



Legislative
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HB 20-1269

FINAL FISCAL NOTE

Drafting Number: LLS 20-0892
Prime Sponsors: Rep. Neville

Date:
Bill Status: Postponed Indefinitely
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Bill Topic: **CREATE SCHOOL SAFETY ACCOUNT AND RELATED TAX CREDITS**

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill creates a program for children directly affected by a public school safety incident to receive funding from the state that allows them to attend a nonpublic school or home school. The bill will increase state expenditures by \$607,436 in FY 2020-21, and decrease state revenue by \$172.4 million. The revenue impacts expire after five years, while the expenditure impacts are ongoing.

Appropriation Summary: For FY 2020-21, the bill requires appropriations totaling \$562,145 to multiple departments.

Fiscal Note Status: This final fiscal note reflects the introduced bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

**Table 1
State Fiscal Impacts Under HB 20-1269**

		FY 2019-20 <i>(current year)</i>	FY 2020-21	FY 2021-22
Revenue	General Fund	(\$76.1 million)	(\$172.4 million)	(\$212.4 million)
	Total	(\$76.1 million)	(\$172.4 million)	(\$212.4 million)
Expenditure	General Fund	-	\$562,145	\$468,841
	School Finance Funding*	-	(\$24.0 million)	(\$67.9 million)
	Child Safety Accounts*	-	\$24.0 million	\$67.9 million
	Centrally Approp	-	\$45,291	\$127,112
	Total	-	\$607,436	\$595,953
	Total FTE	-	2.9 FTE	7.1 FTE
Transfers		-	-	-
TABOR Refund	General Fund	(\$76.1 million)	(\$172.4 million)	(\$212.4 million)

* The state share of school finance funding comes primarily from the General Fund and the State Education Fund. These amounts are redistributed to private child safety accounts.

Summary of Legislation

This bill creates a program for children affected by a public school safety incident to receive state funding allowing them to attend an eligible nonpublic elementary or secondary school, or a nonpublic home-based educational program. Children are eligible to participate if they are directly affected by a safety incident, but not the perpetrator. This includes such incidents as bullying, sexual harassment or abuse, fighting, gang activity, suicide/attempted suicide, drug use, shootings, other acts of violence, or other incidents verified by a licensed physician as affecting a student. Parents of students apply to open a child safety account into which is deposited the state's share of the applicable school district's per pupil revenue, and any funding the student receives for special education. Money in this account is available to be used to pay for tuition at a nonpublic school, instructional materials, transportation to or from school, therapy related to the incident, or tuition at a college or university.

The bill creates a refundable income tax credit equal to 100 percent of the amount paid by parents for eligible expenses that exceed the amount provided in a child safety account. In addition, the bill provides a non-refundable income tax credit for individuals or businesses that donate to organizations that provide scholarships to students with child safety accounts. The credit is equal to 100 percent of the donation up to an aggregate limit of \$100 million. If total donations exceed \$100 million, each donation is reduced proportionately to maintain the \$100 million cap.

The Department of Education must contract with a private entity to administer the program and this entity can retain up to 3 percent of what it receives annually from each child safety account to pay for its administrative expenses. This entity is responsible for reviewing and confirming applications for child safety accounts, monitoring the use of these accounts, and issuing tax credit certificates to individuals and businesses that donate to scholarship-granting organizations.

Assumptions

The fiscal note is based on the following assumptions:

- 2.8 percent of all public school students are victims of safety incidents on school grounds, based on a 2017 study prepared by the National Center for Education Statistics;
- 40 percent of students with an eligible incident will chose to transfer to either a participating nonpublic school or a home school;
- of the students who transfer, 81 percent will enroll in a participating private school and 19 percent will chose home schooling; and
- students who transfer during the school year are included in the October pupil counts for the applicable school district and the average amount of time remaining in the budget year is 50 percent.

These assumptions result in an assumed 9,832 accounts being created in FY 2020-21.

State Revenue

The bill is expected to reduce state income tax revenue by \$76.1 million in the current fiscal year FY 2019-20, \$172.4 million in FY 2020-21, and \$212.4 million in FY 2021-22. In subsequent years, these amounts will grow as more students become eligible to receive funding, until the tax credit expires in tax year 2024.

The bill provides two income tax credits that contribute to the revenue reduction. First, parents receive a fully refundable tax credit for any amount they pay towards eligible expenses that exceed the amount deposited into the child safety account. The fiscal note assumes that the average parent will receive a tax credit of \$6,536 in the first year, based on the difference between an average private school tuition of \$11,421 and a child safety account deposit of \$4,885. An estimated 7,944 students are projected to transfer to a participating private school in the first year, resulting in a revenue loss of about \$52.1 million in tax year 2020. These amounts increase in subsequent years as new cohorts of eligible students transfer to a participating nonpublic school.

The bill also provides a non-refundable income tax credit for individuals or businesses that donate to eligible organizations that offer scholarships to students with child safety accounts. Because the credit is equal to 100 percent of the donation, the fiscal note assumes that the full \$100 million cap will be reached each year. Table 2 shows these amounts as well. The last row of Table 2 shows the fiscal year impacts, which are an average of the applicable tax years.

**Table 2
Revenue Changes Under HB 20-1269**

General Fund Income Tax Change	Tax Year 2020	Tax Year 2021	Tax Year 2022	Tax Year 2023	Tax Year 2024	
Average Private School Tuition	\$11,421	\$11,695	\$11,987	\$12,287	\$12,594	
Average deposit into Child Safety Acct.*	\$4,885	\$5,032	\$5,173	\$5,297	\$5,429	
Average Parent Credit	\$6,536	\$6,663	\$6,814	\$6,990	\$7,165	
Participating Students	7,944	13,862	19,339	24,361	28,916	
Total Parent Tax Credit (\$ in millions)**	\$52.1	\$92.7	\$132.1	\$170.8	\$207.8	
Scholarship Donor Tax Credit (\$ in millions)	\$100.0	\$100.0	\$100.0	\$100.0	\$100.0	
Total Income Tax Change (\$ in millions)	(\$152.1)	(\$192.7)	(\$232.1)	(\$270.8)	(\$307.8)	
Fiscal Year Income Tax Change	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25
(\$ in millions)	(\$76.1)	(\$172.4)	(\$212.4)	(\$251.5)	(\$289.3)	(\$153.9)

* This amount is net of a 3 percent deduction for expenses that can be retained by the administering entity.

** Includes tax credits provided for home-schooled students who transfer due to a school safety incident equal to \$217,000, \$291,000, \$346,000, \$477,000, and \$581,000 in the five tax years, respectively.

State Expenditures

In FY 2020-21, the bill will increase state expenditures by \$607,436 and 2.9 FTE for the departments of Education, Law, and Revenue. In FY 2021-22, these three departments will require a combined total of \$595,953 and 7.1 FTE. Table 3 illustrates new expenditures for school finance, personal services, operating and capital outlay, computer programming, and legal services.

**Table 3
Expenditures Under HB 20-1269**

Cost Components	FY 2019-20	FY 2020-21	FY 2021-22
Department of Education			
School Finance Fund	-	(\$24,015,940)	(\$67,899,635)
Child Safety Acct. Transfers/Appropriation	-	\$24,015,940	\$67,899,635
Personal Services	-	\$69,720	\$83,665
Operating Expenses and Capital Outlay Costs	-	\$23,503	\$1,045
Legal Services (reappropriated to Dept. of Law)	-	77,723	\$77,723
Centrally Appropriated Costs*	-	\$13,068	\$15,831
FTE – Personal Services	-	0.9 FTE	1.1 FTE
FTE – Legal Services (Dept. of Law)	-	0.4 FTE	0.4 FTE
CDE (Subtotal)	\$0	\$184,014	\$178,264
Department of Revenue			
Personal Services	-	\$83,731	\$276,582
Operating Expenses and Capital Outlay Costs	-	\$30,308	\$5,320
Computer Programming	-	\$277,160	\$24,506
Centrally Appropriated Costs*	-	\$32,223	\$111,281
FTE – Personal Services	-	1.6 FTE	5.6 FTE
DOR (Subtotal)	-	\$423,422	\$417,689
Total	\$0	\$607,436	\$595,953
Total FTE	-	2.9 FTE	7.1 FTE

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

Department of Education. The bill will increase expenditures in the Department of Education to establish the contract with the entity administering the program, verify enrollment and special education eligibility, and make school finance transfers into the child safety accounts.

In FY 2020-21, the department will require senior level consultants to evaluate, select, and manage the administering entity; confirm student enrollment in school districts and eligibility for special education funding; make adjustments to school finance funding, including prorating funding during the first year of transfer; and confirm ongoing eligibility of students to participate in the program. These FTE costs are prorated to reflect the General Fund payday shift in FY 2020-21. The bill is also expected to require 750 hours of legal services at \$106.60 per hour.

In FY 2021-22, the bill will require a redistribution of \$24.0 million that is already appropriated for school finance in the Department of Education to child safety accounts. The fiscal note assumes that the average amount deposited into a child safety account will be \$4,885 in FY 2020-21, based on the statewide average per pupil revenue of \$8,123 of which the state share is assumed to be 62 percent and the administering entity is allowed to retain 3 percent. In FY 2020-21, an estimated 9,832 child safety accounts are expected to be created with half of the school year remaining, resulting in a prorated transfer of \$24.0 million.

The bill also requires the General Assembly to appropriate an amount needed to fund the child safety accounts after children have transferred to a participating nonpublic school or home school. In the second year of the program, the fiscal note assumes that the school finance appropriation will decrease by the same amount as needed to pay for child safety accounts. These amounts reflect the children who transferred in the prior school year(s) and are no longer enrolled and counted within the school finance formula. In FY 2021-22, an estimated 9,832 students created accounts in the prior school year and will not receive school finance funding, estimated at \$49.5 million in state share payments (\$5,032 per student). The bill requires a corresponding appropriation of \$49.5 million to pay for the child safety accounts. In addition, an estimated 7,324 students will transfer to a participating nonpublic school or home school during the FY 2021-22 school year because a safety incident. This is assumed to require a redistribution of 50 percent of state share payments received by the department to child safety accounts. This amount is expected to be \$18.4 million. In FY 2021-22, total school finance funding therefore decreases by \$67.9 million, which is deposited into child safety accounts.

Department of Revenue. The bill increases expenditures in the Department of Revenue to review and audit refundable tax credit applications tied to the payment of eligible expenses that exceed child safety account balances. The department requires additional tax examiners, and the GenTax system will need to be reprogrammed to provide individual auditing capabilities.

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 employee insurance and supplemental employee retirement payments, are estimated to be \$45,291 in FY 2020-21 and \$127,112 in FY 2021-22 for the departments of Education and Revenue. Included in these totals is also leased space expenses for the Department of Revenue of \$10,560 in FY 2020-21 and \$36,960 in FY 2021-22.

TABOR refunds. The bill is expected to decrease state General Fund obligations for TABOR refunds by \$76.1 million in the current FY 2019-20, by \$172.4 million in FY 2020-21, and by \$212.4 million in FY 2021-22. Under current law and the December 2020 Legislative Council Staff forecast, the bill will correspondingly decrease the amount refunded to taxpayers via sales tax refunds made available on income tax returns for tax years 2021 and 2022, respectively. A forecast of state revenue subject to TABOR is not available beyond FY 2021-22.

School District Impact

Schools districts that lose students who transfer to a nonpublic school or a home school because of a school safety incident will receive less state aid. In the year a student transfers, school districts will lose a prorated amount of state aid depending on when the child safety account was created. In FY 2020-21 and FY 2021-22, those amounts are estimated at \$24.0 million and \$18.4 million respectively, which will be transferred to child safety accounts. In subsequent years,

school districts will also receive less school finance funding to the degree those students do not re-enroll in their original school district. In FY 2021-22, school finance funding is expected to decrease by \$49.5 million because of the reduction in enrollment. The total reduction in school finance funding in FY 2021-22 is therefore \$67.9 million.

School districts may also lose special education funding if the students who qualify for a child safety account are also children with qualifying disabilities. The fiscal note has not included an estimate of this latter amount.

Effective Date

The bill was postponed indefinitely by the House State, Veterans and Military Affairs Committee on February 18, 2020.

State Appropriations

For FY 2020-21, the bill requires a General Fund appropriation of \$170,946 to the Department of Education, and 1.3 FTE. Of this amount, \$77,723 is reappropriated to the Department of Law, and 0.4 FTE.

For FY 2020-21, the bill requires a General Fund appropriation of \$391,199 to the Department of Revenue, and 1.6 FTE.

State and Local Government Contacts

Education Higher Education Public Safety Revenue