

OKLAHOMA TAX COMMISSION

REVENUE IMPACT STATEMENT AND/OR ADMINISTRATIVE IMPACT STATEMENT FIRST REGULAR SESSION, FIFTY-NINTH OKLAHOMA LEGISLATURE

DATE OF IMPACT STATEMENT: March 13, 2023

BILL NUMBER: HB 2318 STATUS AND DATE OF BILL: Engrossed 3/9/23

AUTHORS: House: McBride, et al. Senate: Thompson (Roger)

TAX TYPE (S): Income SUBJECT: Credit

PROPOSAL: Amendatory

Engrossed HB 2318 proposes to amend 68 O.S. § 2357.206, relating to the Oklahoma Equal Opportunity Education Scholarship Act, allowing an income tax credit for contributions made to an eligible higher education institution foundation on or after January 1, 2024.

EFFECTIVE DATE: Emergency - Upon Passage and Approval

REVENUE IMPACT:

Insert dollar amount (plus or minus) of the expected change in state revenues due to this proposed legislation.

FY 24: Estimated decrease of \$10 million in income tax revenue.

FY 25: Estimated decrease of \$25 million in income tax revenue.

Mar. 16, 2023
DATE

Rick Miller
DIVISION DIRECTOR

lh

3/16/2023
DATE

Huan Gong
HUAN GONG, ECONOMIST

3/16/2023
DATE

Joseph P. Gappa
FOR THE COMMISSION

The revenue impact provided herein is an estimate of the potential impact on the collection or apportionment of tax revenues affected by the proposed legislation. It is not intended to be an estimate of the overall fiscal impact on the state budget if the proposed legislation is enacted.

ATTACHMENT TO REVENUE IMPACT - HB 2318 [Engrossed] Prepared 3/13/23

HB 2318 proposes to amend 68 O.S. § 2357.206, relating to the Oklahoma Equal Opportunity Education Scholarship Act, allowing an income tax credit for contributions made to an eligible higher education institution foundation¹ on or after January 1, 2024.

Current Law

Under current law, an income tax credit is allowed for contributions to an eligible scholarship-granting organization, an eligible educational improvement grant organization and an eligible public school foundation or public school district. The credit is generally 50%² of the amount donated, not to exceed \$1,000 for an individual (\$2,000 for a married filing joint return) or \$100,000 for a legal business entity. The credit may be carried over for three succeeding taxable years. The aggregate credits cannot exceed \$25 million annually for donations to an eligible scholarship-granting organization.³ The annual credit cap for contributions to an eligible educational improvement grant organization, eligible public school foundation and public school district is \$25 million.⁴ In addition to the \$25 million cap, the credit amount is limited to \$200,000 of credits per public school district annually.

Proposed Law

This measure would allow an income tax credit for contributions made to an eligible higher education institution foundation on or after January 1, 2024.

- The amount of tax credits allowed is the same as for eligible scholarship-granting organizations and eligible educational improvement grant organizations.
- The total credits for all taxpayers for tax year 2024 and subsequent tax years shall not exceed \$25 million annually. In addition to the cap amount, the credit amount is limited to \$6 million of credits per public higher education institution.
- If the Tax Commission determines the total combined credits claimed for contributions made to eligible higher education institution foundations during the most recently completed calendar year by all taxpayers are in excess of the \$6 million per public higher education institution cap, the Tax Commission shall first allocate any amount of credits not claimed for contributions made to other eligible public higher education institutions, then shall determine the percentage of the contribution which establishes the proportionate share of the credit which may be claimed by any taxpayer so that the maximum credits are not exceeded.
- The definition of "educational scholarship" is amended to include

¹"Eligible higher education institution foundation" means a nonprofit entity formed pursuant to the laws of this state that is exempt from federal income taxation pursuant to either Section 501 (c)(3) or Section 509(a) of the Internal Revenue Code of 1986, as amended, and is formed for the primary purpose of supporting a public higher education institution. Each public higher education institution foundation shall be approved by the governing board of the higher education institution prior to accepting qualifying donations.

² For taxpayers who make a contribution and make a written commitment to contribute the same amount for an additional year, the amount of the credit will be 75% of the contributions for each year.

³ For tax year 2021, total credits claimed for scholarship-granting organizations were \$4,690,000

⁴ For tax year 2021, total credits for eligible educational improvement grant organizations totaled \$343,000.

- scholarships to an eligible public higher education institution student⁵ to cover all or part of the tuition and fees for undergraduate courses at an institution authorized by the Oklahoma State Regents for Higher Education.
- On or before April 30, 2026, and once every four years thereafter, each eligible higher education institution foundation shall submit to the Oklahoma Tax Commission, the Governor, President Pro Tempore of the Oklahoma State Senate, and the Speaker of the Oklahoma House of Representatives an audited financial statement for the foundation along with information detailing the benefits, successes, or failures of the program.
 - In order to maintain eligibility, an eligible public higher education institution shall annually report the following information to the Tax Commission and publish on its website by September 1 of each year:⁶
 - The name of the public higher education institution scholarship program or programs and the total amount of funds distributed by the foundation through those programs during the immediately preceding school year,
 - A description of how the scholarship funds were utilized during the immediately preceding school year, and
 - The total number and total amount of scholarships granted during the immediately preceding school year.

Revenue Impact

Oklahoma has approximately 28 public colleges and universities, of which most have at least one eligible higher education institution foundation. Contributions to higher education institution foundations already occur under current law.⁷ Assuming similar contributions for tax year 2024 results in a decrease of income tax revenue of \$25 million in tax year 2024. A decrease in withholding and estimated tax payments would be expected. The potential impact is a decrease of \$10 million for FY 24 and \$25 million in FY25.

⁵ "Eligible public higher education institution student" means a student who is enrolled in a public higher education institution in the state, who is lawfully present in the United States, and who is a member of a household in which the total annual income during the preceding tax year does not exceed an amount equal to three hundred percent (300%) of the income standard used to qualify for a free or reduced-price school lunch.

⁶ This measure does not require the contributions to an eligible higher education institution foundation be used to fund educational scholarships for public higher education students.

⁷ For example, for 2019, the OU Foundation reported \$122.8 million in contributions, the OSU Foundation reported \$95.7 million in contributions, the UCO Foundation reported \$4.7 million in contributions, the Northwestern OSU Foundation reported \$5.7 million in contributions, the Southwestern Oklahoma State University Foundation reported \$2.1 million in contributions; and the East Central University Foundation reported \$2.7 million in contributions. Data from public IRS form 990 - *Guidestar.org*