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FISCAL IMPACT STATEMENT

LS 6767

BILL NUMBER: SB 388

NOTE PREPARED: Jan 5, 2006

BILL AMENDED:

SUBJECT: Qualified Child Care Expenditure Tax Credits.

FIRST AUTHOR: Sen. Lewis

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: This bill establishes a state tax credit for an employer that makes qualified child care expenditures, qualified child care resource and referral expenditures, or qualified child care planning expenditures on behalf of its employees. The bill provides that the maximum amount of the credit for each taxable year is the lesser of the employer's pro rata share of: (1) \$20,000; or (2) 40% of the employer's qualified expenditures.

Effective Date: January 1, 2007.

Explanation of State Expenditures: This bill will increase the administrative expenses of the Department of State Revenue to revise and create new tax forms, instructions, and computer programs to accommodate this new tax credit. The Department's current level of resources should be sufficient to implement this change.

Explanation of State Revenues: *Summary:* This bill provides a state income tax credit to employers who make qualified child care expenditures or qualified child care resource and referral expenditures on behalf of its employees and are eligible for federal credit under Section 45F of the Internal Revenue Code. The expenditures must be made for child care in a qualified child care facility located in Indiana, licensed by the Division of Family and Children, and operated by, or under contract with, the taxpayer. The bill also provides an income tax credit for qualified planning expenditures. The taxpayer making these planning expenditures does not have to be eligible for the federal credit. The tax credit is equal to the lesser of \$20,000 or 40% of the qualified program expenditures. The tax credit is effective for tax years beginning January 1, 2007. This tax credit will reduce income tax revenue by an indeterminable amount beginning in FY 2008. The fiscal impact could begin in FY 2007 if taxpayers adjust their quarterly estimated payments.

Background: Under Section 45F of the Internal Revenue Code, a qualified child care facility is defined as a facility that meets all the applicable laws and regulations of the state or local government in which it is located, including licensing requirements. The principal use of the facility must be to provide child care with certain exceptions. Enrollment in the facility must be opened to employees of the taxpayer and if the facility is the principal trade or business of the taxpayer, at least 30% of the enrollees of the facility must be dependents of the employees of the taxpayer. Qualified expenditures include amounts paid or incurred for the following:

- acquisition, construction, rehabilitation, or expansion of property to be used as part of a qualified child care facility of the taxpayer, is depreciable property, and is not part of the principal residence of the taxpayer or any employee of the taxpayer;
- operating expenses of a qualified facility, including training or employees, scholarship programs, and compensation of employees who have obtained a high level of training;
- contract with a qualified facility to provide child care services to employees of the taxpayer.

Qualified child care resource and referral expenditures include the amount paid or incurred under a contract to provide these services to employees of the taxpayer. Qualified planning expenditures include the amount paid or incurred to determine the feasibility of providing child care in a qualified facility.

According to the Family and Social Services Administration, there were approximately 49 employer-operated child care centers which were licensed in 2005. However, only 13 of these would appear to have a potential tax liability. It is not known how many of these would have qualified expenditures which would qualify for the federal credit or have qualified planning expenditures. If all 13 employers qualified for the maximum amount of this tax credit, there would be an annual reduction of approximately \$260,000 in tax revenue. If this tax credit provides an incentive for other employers to make qualified expenditures for an employee child care program, there would be a reduction in income tax revenue by a maximum of \$20,000 per taxpayer. A \$20,000 credit would equate to a minimum of a \$50,000 capital or program expenditure.

The tax credit may be applied to the employer's Adjusted Gross Income, Financial Institutions Tax, and Insurance Premiums Tax. If the tax credit exceeds the taxpayer's liability, the credit may be carried forward to the next three taxable years. The tax credit may not be carried back or refunded. If a pass through entity does not have a state tax liability, they may apply this credit in proportion to the percentage of the entity's distributive income to which the shareholder is entitled.

The tax credit applies to taxable years beginning January 1, 2007, and will affect income tax revenue collections beginning in FY 2008. Income tax revenue is deposited in the state General Fund and the Property Tax Replacement Fund. The fiscal impact could begin in FY 2007 if taxpayers adjust their quarterly estimated payments.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue.

Local Agencies Affected:

Information Sources: 2006 U.S. Master Tax Guide; Internal Revenue Service; Family and Social Services Administration.

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