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LB 295

Revision: 01

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

Updated for the 2018 Legislative Session and includes any amendments adopted to-date.

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)

	FY 2018-19		FY 2019-20	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	$257,616	$0	$81,400	($10,000,000)
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	$257,616	$0	$81,400	($10,000,000)

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

LB 295 creates the Opportunity Scholarships Act.

The Act creates nonrefundable income tax credits for contributions to a scholarship-granting organization (SGO) that provides education scholarships to eligible students to attend a private school in Nebraska. The same basic credits would be available to individuals (resident and non-resident), pass-through entities, estates or trusts, and corporations. The SGO is required to be a 501(c)(3) tax exempt organization, will offer one or more scholarships, will provide scholarships without limiting the scholarships to students of only one qualified school, meets the revenue requirements specified by the bill, and is certified by the Tax Commissioner as a SGO.

An SGO, in order to retain its certification, must allocate at least 90% of its revenue for education scholarships so long as the aggregate limit of all tax credits does not exceed $20 million in a year or allocate at least 95% of its revenue for education scholarships as long as the aggregate limit of all tax credits exceeds $20 million.

The credit against Nebraska income tax is 100% of the total contributions made during the tax year. Any unused amount of credit may be carried forward for up to five years following the original tax year. The tax credit may not be carried back.

LB 295 limits scholarships to eligible students who are residents of Nebraska, is a dependent member of a household whose gross income for the most recent calendar year before they receive a scholarship does not exceed two times the income standard indicated for reduced price meals under the National School Lunch Program as it exists on January 1, 2017, and:

1) Is receiving an education scholarship for the first time, and:
    a) is either entering kindergarten or ninth grade in a qualified school, or
    b) is transferring from a public school to a qualified school and is entering any grade;
2) Has previously received a scholarship and is continuing education at a qualified school until they graduate from high school or reach age 21, whichever comes first;
3) Is the sibling of a student who is receiving an education scholarship and resides in the same household.

In 2017 students from a household of two would have been eligible for scholarships if the household income was less than $59,274, with this threshold increasing with household size. For example, the income threshold for a household of four would have been $89,910 and for a household of six it would be $120,546.

The bill requires the taxpayer to notify the SGO of their intent to donate and the amount of the contribution. The SGO shall then request preapproval from the Department of Revenue for the tax credit granted by LB 295. The Department of Revenue is to notify the SGO within 30 days of its determination regarding the credit. The SGO then notifies the taxpayer. The taxpayer then has between 31 and 60 days to make the contribution in order to qualify for the credit.

The aggregate amount of tax credits is not to exceed $10 million for calendar year 2018. In calendar year 2019 and thereafter, the credit limit is to be calculated as follows:

1) Multiply the prior calendar year's limit by 125% if the intended credit amounts in the prior year exceeded 90% of the limit applicable to that calendar year; or
2) Multiply the prior calendar year's limit by 100% if the intended credit amounts in the prior year did not exceed 90% of the limit applicable to that calendar year.

One the credit limit has been reached, no additional credits may be allowed for that calendar year and credits shall be prorated among the notifications received on the day the annual limit is exceeded.

The Department of Revenue is given rule and regulation authority.

The bill contains the severability clause and will be operative for the 2018 tax year.

It is assumed the potential reduction in students impacted by the bill will not appreciably reduce general fund operating expenditures for TEEOSA purposes because of the dispersion of students. Not all students who may be impacted by the bill will be transfer students from the public schools. The bill provides that scholarships will be available to students entering kindergarten or ninth grade in a qualified school. Based upon the size of the credit and the potential pool of eligible students, it is estimated that the cap will be reached every year and will increase the aggregate amount of the credits that may be issued annually.

The Department of Revenue estimates the following fiscal impact to the General Fund as a result of LB 295:

FY2018-19:	$ 0
FY2019-20:	($ 10,000,000)
FY2020-21:	($ 12,500,000)

The Department of Revenue indicates LB 295 will require a one-time programming charge of $172,916 to the Office of the CIO to add lines to the Form 1040N, Form 1120N, Form 1041N, and the NebFile online filing system. They also will require a contract programmer to develop a tracking system. Department costs include 0.5 FTE Fiscal Compliance Analyst, 0.5 FTE Revenue Operations Clerk II, and 0.5 FTE Revenue Tax Specialist to process and approve certifications, to track and preapprove credits, and to process and audit returns. PSL for FY2018-19 is $59,900 and for FY2019-20 is $61,200.

We agree with the Department of Revenue's estimate of fiscal impact and cost assuming dates will be adjusted in the bill as necessary and appropriate.