

Doug Gibbs February 11, 2011 471-0051

FISCAL NOTE LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES * FY 2011-12 FY 2012-13 **EXPENDITURES** REVENUE **EXPENDITURES** REVENUE GENERAL FUNDS \$148,000 (\$10,000,000)\$60,500 (\$12,000,000) CASH FUNDS FEDERAL FUNDS OTHER FUNDS TOTAL FUNDS \$148,000 (\$10,000,000)\$60,500 (\$12,000,000)

*Does not include any impact on political subdivisions. See narrative for political subdivision estimates.

LB 50 would adopt the Elementary and Secondary Educational Opportunity Act.

The Act creates nonrefundable income tax credits for contributions to a scholarship-granting organization (SGO) that provides scholarships to students attending 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, must have programs to grant scholarships to eligible students, will offer one or more scholarships, will allocate at least ninety-five percent of its annual revenue for scholarships, will provide scholarships without limiting the scholarships to students of only one qualified school, and is certified by the Tax Commissioner as a SGO.

The credit against Nebraska income tax is 65 percent of the total contributions made during the tax year. The tax credit allowed shall not exceed a taxpayer's income tax liability for the tax year; however, any amount over the limitation that would otherwise qualify may be carried forward for up to five years following the original tax year.

The bill limits scholarships to students who are residents of Nebraska whose household gross income for the most recent calendar year does not exceed three times the income standard used to qualify for free or reduced price lunch under the U.S. Code, and who is a full-time student in grades kindergarten through eight at a qualified school; or a resident student whose household gross income for the most recent calendar year does not exceed four times the income standard used to qualify for free or reduced price lunch under the U.S. Code, who is a full-time student in grades nine through twelve at a qualified school. The bill provides that eligible students need to meet the income standard upon receiving the first-time scholarship and then continue to be eligible regardless of household income.

For example:

For a household of two, using the reduced lunch eligibility standard for grades K-8, the maximum household income limit would be \$80,865; for grades 9-12, the maximum household income limit would be \$107,820.

For a household of four, using the reduced lunch eligibility standard for grades K-8, the maximum household income limit would be \$122,379; for grades 9-12, the maximum household income limit would be \$163,172.

For a household of six, using the reduced lunch eligibility standard for grades K-8, the maximum household income limit would be \$163,893; for grades 9-12, the maximum household income limit would be \$\$218,524.

Because the bill states that the standard to be used for determining income eligibility is the free lunch OR the reduced price lunch standard, the Department of Revenue would have to use the higher reduced price lunch standard.

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 50. 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 30 days to make the contribution in order to qualify for the credit. The credit will not be allowed if the taxpayer designates all or part of the contribution to the organization for the direct benefit of a specific student.

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The aggregate amount of tax credits is capped as follows:

2011	\$10,000,000
2012	\$12,000,000
2013	\$14,000,000
2014	\$16,000,000
2015	\$18,000,000
2016	\$20,000,000

2017 and each year thereafter the annual limit is indexed and adjusted to the Consumer Price Index

Once the preapproved credits have reached the designated limit for any one calendar year, no additional credits shall be preapproved.

The Department of Revenue is given rule and regulation authority.

The bill is to be operative for all taxable years beginning on or after January 1, 2011.

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. The potential decrease in students will change basic funding for impacted schools however; the decline may be offset by a higher amount of basic funding per student resulting in no overall change in basic funding and TEEOSA aid.

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. In addition, as written the bill would allow contributions to an applicant providing scholarships to students already attending a private school, once certified by the Tax Commissioner as an SGO, to be eligible for the 65 percent tax credit.

The Department of Revenue estimates, based on the size of the credit and the potential pool of eligible students, that the cap specified in LB 50, will be reached every year. The costs to the Department include one-time mainframe programming costs of \$83,300 and 1.5 FTE to process and approve certifications, to track and preapprove credits, and to process returns.

We agree with the Department of Revenue's estimate of fiscal impact and cost.

The Nebraska Department of Education indicated no fiscal impact to the department as a result of LB 50.

DEPARTMENT OF ADMINISTRATIVE SERVICES

REVIEWED BY	Matthew Eash	DATE 2/15/11	PHONE 471-2526		
COMMENTS					
DEPT. OF REVENUE - Concur.					
DEPT. OF EDUCATION - Concur that	there would be no fiscal impa	ct to NDE operations.			
Impact to K-12 Finance: The Census Bureau's 2005-2009 American Community Survey estimates for Nebraska indicate that 90 to 94% of households with children are likely eligible to receive scholarship benefits under LB 50. For children in a 4-person household, the maximum income threshold is equal to the Reduced Price Meal-Income Eligibility Guideline of \$40,793 multiplied by 3 (or \$122,379) for elementary students, and multiplied by 4 (or \$163,172) for secondary students.					
There would likely be sufficient migrati aid statewide, beginning with the 2013	on of students from public sch -14 school year.	ools to private schools in order to	reduce General Fund TEEOSA		
For example: assuming maximum cre transferring from a public school, then 4,800 students in FY 2012-13. Expect formula need (basic funding calculation estimated reduction in General Fund S	public school membership sta ing higher concentrations of m n) for Omaha and Lincoln scho	tewide would decrease by 4,000 higration in urban areas, this woul bols as of FY 2013-14 and 2014-1	students in FY 2011-12, and by decrease TEEOSA		

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FEB 11 2011 Fiscal Note **LB 50** 2011 ISLALIV State Agency Estimate LOCADate Due LFA: State Agency Name: Department of Revenue 2/15/11 Approved by: Douglas Ewald Date Prepared: 2/9/11 Phone: 471-5700 FY 2011-2012 FY 2012-2013 FY 2013-2014 Expenditures Revenue Expenditures Revenue Expenditures Revenue General Funds \$ 148,000 (\$10,000,000) \$ 60,500 (\$12,000,000) \$ 61,700 (\$14,000,000) Cash Funds Federal Funds Other Funds \$ 61,700 \$ 148,000 (\$10,000,000) \$ 60,500 (\$12,000,000) (\$14,000,000) Total Funds

LB 50 adopts the Elementary and Secondary Educational Opportunity Act. The Act allows I.R.C. § 501(c)(3) organizations to be certified by the Tax Commissioner as scholarship-granting organizations (organizations). To be certified, the organization must have programs to grant scholarships for eligible students, and the organization must grant scholarships totaling at least 95% of its annual revenues. Eligible students are Nebraska residents whose household's gross incomes are less than three times the income threshold for free or reduced lunches for elementary students, and four times the income level for secondary students. Currently, students from a household of two would be eligible for scholarships if household income is less than \$80,865 for elementary students and less than \$107, 820 for high school students, with this threshold increasing with household size. Once a student is eligible, they will continue to be eligible for ongoing scholarships regardless of household income.

Once the organization is certified, individuals (resident and non-resident), trusts, estates, pass-through entities, and corporations may receive a tax credit equal to 65% of any contribution to the organization. The credit may not exceed the taxpayer's tax liability for the tax year, but may be carried forward for the next five years following the tax year in which the credit is first allowed. The credit will not be allowed if the taxpayer designates all or any part of the contribution to the organization for the direct benefit of an eligible student. The individual contribution amount is not limited, but the total amount of tax credits granted in each tax year is limited to \$10 million for calendar year 2011, increasing by \$2 million annually, until 2016, when the limit is \$20 million. Beginning in 2017, the cap is adjusted annually for inflation.

Before making the contribution, the taxpayer is to notify the organization, which then must receive preapproval from the Department of Revenue to assure compliance with the overall cap. The contribution must be made within 30 days of receiving preapproval. The Department is given regulation authority. The bill is to be operative beginning in tax year 2011 and it contains a severability clause.

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. The costs to the Department include one-time mainframe programming costs of \$83,300 and 1.5 FTEs to process and approve certifications, to track and preapprove credits, and to process returns.

	Maj	or Objects of E	Expendit	ure			
Class Code	<u>Classification Title</u> Revenue Operations Analyst II	11-12 <u>FTE</u> 1.0	12-13 <u>FTE</u> 10	13-14 <u>FTE</u> 1.0	11-12 Expenditures \$ 26,400	12-13 Expenditures \$ 26,900	13-14 <u>Expenditures</u> \$ 27,500
S29112 A21212	Auditor	0.5	0.5	0.5	\$ 18,200	\$ 18,600	\$ 18,900
						0.15.000	
Operating Costs					\$ 14,700 \$ 83,300	\$ 15,000	\$ 15,300
Capital Outlay				•••••	\$ 5,400		
	nents				\$ 148,000	\$ 60,500	\$ 61,700

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LB 50 FISCAL NOTE JAN 1 5 200

State Agency OR Political Subdivision Name: <u>NDE/School Finance & Organization Services</u>

Prepared by:Inbody, Lange, BergquistDate Prepared: 1-19-2011Phone: 1-4320

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2</u>	2011-12	l	<u>FY 2012-13</u>		
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE		
GENERAL FUNDS						
CASH FUNDS						
FEDERAL FUNDS						
OTHER FUNDS						
TOTAL FUNDS	0	0		0 0		

Return by date specified or 72 hours prior to public hearing, whichever is earlier.

Explanation of Estimate:

This bill would create the Elementary and Secondary Educational Opportunity Act. The intent of the bill is to provide scholarship monies to students of limited means to attend privately operated schools in Nebraska. A K-8 qualifying student is defined as a student whose household gross income does not exceed three times the income level for free or reduced lunch. A 9-12 qualifying student is defined as a student whose household gross income does not exceed four times the income level for free or reduced lunch.

The bill would also provide an income tax credit for organizations that make contributions to a certified scholarship granting organization. The bill would also provide an income tax credit for individuals who donate to the scholarship program. The Tax Commissioner (Department of Revenue) shall adopt and promulgate rules and regulations to carry out this Act.

MAJOR OBJECTS OF EXPENDITURES

Personal Services:					
	NUMBER OF POSITIONS		<u>2011-12</u>	<u>2012-13</u>	
POSITION TITLE	<u>11-12</u>	<u>12-13</u>	EXPENDITURES	EXPENDITURES	
Benefit					
Operating					
Travel					
Capital outlay					
Aid					
Capital improvements					
TOTAL			0	0	

LB 50 FISCAL NOTE (continued)

Fiscal Impact:

To the State of Nebraska: The fiscal impact to the State of Nebraska will be determined by the dollar amount of the tax oredit for organizations and individuals. The Department of Education cannot estimate this fiscal impact.

To NDE: There would be no fiscal impact to NDE.

To Political Subdivisions: Unknown by the Department of Education at this time.

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