



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2023 Biennium

<b>Bill #</b>	HB0279	<b>Title:</b>	Revise laws related to tax credit scholarship and innovative education programs
<b>Primary Sponsor:</b>	Berglee, Seth	<b>Status:</b>	As Amended in House Committee

- Significant Local Gov Impact     
 Needs to be included in HB 2     
 Technical Concerns  
 Included in the Executive Budget     
 Significant Long-Term Impacts     
 Dedicated Revenue Form Attached

### FISCAL SUMMARY

	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>
<b>Expenditures:</b>				
General Fund	\$67,493	\$49,296	\$50,250	\$50,845
State Special Revenue	\$1,000,000	\$2,000,000	\$2,400,000	\$2,880,000
<b>Revenue:</b>				
General Fund	(\$1,907,453)	(\$3,838,453)	(\$4,610,853)	(\$5,561,280)
State Special Revenue	\$1,000,000	\$2,000,000	\$2,400,000	\$2,880,000
<b>Net Impact-General Fund Balance:</b>	<u>(\$1,974,946)</u>	<u>(\$3,887,749)</u>	<u>(\$4,661,103)</u>	<u>(\$5,612,125)</u>

**Description of fiscal impact:** HB 279, as amended, changes two income tax credits, the Student Scholarship Organization, and the Educational Improvement Account credits. The bill increases the maximum claimable credits from \$150 to \$200,000. The amendments further extend the sunset on the programs from TY 2023 to TY 2029 (from TY 2026) and caps the credits to \$1 million in TY 2021 and \$2 million in TY 2022. Starting after TY 2022 the caps are limited to 20% growth.

### FISCAL ANALYSIS

#### Assumptions:

#### **Department of Revenue**

- Under current law, taxpayers are allowed to claim a \$150 non-refundable income tax credit if the taxpayer donates to a Student Scholarship Organization (SSO) provided for in 15-20-3111, MCA, or to the Innovative Educational Program (IEP) provided for in 15-30-3110, MCA. The total amount of credits that can be claimed for donations to each organization is limited to \$3 million each year. If the \$3 million credit cap is reached, the credit cap is increased by 10% the following tax year (TY). Both credits are set to expire at the end of TY 2023. Since they were created, a total of \$94,188 in credits were claimed for the SSO credit and the IEP credit, which is \$23,547 on average each year.

2. HB 279 as amended, makes several significant changes to the credits. First, the maximum amount of credits each taxpayer can claim is increased from \$150 to \$200,000. This applies to both the SSO credit and the IEP credit. Second, credits can now be carried forward for up to three years. Third, as amended, the credit caps are increased by 20%, if 80% of the credit cap was reached the previous tax year, Starting in TY 2023 the amendments change the limitations on the amount of each of the credits that can be claimed. For TY 2021 the caps are \$1 million, in TY 2022 the caps are \$2 million. Finally, the termination date for both credits is changed from December 31, 2023 to December 31, 2029 (previously December 31, 2026).
3. As both the SSO and EIA credits are equal to the taxpayer’s full donation amount, it is assumed that the total credits claimed for each credit will eventually reach the capped amounts.
4. For both credits, it is assumed that \$1 million in credits will be claimed in TY 2021. For TY 2022, it is assumed that \$2 million in credits will be claimed.
5. With the full \$2 million in credits claimed in TY 2022, it is assumed the maximum credit amount for both credits will increase to \$2.4 million in TY 2023 and that the full \$2.4 million in credits will be claimed.
6. For TY 2024 it is assumed that the full \$2.88 million in credits will be claimed in TY 2024.
7. When both credits are combined, the total impact of the proposed credit changes is to increase the total number of credits claimed by \$2 million in TY 2021, \$4 million in TY 2022, \$4.8 million in TY 2023 and \$5.76 million in TY 2024.

Total Credits Claimed				
Tax Year	Credit			Total
	Student Scholarship Organization	Educational Improvement Account	Growth	
2021	\$1,000,000	\$1,000,000	100%	\$2,000,000
2022	\$2,000,000	\$2,000,000	100%	\$4,000,000
2023	\$2,400,000	\$2,400,000	20%	\$4,800,000
2024	\$2,880,000	\$2,880,000	20%	\$5,760,000

8. It is necessary to adjust for current law credits that would have been claimed. From TY 2016 to TY 2019, the average total credits claimed by taxpayers for the two credits was \$23,547 each tax year. It is assumed that \$23,547 in credits would have been claimed in TY 2021, TY 2022, and TY 2023 under current law.
9. It is assumed that half the donations used to claim the credit would have been funds the taxpayer would have donated to another charity. It is assumed that these donations would have been claimed as an itemized deduction and that the taxpayers would have paid the top marginal tax rate of 6.9% on the income.
10. When current credit donations and itemized deduction are included, the net impact of expanding the credits is a tax liability reduction of \$1,907,453 in TY 2021. For TY 2022, TY 2023, and TY 2024, the net impact of expanding the credits is a tax liability reduction of \$3,838,453, \$4,610,853, and \$5,561,280, respectively.
11. As these are income tax credits, it is assumed that taxpayers will not change their estimated payments or withholding. With no changes in estimated payments or withholding, taxpayer liability will be reduced when filing their returns, the following fiscal year. This results in a reduction in general fund revenue by \$1,907,453 in FY 2022, which increases to \$5,561,280 in FY 2025.

Net Tax Year Revenue Change				
Fiscal Year	Total Credits	Deduction Offset	Current Law Credits	Revenue Change
2022	\$2,000,000	\$69,000	\$23,547	(\$1,907,453)
2023	\$4,000,000	\$138,000	\$23,547	(\$3,838,453)
2024	\$4,800,000	\$165,600	\$23,547	(\$4,610,853)
2025	\$5,760,000	\$198,720	\$0	(\$5,561,280)

12. The department will be required to update the education donation portal to manage the new credit requirements. The changes will require 240 developer hours to make the changes, at a cost of \$15,600. The

department will also require an additional 0.50 FTE tax examiner to administer the credit and monitor the carryforward provision. The additional 0.50 FTE will increase department expenditures by \$51,893 in FY 2022, \$49,663 in FY 2023, \$50,250 in FY 2024, and \$50,845 in FY 2025.

**Office of Public Instruction**

13. The Office of Public Instruction would require 1.00 FTE to distribute the funds in the Educational Improvement Account. The agency is allowed up to five percent (5%) of the funds deposited into the IEP Innovative Educational Improvement state special revenue account for administrative costs which would be used to cover the costs of this FTE. The new FTE would start mid-way through FY 2022.

<b>Fiscal Impact:</b>	<b>FY 2022 Difference</b>	<b>FY 2023 Difference</b>	<b>FY 2024 Difference</b>	<b>FY 2025 Difference</b>
FTE (Dept. of Revenue)	0.50	0.50	0.50	0.50
FTE (Office of Public Instruction)	0.50	1.00	1.00	1.00
<b>Expenditures:</b>				
Personal Services (DOR)	\$41,226	\$41,287	\$42,090	\$42,531
Operating Expenses (DOR)	\$26,267	\$8,009	\$8,160	\$8,314
Personal Services (OPI)	\$41,107	\$82,214	\$83,447	\$84,699
Transfers (Ed. Improvement Acct.)	\$958,893	\$1,917,786	\$2,316,553	\$2,795,301
<b>TOTAL Expenditures</b>	<b>\$1,067,493</b>	<b>\$2,049,296</b>	<b>\$2,450,250</b>	<b>\$2,930,845</b>
<b>Funding of Expenditures:</b>				
General Fund (01)	\$67,493	\$49,296	\$50,250	\$50,845
State Special Revenue (02)	\$1,000,000	\$2,000,000	\$2,400,000	\$2,880,000
<b>TOTAL Funding of Exp.</b>	<b>\$1,067,493</b>	<b>\$2,049,296</b>	<b>\$2,450,250</b>	<b>\$2,930,845</b>
<b>Revenues:</b>				
General Fund (01)	(\$1,907,453)	(\$3,838,453)	(\$4,610,853)	(\$5,561,280)
State Special Revenue (02)	\$1,000,000	\$2,000,000	\$2,400,000	\$2,880,000
<b>TOTAL Revenues</b>	<b>(\$907,453)</b>	<b>(\$1,838,453)</b>	<b>(\$2,210,853)</b>	<b>(\$2,681,280)</b>
<b>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</b>				
General Fund (01)	(\$1,974,946)	(\$3,887,749)	(\$4,661,103)	(\$5,612,125)
State Special Revenue (02)	\$0	\$0	\$0	\$0

**Long Term Impacts**

1. To the extent that SSO credits claimed increase over time as a result of students transitioning from public schools to private schools, there could be an impact on Average Number Belonging (ANB) that could result in savings to the state compared to present law.

**NOT SIGNED BY SPONSOR**

\_\_\_\_\_ *Sponsor's Initials*     
 \_\_\_\_\_ *Date* 4/7/21     
 \_\_\_\_\_ *Budget Director's Initials* KA     
 \_\_\_\_\_ *Date* 4-6-21