

STATE OF NEW YORK

10725

IN ASSEMBLY

March 27, 2026

Introduced by M. of A. BOLOGNA -- read once and referred to the Committee on Children and Families

AN ACT to amend the social services law, in relation to establishing the child care savings program

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Article 6 of the social services law is amended by adding a
2 new title 1-B to read as follows:

3 TITLE 1-B

4 CHILD CARE SAVINGS PROGRAM

5 Section 394-h. Definitions.

6 394-i. Program established.

7 394-j. Purposes.

8 394-k. Functions of the comptroller.

9 394-l. Powers of the comptroller.

10 394-m. Program requirements; child care savings account.

11 394-n. Program limitations; child care savings.

12 394-o. Payment of matching funds.

13 § 394-h. Definitions. As used in this title, the following terms shall
14 have the following meanings:

15 1. "Account" or "child care savings account" shall mean an individual
16 savings account established in accordance with the provisions of this
17 title.

18 2. "Account owner" shall mean an individual who enters into a child
19 care savings agreement pursuant to the provisions of this title.

20 3. "Designated beneficiary" shall mean, with respect to an account,
21 the designated individual whose child care expenses are expected to be
22 paid from the account.

23 4. "Expected designated beneficiary" shall mean, with respect to the
24 account, the designated individual whose child care expenses are
25 expected to be paid from the account and who is expected to be born
26 within ten months.

27 5. "Financial organization" shall mean an organization authorized to
28 do business in the state, and (a) which is an authorized fiduciary to

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 act as a trustee pursuant to the provisions of an act of congress enti-
2 tled "Employee Retirement Income Security Act of 1974", as such
3 provisions may be amended from time to time, or an insurance company;
4 and (b)(i) is licensed or chartered by the department of financial
5 services, (ii) is chartered by an agency of the federal government,
6 (iii) is subject to the jurisdiction and regulation of the securities
7 and exchange commission of the federal government, (iv) is any other
8 entity otherwise authorized to act in this state as a trustee pursuant
9 to the provisions of an act of congress entitled "Employee Retirement
10 Income Security Act of 1974", as such provisions may be amended from
11 time to time, or (v) is any banking organization as defined in subdivi-
12 sion eleven of section two of the banking law, national banking associ-
13 ation, state chartered credit union, federal mutual savings bank, feder-
14 al savings and loan association or federal credit union.

15 6. "Eligible child care facilities" shall mean any licensed full-day
16 child care and early education program and centers; licensed part-time
17 child care and early education program and centers; family child care
18 homes; and afterschool programs for children aged five through twelve.

19 7. "Program" shall mean the child care savings program established
20 pursuant to this title.

21 8. "Qualified child care expenses" shall mean monies applied for the
22 services of a licensed child day care center, group family day care
23 home, family day care home, and school age child care, as such terms are
24 defined in section three hundred ninety of this article.

25 9. "Qualified withdrawal" shall mean a withdrawal from an account to
26 pay the qualified child care expense of the designated beneficiary of
27 the account.

28 10. "Non-qualified withdrawal" shall mean a withdrawal from an
29 account, including but not limited to expenses for primary, secondary,
30 or post-secondary education, but shall not include:

31 (a) a qualified withdrawal;

32 (b) a withdrawal made as a result of death;

33 (c) an unforeseeable emergency; or

34 (d) need based upon qualifying for military service in the armed forc-
35 es of the United States, as determined by rules and regulations promul-
36 gated by the comptroller.

37 11. "Management contract" shall mean the contract executed by the
38 comptroller and a financial organization selected to act as a depository
39 and manager of the program.

40 12. "Child care savings agreement" shall mean an agreement between the
41 comptroller or a financial organization and the account owner.

42 13. "Program manager" shall mean a financial organization selected by
43 the comptroller to act as a depository and manager of the program.

44 14. "Matchable contribution" shall mean a contribution to an account
45 that is not less than five dollars and not more than fifty dollars made
46 within the same taxable year.

47 § 394-i. Program established. There is hereby established the child
48 care savings program.

49 § 394-j. Purposes. The program shall authorize the establishment of
50 child care savings accounts and provide guidelines for maintaining such
51 accounts so that residents of this state:

52 1. benefit from the incentives provided for qualified child care
53 savings accounts;

54 2. stay in the workforce by providing a means to save and pay for
55 child care; and

1 3. ascertain better opportunities for children to receive quality
2 child care.

3 § 394-k. Functions of the comptroller. 1. The comptroller shall imple-
4 ment the program under the terms and conditions established by this
5 title and a memorandum of understanding with the commissioner of the
6 office of children and family services relating to any terms or condi-
7 tions not otherwise expressly provided for in this title.

8 2. In furtherance of such implementation, the comptroller shall:

9 (a) develop and implement the program in a manner consistent with the
10 provisions of this title through rules and regulations;

11 (b) engage the services of consultants on a contract basis for render-
12 ing professional and technical assistance and advice;

13 (c) make changes to the program required for the participants in the
14 program to obtain the state income tax benefits or matchable contrib-
15 utions provided by this title;

16 (d) charge, impose, and collect administrative fees and service charg-
17 es in connection with any agreement, contract, or transaction relating
18 to the program;

19 (e) develop marketing plans and promotion materials;

20 (f) establish the methods by which the funds held in such accounts are
21 dispersed;

22 (g) establish the method by which funds shall be allocated to pay for
23 administrative costs; and

24 (h) do all things necessary and proper to carry out the purposes of
25 this title.

26 § 394-l. Powers of the comptroller. 1. The comptroller may implement
27 the program through the use of financial organizations as account depos-
28 itories and managers. Under the program, an account owner may establish
29 accounts directly with an account depository.

30 2. The comptroller may solicit proposals from financial organizations
31 to act as depositories and managers of the program. Financial organiza-
32 tions submitting proposals shall describe the investment instrument to
33 be held in the accounts. The comptroller shall select as program deposi-
34 tories and managers the financial organization, from among the bidding
35 financial organizations, that demonstrates the most advantageous combi-
36 nation, both to potential program participants and this state, based on
37 the following factors:

38 (a) financial stability and integrity of the financial organization;

39 (b) the safety of the investment instrument being offered;

40 (c) the ability of the organization to satisfy recordkeeping and
41 reporting requirements;

42 (d) the financial organization's plan for promoting the program and
43 the investment it is willing to make to promote the program;

44 (e) the fees, if any, proposed to be charged to persons for opening
45 accounts;

46 (f) the minimum initial deposit and minimum contributions that the
47 financial organization will require;

48 (g) the ability of banking organizations to accept electronic with-
49 drawals, including payroll deduction plans; and

50 (h) any other potential benefits to the state or its residents
51 included in the proposal, including fees payable to the state to cover
52 the operational expenses of the program.

53 3. The comptroller may enter into a contract with a financial organ-
54 ization. Such financial organization management may provide one or more
55 types of investment instruments.

1 4. The comptroller may select more than one financial organization for
2 the program.

3 5. A management contract shall include, at a minimum, terms requiring
4 the financial organization to:

5 (a) take any action required to keep the program in compliance with
6 requirements established by this title and any actions not contrary to
7 its contract to manage the program to qualify as a "child care savings
8 account" under this title;

9 (b) keep adequate records of each account, keep each account segre-
10 gated from each other account, and provide the comptroller with the
11 information necessary to prepare the statements required by this title;

12 (c) compile and maintain information contained in statements required
13 to be prepared under this title and provide such compilations to the
14 comptroller;

15 (d) if there is more than one program manager, provide the comptroller
16 with such information as is necessary to determine compliance with this
17 title;

18 (e) provide the comptroller or their designee access to the books and
19 records of the program manager to the extent needed to determine compli-
20 ance with the contract;

21 (f) hold all accounts for the benefit of the account owner;

22 (g) be audited at least annually by a firm of certified public
23 accountants selected by the program manager, and that the results of
24 such audit be provided to the comptroller;

25 (h) provide the comptroller with copies of all regulatory filings and
26 reports made by it during the term of the management contract or while
27 it is holding any accounts, other than confidential filings or reports
28 that will not become part of the program. The program manager shall
29 make available for review by the comptroller the results of any periodic
30 examination of such a manager by any state or federal banking, insur-
31 ance, or securities commission, except to the extent that such report or
32 reports may not be disclosed under applicable law or the rules of such
33 commission; and

34 (i) ensure that any description of the program, whether in writing or
35 through the use of any media, is consistent with the marketing plan as
36 developed pursuant to this title.

37 6. The comptroller may provide that an audit shall be conducted of the
38 operations and financial position of the program depository and manager
39 at any time if the comptroller has any reason to be concerned about the
40 financial position, the recordkeeping practices, or the status of
41 accounts of such program depository and manager.

42 7. During the term of any contract with a program manager, the comp-
43 troller shall examine such a manager and its handling of accounts. Such
44 an examination shall be conducted at least biennially if such a manager
45 is not otherwise subject to periodic examination by the superintendent
46 of financial services, the federal deposit insurance corporation, or
47 other similar entity.

48 8. (a) If the selection of a financial organization as a program
49 manager or depository is not renewed, after the end of its term:

50 (i) accounts previously established and held in investment instruments
51 at such financial organization may be terminated;

52 (ii) additional contributions may be made to such accounts;

53 (iii) no new accounts may be placed with such financial organization;
54 and

1 (iv) existing accounts held by such a depository shall remain subject
2 to all oversight and reporting requirements established by the comp-
3 troller.

4 (b) If the comptroller terminates a financial organization as a
5 program manager or depository, the comptroller shall take custody of
6 accounts held by such financial organization and shall seek to promptly
7 transfer such accounts to another financial organization that is
8 selected as a program manager or depository and into investment instru-
9 ments most similar to the original instruments as possible.

10 9. The comptroller may enter into such contracts as it deems necessary
11 and proper for the implementation of the program.

12 § 394-m. Program requirements; child care savings account. 1. Child
13 care savings accounts established pursuant to the provisions of this
14 title shall be governed by the provisions of this section.

15 2. A child care savings account may be opened by any person who
16 desires to save money for the payment of the qualified child care
17 expenses of the designated beneficiary. An account owner may designate
18 another person as the successor owner of the account in the event of the
19 death of the original account owner. A person who opens an account, or
20 any successor owner, shall be considered the account owner.

21 (a) An application for such an account shall be in the form prescribed
22 by the program and contain the following:

23 (i) the name, address, and social security number or employer iden-
24 tification number of the account owner;

25 (ii) the designation of a designated beneficiary or an expected desig-
26 nated beneficiary;

27 (iii) the name, address, and social security number of the designated
28 beneficiary, provided, however, if an applicant designates an expected
29 designated beneficiary, such information shall be provided within one
30 month of the expected designated beneficiary's birth; and

31 (iv) other information as the program may require.

32 (b) The comptroller and the corporation may establish a nominal fee
33 for such application.

34 3. Any person, including the account owner, may make contributions to
35 the account after the account is opened.

36 4. Contributions to accounts may be made only in cash.

37 5. An account owner may withdraw all or part of the balance from an
38 account as authorized under rules governing the program. Such rules
39 shall include provisions that will generally enable the determination as
40 to whether a withdrawal is a qualified or non-qualified withdrawal.

41 6. (a) An account owner may change the designated beneficiary of an
42 account in accordance with procedures established by the memorandum of
43 understanding pursuant to the provisions of this title.

44 (b) An account owner may transfer all or a portion of an account to
45 another child care savings account.

46 (c) Changes in designated beneficiaries and transfers under this
47 subdivision shall not be permitted to the extent that they would cause
48 all accounts for the same beneficiary to exceed the permitted aggregate
49 maximum account balance.

50 7. If an applicant designates an expected designated beneficiary, such
51 designated beneficiary shall automatically be designated as the desig-
52 nated beneficiary upon the applicant providing the beneficiary's name,
53 address, and social security number within one month of their birth.

54 8. The program shall maintain separate accounting for each designated
55 beneficiary.

1 9. No account owner or designated beneficiary of any account shall be
2 permitted to direct the investment of any contributions to an account or
3 the earnings thereon more than two times in any calendar year.

4 10. Neither an account owner nor a designated beneficiary may use an
5 interest in an account as security for a loan. Any pledge of an interest
6 in an account shall be of no force and effect.

7 11. The comptroller shall promulgate rules or regulations to prevent
8 contributions on behalf of a designated beneficiary in excess of an
9 amount that would cause the aggregate account balance for all accounts
10 for a designated beneficiary to exceed a maximum account balance, as
11 established from time to time by the comptroller.

12 12. Personal contributions to a child care savings account shall be
13 limited to seventy-five thousand dollars per account per year. This
14 amount shall not take into consideration any gain or loss to the princi-
15 pal investment in the account.

16 13. If an individual makes a "non-qualified withdrawal" of monies from
17 a child care savings account, such individual shall have the entire
18 account taxed, including any interest, as though it were income at the
19 account owner's federal tax rate in the tax years the money was with-
20 drawn, and incur an additional ten percent state penalty on the amount
21 of earnings. The penalty shall be in addition to any taxes due pursuant
22 to a non-qualified withdrawal from a child care savings account.

23 14. (a) Penalties may be waived by the commissioner of the office of
24 children and family services if the individual can show proof that the
25 reason the individual did not use the qualified child care expenses was
26 due to either:

27 (i) an employment relocation outside the state and such relocation
28 required the individual to become a resident of another state;

29 (ii) an unforeseeable emergency;

30 (iii) an absence due to qualifying military service; or

31 (iv) death.

32 (b) For purposes of this subdivision, an "unforeseeable emergency"
33 shall mean a severe financial hardship resulting from illness, accident,
34 or property loss to the account owner, or their dependents, resulting in
35 circumstances beyond their control. The circumstances that constitute an
36 unforeseeable financial emergency will depend on the facts of each case;
37 however, withdrawal of account funds may not be made, without penalty,
38 to the extent that such hardship is or may be relieved by either:

39 (i) reimbursement or compensation by insurance or otherwise; or

40 (ii) liquidation of the individual's assets to the extent the liqui-
41 dation of such assets would not itself cause severe financial hardship.

42 15. The commissioner of the office of children and family services and
43 the comptroller are directed to promulgate all rules and regulations
44 necessary to implement the provisions of this section and are hereby
45 directed to establish, supervise and regulate child care savings
46 accounts authorized to be created by this section.

47 16. (a) If there is any distribution from a child care savings account
48 to any individual or for the benefit of any individual during a calendar
49 year, such distribution shall be reported to the department and the
50 account owner, the designated beneficiary, or the distributee to the
51 extent required by law or regulation.

52 (b) Statements shall be provided to each account owner at least once
53 each year within sixty days after the end of the twelve-month period to
54 which they relate. The statement shall identify the contributions made
55 during a preceding twelve-month period, the total contributions made to
56 the account through the end of the period, the value of the account at

1 the end of such a period, distributions made during such a period, and
2 any other information that the comptroller shall require to be reported
3 to the account owner.

4 (c) Statements and information relating to accounts shall be prepared
5 and filed pursuant to the provisions of this chapter.

6 17. An annual fee may be imposed upon the account owner for the main-
7 tenance of the account.

8 18. The program shall disclose the following information in writing to
9 each account owner of a child care savings account:

10 (a) the terms and conditions for establishing a child care savings
11 account;

12 (b) any restrictions on the substitution of beneficiaries;

13 (c) the person or entity entitled to terminate the child care savings
14 agreement;

15 (d) the period of time during which a beneficiary may receive benefits
16 under the child care savings agreement;

17 (e) the terms and conditions under which money may be wholly or
18 partially withdrawn from the program, including, but not limited to, any
19 reasonable charges and fees that may be imposed for withdrawal;

20 (f) the probable tax consequences associated with contributions to and
21 distributions from accounts; and

22 (g) all other rights and obligations pursuant to child care savings
23 agreements, and any other terms, conditions, and provisions deemed
24 necessary and appropriate by the terms of the memorandum of understand-
25 ing entered into.

26 19. Child care savings agreements shall be subject to section four-
27 teen-c of the banking law and the "truth-in-savings" regulations promul-
28 gated thereunder.

29 20. Nothing in this title or in any child care savings agreement
30 entered into pursuant to this title shall be construed as a guarantee by
31 the state that the account owner or designated beneficiary will be
32 admitted to a licensed child care, early education program, family child
33 care home, or afterschool program.

34 21. Money withdrawn from child care savings accounts and any interest
35 that has accrued shall not be considered as taxable income to the
36 account owner for state personal income taxation purposes, so long as
37 the money is applied for the qualified child care expenses by the
38 account owner or designated beneficiary of the account.

39 § 394-n. Program limitations; child care savings. 1. Nothing in this
40 title shall be construed to:

41 (a) give any designated beneficiary any rights or legal interest with
42 respect to an account unless such designated beneficiary is the account
43 owner;

44 (b) create state residency for an individual merely because such indi-
45 vidual is a designated beneficiary; or

46 (c) guarantee that amounts saved pursuant to the program will be
47 sufficient to cover the qualified child care expenses of a designated
48 beneficiary.

49 2. (a) Nothing in this title shall create or be construed to create
50 any obligation of the comptroller, the state, or any agency or instru-
51 mentality of the state to guarantee for the benefit of the account owner
52 or designated beneficiary with respect to:

53 (i) the rate of interest or other return on any account; or

54 (ii) the payment of interest or other return on any account.

55 (b) The comptroller shall, by rule or regulation, provide that every
56 contract, application, deposit slip, or other similar document that may

1 be used in connection with a contribution to an account clearly indicate
2 that the account is not insured by the state and neither the principal
3 deposited nor the investment return is guaranteed by the state.

4 § 394-o. Payment of matching funds. 1. No matching funds shall be paid
5 to or deposited into a child care savings account unless the comptroller
6 determines that the account owner has met the eligibility requirements
7 established in subdivision two of this section. Payment shall not exceed
8 the amounts specified in subdivision three of this section and may only
9 be made in accordance with the provisions of this title. No matching
10 funds shall be used for anything other than a qualified withdrawal.

11 2. To be eligible for matching funds under this title, an account
12 owner shall:

13 (a) maintain a child care savings account with a balance that is less
14 than fifty thousand one dollars;

15 (b) earn an income that falls between eighty-six and one hundred twenty-
16 five percent of the state median income;

17 (c) not have received matching funds up to an aggregate total of
18 fifteen thousand dollars; and

19 (d) meet any other requirements as established by the comptroller in
20 consultation with the commissioner of the office of children and family
21 services.

22 3. If the eligibility threshold is met, the eligible account owner
23 shall receive payment of fifteen cents for each dollar of matchable
24 contributions, up to an aggregate amount not to exceed fifteen thousand
25 dollars, with payment made directly into the child care savings account.

26 4. If the comptroller determines that any portion of the payment made
27 to an eligible account owner was in excess of the aggregate amount they
28 were eligible to receive, the comptroller shall notify the account owner
29 and the financial organization, and the financial organization shall
30 rescind the identified amount from the account and transfer the funds to
31 the comptroller.

32 § 2. Subsection (b) of section 612 of the tax law is amended by adding
33 a new paragraph 44 to read as follows:

34 (44) (A) Excess distributions received during the taxable year by a
35 distributee of a child care savings account established under the child
36 care savings program provided for under title one-B of article six of
37 the social services law, to the extent such excess distributions are
38 deemed attributable to the deductible contributions under paragraph
39 forty-eight of subsection (c) of this section.

40 (B) (i) The term "excess distributions" means distributions which are
41 not:

42 (I) qualified withdrawals within the meaning of subdivision nine of
43 section three hundred ninety-four-h of the social services law;

44 (II) withdrawals made because of the death or disability of the desig-
45 nated beneficiary within the meaning of subdivision three of section
46 three hundred ninety-four-h of the social services law;

47 (III) transfers described in paragraph (b) of subdivision six of
48 section three hundred ninety-four-m of the social services law; or

49 (IV) qualified withdrawals that contain matching funds provided by the
50 comptroller.

51 (ii) Excess distributions shall be deemed attributable to deductible
52 contributions to the extent the amount of any such excess distribution,
53 when added to all previous excess distributions from the account,
54 exceeds the aggregate of all nondeductible contributions to the account.

55 § 3. Subsection (c) of section 612 of the tax law is amended by adding
56 a new paragraph 48 to read as follows:

1 (48) Contributions made during the taxable year by an account owner to
2 one or more child care savings accounts established under the child care
3 savings program provided for under title one-B of article six of the
4 social services law, to the extent not deductible or eligible for credit
5 for federal income tax purposes; provided, however, the exclusion
6 provided for in this paragraph shall not exceed five thousand dollars
7 for an individual or head of household, and for married couples who file
8 joint tax returns, shall not exceed ten thousand dollars; provided,
9 further that such exclusion shall be available only to the account owner
10 and not to any other person.

11 § 4. This act shall take effect December 31, 2028, and shall apply to
12 taxable years commencing on or after the first of January next succeed-
13 ing the date on which it shall have become a law. Effective immediately,
14 the addition, amendment and/or repeal of any rule or regulation neces-
15 sary for the implementation of this act on its effective date are
16 authorized to be made and completed on or before such effective date.