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Senate Bills 836 through 839 (as introduced 4-18-24)  
Sponsor: Senator Kristen McDonald-Rivet (S.B. 836 & S.B. 838)  
Senator Kevin Hertel (S.B. 837)  
Senator Sarah Anthony (S.B. 839)  
Committee: Housing and Human Services

Date Completed: 12-9-24

## **CONTENT**

**Senate Bill 836** would enact a new law to require reimbursements made to a child care provider under the Department of Lifelong Education, Advancement, and Potential's (MiLEAP) Child Development and Care Program to be adjusted annually at the rate of the Detroit Consumer Price Index (CPI).

**Senate Bill 837** would amend the childcare licensing Act to require MiLEAP to establish a process for a childcaring institution licensee to request a review and appeal of a determination that the licensee violated a rule and the violation did not result in a denial, revocation, or refusal to renew the licensee's license.

**Senate Bill 838** would amend the Income Tax Act to allow a qualified taxpayer to claim a \$5,500 tax credit for each qualified dependent annually, for years that began after January 1, 2024. The Department of Treasury would have to establish a program to make monthly payments to qualified taxpayers equal to the annual advance refund payment amount estimated by the Department based on the qualified taxpayer's annual return filed for the immediately preceding tax year.

**Senate Bill 839** would amend the childcare licensing Act to allow a superintendent of an intermediate school district (ISD) or local school district to certify that a child care center in a school building of that district met fire safety requirements under the Act. Additionally, the bill would exempt from the Freedom of Information Act (FOIA) a recording provided to MiLEAP by a licensee during an examination or investigation.

### **Senate Bill 836**

The Child Care Development and Care Program within MiLEAP provides access to affordable and quality early care and after school programs to support low-income families. Beginning on the bill's effective date, reimbursements made to a childcare provider under the Child Care Development and Care Program would have to be adjusted for inflation annually using the Detroit CPI.

"Childcare provider" would mean an owner, operator, employee, or volunteer of a childcare organization or of an adult foster care location authorized to care for a child.

### **Senate Bill 837**

Within 90 days of the bill's effective date, MiLEAP would have to establish a process by which a licensee of a childcaring institution could request a review and appeal of a MiLEAP

determination that the licensee violated a rule promulgated under the childcare licensing Act and the violation did not result in a denial, revocation, or refusal to renew a license under the Act or an injunction under Section 13.

(Section 13 prescribes the process for the inspection of childcare organizations, foster family homes, and group homes. The inspection and its reports must be used as a part of an evaluation for licensing.)

The bill would require the process to review and appeal a decision to be posted publicly on MiLEAP's website.

### **Senate Bill 838**

The bill would amend the Income Tax Act. Under the bill, for tax years that began on and after January 1, 2024, a qualified taxpayer could claim a credit against the income tax equal to \$5,500 for each qualified dependent of the qualified taxpayer for which an exemption was claimed under Section 30(2)b for that tax year. The amount of the credit would have to be reduced by the amount of any advance refund payments issued as described below for that same year.

"Qualified dependent" would mean a dependent who is three years of age or less on the last day of the tax year for which the credit is claimed.

(Section 30(2)b allows a taxpayer to claim a dependency exemption of \$3,700 against the taxpayer's taxable income for each dependent of that taxpayer in a tax year.)

The bill would require the Department of Treasury to establish a program for making monthly payments to qualified taxpayers that, in the aggregate during any tax year, equaled the annual advance refund payment amount estimated by the Department of Treasury based on the qualified taxpayer's annual return filed for the immediately preceding tax year with respect to that qualified taxpayer for the current tax year. The monthly payments made to any qualified taxpayer for any tax year would have to be in equal amounts. The Department of Treasury could adjust the amount of any monthly payment to reflect an excess or deficit in prior payments as determined necessary by the Department of Treasury.

Before January 31 of each year, the Department would have to provide each qualified taxpayer that the Department determined was eligible for the credit with a written notice of the advance refund payments to be made during the tax year and the aggregate amount of those payments. The advance refund payments could be disbursed electronically to an account at a financial institution of the qualified taxpayer's choice to which the qualified taxpayer authorized the direct deposit of a refund of taxes on the annual return for the immediately preceding tax year. If the qualified taxpayer did not include authorization for a direct deposit, the Department would have to issue a negotiable check and send it by first-class mail to the address shown on the annual return filed for the immediately preceding tax year.

If the credit section exceeded the tax liability of the qualified taxpayer for the tax year, that portion of the credit that exceeded the tax liability would have to be refunded.

### **Senate Bill 839**

#### **Fire Safety Rules**

Among other things, the childcare licensing Act's rules are restricted to the operation and

conduct of childcare organizations, the qualifications of health caregivers, the adequacy and safety of premises, children's developmental rights, record-keeping, reporting, discipline, and transportation safety.

Specifically, and among other things, the rules must cover the appropriateness, safety, cleanliness, and general adequacy of the premises, including maintenance of adequate fire prevention and health standards to provide for the physical comfort, care, and well-being of the children received.

The rules with respect to fire prevention and fire safety do not apply to a childcare center established and operated by an intermediate school board, the board of a local school district, or by the board or governing body of a State-approved nonpublic school, if the child care center is located in a school building that is approved by the Bureau of Fire Services or provided for by a municipal code or ordinance administered and enforced by a full-time fire prevention and safety department. The bill would add that the rules with respect to fire prevention and fire safety also would not apply if the superintendent of the ISD or local school district certified that the school building had approval from the Bureau of Fire Services or similar authority.

The Act's rules must be used in the inspection and reporting of childcare organizations. If an inspection is not conducted by MiLEAP staff, the Bureau of Fire Services, or local authorities at the request of MiLEAP, the owner or operator may enter a contract with a local authority or other person qualified by MiLEAP to conduct the inspection. The bill would allow an owner or operator of a childcare organization that was a childcare center in a school building to provide MiLEAP with a certification from the superintendent of the ISD or local school district that the health and fire safety requirements were sufficient in the school building.

The Act allows MiLEAP to investigate and examine conditions of organizations and requires a licensee to allow MiLEAP, the Bureau of Fire Services, or a local authority to access the organization to carry out the Act's provisions and rules promulgated under the Act related to health or fire protection of children. The bill specifies that this provision would not apply to a childcare center for which a superintendent provided a certification that the health and fire protection safety requirements were sufficient.

In the case of a disaster, a childcare center, group child care home, or family child care home may temporarily operate at an unlicensed location if that location meets certain requirements. For a childcare center, a fire safety inspection, an environmental health inspection, and if necessary a lead hazard risk assessment must be conducted within 45 days of the proposal of the new location. For a group child care home or family child care home, a fire safety inspection and an environmental health inspection, if necessary, must be conducted within 45 days of the proposal of the new location. Under the bill, a fire safety inspection and environmental inspection would not be required for a childcare center located in a school building if the superintendent of the ISD or local school district certified that the location was safe.

#### Criminal Background Check

The Act allows the Department of State Police (MSP) to charge a fee for a criminal history check on childcare staff members that does not exceed the actual and reasonable cost of conducting the check. Also, MiLEAP may pass along the actual cost or fee charged by the MSP, the Federal Bureau of Investigation, or a vendor approved by the MSP for performing the check. The bill specifies that MiLEAP could pass along the costs if MiLEAP did not receive a sufficient appropriation in a fiscal year to cover the cost of conducting the check for that fiscal year.

## FOIA

The bill would specify an audio or video recording provided to MiLEAP in the course of an examination or investigation of a child care organization would be exempt from disclosure under FOIA.

Proposed MCL 722.112a (S.B. 837)  
206.272a (S.B. 838)  
722.112 et al. (S.B. 839)

Legislative Analyst: Eleni Lionas

## **FISCAL IMPACT**

### **Senate Bill 836**

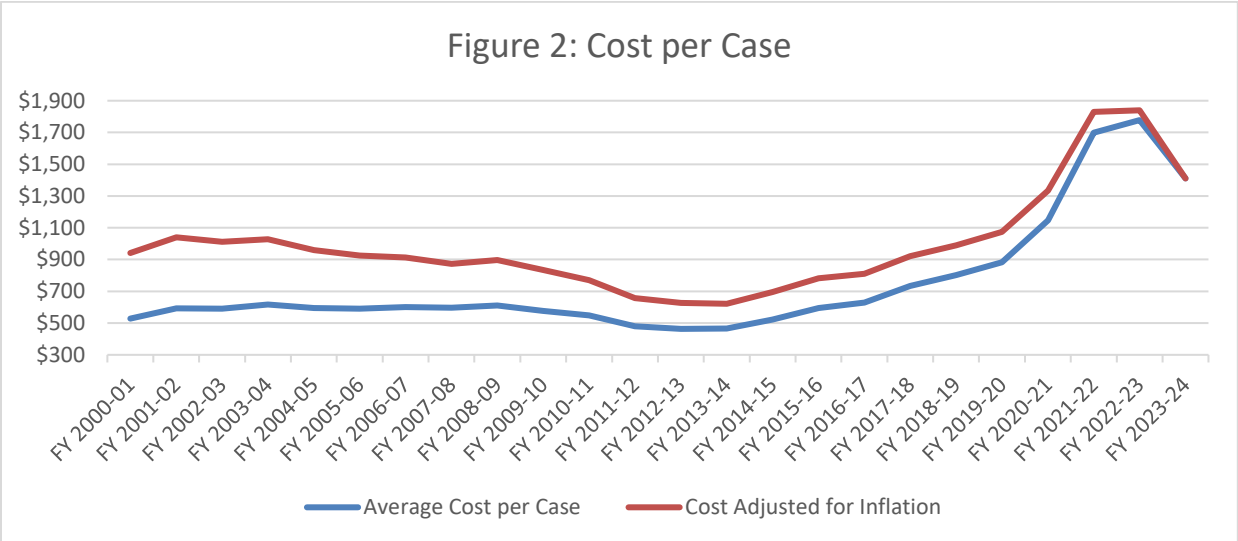
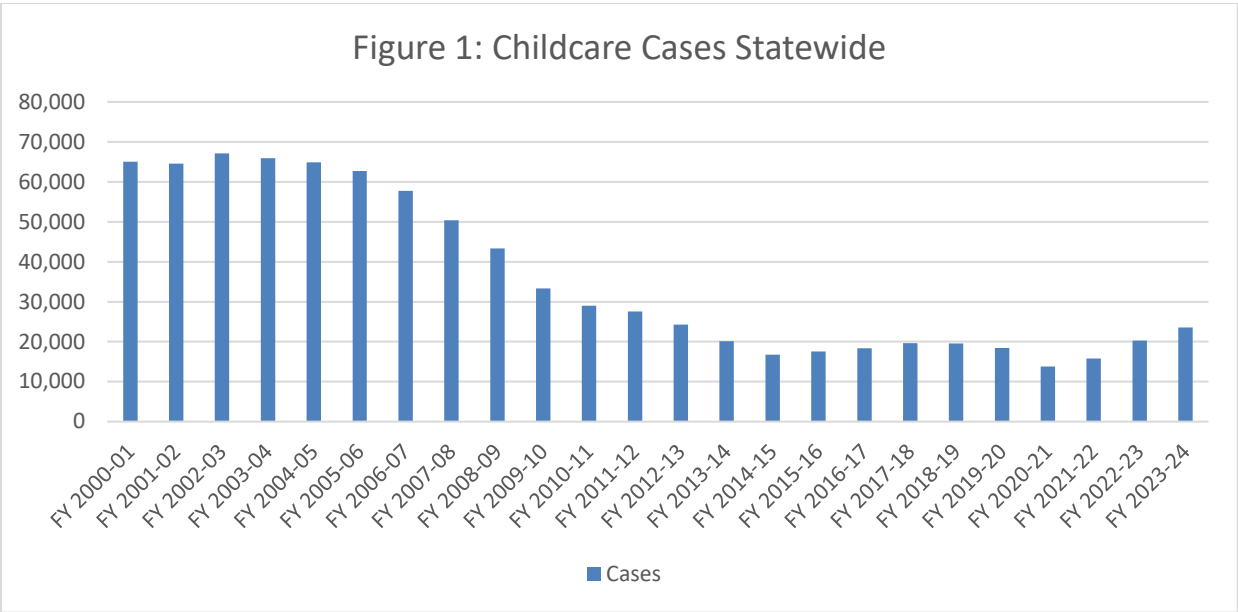
The bill would have a significant, likely negative, fiscal impact on the State. By requiring that provider rates be adjusted by the rate of inflation, per the Detroit CPI, the bill would essentially set a floor for provider payments starting on the date of enactment of the bill.

Currently, provider rates are largely based on available funding and caseload amounts. For example, in Fiscal Year 2018-19, the base reimbursement rate for an infant at a child care center was \$4 per hour. With the passage of the Federal Coronavirus Aid, Relief, and Economic Security Act (CARES), Michigan was awarded an additional \$100.0 million under the Child Care and Development Block Grant. As a result, by Fiscal Year 2021-22, the base rate for an infant at a child care center jumped to \$8.40 per hour. As pandemic-related, onetime increases in Federal funding have begun to lessen, that same rate has come down and now stands at \$7.15, effective September 22, 2024.<sup>1</sup>

Factors other than Federal funding also affect provider rates. The largest of these is the number of caseloads, which are currently rising annually but have been historically low compared to decades past. Figure 1, below, provides a history of caseloads. Figure 2 provides a history of costs per case, which are directly correlated to provider rates.

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<sup>1</sup> Current reimbursement rates for all categories (infant, preschool, school-age; centers, group, & family homes) can be found on MiLEAP's website, [here](#).



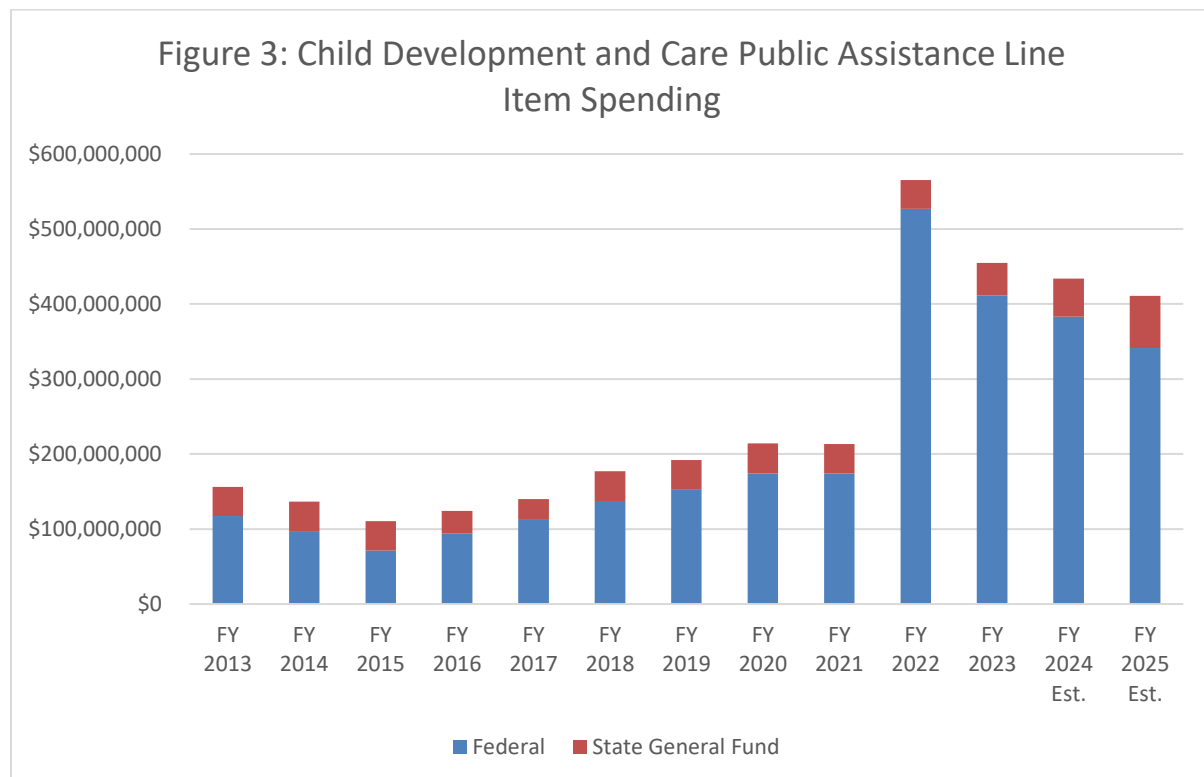
After dropping to a historic low of 13,750 in Fiscal Year 2020-21, child care caseloads are starting to rise again in correlation with per case spending; currently at 25,466 according to the latest available figures.<sup>2</sup>

By setting a floor for provider rates, Michigan would halt any further decrease in per case spending for State-subsidized childcare. The reason the fiscal impact is likely negative is due to the likelihood of significant inflation in the foreseeable future and the rise of child care caseloads; both would raise costs for State-assisted child care under the language of the bill. The degree of the fiscal impact is indeterminate; however, an increase in costs would likely need to be covered with General Fund/General Purpose dollars or Federal assistance. Alternatively, a rise in provider rates and overall costs could be offset by other mitigating factors, such as restricting eligibility, currently set at 200% of the Federal Poverty Level.<sup>3</sup>

<sup>2</sup> See [DHHS Greenbook Report of Key Program Statistics for October 2024](#), Table 41.

<sup>3</sup> See [2024 Federal Poverty Guidelines](#).

Current State spending on the child development and care line is predominantly covered with Federal funding (See the brief history of spending in Figure 3, below). Most of the Federal aid spending on this line comes from an annual Federal Child Development and Care Block Grant. Michigan receives over \$244.0 million annually in baseline aid for this program;<sup>4</sup> however, current Federal expenditures exceed Federal revenues by about \$80.0 million. There is no shortfall in the current fiscal year because these Federal funds carryover from year to year, and Michigan currently has a carry-forward balance. This carry-forward balance of Federal Aid for State-assisted child care is expected fall into the negative numbers by Fiscal Year 2025-2026, at which point Federal aid will need to be increased, another source of revenue will need to be used, or cuts will have to be made.



**Senate Bill 837**

Additionally, MiLEAP would be required to establish a process by which a licensee could appeal a violation. This would not result in an increased administrative cost as the requirement largely codifies existing practices and policies that are already in place.

**Senate Bill 838**

The bill would reduce General Fund revenue by between \$900.0 million and \$1.1 billion each year, beginning in Fiscal Year 2024-25. Although a portion of individual income tax revenue is earmarked to the School Aid Fund, the bill would have no impact on School Aid Fund revenue because refundable credits are booked against only the General Fund. The actual revenue reduction would depend on the number of taxpayers claiming an Earned Income Tax Credit (EITC) on their Federal return and the number of claimed dependents age three or less at the end of each tax year.

<sup>4</sup> See current [Child Care Development Fund \(CCDF\) Allocations](#).

In recent years, the number of Michigan taxpayers claiming a Federal EITC has varied. Between tax year 2010 and tax year 2014, an average of approximately 851,000 Michigan taxpayers claimed an EITC on their Federal return each year. In the next five-year period, from tax year 2015 to tax year 2019, the average number of Michigan taxpayers who claimed an EITC on their Federal return declined to approximately 791,000, and the average for tax year 2018 and 2019 was approximately 770,000 per year. In tax year 2020, approximately 714,200 were claimed, although the decline was widely attributed to fewer individuals having earned income as a result of shutdowns and other economic impacts associated with the COVID-19 pandemic. Based on the Department of Treasury's processing of Michigan EITCs (which are a percentage of the Federal EITC), there were approximately 641,000 EITC claims in tax year 2022.

Taxpayers are not required to report the age of dependents on their EITC claims, although based on population demographics, the estimate assumes approximately 19% of dependents claimed under the EITC are age three or less. Based on Department of Treasury EITC data for returns received for tax year 2022, the bill would reduce General Fund revenue by approximately \$900.0 million per year; however, if EITC utilization were to rise, either by returning to levels more consistent with historical experience and/or as a result of Public Act 4 of 2023 (which increased the value of the Michigan EITC from 6% of the Federal credit to 30%), the revenue loss to the General Fund would be greater. If an average of 770,000 Federal EITCs were claimed each year (a number consistent with tax years 2018 and 2019), the bill would reduce General Fund revenue by approximately \$1.1 billion per year.

### **Senate Bill 839**

The bill could decrease costs to child care providers located in school buildings by removing a duplication of effort for inspections of health and fire safety. Overall savings would likely be minimal.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.