

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2234 - SB 2065

March 6, 2024

SUMMARY OF BILL: Creates the *Universal Pre-K Funding Act*. Requires each local education agency (LEA) to provide a pre-kindergarten (pre-K) to serve all eligible children, beginning in 2025-26 school year. Requires the state to fund 100 percent of the costs required for an LEA to provide the required number of classrooms and to employ the number of licensed teachers and educational assistants.

Effective January 1, 2015, creates a data transaction privilege tax that is imposed on a person's annual gross revenues that are derived from data transactions from digital advertising services in this state. Establishes the Universal Pre-K Fund (Fund) within the State Treasury to be administered by the Department of Education (DOE). Requires all revenue from the data transaction privilege tax collected, including penalties and interest, to be deposited into the Fund and to be used exclusively to fund the universal pre-K program.

Requires: (1) moneys in the Fund to be invested by the State Treasurer; and (2) any remaining balance, or interest accruing on investments and deposits of the universal pre-K fund to be credited to the Fund and to be carried forward into the subsequent fiscal year.

Creates a class E and class D felony for certain filing violations related to the data transaction privilege tax.

FISCAL IMPACT:

**Increase State Expenditures – \$1,254,800/FY24-25
\$432,013,800/FY25-26 and Subsequent Years**

Other Fiscal Impact – To the extent that the state collects revenue from the data transaction privilege tax, those funds will be deposited into the Universal Pre-K Fund. However, the extent and timing of any such future collections cannot be reasonably determined. Due to multiple unknown factors, it is uncertain what costs the Department of Revenue will incur for administration of the tax.

It is unknown if LEAs will have sufficient space to accommodate additional pre-K classrooms. For LEAs that do not have the capacity, a mandatory increase in local infrastructure expenditures will occur. However, because the amount of available classroom space is unknown, a precise fiscal impact cannot be estimated with certainty. *

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Assumptions:

Universal Pre-K:

- Tennessee Code Annotated § 49-6-104 prioritizes the enrollment of at-risk children into a voluntary pre-K program and provides access to eligible three and four-year old students.
- The proposed legislation removes eligibility for three-year old students and eliminates preference for “at risk” students; the revised language increases the number of possible 4-year-olds served within an LEA pre-K from 20,000 to 82,765.
- Tennessee Code Annotated § 49-6-104(d)(1) sets the maximum classroom size for pre-K students at 20; therefore, in order to serve the total population of eligible four-year old students, the state will need a total of 4,138 (82,765 / 20) classrooms, or an estimated addition of 3,138 classrooms [(82,765 – 20,000) / 20].
- The proposed legislation will require one teacher and one assistant teacher per classroom; this results in 4,138 additional teachers and 4,138 additional assistant teachers.
- The average Tennessee teacher salary is estimated to be \$58,260; the average Tennessee assistant teacher (with a Certified Development Associate credential) salary is approximately \$33,390. The estimated increase in state expenditures is as follows:

| Title | Salary | Benefits | # Positions | Total |
|-------------------|----------|----------|-------------|---------------|
| Teacher | \$58,260 | \$21,861 | 3,138 | \$251,419,698 |
| Assistant Teacher | \$33,390 | \$13,361 | 3,138 | \$146,704,638 |
| | | | Total: | \$398,124,336 |

- The total cost for personnel is \$398,124,336 and it is assumed that hiring will occur in July of 2025.
- It is estimated that classroom costs and supplies will total \$10,000 per classroom. There will be a recurring increase in state expenditures of \$31,380,000 (3,138 classrooms x \$10,000) in FY25-26 and subsequent years.
- The total cost for personnel and materials is \$429,504,336 (\$398,124,336 + \$31,380,000) in FY25-26 and subsequent years.
- The current funding allocation for the Voluntary Pre-K program is \$86,029,000. As the proposed legislation applies to the 2025-26 school year and each year thereafter, it is assumed that funding for Voluntary Pre-K will not change in FY24-25. It is further assumed that such funding will be available to continue funding the existing cohort size of students in future years.
- The DOE will require additional capacity in the Early Learning Division to oversee the significant increase in pre-K classrooms. Beginning January of 2025, the following positions will be required:
 - One Pre-K Operations Manager to support the oversight of the pre-K program and operations impacting early learning staff, and to support the management of funds;

- Thirty additional field staff to conduct quality monitoring and coaching, and to ensure compliance with state and federal laws and State Board of Education rules;
- Five regional directors to supervise the field staff across the state and to provide continued job-embedded professional development; and
- One data analyst to collect, monitor, and analyze data from the early learning field staff, program monitors, and regional directors.

| Title | Salary | Benefits | # Positions | Total |
|--------------------------|----------|----------|-------------|-------------|
| Pre-K Operations Manager | \$70,000 | \$19,221 | 1 | \$89,221 |
| Program Evaluator | \$47,496 | \$15,488 | 30 | \$1,889,508 |
| Regional Director | \$70,000 | \$19,221 | 5 | \$446,105 |
| Data Analyst | \$66,096 | \$18,573 | 1 | \$84,669 |
| | | | Total: | \$2,509,503 |

- Positions for the DOE will increase state expenditures \$1,254,752 (2,509,503 x .5 years) in FY24-25 and \$2,509,503 in FY25-26 and subsequent years.
- It is unknown if LEAs will have sufficient space to accommodate additional pre-K classrooms. For LEAs that do not have the capacity, a mandatory increase in local infrastructure expenditures will occur. However, because the amount of available classroom space is unknown, a precise fiscal impact cannot be estimated with certainty.
- There is a required local contribution to the VPK grant; therefore, that portion of local funding would be directed towards the higher local contribution to TISA.
- The local contribution to VPK is estimated to range from 6.04 percent to 57.89 percent across LEAs in FY24-25.
- The total increase in state expenditures to the DOE is estimated to be:
 - \$1,254,752 in FY24-25; and
 - \$432,013,839 (\$429,504,336 + \$2,509,503) in FY25-26 and subsequent years.

Data Transaction Privilege Tax:

- The proposed legislation imposes a new privilege tax on the annual gross revenues derived from data transactions from digital advertising services in this state (assessable base).
- The Department of Revenue (DOR) must determine the state from which revenues from data transactions from digital advertising services are derived.
- The data transaction privilege tax is levied at the rate of 9.5 percent of the assessable base and applies only to persons with an assessable base of \$50,000,000 or more.
- All revenue collected from the data transaction privilege tax, including penalties and interest, must be deposited into the Fund.
- Two percent of the revenue from the data transaction privilege tax collected must be allocated to the DOR for administration.
- The DOR does not currently know to whom the data transaction privilege tax will apply; therefore, the amount of potential revenue to be collected cannot be determined.
- Due to such unknowns, it is uncertain what costs the DOR will incur for the administration of the tax.

- The proposed legislation creates penalties for a violation of the act. It is a Class E or Class D felony if a person subject to the digital transaction privilege tax knowingly:
 - Fails to file a return or an estimated return;
 - Fails to submit the required payment;
 - Files a fraudulent return; or
 - Violates a rule promulgated by the DOR for the administration and enforcement of the act.
- If the total amount of the digital transaction privilege tax due for the year is less than \$300, then it is a Class E felony; if it is more than \$300 then it is a Class D felony.
- It is assumed that taxpayers will remain in compliance with law and any increase in state and local incarceration costs will be not significant.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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