



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2023 Biennium

Bill # HB0279

Title: Revise laws related to tax credit scholarship and innovative education programs

Primary Sponsor: Berglee, Seth

Status: As Amended in Senate 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>
Expenditures:				
General Fund	\$15,600	\$52,384	\$50,313	\$50,909
State Special Revenue	\$0	\$0	\$0	\$0
Revenue:				
General Fund	\$0	(\$1,907,453)	(\$3,838,453)	(\$4,610,853)
State Special Revenue	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>(\$15,600)</u>	<u>(\$1,959,837)</u>	<u>(\$3,888,766)</u>	<u>(\$4,661,762)</u>

Description of fiscal impact: HB 279, as amended, changes two income tax credits, the Student Scholarship Organization, and the Educational Improvement Program credits. The bill increases the maximum claimable credits from \$150 to \$200,000. The prior amendments extend the sunset on the programs from TY 2023 to TY 2029 (from TY 2026). The credits are no longer retroactive to TY 2021. The credits are each capped at \$1 million in TY 2022 and \$2 million in TY 2022. After TY 2022 the caps may be raised in 20% growth increments, subject to reaching at least 80% usage in the prior year. The latest amendment also adds contingency provisions for delaying implementation, in annual increments, if conflicts with American Rescue Plan Act provisions arise

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 2022 the caps are \$1 million, in TY 2023 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 amended in the Senate Finance and Claims committee, HB 279 changes the Educational Improvement Program credit, so that a taxpayer is allowed a credit for donations made directly to a school district and is no longer required to use a regional Educational Improvement Account. Donations made to the school district must be deposited into the district’s miscellaneous programs fund and shall be limited to expenditures for innovative educational programs of the district.
4. The amended bill also includes new contingent termination conditions pertaining to the American Rescue Plan Act.
5. As both the SSO and EIP credits are equal to the taxpayer’s full donation amount (a dollar-for-dollar credit), it is assumed that the total credits claimed for each credit will eventually reach the capped amounts.
6. For both credits, it is assumed that \$1 million in credits will be claimed in TY 2022. For TY 2023, it is assumed that \$2 million in each of the credits will be claimed.
7. With the full \$2 million in credits claimed in TY 2023, it is assumed the maximum credit amount for both credits will increase to \$2.4 million in TY 2024 and it is assumed that all will be claimed.
8. 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 2022, \$4 million in TY 2023, \$4.8 million in TY 2024.

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

9. 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 2022, TY 2023, and TY 2024 under current law.
10. 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.
11. 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 2022. For TY 2023, and TY 2024, the net impact of expanding the credits is a tax liability reduction of \$3,838,453, and \$4,610,853, respectively.
12. 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 2023, 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
2023	\$2,000,000	\$69,000	\$23,547	(\$1,907,453)
2024	\$4,000,000	\$138,000	\$23,547	(\$3,838,453)
2025	\$4,800,000	\$165,600	\$23,547	(\$4,610,853)

13. 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 \$52,384 in FY 2023, \$50,313 in FY 2024, and \$50,909 in FY 2025.

	<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>
<u>Fiscal Impact:</u>				
Department of Revenue				
FTE	0.00	0.50	0.50	0.50
<u>Expenditures:</u>				
Personal Services (DOR)	\$0	\$41,717	\$42,153	\$42,595
Operating Expenses (DOR)	\$15,600	\$10,667	\$8,160	\$8,314
TOTAL Expenditures	<u>\$15,600</u>	<u>\$52,384</u>	<u>\$50,313</u>	<u>\$50,909</u>
<u>Funding of Expenditures:</u>				
General Fund (01)	\$15,600	\$52,384	\$50,313	\$50,909
TOTAL Funding of Exp.	<u>\$15,600</u>	<u>\$52,384</u>	<u>\$50,313</u>	<u>\$50,909</u>
<u>Revenues:</u>				
General Fund (01)	\$0	(\$1,907,453)	(\$3,838,453)	(\$4,610,853)
TOTAL Revenues	<u>\$0</u>	<u>(\$1,907,453)</u>	<u>(\$3,838,453)</u>	<u>(\$4,610,853)</u>
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$15,600)	(\$1,959,837)	(\$3,888,766)	(\$4,661,762)

Effect on County or Other Local Revenues or Expenditures:

Office of Public Instruction

1. HB 279 could allow an increase of up to \$1.0 million in FY 2022 and up to \$2 million in FY 2023 in school district Miscellaneous Programs Funds statewide to be spent at the discretion of the trustees, in receiving districts, for innovative education programs.

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 4/27/21

Budget Director's Initials KA

Date 4-26-21