www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research and Drafting

Legislative Budget Office

H.B. 578
135th General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 578's Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. White

Local Impact Statement Procedure Required: No

Michael Kerr, Budget Analyst

Highlights

- The bill creates a nonrefundable tax credit to be applied against the personal income tax (PIT) for cash contributions to qualifying child care programs, defined as licensed child care programs, child day camps, or other child care providers.
- Taxpayers with eligible contributions under the bill may submit documentation to the Tax Commissioner to claim a tax credit totaling 50% of such cash contributions, with the credit capped at $100,000 per taxpayer, per year.
- The total annual revenue loss from the credit is estimated to be several million dollars; however, limited comparable information was available to inform this estimate.
- LBO assumes an effective date of tax year (TY) 2025, with a reduction in GRF receipts beginning in FY 2026. Revenue losses would be shared among the GRF (96.6% of the loss), the Local Government Fund (LGF, Fund 7069), and the Public Library Fund (PLF, Fund 7065). The LGF and PLF will each bear 1.7% of the GRF tax revenue loss.

Detailed Analysis

The bill establishes a nonrefundable tax credit for taxpayers, including those which are direct or indirect investors in an applicable pass-through entity, that contribute cash to a qualifying child care program, defined as a licensed child care program, child day camp, or other child care provider as described in R.C. 5104.01. Taxpayers with eligible contributions under the bill may submit documentation to the Tax Commissioner to claim a tax credit to be applied against the personal income tax (PIT) totaling 50% of such cash contributions, with the credit limited to $100,000 per taxpayer, annually. The bill does not provide for a carry forward of unclaimed amounts to future taxable years.

Eligible contributions exclude donations by a taxpayer to a qualifying child care program from which the taxpayer also receives services. Employers, or their pass-through entities, however, may provide eligible contributions to qualifying child care programs which provide the employer a discount for services to their employees. Contributions may only be used to support a qualifying child care program's current operating and capital expenses.

Background and fiscal effect

LBO is aware of two other states that authorized analogous tax credits. Both are briefly discussed in the following paragraphs, as they offer insights into how Ohio taxpayers might respond to the bill's PIT credit.

Colorado

The state of Colorado has enacted legislation very similar to the proposed bill, entitled the "Child Care Contribution Credit." That credit also allows taxpayers to make cash contributions to child care programs in order to receive a nonrefundable state income tax credit equal to 50% of the taxpayer's total contributions, not to exceed $100,000 per taxpayer, per year.[1]

The Colorado Department of Revenue publishes the Colorado Tax Expenditure Study Report as part of its biannual Tax Profile and Expenditure Report, required by Colorado Revised Statute §39-21-303. This report details the estimated reduction in state revenue resulting from each statutorily defined tax expenditure; credits applied against Colorado's state income tax are included in this definition. The 2022 report estimates the forgone revenue from Colorado's current Child Care Contribution Credit (CCCC) in tax year (TY) 2020 at $28.9 million.[2] After adjusting for the number of individual income tax returns filed in each state, equivalent revenue losses to Ohio would amount to $45.8 million a year.[3] This value represents a potential upper bound on initial annual revenue losses to Ohio from the implementation of the bill.

The Colorado credit, however, varies in several respects to the proposed legislation. The CCCC, for instance, includes foster care homes, homeless youth shelters, and secure residential treatment centers as eligible programs or facilities for the receipt of qualifying contributions; the proposed bill does not extend eligibility to these programs. The credit in Colorado is also able to be carried forward for up to five years, reducing a taxpayer's future income tax liabilities for one-time donations that exceed tax owed. In addition, Colorado's credit was established in its current form, in general, nearly 25 years ago, and in more limited forms dating back to 1990.[4] This may partially explain its relatively high current utilization rate, as increasing awareness of the credit, and consequently its utilization, is expected over time.

---

[1] Colorado Administrative Rule 38-22-121: Child Care Contribution Credit.

[2] 2022 Colorado Tax Profile & Expenditure Report (pg. 55).

[3] The total number of individual state income tax returns filed in Ohio in 2021 was 5.8 million; the number filed in Colorado was 3.6 million. See Ohio's 2023 Department of Taxation Annual Report (pg. 161) and Colorado's 2023 Department of Revenue's Annual Report (pg. 70).

[4] Office of the State Auditor, Colorado: Report No.2021-TE26.

Nebraska

In May 2023 the Nebraska state legislature enacted LB 754, which included a state tax credit similar to that of Colorado's CCCC and the proposed bill.[5] The nonrefundable portion of this Child Care Tax Credit Act (CCTCA) allows taxpayers to apply for a state income tax credit from the Nebraska Department of Revenue equal to 75% (or 100% if the donation benefits programs meeting certain criteria) of the taxpayer's total contributions, up to an annual credit limit of $100,000 per taxpayer.[6] Eligible programs to which contributions may be made appear to correspond closely to the proposed legislation. The nonrefundable portion of the CCTCA, however, has a statewide annual cap of $2.5 million and a five-year carry forward provision.

The CCTCA applies to taxable years beginning on or after January 1, 2024. As a result, no official reduction in state income tax receipts is yet available to review and the next Nebraska Tax Expenditure Report is not slated for release until October 15, 2024. The CCTCA revenue loss estimate for taxable year 2024, however, may be excluded from that report until the 2026 iteration is released, as TY 2024 will not be concluded until the end of the calendar year and the full biannual report is only made available in even-numbered years. Although complete data is unavailable, the Nebraska Department of Revenue was contacted to inquire as to the value of certified nonrefundable CCTCA credits already issued in taxable year 2024; as of June 17, 2024, $179,420 has been reserved, amounting to 7.7% of the annual cap.

Fiscal effect

Total revenue losses to state and local government from the proposed tax credit are estimated to be several million dollars a year; however, due to limited availability of comparable information from similar legislation enacted in other states, this estimate should be considered very rough. The proposed bill's initial utilization could approach that of a comparable amount to Colorado's current CCCC, but this is estimated to be less likely initially, as awareness of the credit is expected to increase over time. Colorado's CCCC has increased in utilization substantially over time, particularly in the last decade. Nebraska's CCTCA, which appears underutilized by comparison, was enacted less than a year ago and lacks complete data.

LBO assumes an effective date of TY 2025, with a reduction in GRF receipts beginning in FY 2026. The PIT is a GRF tax and therefore revenue losses under the bill will be shared by the GRF (96.6%), the Local Government Fund (LGF, 1.7%), and Public Library Fund (PLF, 1.7%).

FNHB0578IN-135/lb

[5] LB 754 of the 108th Legislature enacted Nebraska Revised Statute 77-7204.

[6] Nebraska Department of Revenue: Child Care Tax Credit Act.