HB 19-1112

Legislative Council Staff
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FISCAL NOTE

Drafting Number:	LLS 19-0559	**Date:**	February 4, 2019
Prime Sponsors:	Rep. Neville	**Bill Status:**	House SVMA
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Bill Topic: CHILD SAFETY ACCOUNTS

Summary of Fiscal Impact:

- ☒ State Revenue
- ☒ State Expenditure
- ☐ State Transfer
- ☒ TABOR Refund
- ☒ Local Government
- ☐ 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 $337,826 in FY 2019-20, and decrease state revenue by $172.4 million. The revenue impacts expire after five years, while the expenditure impacts are ongoing.

Appropriation Summary: The bill requires a General Fund appropriation of $303,095 in FY 2019-20. See State Appropriations section.

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

Table 1
State Fiscal Impacts Under HB 19-1112

		FY 2018-19 *(Current Year)*	FY 2019-20	FY 2020-21
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	-	$303,095	$484,551
	School Finance Funding*	($24.0 million)	($67.9 million)	($106.3 million)
	Child Safety Accounts*	$24.0 million	$67.9 million	$106.3 million
	Centrally Approp		$34,731	$90,152
	Total	-	$337,826	$574,703
	Total FTE	-	2.9 FTE	7.1 FTE
Transfers		-	-	-
TABOR Refund	General Fund	($76.1 million)	($172.4 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 participating in the program 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 2018-19.

State Revenue

The bill is expected to reduce state income tax revenue by $76.1 million in FY 2018-19, $172.4 million in FY 2019-20, and $212.4 million in FY 2020-21. In subsequent years, these amounts will grow as more students become eligible to receive funding, until the tax credit expires in tax year 2023.

The bill provides two income tax credits that contribute to the revenue reduction. First, parents receive a fully refundable tax credit for any amounts 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 2019. 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 19-1112

General Fund Income Tax Change	Tax Year 2019	Tax Year 2020	Tax Year 2021	Tax Year 2022	Tax Year 2023	
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)**	**($307.8)**	
Fiscal Year Income Tax Change	**FY 2018-19**	**FY 2019-20**	**FY 2020-21**	**FY 2021-22**	**FY 2022-23**	**FY 2023-24**
($ 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 the current budget year, FY 2018-19, 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 2018-19, 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 2018-19, 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.

In FY 2019-20, the bill will increase state expenditures by $607,437 and 2.9 FTE for the departments of Education, Law, and Revenue. In FY 2020-21, these three departments will require a combined total of $595,953 and 7.1 FTE. Table 3 illustrates the school finance, personal services, operating and capital outlay, computer programming, and legal services costs for these agencies and the appropriation needed to fund the child safety accounts.

Table 3
Expenditures Under HB 19-1112

Cost Components	FY 2018-19	FY 2019-20	FY 2020-21
Department of Education			
School Finance Funding	($24,015,940)	($67,899,635)	($106,274,202)
Child Safety Acct. Transfers/Appropriation	$24,015,940	$67,899,635	$106,274,202
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	-	$40,868	$45,536
Computer Programming	-	$7,550	$0
Centrally Appropriated Costs*	-	$21,663	$74,321
FTE – Personal Services	-	1.6 FTE	5.6 FTE
DOR (Subtotal)	**-**	**$153,812**	**$396,439**
Total	**$0**	**$337,826**	**$574,703**
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 by $184,014 and 0.9 FTE in FY 2019-20 and $178,264 and 1.1 FTE in FY 2020-21 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 2019-20, the department will require 0.9 FTE 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 have been prorated to reflect the General Fund payday shift in FY 2019-20.

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 2019-20, 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 2019-20 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. 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 by $153,812 and 1.6 FTE in FY 2019-20 and $396,439 and 5.6 FTE in FY 2020-21. Workload increases are required primarily to review and audit refundable tax credit applications tied to the payment of eligible expenses that exceed child safety account balances. In FY 2019-20, the department needs 1.6 FTE for tax examiners, starting January 1, 2019, which increases to 5.6 FTE in FY 2020-21 as the number of applicants grows with the program and is a full year impact. In addition, the GenTax system will need to be reprogrammed at an estimated cost of $7,550 in FY 2019-20, which includes a form change cost of $4,800.

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 $34,731 in FY 2019-20 and $90,152 in FY 2020-21 for the departments of Education and Revenue.

TABOR Refund

The bill is expected to decrease state General Fund obligations for TABOR refunds by $76.1 million in the current FY 2018-19. Under current law and the December 2018 forecast, the bill will correspondingly reduce the amount refunded to taxpayers via sales tax refunds on income tax returns for the current tax year 2019.

The bill is also expected to reduce the $189.0 million General Fund obligation for TABOR refunds expected for FY 2019-20 under current law by $172.4 million in FY 2020-21. As a result, the bill will eliminate $39.5 million in TABOR refunds via the sales tax refund mechanism expected to be paid on income tax returns for tax year 2020, as well as $132.9 million of the $149.5 million expected to be refunded via reimbursements to local governments for their property tax loss associated with the senior and disabled veteran property tax exemptions. Because the TABOR surplus set aside in FY 2019-20 will no longer be available to finance property tax reimbursements, the bill will obligate an equal amount for reimbursements to be paid from the FY 2020-21 General Fund budget instead.

The state is not expected to collect a TABOR surplus in FY 2020-21. A forecast of state revenue subject to TABOR is not yet available for FY 2021-22 and subsequent years.

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 2018-19 and FY 2019-20, 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 2019-20, 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 2019-20 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 takes effect August 2, 2019, if the General Assembly adjourns on May 3, 2019, as scheduled, and no referendum petition is filed.

State Appropriations

For FY 2019-20, the bill requires a General Fund appropriation of $170,946 and 1.3 FTE to the Department of Education. This includes a reappropriation of $77,723 and 0.4 FTE to the Department of Law for legal services.

In FY 2019-20, the School Finance appropriation must be reduced by $49,472,837 and the Department of Education needs a General Fund appropriation of $49,472,837 for the child safety accounts created in the prior school year.

For FY 2019-20, the Department of Revenue requires a General Fund appropriation of $132,149 and 1.6 FTE.

State and Local Government Contacts

District Attorneys	Education	Judicial	Law
LCS	Revenue	School Districts	Higher Education