open sky
POLICY INSTITUTE

As LB 720 -- which would create a new state tax incentive program -- comes up for additional debate on Wednesday, lawmakers are considering several changes to the bill. One of these changes – capping the amount of credits awarded or claimed -- is intended to prevent a potential budget crisis that could occur if LB 720's incentives were to be awarded without limits.

**Incentives are spending via the tax code, but not reviewed like appropriations**

Tax incentives like those offered in LB 720 are spending done through the tax code, which means incentive spending can and does often grow in years where funding for other state priorities is reduced or even cut. In FY17, the state saw its spending on incentives grow to $363 million. During that same year, the state had a deficit of $329 million. In order to balance the budget, lawmakers had to make across the board reductions in appropriations of 4%[1], which included a $13 million reduction in appropriations for the university system and a year delay in opening an additional unit at the Lincoln Regional Center. Allowing unconstrained spending through the tax code to continue could lead to major budget problems in the future, particularly considering that many economists are predicting a recession in 2020, and states are expected to be faced with more than a 50-year run of budget shortfalls[2] as our demographics change. For these reasons, placing a cap on the cost of LB 720 is a fiscally prudent path to take.

**Surrounding states use caps to control costs of incentive programs**

Several states close to Nebraska cap their incentive programs to limit the budget impact. For example:

- Iowa places a $170 million annual aggregate cap on its incentive programs;[3]
- Kansas caps its Promoting Employment Across Kansas (PEAK) program at $43.2 million annually;[4] and
- Missouri caps its Missouri Works program at $116 million annually[5].

**Iowa's incentive caps fluctuate depending on their budget needs**

Iowa put an aggregate cap of $185 million on their incentive programs in 2010.

---

[1] Exceptions to these reductions included entitlement aid programs, programs where specific reductions were made, 24/7 institutions, and the Department Of Correctional Services. The court system saw a reduction of 1.5% and the University saw a reduction of 2.3%. Nebraska Legislative Fiscal Office, "State of Nebraska FY2017-18 / FY2018-19: As Enacted in the 105th Legislature- First Session", August 2017, p. 114.
[2] U.S. Government Accountability Office, "State and Local Governments Fiscal Outlook, 2018 Update," accessed at https://www.gao.gov/products/GAO-19-208SP on Feb. 26, 2019.
[3] Iowa Code 15.119, accessed at https://www.legis.iowa.gov/docs/code/15.119.pdf on May 21, 2019.
[4] Kansas Revised Statutes 74,50,213, accessed at https://www.ksrevisor.org/statutes/chapters/ch74/074_050_0213.html, on May 21, 2019.
[5] Missouri Revised Statutes 620.2020, accessed at http://revisor.mo.gov/main/OneSection.aspx?section=620.2020&bid=35572 on May 21, 2019.

Iowa lowered its cap from $185 million to $120 million in 2011 but then increased the cap to $170 million in 2013[6]. It has remained at that level since. Iowa's cap also:

- Allows for discretion by the Economic Development Authority, which largely decides how the cap is spread between multiple programs; and
- Can be exceeded up to 20% in a given year in which case, the next year's amount is reduced by that same amount.

**Iowa spends much less on incentive programs than Nebraska**

A further look at Iowa shows that the state spends significantly less on incentives than Nebraska. In FY17, Iowa provided $138 million in total tax abatements at the state level whereas Nebraska provided about $363 million[7]. Iowa's per capita cost of incentive programs in FY17 was $43.77 while Nebraska's incentive programs cost $189.10 per capita[8]. In FY18, Iowa exceeded its aggregate cap by $1 million, providing $171 million intotal tax abatements at the state level while Nebraska provided about $249 million.[9] This led to a $54.26 per capita cost in Iowa compared to a $129.27 per capita cost in Nebraska[10]. If Nebraska adopted the same per capita costs as Iowa, we would have provided $84 million in state tax abatements in FY17 and $105 million in FY18.

**Nebraska already caps most incentive programs to limit the cost of the programs**

While LB 720 doesn't currently have a budget cap, incentive caps are not new to Nebraska. Incentive caps are already used on a number of Nebraska incentive programs, including:

- The New Market Job Growth and Investment Credit ($15 million annual cap[11]);
- The Angel Investment Credit ($4 million annual cap[12]);
- The Nebraska Job Creation and Mainstreet Revitalization Act ($15 million annual cap[13]);

---

[6] Pew Charitable Trust, "Reducing Budget Risks", 2015, p. 13, https://www.pewtrusts.org/~/media/assets/2015/11/cost-predictability_artfinal.pdf (accessed May 21, 2019); Center for Regional Economic Competitiveness, "Investing for Nebraska's Future: Re-balancing our Economic Development Portfolio," 2018.

[7] Nebraska Department of Administrative Services, "Comprehensive Annual Financial Report: Fiscal Year Ended June 30, 2017," 2018, p. 81, http://das.nebraska.gov/accounting/cafr/cafr2017.pdf (accessed May 21, 2019); Iowa Department of Administrative Services, "Comprehensive Annual Financial Report for Fiscal Year Ended June 30, 2017," p. 132, https://das.iowa.gov/sites/default/files/acct_sae/cafr/fy17_cafr.pdf (accessed May 21, 2019).

[8] U.S Census Bureau, "Annual Estimates of the Resident Population: April 1, 2010 to July 1, 2018"; Id.

[9] 2018 Iowa Code 15.119; Nebraska Department of Administrative Services, Comprehensive Annual Financial Report: Fiscal Year Ended June 30, 2018", 2019, p. 87, http://das.nebraska.gov/accounting/cafr/cafr2018.pdf (accessed May 21, 2019); Iowa Department of Administrative Services, "Comprehensive Annual Financial Report for Fiscal Year Ended June 30, 2018,"" p. 136, https://das.iowa.gov/sites/default/files/acct_sae/cafr/fy18_cafr.pdf (accessed May 21, 2019).

[10] U.S Census Bureau, "Annual Estimates of the Resident Population: April 1, 2010 to July 1, 2018"; Id.

[11] Nebraska Revised Statutes Sec. 77-1115, accessed at https://nebraskalegislature.gov/laws/statutes.php?statute=77-1115 on May 21, 2019.

[12] Nebraska Revised Statutes Sec. 77-6306, accessed at https://nebraskalegislature.gov/laws/statutes.php?statute=77-6306 on May 21, 2019.

[13] Nebraska Revised Statutes Sec. 77-2905, accessed at https://nebraskalegislature.gov/laws/statutes.php?statute=77-2905 on May 21, 2019.

- The Nebraska Advantage Microenterprise Tax Credit ($2 million annual cap, plus any tax credits that were not granted by the end of the preceding year[14]);
- The Community Development Assistance Act ($350,000 annual cap[15]);
- The Nebraska Innovation Fund ($4 million annual cap[16]); and
- The Nebraska Advantage Rural Development Act (annual caps ranging from $1.5 million to $4 million[17]).

**Funding incentives like appropriations can help them fit among key priorities**

Another way to help ensure incentive programs are reviewed regularly and funded appropriately is to fund them through the state appropriations process. Nebraska's current practice of funding most incentives through the tax code reduces lawmakers' ability to fund the programs in a manner that best fits the state's needs. It also allows the cost of incentives to grow dramatically even if state revenues lag or the state has more pressing needs in other areas. Nebraska does, however, fund the InterNE Grant Program as an appropriation and state lawmakers appropriated $1 million for the program in FY19. Similarly, Minnesota structures its Job Creation Fund as a General Fund appropriation, which allows it to be reviewed and funded as part of the budget process[18]. Minnesota lawmakers chose to appropriate $17 million for the program for the current biennium[19].

**Conclusion**

We recognize that tax incentives are an important economic development tool. There is good reason, however, to ensure that Nebraska's funding of tax incentives is structured in such a way that it attracts and retains businesses while also having a limited impact on our state's ability to fund other priorities. Incorporating caps and funding LB 720 through the appropriations process would be effective ways to ensure the program meets those objectives.

---

[14] Nebraska Revised Statutes Sec. 77-5905, accessed at https://nebraskalegislature.gov/laws/statutes.php?statute=77-5905 on May 21, 2019.
[15] Nebraska Revised Statutes Sec. 13-208, accessed at https://nebraskalegislature.gov/laws/statutes.php?statute=13-208 on May 21, 2019.
[16] Nebraska Revised Statutes Sec. 81-12,158, accessed at https://nebraskalegislature.gov/laws/statutes.php?statute=81-12,158 on May 21, 2019.
[17] Nebraska Revised Statutes Sec. 77-27,187.02 accessed at https://nebraskalegislature.gov/laws/statutes.php?statute=77-27,187.02 on May 21, 2019; also Legislative Performance Audit Committee, "Nebraska Advantage Rural Development Act Performance on Selected Metrics", 2017, accessed at https://nebraskalegislature.gov/pdf/reports/audit/na_rural_dap_2017.pdf on May 21, 2019.
[18] Pew Charitable Trusts, "Reducing Budget Risks: Using data and design to make state tax incentives more predictable," accessed at https://www.pewtrusts.org/~/media/assets/2015/11/cost-predictability_artfinal.pdf on May 21, 2019.
[19] Minnesota Legislature, "Minnesota Session Laws 2017 - Chapter 94--S.F.No. 1456," accessed at https://www.revisor.mn.gov/laws/2017/0/Session+Law/Chapter/94/ on May 21, 2019.