

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 | \$276,768 | | \$84,900 | (\$10,000,000) |
| CASH FUNDS | | | | |
| FEDERAL FUNDS | | | | |
| OTHER FUNDS | | | | |
| TOTAL FUNDS | \$276,768 | | \$84,900 | (\$10,000,000) |

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

LB 1202 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; gives first priority to eligible students who received a scholarship during the previous year and then to new applicants who meet certain requirements; limits maximum scholarship to any student to the cost of tuition and fees at the qualified school such student attends; and limits scholarship amounts awarded to students in a manner that assures the average of scholarship amounts awarded per student does not exceed 75% of statewide average general fund operating expenditures per formula students for most recently available year as defined in Neb. Rev. Stat. sec. 79-1003.

“Eligible student” means a resident of Nebraska who is:

- A dependent member of a household that qualified for benefits under the Supplemental Nutrition Assistance Program; or
- In foster care or out-of-home care; and
- Receives an education scholarship for the first time and is (a) entering kindergarten or ninth grade in a qualified school or (b) transferring from public school at which the student was enrolled for at least one semester immediately preceding the first semester for which the student receiving an education scholarship to a qualified school and is entering any of grades K-12;
- Has previously received a scholarship and is continuing at a qualified school until graduation or reaching age 21, whichever is first; 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. A taxpayer can only claim a credit for the portion of the contribution not claimed as a charitable contribution under the I.R.C. Any unused credit can be carried forward and applied against tax liability for 5 years immediately following the tax year the credit is first allowed, but cannot be carried back.

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. The annual limit on total tax credits is \$10 million. Credits must be prorated among the notifications received on the day the limit is exceeded.

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.

LB 1202 provides the act must not be construed as granting any expanded or additional authority to the state to control or influence the governance or policies of any qualified school due to the fact that the school admits students who receive scholarships.

The bill contains the severability clause and is operative for all tax years beginning or deemed to begin on or after January 1, 2021.

Revenue:

DOR estimates the program will be fully subscribed. Revenue to the General Fund is as follows:

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

The Legislative Fiscal Office agrees that it seems reasonable to estimate 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 1202 could be transfer students from public schools to private schools. However, in order for there to be TEEOSA savings related LB 1202, 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:

DOR estimates the following administrative costs:

- A one-time charge of \$185,468 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.

The Department of Education does not estimate any additional cost to implement the bill.

There is no basis to disagree with these estimates.

| | | | |
|---|-----|---|-----------------------|
| ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE | | | |
| LB: 1202 | AM: | AGENCY/POLT. SUB: Department of Revenue | |
| REVIEWED BY: Lee Will | | DATE: 02/18/2020 | PHONE: (402) 471-4175 |
| COMMENTS: Concur with the Department of Revenue's assessment of fiscal impact to the General Fund. No basis to disagree with the Department's assessment of cost to administer the bill. | | | |

| | | | |
|---|-----|---|-----------------------|
| ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE | | | |
| LB: 1202 | AM: | AGENCY/POLT. SUB: Department of Education | |
| REVIEWED BY: Lee Will | | DATE: 02/11/2020 | PHONE: (402) 471-4175 |
| COMMENTS: Concur with the Department of Education's assessment of fiscal impact. | | | |

State Agency Estimate

| | | | | | | |
|--|---------------------|-----------------|---------------------|----------------|---------------------|----------------|
| State Agency Name: Department of Revenue | | Date Due LFA: | | | | |
| Approved by: Tony Fulton | | Phone: 471-5896 | | | | |
| Date Prepared: | | | | | | |
| | FY 2020-2021 | | FY 2021-2022 | | FY 2022-2023 | |
| | <u>Expenditures</u> | <u>Revenue</u> | <u>Expenditures</u> | <u>Revenue</u> | <u>Expenditures</u> | <u>Revenue</u> |
| General Funds | \$276,768 | \$0 | \$84,900 | (\$10,000,000) | \$87,000 | (\$10,000,000) |
| Cash Funds | | | | | | |
| Federal Funds | | | | | | |
| Other Funds | | | | | | |
| Total Funds | \$276,768 | \$0 | \$84,900 | (\$10,000,000) | \$87,000 | (\$10,000,000) |

LB 1202 establishes the Opportunity Scholarship Act (Act) and creates for taxable years beginning or deemed to begin on or after January 1, 2021 a nonrefundable income tax credit for individual taxpayers, partnerships, limited liability companies (LLCs), S corporations, trusts, estates, and corporate taxpayers as defined in Neb. Rev. Stat. § 77-2734.04. The credit is allowable for taxpayers that make one or more cash contributions to any scholarship-granting organization (Organization) during the tax year.

An Organization means a charitable organization in this State that (a) is exempt from federal income taxation under § 501(c)(3) of the Internal Revenue Code (IRC), and (b) has been certified by DOR to provide tax credit supported education scholarships that will assist eligible students in attending qualified schools. Education scholarships are financial grant-in-aid to be used to pay all or part of the tuition and fees for attending a qualified school, and includes tuition grants. Tuition means any amount charged by a qualified school for enrollment in its instructional program. The amount of tuition must not exceed the full cost of educating an eligible student at such qualified school.

Qualified school means any nongovernmental, privately-operated elementary or secondary school located in this State that (a) is operated not for profit; (b) complies with the antidiscrimination provisions under 42 U.S.C. § 1981 as it exists on January 1, 2020; (c) complies with all health and life safety laws or codes that apply to privately-operated schools; and (d) fulfills the applicable accreditation or approval by the State Board of Education under Neb. Rev. Stat. § 79-318.

Eligible students must include the following: (a)(i) be a dependent member of a household that qualified for benefits—during the most recently concluded calendar year before the student receives an education scholarship under the Act—under the Supplemental Nutrition Assistance program administered by Nebraska under the federal Food and Nutrition Act, 7 U.S.C. § 2011, as it existed on January 1, 2020; or (ii) in foster care or out-of-home care; (b)(i) receive an education scholarship for the first time and (1) enter kindergarten or ninth grade in a qualified school or (2) enter any grade between kindergarten through grade 12 and transfer from a public school where the student was enrolled for at least one semester immediately preceding the first semester for which the student will receive an education scholarship to a qualified school; (ii) have previously received an education scholarship and be continuing education at a qualified school until such student graduates from high school or reaches age 21; or (iii) be the sibling of a student who is receiving an education scholarship and reside in the same household as such student.

The nonrefundable income tax credit will equal the lesser of (a) the total amount of contributions made during the tax year, or (b) 50% of the taxpayer’s income tax liability for the tax year. Taxpayers may only claim a credit against the income tax due for the portion of the contribution not claimed as a charitable contribution under the IRC. Any unused portion of the credit may be carried forward and applied against the taxpayer’s income tax liability for the next 5 years immediately following the tax year that the credit was first allowed. The tax credit cannot be carried back. No part of the contribution may be for the benefit of an eligible student that is specifically identified by the taxpayer.

In the calendar year 2021 and each calendar year thereafter, there is a \$10 million annual limit on the total amount of tax credits allowed under this Act. No additional credits for the calendar year are allowed after reaching the limit for the calendar year. Credit amounts are considered in the order they are received in determining whether the credits are within the annual limit. Credits will be prorated among the notifications received on the day the annual limit is received.

The Act places restrictions on the amount of Organization revenue that can be allocated to education scholarships and the amount that can be used or reserved for administrative costs. Additionally the Organizations must submit to the Department a certified independent public accountant audited financial information reports for the most recent fiscal year. Such reports will be electronically forwarded to the Governor and the Legislature no later than December 31 of each year. The Department may adopt rules and regulations to carry out this Act. The Act contains a severability clause that provides if any portion is declared invalid or unconstitutional, that declaration will not affect the validity or constitutional of the remaining portions of the Act.

The Department expects this program to be fully subscribed. The Department estimates the total reduction to General Fund revenues as follows:

| | | |
|--------------|----|------------|
| FY 2020-2021 | \$ | 0 |
| FY 2021-2022 | \$ | 10,000,000 |
| FY 2022-2023 | \$ | 10,000,000 |

LB 1202 would require a one-time programming charge of \$185,468 paid to the OCIO for mainframe and web development changes and contract a programmer to develop a tracking system. LB 1202 would require 0.5 FTE Fiscal Compliance Analyst, 0.5 FTE Revenue Operations Clerk II, and 0.5 FTE Revenue Tax Specialist to implement.

Major Objects of Expenditure

| Class Code | Classification Title | 20-21 | 21-22 | 22-23 | 20-21 | 21-22 | 22-23 |
|------------|-----------------------------|-------|-------|-------|--------------|--------------|--------------|
| | | FTE | FTE | FTE | Expenditures | Expenditures | Expenditures |
| A21211 | Fiscal Compliance Analyst | 0.5 | 0.5 | 0.5 | \$20,900 | \$20,600 | \$21,100 |
| R29112 | Revenue Operations Clerk II | 0.5 | 0.5 | 0.5 | \$16,500 | \$16,200 | \$16,600 |
| A29621 | Revenue Tax Specialist | 0.5 | 0.5 | 0.5 | \$27,500 | \$27,000 | \$27,700 |
| | | | | | | | |
| | Benefits..... | | | | \$21,400 | \$21,100 | \$21,600 |
| | Operating Costs..... | | | | \$185,468 | | |
| | Travel..... | | | | | | |
| | Capital Outlay..... | | | | \$5,000 | \$0 | \$0 |
| | Capital Improvements..... | | | | | | |
| | Total..... | | | | \$276,768 | \$84,900 | \$87,000 |

Please complete ALL (5) blanks in the first three lines.

2020

LB⁽¹⁾ 1202

FISCAL NOTE

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

Prepared by: ⁽³⁾ Bryce Wilson Date Prepared: ⁽⁴⁾ 1/28/20 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 1202 creates a scholarship program for students wanting to attend private schools in the State of Nebraska. Students may qualify if; their families have qualified for Supplemental Nutrition Assistance Program for the prior year, is in foster care or out-of-home care, is receiving an education scholarship for the first time after transferring from a public school, has previously received an education scholarship, or is a sibling of a student receiving an education scholarship.

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 up to ten million dollars per year.

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..... | _____ | _____ | _____ | _____ |