

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5365H.011
Bill No.: HB 2589
Subject: Tax Credits; Taxation and Revenue - Income; Taxation and Revenue - General;
Department of Revenue
Type: Original
Date: March 22, 2024

Bill Summary: This proposal modifies provisions of the "Champion for Children" tax credit and the "Donated Food" tax credit relating to tax credit award denials.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Total Estimated Net Effect on FTE	0	0	0

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2025	FY 2026	FY 2027
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Section 135.341 Champion for Children Tax Credit

Officials from the **Department of Revenue (DOR)** assume the Champion for Children Tax Credit program allows a taxpayer to receive a tax credit for donations they make to CASA, Child Advocacy Center, or a Crisis Care Center. The tax credit has a \$1,500,000 cap. The credit is an apportioned credit which requires DOR to calculate a lesser amount of credit should the number of credits being claimed exceed the cap.

In 2018, the cap on the credit was increased starting July 1, 2019, to \$1.5 million annually. For informational purposes, DOR is showing the number of credits redeemed annually over the last several years.

Fiscal Year	Apportioned Cap	Total Credit Redeemed
FY 2023	\$1,500,000	\$1,225,848
FY 2022	\$1,500,000	\$884,965
FY 2021	\$1,500,000	\$1,339,280
FY 2020	\$1,500,000	\$827,942
FY 2019	\$1,000,000	\$999,995
FY 2018	\$1,000,000	\$999,986
FY 2017	\$1,000,000	\$999,873
FY 2016	\$1,000,000	\$999,987

This proposal is adding language that when the credit is apportioned and DOR notifies the taxpayer of the reduced amount of the credit and any additional tax liability owed by the taxpayer from not receiving the full credit, the taxpayer will not owe any interest or penalties on the underpayment as long as they pay within 60 days of the receipt of notice. The current statutes do allow a person 60 days to make payment arrangements before instituting any penalties or fees. Therefore, this language would not have a fiscal impact.

Officials from the **Office of Administration – Budget & Planning (B&P)** assume this proposal would waive any addition to tax, interest, and penalties on taxes due because of either the Champion for Children (Section 135.341) or the Food Pantry (Section 135.647) tax credits being apportioned if the resulting tax due is paid within 60 days.

B&P notes that the Champion for Children tax credit already waived interest and penalties on taxes that became due because of the credit being apportioned. In addition, based on information provided by DOR, the Champion for Children tax credit has not been apportioned in the past two years.

Oversight notes the officials from the DOR and B&P both assume no fiscal impact stemming from the Champion for Children tax credit.

Oversight will note that currently, Section 135.341. 7. (1) states that “in the event a credit denial, due to lack of available funds, causes a balance-due notice to be generated by the department of revenue, or any other redeeming agency, the taxpayer will not be held liable for any penalty or interest, provided the balance is paid, or approved payment arrangements have been made, within sixty days from the notice of denial”.

Oversight assume the taxpayer, in most instances, already complying with the rule to avoid any penalties or interest; therefore, Oversight will reflect zero impact for this section in the fiscal note.

Section 135.647 Food Pantry Tax Credit

Officials from the **Department of Revenue (DOR)** assume the food pantry tax credit program allows a taxpayer to receive a tax credit for donations they make to a food pantry, soup kitchen or homeless shelter. The tax credit has a \$1,750,000 cap. The credit is an apportioned credit which requires DOR to calculate a lesser amount of credit should the number of credits being claimed exceed the cap.

For informational purposes, the Department notes the Food Pantry tax credit program was created in 2007 and it had a sunset. In 2013, the sunset was extended, and the cap was lowered to \$1,250,000. Then in 2014, the cap was increased to its current \$1,750,000. In 2018, the sunset was extended until 2026. This is an apportioned credit, and it has been hitting its current cap the last several years. Below is information on the authorization, issuance and redemption of the credits over the last few years.

Year	Issued	Total Redeemed
FY 2023	\$1,749,990.00	\$1,749,990.00
FY 2022	\$1,749,992.00	\$1,749,992.00
FY 2021	\$1,749,992.00	\$1,749,992.00
FY 2020	\$1,131,882.00	\$1,131,882.00
FY 2019	\$1,380,894.00	\$1,380,894.00
FY 2018	\$1,679,924.00	\$1,679,924.00
FY 2017	\$1,584,566.00	\$1,584,566.00
FY 2016	\$1,155,480.00	\$1,155,480.00
FY 2015	\$1,118,866.00	\$1,118,866.00
FY 2014	\$840,234.00	\$840,234.00
FY 2013	\$72,822.00	\$72,822.00
FY 2012	\$796,156.10	\$796,156.10
TOTALS	\$15,010,798.10	\$15,010,798.10

This proposal is adding language that when the credit is apportioned and DOR notifies the taxpayer of the reduced amount of the credit and any additional tax liability owed by the taxpayer from not receiving the full credit, the taxpayer will not owe any interest or penalties on the underpayment as long as they pay within 60 days of the receipt of notice. Currently, many taxpayers fail to pay the total tax liability they owe minus the food pantry credit when submitting their return. Then when the apportionment occurs, they have not paid their full tax liability by the filing deadline and are assessed penalties or interest. This would help to rectify the situation. DOR assumes this would result in a minimal loss of general revenue from no longer collecting the penalties or fees.

Officials from the **Office of Administration – Budget & Planning (B&P)** assume this waiver is new for the Food Pantry tax credit. B&P is unable to determine how much interest and/or penalties are annually collected because of apportionment. However, the allotted amounts per taxpayer credit was reduced by 10.2% in FY21, 28.7% in FY22, and 25.5% in FY23. Therefore, this proposal may reduce TSR and GR by an unknown, likely minimal amount, beginning in FY25.

Oversight notes that officials from the DOR and B&P both assume this Section would have a minimal impact on the general revenue, if any.

Oversight notes that the proposal allow for similar remedy as above, Section 135.647. 3. (2) denotes the taxpayer shall not be held liable for any addition to tax, penalty, or interest on that tax balance due, provided the balance is paid, or approved payment arrangements have been made, within sixty days from issuance of the notice of credit denial.

Oversight is unsure of how many taxpayer previously receive notice of apportionment thus additional tax due. However, based on responses from DOR and B&P, Oversight will assume that the total amount of interest and penalties owed for this situation was not material. Therefore, for purpose of this fiscal note, Oversight will not show a fiscal impact for these changes.

Responses regarding the proposed legislation as a whole

Officials from the **Department of Economic Development** and the **Department of Social Services** both assume the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for both respective agencies.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State (SOS)** note many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and

regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

<u>FISCAL IMPACT – State Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

Small businesses, who participate in these programs could be impacted by this proposal.

FISCAL DESCRIPTION

This bill amends provisions of the "Champion for Children Tax Credit."

Currently, if a taxpayer is denied a tax credit because of a lack of available funds, and that denial results in a balance owed to the State, the taxpayer has 60 days from the notice of denial to make payment arrangements. If the balance is not paid within 60 days from the notice, the remaining balance will be due and payable in the same manner as personal income tax.

This bill states that in the event of a full or partial denial of a tax credit because the cumulative maximum amount of credits has already been redeemed, and that denial results in an income tax balance owed to the State, the taxpayer will not be held liable for any additional tax, penalty, or interest on that income tax balance, provided that payment arrangements are made within 60 days from the issuance of the notice of the credit denial.

This bill repeals the language stating that if the balance is not paid within 60 days from the notice, the remaining balance will be treated as personal income tax.

This bill also amends provisions of the "Donated Food Tax Credit."

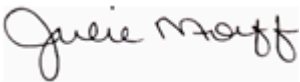
Currently, the Department of Revenue establishes procedures to ensure that taxpayers can claim all possible portions of the tax credit up to the cumulative amount available for the fiscal year.

This bill states that in the event of a full or partial denial of a tax credit because the cumulative maximum amount of credits has already been redeemed, and that denial results in an income tax balance owed to the state, the taxpayer will not be held liable for any additional tax, penalty, or interest on that income tax balance, provided that payment arrangements are made within 60 days from the issuance of the notice of the credit denial.

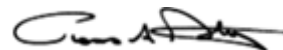
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration – Budget & Planning
Department of Revenue
Joint Committee on Administrative Rules
Office of the Secretary of State
Department of Social Services
Department of Economic Development
Oversight Division



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