

Updated for 2020 session and includes any adopted amendments

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2020-21		FY 2021-22	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	\$274,131		\$84,900	(\$10,000,000)
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$274,131		\$84,900	(\$10,000,000)

Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.

LB 670 adopts the Opportunity Scholarships Act, which creates a non-refundable tax credit for qualifying taxpayers who make contributions to certain organizations for education scholarships.

A scholarship-granting organization must be certified by the Department of Revenue (DOR) prior to providing education scholarships to eligible students under the act. Organizations must be charitable organizations, exempt from federal income tax under I.R.C. section 501(c)(3). An organization meets certification requirements if it: offers education scholarship programs to eligible students; meets revenue allocation requirements regarding how much revenue is used for scholarships and for administrative costs; does not limit scholarship availability to only one qualified school; and gives first priority to eligible students who received a scholarship during the previous year and then to new applicants who meet certain requirements.

“Eligible student” means:

- A student from a household with a household income that does not exceed two times the income eligibility guidelines for reduced price meals under the National School Lunch Program; and
- A student who is entering grades K-9 in a qualified school or transferring from public school, previously received a scholarship and is continuing at a qualified school, or is the sibling of a student receiving a scholarship and resides in the same household.

A taxpayer who makes a cash contribution to a certified organization is eligible for a non-refundable tax credit equal to the lesser of: (1) the total amount of the contribution; or (2) 50% of the income tax liability of the taxpayer. The credit is available to individual taxpayers, partnerships, limited liability companies, S corporations, trusts, estates, and corporate taxpayers. Married filing separate taxpayers that could have filed a joint return can only claim one-half of the tax credit.

Prior to claiming the credit, the taxpayer must notify the organization of the intent to make a contribution and amount to be claimed as a credit. The organization must notify DOR of the intended tax credit amount. If the amount exceeds the limit specified in the act, DOR will notify the organization within 30 days. The taxpayer must make the contribution within 31 to 60 days after notifying the organization of the intent to contribute and will receive a receipt of payment.

DOR must consider notifications in the order they are received to ascertain whether the credits are within the annual limit under the act. In 2020, the annual limit is \$10 million, and in each year thereafter, the annual limit is calculated by taking the annual limit from the prior year multiplied by 125% if the credit amount exceeded 90% of the annual limit or 100% if the credit amount did not exceed 90% of the annual limit.

Organizations must submit audited financial information to DOR annually, which must be forwarded to the Governor and the Legislature by December 31 each year. DOR can adopt and promulgate rules and regulations.

For purposes of this estimate, we assume the bill will be operative for tax years beginning on or after January 1, 2021.

Revenue:

DOR estimates the program will be fully subscribed. As a result, the tax credits will reach the annual limit of \$10 million the first year, setting the annual limit the following year at \$12.5 million, which will also be attained. Revenue to the General Fund is as follows:

FY 20-21	\$ 0
FY 21-22	(\$10,000,000)
FY 22-23	(\$12,500,000)

The Legislative Fiscal Office agrees that it seems reasonable to estimate that the annual limit will be reached each year based on the data available.

We do not anticipate any significant reduction in General Fund expenditures related to state aid to schools pursuant to the Tax Equity and Educational Opportunities Support Act (TEEOSA). Many students impacted by LB 670 could be transfer students from public schools to private schools. However, in order for there to be TEEOSA savings related LB 670, there would not only need to be a reduction in the number of students in the public school system, but also the reduction would need to be concentrated at the building or even classroom level to reduce expenditures.

Expenditures:

The department estimates the following administrative costs:

- A one-time charge of \$182,831 to OCIO for mainframe and web development costs and for a contract programmer to develop a tracking system; and
- Expenditures for 0.5 FTE Fiscal Compliance Analyst, 0.5 FTE Revenue Operations Clerk II, and 0.5 FTE Revenue Tax Specialist, for a total cost of \$91,300 in FY 20-21 and \$84,900 in FY 21-22.

There is no basis to disagree with this estimate.

State Agency Estimate

State Agency Name: Department of Revenue		Date Due LFA: 11/27/2019				
Approved by: Tony Fulton		Phone: 471-5896				
Date Prepared: 11/5/2019						
<u>FY 2020-2021</u>		<u>FY 2021-2022</u>		<u>FY 2022-2023</u>		
<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	
General Funds	\$274,131	\$0	\$84,900	(\$10,000,000)	\$87,000	(\$12,500,000)
Cash Funds						
Federal Funds						
Other Funds						
Total Funds	\$274,131	\$0	\$84,900	(\$10,000,000)	\$87,000	(\$12,500,000)

LB 670, for taxable years beginning or deemed to begin on or after January 1, 2021, establishes the Opportunity Scholarship Act and, creates a non-refundable tax credit for individual taxpayers, partnerships, limited liability companies, S corporations, trusts, estates and corporate taxpayers as defined in Neb. Rev. Stat. § 77-2734.04. The credit is available for taxpayers that make one or more cash contribution to one or more scholarship-granting organizations (Organization) during the tax year.

Section 3 defines several terms as used in the Act. An Organization is a charitable organization that is exempt from federal taxation pursuant to 501(c)(3) I.R.C., has been certified by the Department to provide tax-credit supported education scholarships to eligible students to assist them in attending qualified schools. Education scholarships are financial grant-in-aid to pay all or part of tuition and fees for attending qualified schools and includes tuition grants. Eligible students for the most recently concluded calendar year before receiving an education scholarship, has gross income which does not exceed two times the income eligibility guidelines for reduced price meals under the National School Lunch Program. The student must also (a) be receiving an education scholarship for the first time and is either entering kindergarten or ninth grade in a qualified school, or is entering any grade from kindergarten through twelfth and is transferring from a public school at which the student was enrolled for at least one semester immediately preceding the first semester for which the student receives the educational scholarship to a qualified school; (b) have previously received an education scholarship and is continuing education at a qualified school until the student graduates from high school or turns twenty one years old; (c) be the sibling of a student who is receiving an education scholarship and resides in the same household.

The tax credit equals the lesser of (a) the total amount of the contribution made during the tax year or (b) fifty percent of the taxpayer’s income tax liability for the tax year. Married filing separate taxpayers that could have filed a joint return may only claim one-half of the tax credit. The credit may be carried forward for the next five years immediately following the tax year the credit is first allowed, but the credit may not be carried back. The contribution that generates the credit may not be claimed under the Opportunity Scholarship Act and as a charitable contribution under the Internal Revenue Code (I.R.C.). No part of the contribution may be for the benefit of an eligible student that is specifically identified by the taxpayer.

Prior to making a contribution, the taxpayer must notify the Organization of the amount to be claimed as a credit and the Organization shall then notify the Department of Revenue (Department). If the Department determines that the credit sought exceeds the annual maximum then the Department notifies the Organization within 30 days after receiving the notification. The Organization then notifies the taxpayer. If an amount less than the amount sought in the notification is available then the Department notifies the Organization who will then notify the taxpayer within three business days. To be allowed the credit, Taxpayer contributions must be made between thirty-one and sixty days after notifying the Organization of the intent to make a contribution. If it is not received within the timeframe, the Organization must notify the Department and the credit amount will not be included in whether or not the annual limit is exceeded. The Organization provides a receipt for contributions that are made during the applicable time frame.

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2020

LB⁽¹⁾ 670

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Department of Education

Prepared by: ⁽³⁾ Bryce Wilson Date Prepared: ⁽⁴⁾ 11/1/19 Phone: ⁽⁵⁾ 402-471-4320

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2020-21</u>		<u>FY 2021-22</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	=====	=====	=====	=====

Explanation of Estimate:

LB 670 creates a scholarship program for students wanting to attend private schools in the State of Nebraska. Students may qualify if their families have gross income that is less than twice the reduced price lunch threshold.

This bill also creates an income tax credit for individuals, corporations, estates, etc. that contribute to qualifying organizations that grant scholarships for private schools.

This bill will result in reduced income tax for the state but the amount cannot be determined at this time.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2020-21</u>	<u>2021-22</u>
	<u>20-21</u>	<u>21-22</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	=====	=====	=====	=====