Department of Finance and Administration

Legislative Impact Statement

Bill: SB680
Bill Subtitle: TO CREATE A TAX CREDIT FOR ELIGIBLE CONTRIBUTIONS MADE TO A SPONSOR-GRANTING ORGANIZATION UNDER THE PHILANTHROPIC INVESTMENT IN ARKANSAS KIDS PROGRAM.

Basic Change :

Sponsors:

Sens. J. Dismang, B. Ballinger, Beckham, A. Clark, T. Garner, Hester, Gilmore, Hill, Irvin, B. Johnson, M. Johnson, Rapert, J. English, Flippo, D. Wallace, B. Sample, and Rep. Bragg

SB680 creates the Philanthropic Investment in Arkansas Kids Program Act, which provides educational scholarship grants for eligible students to attend nonpublic schools. SB680 provides an income tax credit to individuals or businesses equal to 100% of contributions to scholarship-granting organizations (SGO) that provide the grants. The credit may not exceed an eligible taxpayer's income tax due. Unused income tax credits may be carried forward for three years. SB680 allows a taxpayer to make prorated contributions to an SGO through an after-tax diversion of income from their paycheck.

The Office of Tax Credits and Special Refunds of the Department of Finance and Administration will issue tax credits on a first-come, first-served basis up to $2,000,000 per calendar year. Contributions to SGOs for tax credits may not be deducted from income as a charitable deduction, but a contribution to an SGO that does not result in a tax credit may be deducted from income as a charitable deduction if the contribution would otherwise meet the requirements for a charitable deduction.

The Division of Elementary and Secondary Education (DESE) of the Department of Education, in addition to establishing the standards required for the SGOs and tracking their grants, will engage an independent research organization to review information submitted by the nonpublic schools on the academic achievement of eligible students attending those schools under the Philanthropic Investment in Arkansas Kids Program, including testing results to prepare an annual report on the program.

SB680 applies to tax years beginning on and after January 1, 2022.

Revenue Impact :

FY2023 - $2,000,000 reduction in state General Revenue.

Taxpayer Impact :

A taxpayer will be required to file receipts to obtain the credit and claim the credit on the taxpayer's return. A taxpayer will be required to maintain records for eligible contributions. A taxpayer may make eligible contributions for which they may not receive income tax credits if the cap is reached. A taxpayer may instruct their employer to divert a prorated amount of after-tax earnings to one or more scholarship-granting organizations of the taxpayer's choice.

Resources Required :

DESE may require additional staff to implement and administer the program including staff to perform initial certification of and renewal of certification of eligible student support organizations.

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For DFA's Office of Tax Credits, additional staff will be needed to review applications and to determine limitation amounts available for later years. Anticipated staff needed are as follows:

- Two Fiscal Support Analysts to help with any extra duties and support audit staff members. $100,000 per year.

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

Computer programs, tax forms and instructions will need to be updated. DESE and DFA shall promulgate rules necessary to implement the program. DESE and DFA will be required to create a standardized form of receipt to be issued for eligible contributions and procedures to carry out its duties created under § 6-18-2206. DFA would update the forms and publications necessary for taxpayers to claim the new tax credit and would be responsible for monitoring the credit claimed to enforce the cap established under the bill. DFA employees and the tax community will need to be educated on the new program.

Other Comments :

DFA, in consultation with DESE, will be required to create a standardized form of receipt to be issued for eligible contributions and procedures to carry out its duties created under § 6-18-2206.

DFA's Tax Credits and Special Refunds Section would update the forms and publications necessary for taxpayers to claim the new tax credit and would be responsible for issuing credits on a first-come, first-served basis to enforce the cap established under the bill. A scholarship-granting organization shall provide a copy of a receipt issued to a taxpayer under the bill to DFA. DFA is given authority to promulgate rules to administer the credit, and DFA must consult with DESE when promulgating rules.

Scholarship-granting organizations will be responsible for providing receipt to taxpayers for eligible contributions made and track eligibility of students. They must also provide a means for parents to direct funds to schools. They must distribute eligible contributions within three years of receipt and may not limit the availability of education scholarships to qualified students of only one school. They must ensure that at least 90% of revenue from eligible contributions and 100% of interest of revenue is spent on scholarships and activities pertaining to the oversight of participating private schools.

DESE will be required to select an independent research organization to which participating schools shall annually report information required under this section. They may seek and accept gifts, grants, or donations for the purposes of selecting an independent research organization to complete the reporting required under the section. If the funding required for direct and indirect costs of the independent research organization under this section is not met with gifts, grants, or donations then the Division will be required to fund the costs as provided through the annual appropriation by the General Assembly.

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On page 9, Lines 34-36 and page 10, Line 1 allow an eligible taxpayer to divert a prorated amount of state income tax withholdings to one or more scholarship-granting organizations of the taxpayer's choosing. A taxpayer would need to notify the employer responsible for the withholding and the employer would need to be able to divert the withholding timely to be able to capture any available credit under the cap which is first-come, first-served. Contributions received from employers by DFA after the cap is met may be eligible for a tax deduction but would not be eligible for the credit the same as other eligible contributions.

Since the tax credit is equal to 100% of a contribution, DFA expects the cap to be reached each year. One single large corporate or individual taxpayer could potentially receive the full amount of the annual credit limit by making a single $2 million contribution. There is a provision added limiting a charitable donation deduction for contributions to the scholarship program if the credit is awarded and taken.

<u>Legal Analysis :</u>

None.