

# HOUSE BILL NO. 5265

October 26, 2023, Introduced by Reps. Schuette, DeBoer, Kunse, Bierlein, Schmaltz, Tisdell, Kuhn, Wozniak, Bezotte, Wilson and Martus and referred to the Committee on Families, Children and Seniors.

A bill to create a child care savings program; to provide for child care savings accounts; to prescribe the powers and duties of certain state agencies, boards, and departments; to allow certain tax deductions; and to provide for penalties and remedies.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. This act may be cited as the "child care savings  
2 program act".

3           Sec. 3. As used in this act:

4           (a) "Account holder" means an individual who establishes,  
5 individually or jointly with 1 or more other individuals, an  
6 account with a financial institution for which the account holder

1 claims a child care savings account status on the individual's  
2 income tax return.

3 (b) "Child care expenses" mean the actual incurred costs for  
4 the care and supervision of a qualified individual that are  
5 necessary for the account holder to be employed, attend educational  
6 or vocational training programs, to improve employment  
7 opportunities, or to search for employment.

8 (c) "Child care savings account" or "account" means an account  
9 with a financial institution that an account holder designates as a  
10 child care savings account on the individual's income tax return  
11 pursuant to this act for the purpose of paying or reimbursing  
12 eligible costs.

13 (d) "Department" means the department of treasury.

14 (e) "Dependent" means that term as defined in section 152 of  
15 the internal revenue code of 1986, 26 USC 152.

16 (f) "Eligible costs" means child care expenses incurred for  
17 the care of a qualified individual.

18 (g) "Financial institution" means any bank, trust company,  
19 savings institution, industrial loan association, consumer finance  
20 company, credit union, or any benefit association, insurance  
21 company, safe deposit company, money market mutual fund, broker, or  
22 similar entity authorized to do business in this state.

23 (h) "Program" means the child care savings program established  
24 pursuant to this act.

25 (i) "Qualified individual" means an individual who is a  
26 dependent of the account holder and who is younger than 14 years of  
27 age on the last day of the tax year.

28 (j) "Qualified withdrawal" means a withdrawal from an account  
29 that is not subject to a penalty under this act or taxation under

1 the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.847, and  
2 that is a withdrawal from an account that is used to pay the  
3 eligible costs of an account holder incurred after the account is  
4 established.

5 (k) "Tax year" means the calendar year.

6 (l) "Treasurer" means the state treasurer.

7 Sec. 5. (1) The child care savings program is established in  
8 the department. The purposes, powers, and duties of the child care  
9 savings program are vested in and shall be exercised by the  
10 treasurer or the designee of the treasurer.

11 (2) Beginning January 1, 2024, any individual may open a  
12 savings account with a financial institution and designate that  
13 account, in its entirety, as a child care savings account to be  
14 used to pay or reimburse the account holder's eligible costs. An  
15 individual may open a savings account and designate that account as  
16 a child care savings account in anticipation of having a qualified  
17 individual for whom the individual may incur eligible costs in the  
18 future. An individual is not required to designate a qualified  
19 individual at the time the individual opens and designates a  
20 savings account as a child care savings account.

21 (3) An individual may jointly own a child care savings account  
22 with another person if the joint account holders file a joint  
23 return under part 1 of the income tax act of 1967, 1967 PA 281, MCL  
24 206.1 to 206.532. An individual may be the account holder of more  
25 than 1 child care savings account.

26 (4) Only cash and marketable securities may be contributed to  
27 a child care savings account. Subject to the limitation under  
28 section 11, persons other than the account holder may make  
29 contributions to a child care savings account.

1           Sec. 7. (1) The account holder is responsible for the use or  
2 application of funds in a child care savings account. The account  
3 holder shall not use funds held in an account to pay expenses of  
4 administering the account, except that a service fee may be  
5 deducted from the account by a financial institution in which the  
6 account is held. An account holder may withdraw funds, in whole or  
7 in part, from a child care savings account and deposit the funds in  
8 a new child care savings account held by a different financial  
9 institution or the same financial institution. If necessary, an  
10 account holder may make a hardship withdrawal from the account due  
11 to an immediate and heavy financial need of the account holder.  
12 However, the amount withdrawn must be limited to the amount  
13 necessary to satisfy that need. A hardship withdrawal is not a  
14 qualified withdrawal and will be subject to taxation under part 1  
15 of the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

16           (2) An account holder shall submit, with the account holder's  
17 income tax return filed under part 1 of the income tax act of 1967,  
18 1967 PA 281, MCL 206.1 to 206.532, all of the following to the  
19 department, along with the form prescribed by the department under  
20 subsection (5):

21           (a) Account statements that show the contributions made during  
22 the tax year and the taxable interest or earnings on the account in  
23 the tax year for which the deduction is claimed.

24           (b) The Form 1099 issued by the financial institution for the  
25 account for the tax year for which the deduction is claimed.

26           (c) Upon a withdrawal of funds from a child care savings  
27 account, a copy of a detailed receipt that the withdrawal was used  
28 for eligible costs.

29           (3) An account holder shall maintain and keep, for a period of

1 at least 4 years, suitable records and documentation, for each  
2 child care savings account, including, but not limited to, account  
3 statements for all contributions and withdrawals made, a detailed  
4 list describing the transactions for the account, and other  
5 pertinent records and papers as required by the department for the  
6 administration of this act.

7 (4) The treasurer may promulgate rules to implement the  
8 program in accordance with the administrative procedures act of  
9 1969, 1969 PA 306, MCL 24.201 to 24.328. The rules shall not apply  
10 to, or impose administrative, reporting, or other obligations or  
11 requirements on, financial institutions-related accounts for child  
12 care savings accounts.

13 (5) The department shall prescribe the form and manner in  
14 which a taxpayer shall claim a deduction in accordance with this  
15 act and section 30 of the income tax act of 1967, 1967 PA 281, MCL  
16 206.30, on the individual's income tax return filed under part 1 of  
17 the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532. The  
18 form shall include, at a minimum all of the following:

19 (a) The account holder's name.

20 (b) The name of each of the qualified individuals for whom  
21 child care expenses were incurred.

22 (c) The name of the financial institution and the account  
23 number.

24 (d) The beginning and end of the year balance of the account.

25 (e) The amount of the deduction claimed for the tax year.

26 (6) The department may prepare and distribute informational  
27 materials on the child care savings program to financial  
28 institutions to publicize the availability of the program.

29 Sec. 9. (1) A financial institution is not required to do any

1 of the following:

2 (a) Designate an account as a child care savings account in  
3 the financial institution's account contracts or systems or in any  
4 other way.

5 (b) Track the use of money withdrawn from a child care savings  
6 account.

7 (c) Allocate funds in a child care savings account among joint  
8 account holders.

9 (d) Report any information to the department that is not  
10 otherwise required by law.

11 (2) A financial institution is not responsible or liable for  
12 any of the following:

13 (a) Determining or ensuring that an account satisfies the  
14 requirements to be a child care savings account.

15 (b) Determining or ensuring that funds in a child care savings  
16 account are used for eligible cost.

17 (c) Reporting or remitting taxes or penalties related to the  
18 use of a child care savings account.

19 (3) Upon being furnished proof of the death of the account  
20 holder and any other information required by the contract governing  
21 the child care savings account, a financial institution shall  
22 distribute the principal and accumulated interest or other income  
23 in the account in accordance with the terms of the contract  
24 governing the account.

25 Sec. 11. (1) Contributions to and interest earned on a child  
26 care savings account are exempt from taxation as provided in  
27 section 30 of the income tax act of 1967, 1967 PA 281, MCL 206.30.

28 (2) Qualified withdrawals made from child care savings  
29 accounts are exempt from taxation as provided in section 30 of the

1 income tax act of 1967, 1967 PA 281, MCL 206.30.

2       Sec. 13. (1) If funds are withdrawn from an account for any  
3 purpose other than the payment or reimbursement of eligible costs  
4 by the account holder, there is a penalty equal to 10% of the  
5 amount withdrawn. The penalty shall be paid to the department.

6       (2) The penalty does not apply if the funds withdrawn satisfy  
7 any of the following:

8       (a) Withdrawn by reason of the account holder's or qualified  
9 individual's death.

10       (b) A disbursement of assets of the account pursuant to a  
11 filing for protection under the United States bankruptcy code, 11  
12 USC 101 to 1532.

13       (c) Transferred from an account established pursuant to this  
14 act into another account established pursuant to this act as  
15 provided in section 7.

16       (d) Withdrawn by reason of a hardship withdrawal as provided  
17 in section 7.

18       Enacting section 1. This act does not take effect unless  
19 Senate Bill No. \_\_\_\_ or House Bill No. 5266 (request no. 04512'23)  
20 of the 102nd Legislature is enacted into law.