Under scholarship tax credit programs such as the one created by LB 364,[1] the state would forgo revenue to provide a dollar-for-dollar tax credit to those who make donations to private school scholarship-granting organizations (SGOs), which in turn, provide scholarships to students in private K-12 schools. The bill would create one of the most generous private K-12 scholarship tax credit programs in the nation.

The committee amendment, AM 762,[2] would also create a tax credit for donations to qualified early childhood education or childcare programs – a provision originally proposed in LB 531.[3] The cost of the scholarship tax credit and the childcare tax credit would be $10 million annually with each program capped at $5 million in tax credits.

Scholarship tax credits much more lucrative than other types of donations

LB 364's scholarship tax credit would enhance the tax benefit of donating to SGOs, as opposed to tax deductions for other types of charitable donations. For example, under LB 364, an individual, couple, or business can receive a credit equal to 100% of their total contributions or 50% of their income tax liability, whichever amount is smaller. There are, however, no limits on donation amounts. This means that if there are enough credits available, a corporation with an income tax liability of $1 million could donate $500,000 to a private scholarship granting organization and receive a $500,000 tax credit. Or, if a couple has income tax liability of at least $20,000, and they donate $10,000 to a private scholarship granting organization, they receive a state tax benefit of $10,000.

On the other hand, if the same couple makes a $10,000 donation to a non-profit private or public-school foundation, the potential value of their tax benefit will be the amount of their donation multiplied by their tax rate in the bracket in which that income would have fallen. If that income falls in the state's top income tax bracket of 6.84%, the tax savings would be $684. This couple's tax benefit for donating to an SGO would be 14.5 times greater than it would be for donating to the non-profit private or public-school foundation.

LB 364 would create one of the most generous programs of its kind

While 18 states currently have scholarship tax credit programs, only 11 of them offer credits to individual taxpayers in the manner that LB 364 does. Ten of these states either offer credits at a lower percent of the contribution[4] or have a stricter limitation on the

[1] Nebraska Legislature, "LB 364," accessed at https://www.nebraskalegislature.gov/bills/view_bill.php?DocumentID=44311 on April 9, 2021.
[2] Nebraska Legislature, "AM 762 to LB 364," accessed at https://www.nebraskalegislature.gov/FloorDocs/107/PDF/AM/AM762.pdf on April 9, 2021.
[3] Nebraska Legislature, "LB 531," accessed at https://www.nebraskalegislature.gov/bills/view_bill.php?DocumentID=44368 on April 9, 2021.
[4] Indiana and Oklahoma offer a tax credit equal to 50% of the contribution. Iowa, South Carolina, and Virginia offer a tax credit equal to 65% of the contribution. Illinois offers a tax credit equal to 75% of the contribution.

maximum credit that a taxpayer can receive in any given year.[5] Only in one other state – Louisiana – could the couple in the previous example receive a $10,000 tax benefit for their donation.

Scholarship tax credits not likely to create savings for the state

It's highly unlikely the credit would sway enough children to switch to private schools to create savings in the public schools. To generate savings for the state in reduced public-school costs, not only would a significant number of students need to switch from public to private school, but those students who switch would need to be highly concentrated in certain school buildings. A large percentage of public-school costs are fixed and not able to be reduced without a large reduction in enrollment. For example, if one or two students in a public-school classroom leave and go to private school, the public school must still pay the teacher and maintain the facilities in the same way it would have before the students changed schools. Unless enough students switch from public schools to private so that public schools can then cut costs, the program will actually cost taxpayers more as the state will essentially be funding both a public school system and subsidizing private schools.

Bill creates more new tax credits with no evaluation mechanisms

Like many other state tax credits, LB 364 contains no data collection requirements, so policymakers won't have any information to review whether the measures are achieving their stated goals. This means that, over time, the bill could become a drain on revenue that may or may not offer Nebraska a good return on investment.

Conclusion

LB 364 would create two new tax credits – including one of the most generous scholarship tax credit programs in the nation -- that will deplete state revenue but offer little in the way of evaluation mechanisms. This means the credits could be offering considerable tax benefits to donors but not provide much, if any, benefit to the state in return for the revenue it forgoes. Considering this, we have serious concerns about creating the new tax credits proposed in LB 364.

[5] Montana caps credits at $150 per taxpayer. Arizona caps credits at $500 for individual taxpayers and $1,000 for joint filers. Georgia caps credits at $1,000 for single filers and $2,500 for joint filers. Alabama caps credits at the lesser of 50% of taxable income and $7,500.