

**ONE HUNDRED EIGHTH LEGISLATURE - FIRST SESSION - 2023**  
**COMMITTEE STATEMENT**  
**LB753**

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**Hearing Date:** Friday February 03, 2023  
**Committee On:** Revenue  
**Introducer:** Linehan  
**One Liner:** Adopt the Opportunity Scholarships Act and provide tax credits

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**

|                            |   |  |
|----------------------------|---|--|
| <b>Aye:</b>                | 6 | Senators Albrecht, Briese, Kauth, Linehan, Murman, von Gillern |
| <b>Nay:</b>                | 2 | Senators Bostar, Dungan  |
| <b>Absent:</b>             |   |  |
| <b>Present Not Voting:</b> |   |  |

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**Testimony:**

**Proponents:**

Senator Lou Ann Linehan  
Governor Jim Pillen  
Jayleesha Cooper  
Dawnell Glunz  
Lucy Ghaifan  
Emily Borges  
Robert Ziegler  
Anthony Williams  
Rebecca Schwend  
Brian Boone  
Maria Whitmore  
Brandon Villanueva Sanchez  
John Buchkoski  
David Korth  
Heather Schmidt  
Jeremy Ekeler  
Elizabeth Davids  
Shannon Pahls  
Jessica Shelburn  
Alexander Stephens

**Representing:**

Introducer  
Governor of Nebraska  
Self  
Self  
Self  
Self  
NE District LCMS Schools  
Omaha Street School  
Self  
Self  
Self  
Self  
Self  
Cues School System  
Self  
Nebraska Catholic Conference  
Self  
Yes. Every Kid.  
Americans For Prosperity  
Lancaster County Republican Party

**Opponents:**

Joey Adler Ruane  
Vanessa Clark  
Dr. Cheryl Logan  
Daniel Byrn

**Representing:**

OpenSky  
Episcopal Diocese of Nebraska  
Omaha Public Schools  
Self

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|------------------------|---|
| Toba Cohen-Dunning     | Omaha Public Schools Foundation                 |
| T. Michael Williams    | NAACP, BPME, IMA                                |
| Barbara Baier          | Lincoln Board of Education                      |
| Jack Moles             | NRCSA, NCSA, STANCE, GNSA                       |
| Lisa Albers            | NASB, Grand Island Public Schools               |
| Wendy Van              | Foundation for LPS                              |
| Deena Curtis           | Boys & Girls Club of Lincoln / Lancaster County |
| Brenda J. Council      | Self  |
| Tim Royers             | NE State Education Association                  |
| Marylee Moulton        | League of Women Voters of Nebraska              |
| Abbi Swatsworth        | OutNebraska                                     |
| Angie Philips          | Self  |
| Sarah Zuckerman        | Self  |
| Cindy Maxwell-Ostdiek  | Self  |
| Rita Bennett           | N/A   |
| Brooke Givens          | Self  |
| Allison Kinney-Walker  | Self  |
| Mary McKeighan         | Self  |
| Garret Swanson         | Holland Children's Movement                     |
| Edison McDonald        | The Arc of Nebraska                             |
| April Jorgensen        | Self  |
| Jess Parker            | Self  |
| Melonie Knight         | Self  |
| Jacob Carmichael       | Self  |
| Mary (Molly) F. Davies | Self  |
| Carol Windrum          | Self  |
| Jared Wagenknecht      | Self  |
| Wes Jensen             | Self  |
| Molly Gross            | Nebraska PTA                                    |
| Sarah Smolen           | Self  |
| Nancy Meyer            | Self  |
| Abby Burke             | Self  |
| Dunixi Guereca         | Stand For Schools                               |

**Neutral:**

**Representing:**

\* ADA Accommodation Written Testimony

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**Summary of purpose and/or changes:**

LB 753 would create the Opportunity Scholarships Act. Under the Act, individual and corporate taxpayers would qualify for a non-refundable tax credit equal to the amount the taxpayer contributed to a scholarship-granting organization ("SGO"), as defined therein. No taxpayer may receive tax credits in an amount exceeding 50% of their state income tax liability.

Section-by-Section Summary:

Section 1 - Introduces the name of the Opportunity Scholarships Act.

Section 2 - Expresses the purpose and mission behind the Opportunity Scholarships Act.

Section 3 - Provides an enumerated list of defined terms used through the Opportunity Scholarships Act. The following are

defined:

\* Department: means the Department of Revenue.

\* Education Scholarship: grant provided to an eligible student to attend a qualified school

\* Eligible Student: is a resident student who is a dependent member whose most recent annual income had a gross income that would allow the student eligibility for the National School Lunch Program:

who is either entering kindergarten or ninth grade for the first time or

transferring from public school regardless of grade, or

a resident student who received a scholarship previously and is continuing education at a qualified school, or

is the sibling of a student receiving scholarship and attending a qualified school.

\* Qualified School: is any k-12 private school that is: operated by non-profit organization, and complies with anti-discrimination provisions of 42 USC 1981, and

complies with all health and life safety laws applicable to private schools, and

is accredited and compliant with State Board of Education.

\* Scholarship-Granting Organization: is any 501c charitable organization that is certified pursuant to Section 4 of the Bill.

\* Tuition: is any amount charged by a qualified school for enrollment but not more than the cost of educating the student.

Section 4 - Authorizes the department to certify an SGO and provides criterium for them to do so: In order for an organization to be certified it must:

1. be a 501(c)(3) tax exempt organization;
2. offer educational scholarships for eligible students;
3. comply with Section 10 of the Bill;
4. provide scholarships to eligible students without limiting the same to only one school;
5. that scholarship gift will be prioritized and provided in the following manner:

1. Tier One:

i. Eligible students who received a scholarship the prior year; and

ii. Sibling of a student who receives scholarship and resides in the household as the sibling;

2. Tier Two:

Eligible students whose household income does not exceed 100% of federal poverty level; and

i. Eligible student whose enrollment pursuant to program in NRS 79-234 has been denied; and

ii. Eligible student who has an Individual Education Plan (IEP); and

iii. Eligible student who is subject to bullying, harassment, general violence, or sexual harassment or assault at school; and

iv. Eligible student who is in foster care;

v. Eligible students of active-duty military or child of parent killed in line of duty.

3. Tier Three:

Eligible students whose household income exceeds 100% but not more than 185% of federal poverty level.

4. Tier Four:

Eligible students whose household income exceeds 185% but not more than 213% of federal poverty level.

5. Tier Five:

i. Eligible students regardless of income.

ii. The certified SGO must limit the amount of the scholarship awarded to the cost of tuition and fees from the qualified school.

iii. Limits scholarships so that the SGO's average scholarship amounts awarded per student does not exceed 75% of the state-wide average general fund operating fund operating expenditures per formula student for the most recent complete data year.

Section 5 - Lists the requirements for individuals seeking tax credits from the Opportunity Scholarships Act.

Section 6 - Lists the requirements for partnerships, limited liability companies, and subchapter S corporations seeking tax credits from the Opportunity Scholarships Act.

Section 7 - Lists the requirements for estates and trusts seeking tax credits from the Opportunity Scholarships Act.

Section 8 - Lists the requirements for corporate taxpayers seeking tax credits from the Opportunity Scholarships Act.

Section 9 - Lists the mechanics of how each entity seeking tax credits should notify and when their donation should be collected by scholarship-granting organizations. In addition, listing the annual limits for tax credits and provides how the yearly limits will be calculated on an annual basis.

Section 10 - Provides for limitations on administrative costs of SGOs as follows:

Annual limit under \$35M - no more than 10%

Annual limit over \$35M - no more than 5%

Section 11 - Provides the requirements of each annual audit completed by a SGO. Each SGO, in order to retain certification, must submit an Annual Audit to the Department of Revenue no later than December 1st of each year. In turn, the Department of Revenue must forward such reports to the Governor and Legislature no later than December 31st of each year.

Section 12 - Expresses that the legislative intent of the Opportunity Scholarships Act is not to be construed as granting authority to the state of Nebraska to control or influence the governance or policies of qualified schools.

Section 13 - Grants rule-making authority to the Department of Revenue to carry out the Opportunity Scholarships Act.

Section 14(h) - Lists the Opportunity Scholarships Act as an available tax credit.

Section 15- Lists the Opportunity Scholarships Act as an available tax credit.

Section 16- Lists the Opportunity Scholarships Act as an available tax credit.

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**Explanation of amendments:**

AM 293 to LB 753

AM 293 Summary:

Strikes Section 3 subsection 3a in the definition of eligible student. The amendment removes the requirement that an eligible student's prior tax year household income be less than the national requirement for the National Food Lunch Program.

Amends Section 4 of LB 753 subsection (1)(e)(v) of LB 753 to replace the original language with language making the 5th priority in the tier system to be those Eligible Students with a household income no less than 213 percent of the federal poverty level and no more than 300 percent of the reduced amount of the income qualification of the Free and Reduced School Lunch Program.

Amends Section 5 to introduce a cap on credit for individual contributions in excess of one hundred thousand dollars.

Amends Section 6 to introduce a cap on credit for contributions in excess of one hundred thousand dollars made by any partnership, limited liability company or S-corporation in any tax year.

Amends Section 7 of the bill to introduce a cap on credit for trust or estate contributions in excess of one million dollars.

Amends Section 8 of the bill to introduce a cap on credit for contributions made by corporations in excess of one hundred thousand dollars.

Amends Section 9 to add a program cap regardless of escalator of one hundred million dollars. Also amends subsection 3 to move the escalator begin date to 2027.

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Lou Ann Linehan, Chairperson