the Corporate Income Tax, which is expected to reduce revenue by approximately $14.0 million in FY 2012-13.

The individual income tax changes enacted in May 2011 eliminated approximately $1.4 billion of the estimated $6.0 billion in tax expenditures under the individual income tax. The remaining tax expenditures largely reflect provisions relating to the personal exemption, the homestead property tax credit, the earned income tax credit, income attributable to other states, and tax expenditures associated with carrying Federal subtractions to income through to the Michigan income tax. Under the sales and use taxes, the exemption for services accounts for more than 70% of the tax expenditures, followed by exemptions for food, industrial processing, prescription drugs, and nonprofit organizations.

The bill also would result in administrative costs to the Department of Treasury. No estimate of those costs has been provided by the Department. The bill provides that the funds in the restricted account for the Michigan Higher Education Grant Program could be used only to provide money to the Michigan Higher Education Assistance Authority for grants awarded under the proposed Act.

<u>Senate Bills 1016 & 1017</u>

The bills would increase expenses for the House and Senate Fiscal Agencies, as well as the Legislative Council, by an unknown amount. Senate Bill 1016 would require the Fiscal Agencies to rate amended or proposed tax expenditures on the basis of the rate of return per job created or proposed to be created. While the bill does not indicate whether the return would be to the State in the form of increased tax revenue, many tax expenditures that currently exist do not have an explicit employment aspect. For example, the sales tax exemptions for food and prescription drugs, which account for more than 12% of all sales and use tax expenditures identified in the Department of Treasury's "Appendix on Tax Credits, Deductions and Exemptions", were not enacted for the purpose of job creation. Similarly, the "adjustments to income" and "personal exemption" tax expenditures under the individual income tax, which account for approximately 75% of the tax expenditures under that tax, were not enacted for the purpose of job creation.

Senate Bill 1017 would require the proposed Commission to determine whether tax expenditures should be continued, modified, or repealed, based on whether each "tax expenditure is generating a good return on investment". As with Senate Bill 1016, the return is not specified as a return of tax revenue to the State, and many tax expenditures are not enacted with a goal of increasing tax revenue or spurring job creation. It is unknown whether the Commission would need access to confidential tax information in order to provide accurate evaluations of tax expenditures, although this issue has arisen in other states where an outside agency has been charged (or proposed to be charged) with reviewing economic development incentives. The determinations made by the Commission would have no impact on State or local revenue or expenditure unless subsequently enacted by the Legislature.

Additionally, Senate Bill 1017 would allow the Commission members to be reimbursed for any reasonable and necessary expenses incurred in the performance of their official duties, subject to available funds. Currently, there is no appropriation in the Legislative Council's budget to make any such reimbursement; however, current law allows the Council to spend its funds in any way it sees fit as long as there is approval by the authorized agent of the Council. The amount of funds needed to reimburse the Commission members is indeterminate and would depend on the amount of reimbursement they requested.

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