SB 18-265

Legislative
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FISCAL NOTE

Drafting Number: LLS 18-1261
Prime Sponsors: Sen. Hill
Date: April 27, 2018
Bill Status: Senate SVMA
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Bill Topic: CHILD CARE SAVINGS ACCOUNT INCOME TAX BENEFITS

Summary of Fiscal Impact:

☒ State Revenue
☒ State Expenditure
☐ State Transfer
☒ TABOR Refund
☐ Local Government
☐ Statutory Public Entity

This bill creates a state income tax credit for moneys deposited in a child care savings account, and a state income tax deduction for interest earned in the account. It decreases state revenue and increases state expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under SB 18-265

		FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
Revenue	General Fund	-	($5.1 million)	($10.3 million)	($10.5 million)
	Total	-	**($5.1 million)**	**($10.3 million)**	**($10.5 million)**
Expenditures	General Fund	-	-	$411,228	$435,448
	Central Approps	-	-	$67,070	$117,816
	Total	-	-	**$478,298**	**$553,264**
	Total FTE	-	-	**3.8 FTE**	**6.7 FTE**
Transfers		-	-	-	-
TABOR Refund		-	($5.1 million)	not estimated	not estimated

Summary of Legislation

Beginning in tax year 2020, the bill creates a state income tax credit for a percentage of moneys deposited in a child care savings account, and a state income tax deduction for interest earned in the account.

Income tax credit. The bill allows a state income tax credit equal to 10 percent of moneys deposited in a child care savings account. The amount of the credit for contributions to a single account is capped at $250 per year. Taxpayers may contribute to multiple accounts, and the total credit available to a single taxpayer is capped at $25,000 per year. Contributions to a taxpayer's own account generate a refundable income tax credit. Contributions to another taxpayer's account generate an income tax credit that is nonrefundable and may be carried forward for up to five years.

Income tax deduction. The bill allows a state income tax deduction for interest earned in a child care savings account.

Restrictions. Moneys in a child care savings account may be paid to a child care facility for care of a dependent who is less than six years old. Moneys may also be expended for service fees charged by the financial institution where the account is created. If an individual withdraws money from the account for any other reason, then any credit given for the amount withdrawn is subject to income tax recapture, including penalty and interest. If the creator of the savings account dies, withdrawal for non-child care purposes is subject to recapture but no penalty is assessed.

Taxpayers whose federal taxable income exceeds $90,000, or $180,000 if filing jointly, are not eligible to create a child care savings account. Taxpayers whose income exceeds this threshold after an account is established are not able to receive tax benefits from the account after the threshold is exceeded.

Expenses paid from a child care savings account are not eligible for the current law state income tax credit for child care expenses.

Financial institutions. A taxpayer may open a child care savings account at a bank, credit union, or other financial institution. The financial institution is not required to designate an account as a child care savings account, and may not be required to report any account information to the Department of Revenue (DOR) in relation to the tax incentives in this bill.

Assumptions

Number of savings accounts. This fiscal note assumes that contributions to 41,100 savings accounts will be eligible for the tax credit in the bill during tax year 2020. This estimate is based on the following assumptions for population, child care attendance, income eligibility, and account utilization. To the extent that more or fewer savings accounts are created, the fiscal impact of the bill will be greater or less than estimated.

The State Demography Office estimates that the population of children under age 6 will average about 414,300 during 2020. Data from the Department of Human Services, which oversees child care providers, indicate that approximately 4,000 providers with total licensed capacity of 148,850 children are able to provide care to infants, toddlers and preschool-aged children, excluding those that focus on school-aged children. Therefore, it is assumed that 35.9 percent of children under age 6 will receive child care at a licensed facility during 2020. Based on statistics of income information from the DOR, parents or guardians of 13.2 percent of these children are assumed to be ineligible to create child care savings accounts because their income exceeds the thresholds in the bill.

Based on the rate of utilization of college savings accounts ("529 accounts"), child care savings accounts are assumed to be created for 31.8 percent of eligible children. It is assumed that there will be one account created per child, and that accounts will be created only after a child is born. If fewer taxpayers utilize the incentives in the bill when it becomes available, portions of the estimated fiscal impact may be phased in over a longer period of time, or may not occur at all.

Qualifying contributions. It is assumed that taxpayers will structure their child care savings and expenses to take advantage of the tax credit in this bill in addition to tax incentives that exist in current law. The average annual cost of care for one child in a licensed child care facility is assumed to exceed $5,500, the amount required to claim the maximum amount of the child care expenses income tax credit in current law (expenses of at least $3,000) and the income tax credit in this bill (contributions of at least $2,500), assuming that taxpayers do not create multiple child care savings accounts for a single child. Therefore, the annual credit allowed per child is assumed to be $250, the maximum amount allowed per taxpayer per account. To the extent that multiple accounts are created for each child, this amount may be greater than estimated. To the extent that taxpayers create single accounts for multiple children, this amount may be less than estimated.

Income tax deduction. The revenue impact of the income tax deduction in this bill is assumed to be minimal for three reasons. First, there is no incentive for a taxpayer to deposit more than $2,500 per year in a single child care savings account, meaning that the principal on which interest is earned is expected to be small. Second, based on the assumption that deposits will not be made until after a child is born, the amount of time in which the account is expected to carry a significant balance is expected to be short. Third, to the extent that taxpayers would not have saved money and earned interest but for the incentive in this bill, the deduction has no revenue impact because interest would not have been earned, and therefore would not have been taxed, under current law.

State Revenue

This bill is expected to reduce General Fund income tax revenue by $5.1 million in FY 2019-20, $10.3 million in FY 2020-21, and $10.5 million in FY 2021-22 and subsequent years. The estimate for FY 2019-20 represents a half-year impact for tax year 2020 on an accrual accounting basis.

These revenue impacts capture only the effect of the income tax credit for contributions and omit the effect of the income tax deduction for interest earned, which is assumed to be minimal. Based on the assumptions presented in the previous section, for tax year 2020, contributions of $2,500 are assumed to generate $250 income tax credits in each of 41,100 child care savings accounts. Credits are assumed to be less than a taxpayer's income tax liability and are not expected to be carried forward. This estimate is increased by anticipated growth in the population of children under six years old to determine the impact for tax years 2021 and 2022.

TABOR Refund

This bill reduces state revenue from income taxes, which will reduce the amount of money required to be refunded under TABOR by $5.1 million for FY 2019-20. Since the bill reduces revenue to the General Fund and the refund obligation by equal amounts, there is no net impact on the amount of money available in the General Fund for the budget. However, the bill will reduce money for the General Fund budget in the future during years when the state does not collect revenue above the TABOR limit. State revenue subject to TABOR is not estimated for years beyond FY 2019-20.

State Expenditures

This bill increases General Fund expenditures for the DOR by $478,298 and 3.8 FTE in FY 2020-21 and by $553,264 and 6.7 FTE in FY 2021-22 and subsequent years. Expenditures are summarized in Table 2 and described in detail below.

Table 2
Expenditures Under SB 18-265

	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
Department of Revenue				
Personal Services	-	-	$186,407	$323,852
Operating and Capital Costs	-	-	$45,937	$11,068
Document Management	-	-	$113,524	$100,528
Computer Programming	-	-	$65,360	-
Centrally Appropriated Costs*	-	-	$67,070	$117,816
Total Cost	**-**	**-**	**$478,298**	**$553,264**
Total FTE	**-**	**-**	**3.8 FTE**	**6.7 FTE**

** Centrally appropriated costs are not included in the bill's appropriation.*

Personal services. The tax policy changes in the bill will increase workload in DOR's Taxpayer Service Division, Tax Audit and Compliance Division, and Office of Research and Analysis. The Taxpayer Service Division is estimated to require 3.7 FTE in FY 2020-21 and 4.4 FTE in FY 2021-22 and subsequent years to process tax returns and accommodate increased call center volume. These figures are based on the department's previous experience with tax credit administration and assume a higher than usual level of taxpayer inquiries due to the credit's complexity. In particular, the provision in the bill requiring creation of a specific savings account for child care expenses is expected to increase the volume of calls and work items.

The Tax Audit and Compliance Division is estimated to require 2.3 FTE in FY 2021-22 and subsequent years to take action against improperly filed returns, provide call center support in discussions with taxpayers whose credit claims are under review, and initiate tax recapture in cases where funds are withdrawn for purposes other than child care expenses. These figures are based on the department's previous experience with tax credit auditing and enforcement. In particular, the provision in the bill requiring recapture when funds are improperly withdrawn is expected to require ongoing departmental supervision of savings accounts.

The Office of Research and Analysis is estimated to require 0.1 FTE in FY 2020-21 only to map the credit to its data reporting database. Ongoing reporting in FY 2021-22 and subsequent years can be accomplished within existing appropriations.

Operating expenses and capital costs. The estimates in Table 2 reflect standard operating and capital costs for tax personnel in DOR.

Document management and postage. A portion of document management workload is accomplished in the Department of Personnel and Administration (DPA) using reappropriated DOR funds. DPA costs for document management include $90,040 annually beginning in FY 2020-21 to enter and process paper documentation for the tax credits in the bill, including bank statements for child care savings accounts. An additional $7,200 is required in FY 2019-20 only to update 6 income tax forms at a cost of $1,200 each.

The remaining document management and postage expenses are expected to occur in DOR and include printing and postage costs for correspondence with taxpayers. These costs are estimated at $13,807 in FY 2020-21 and $10,488 in FY 2021-22 and subsequent years.

Computer programming and testing. This measure requires changes to DOR's GenTax software system. Changes are programmed by a contractor at a rate of $250 per hour. The programming costs in this measure are expected to total $50,000 in FY 2020-21 only, representing 200 hours of programming. All GenTax programming changes are tested by the department. Testing for this measure will require the expenditures for contract personnel totaling $15,360, representing 640 hours of testing at a rate of $24 per hour.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include leased space, employee insurance, and supplemental employee retirement payments, are estimated to be $67,070 in FY 2020-21 and $117,816 in FY 2021-22.

Effective Date

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Human Services	Information Technology	Personnel
Regulatory Agencies	Revenue	