HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 1745 **PRINTER'S NO. 2749** **PRIME SPONSOR: Friel**

COST / (SAVINGS)

FUND	FY 2023/24	FY 2024/25
General Fund	**$0**	**See Fiscal Impact**

SUMMARY:

House Bill 1745, Printer's Number 2749 would establish the 529 Savings Account Employer Contribution Tax Credit.

ANALYSIS:

This bill amends Act 2 of 1971 (Tax Reform Code of 1971) by adding Article XIX-J to establish the 529 Savings Account Employer Contribution Tax Credit beginning in tax year 2024 through tax year 2028. This tax credit would be available to employers who make contributions to any of the following accounts owned by employees:

- A tuition savings account under the Tuition Account Program and College Savings Bond Act (i.e., 529 Savings Program);
- An account under the Pennsylvania ABLE Savings Program; or
- A tuition account program contract or ABLE savings program administered by another state.

The amount of the tax credit that participating employers would be able to claim against their state tax liability would be equal to 25 percent of the employer's aggregate contributions made to eligible accounts owned by employees during the tax year. Employers would be permitted to make contributions of up to $500 per employee during the tax year. Employers that opt to make contributions to eligible accounts would be required to make equal contributions to all employees that either own an account or choose to open an account. An employee who owns an eligible account may voluntarily opt out of an employer contribution benefit during any tax year. An employee who opts out of a contribution benefit from the employer during one tax year may elect to receive the contribution benefit during another succeeding tax year. Contributions made by employers would not be considered income for purposes of the state Personal Income Tax owed by employees.

In order to receive the tax credit, participating employers would be required to provide the Treasury Department with proof that the employer has made qualifying contributions to employee-owned accounts at the time of filing the employer's tax return. If the amount of the tax credit exceeds the employer's state tax liability during the tax year in which the tax credit is approved, the employer would be permitted to carryover the excess tax credit amount for up to three succeeding tax years, starting with the earliest tax year possible. Any remaining tax credit after the three tax years following the initial approval would not be refunded or credited to the employer. Employers would not be able to carryback or obtain a refund of all or any portion of an unused tax credit.

The legislation further states that if an employer is a pass-through entity and has an unused tax credit, the employer could elect to transfer all or a portion of the credit to shareholders, members, or partners in proportion to the share of the entity's distributive income to which each individual is entitled to. The same unused tax credit would not be able to be claimed by both the pass-through entity and a shareholder, member, or patron of the pass-through entity. A shareholder, member, or patron of a pass-through entity to whom a credit is transferred would be required to immediately claim the credit in the taxable year in which the transfer is made, and they would not be permitted to carry forward, carryback, obtain a refund of, or sell or assign the tax credit.

The Treasury Department would be required to publish guidelines and may promulgate regulations necessary for the implementation and administration of the legislation. The Treasury Department would also be required to provide the Department of Revenue with information necessary to verify that the employer applying for the tax credit has made contributions to employees' accounts and the aggregate amount of contributions made.

Beginning on July 1, 2024, the Treasury Department would be required to provide an annual report to the General Assembly indicating the effectiveness of the tax credit, including the following information:

- The number of tax credits approved;
- The amount of tax credits approved; and
- The number of tax credits denied and the reason for denial.

This legislation would take effect 60 days upon enactment.

FISCAL IMPACT:

This legislation would reduce General Fund revenues in the amount of tax credits approved each year for employers that make contributions to eligible accounts. As it relates to tuition savings accounts, the Department of Revenue projects that there could be as many as 590,970 tuition savings accounts, inclusive of 529 savings accounts and tuition savings account programs administered by other states, that are owned by Pennsylvania employees. After providing for an adjustment for state employment in industries not subject to tax, the department estimates the maximum annual cost of this tax credit to be $65.7 million. This estimate assumes that each of the eligible accounts owned by employees receives the maximum contribution.

In addition, the Pennsylvania Treasury reports that there are about 162,000 ABLE savings accounts in the United States, about 8,700 of which are open under the Pennsylvania ABLE Savings Program. Assuming that 1) each of the Pennsylvania ABLE account owners receive the maximum contribution; and 2) the owners of these accounts work for a taxable employer that participates in making contributions, this could result in an estimated additional cost of $1.1 million to the Commonwealth. This projection does not account for employees that may own an ABLE savings account operated in another state, but the cost of the tax credit for employers that make contributions to accounts in such cases is expected to be minimal. The actual cost of this tax credit would ultimately depend on the total amount of contributions made by employers to eligible accounts under the legislation.

To the extent that an employer is subject to the state Personal Income Tax (PIT), they may also take tax deductions for contributions made to eligible accounts. This could result in reduced PIT collections from applicable employers taking this deduction based on contributions they make to eligible accounts owned by employees. However, the amount of reduced PIT collections as a result of increased usage of tax deductions is currently indeterminate, as it would depend on the number of employers subject to the PIT that begin making contributions to eligible accounts owned by employees and the amount of their contributions.

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House Appropriations Committee (D)

DATE: March 20, 2024

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.