

HOUSE BILL REPORT

HB 2853

As Reported by House Committee On:
Finance

Title: An act relating to providing a retail sales and use tax exemption for qualified donations to the Washington excellence fund.

Brief Description: Providing a retail sales and use tax exemption for qualified donations to the Washington excellence fund.

Sponsors: Representative Morris.

Brief History:

Committee Activity:

Finance: 1/30/18, 2/5/18 [DPS].

Brief Summary of Substitute Bill

- Creates the Washington Excellence Fund to support the state higher education loan and grant programs.
- Authorizes a retail sales and use tax exemption in an amount equal to any monetary donation made to the Washington Excellence Fund.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Lytton, Chair; Frame, Vice Chair; Orcutt, Assistant Ranking Minority Member; Dolan, Pollet, Springer and Wylie.

Minority Report: Do not pass. Signed by 4 members: Representatives Nealey, Ranking Minority Member; Condotta, Stokesbary and Wilcox.

Staff: Tracey O'Brien (786-7152).

Background:

Federal Income Tax.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Taxpayers who itemize deductions on their federal income tax are allowed to deduct certain taxes paid to state and local governments from their gross income for federal income tax purposes. In 2015 almost one in three taxpayers made use of the state and local tax (SALT) deduction. The United States Congress enacted the Tax Cuts and Jobs Act of 2017 (P.L. 115-97), which made changes to the federal income tax laws. As part of the legislation, a \$10,000 annual SALT deduction cap for those married filing jointly is imposed beginning tax year 2018.

In addition, taxpayers who itemize deductions on their federal income tax returns may be able to deduct qualified donations to charitable organizations. Government entities are qualified organizations for the purposes of claiming charitable deductions. The contribution must be solely for public purposes. The amount of the deduction depends on the amount of the charitable contribution, excluding any benefit received.

Tax Preferences.

In 2013 the Legislature enacted Engrossed Substitute Senate Bill (ESSB) 5882, which requires tax preference legislation enacted, expanded, or extended after August 1, 2013, to include a tax preference performance statement (TPPS). The TPPS must state the legislative purpose for the new tax preference. The TPPS must also specify clear, relevant, and ascertainable metric and data requirements that allow the Joint Legislative Audit and Review Committee and the Legislature to measure the effectiveness of the new tax preference. In addition, ESSB 5882 also established a default 10-year expiration date for all new tax preferences. The 10-year expiration does not apply to any existing tax preference that is amended to clarify an ambiguity or correct a technical inconsistency, if the legislation clearly indicates this intent. The Legislature can exempt a tax preference from the default expiration explicitly or by providing a specific expiration date.

Summary of Substitute Bill:

The Washington Excellence Fund is created and will fund the state higher education loan and grant programs. A person who makes a donation to the Washington Excellence Fund will receive a state retail sales or use tax exemption in an amount equal to the monetary donation amount. This state retail sales or use tax exemption may be used to reduce a person's state retail sales or use tax on purchases of taxable goods or services valued at over \$150,000. The Department of Revenue (DOR) will issue the person an exemption certificate to be presented at the time of purchase.

The donor may identify a particular higher education grant or loan program to dedicate his or her donation moneys. If the donor does not designate a particular program, the state need grant program will receive the donation.

A tax preference performance statement is provided. The purpose of the tax preference is to reduce the federal tax burden on individuals and businesses as the result of the annual cap on the federal income tax deduction for state and local taxes enacted as part of the Tax Cuts and Jobs Act of 2017. An additional purpose of the tax preference is to reduce the competitive advantage of states that do not have a retail sales and use tax. If the Joint Legislative Audit

and Review Committee finds that at least \$500,000 in donations are made to the Washington Excellence Fund, the Legislature intends to extend this tax preference.

The tax preference expires July 1, 2028.

Substitute Bill Compared to Original Bill:

The substitute bill expands the use of Washington Excellence Fund monies to fund any of the state's higher education loan or grant programs. The substitute bill allows donors to designate a specific state higher education loan or grant program to receive their donation.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Changes in the federal tax program have created a disincentive for some taxpayers to make larger capital purchases. The cap on SALT for some taxpayers is too low. There is the threat of losing these purchases to other nonsales tax states. There is an unlimited cap on charitable donations at the federal level. Other states are also looking at similar methods to help taxpayers hurt by the cap on SALT deductions.

(Opposed) None.

Persons Testifying: Representative Morris, prime sponsor.

Persons Signed In To Testify But Not Testifying: None.