



January 26, 2017

Chairman Jim Smith
Revenue Committee
State Capitol, Room 1116
Lincoln, NE 68509

Dear Chairman Smith and Members of the Revenue Committee:

The Nebraska Catholic Conference (NCC) represents the mutual public policy interests of the three Catholic Bishops serving in Nebraska. The NCC is submitting this letter in strong support of Legislative Bill 295, the Opportunity Scholarship Act. In the interest of time and avoiding redundancy (particularly with Patrick Slattery, Superintendent of Schools for the Catholic Archdiocese of Omaha), I will simply express in written testimony the NCC's top reasons why you should support LB 295.

1. Freedom

Few deny the excellence in education provided by our Catholic schools. Nebraska private school students averaged a score of 24 on the ACT in 2013-14—nearly three points better than their public school counterparts who came in with an average of 21.3. In the Archdiocese of Omaha that year, private school students averaged a score of 24.6. That's probably why a public school superintendent recently boasted about the “regulated private, parochial, and home-school educational systems” providing excellent education to students in the Omaha area today.¹

But countless low- and middle-income parents are not actually free to choose private schools. Though every parent has the right to direct their child's education—and every child deserves an education best suited to their individual needs—many lack the means to make it happen. Thus, we cannot boast about the availability of excellent private schools if parents are not truly free to choose them.

The Opportunity Scholarship Act breaks down these barriers and provides true access to excellence. It incentivizes private donations to nonprofit organizations that must turn nearly all of their revenue into private-school scholarships for low- and middle-income families. By advancing LB 295, you provide countless lower-income families with true freedom to choose the education best suited for their children.

¹ Mark Adler, *Local View: Nebraskans already enjoy quality school choice*, Lincoln Journal Star (Jan. 25, 2017).

2. Diversity

In Omaha, a Catholic school administrator wakes up early every morning to drive the children of an impoverished refugee mother to an area Catholic school, where they are now thriving after having struggled to adjust in public school.

In Lincoln, a non-Catholic mother takes her 6-year-old son to a neighborhood Catholic elementary school after finding that public school wasn't the right fit. Today, she revels in such things as after-school news that the teacher led her son's class in reverent kneeling as a funeral procession left the adjacent Church.

In Grand Island, a local Catholic school educates dozens of minority and low-income students, thanks largely to outside benefactors providing such assistance as \$1,000 tuition scholarships. Lack of additional, sufficient funds prevents similar students from experiencing the same—even though the school has cut tuition to barely half of what it actually costs to educate a student in the 21st Century.

The stories go on. The 70% Free-and-Reduced-Lunch enrollment rate at the inner-city Catholic school directly across the street from you (St. Mary's) (which, by the way, struggles daily for donations). The 88% African American population of Sacred Heart Elementary in Omaha. And the sacrifices of numerous other Catholic schools that provide a quality education across the state, from North Platte to O'Neill to York to West Point to Omaha.

3. Private Donations and State Savings

In *Arizona Christian Tuition Organization v. Winn* (2011), the United States Supreme Court upheld the legality of a similar program in Arizona. When it came to the question of whether the state was spending public money on private education, the Court put it bluntly:

When Arizona taxpayers choose to contribute to [School Tuition Organizations], they spend their own money, not money the state has collected from respondents or from other taxpayers. . . .

Like contributions that lead to charitable tax deductions, contributions yielding STO tax credits are not owed to the State and, in fact, pass directly from taxpayers to private organizations.

133 S. Ct. 1436, 1447-48. Thus, there can be no argument that LB 295—which enacts a substantially similar program in Nebraska—uses public dollars for private education.

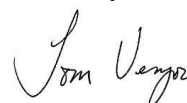
Moreover, LB 295 immediately begins saving the state millions of dollars. The Act has two important eligibility limits: (a) lower-income students, and (b) students transferring from, or who would otherwise be enrolled in, public school. Thus, when a student receives an opportunity scholarship, the state owes less in education aid. That's why EdChoice comfortably concludes that Opportunity Scholarships in 17 other states have saved a *minimum* of \$1.7 billion in the last 20 years, and more realistically at least \$3.4 billion. (See Martin Lueken, PH.D., *The Tax-Credit Scholarship Audit*, EdChoice (October 2016), pp. 18-19).

In Iowa alone, Opportunity Scholarships have saved at least \$280 million since 2006. (See Id.). And they save another \$240 million *a year* in Arizona. (See Adam Weinberg, *Get the Facts on Opportunity Scholarships*, Platte Institute (Dec. 3, 2015)).

Far from being a reason to reject Opportunity Scholarships, a budget-tightening year is the exact time to act. LB 295 relieves pressure on the state's number-one spending item.

Therefore, the time for Opportunity Scholarships is now. They empower parents, improve children's lives, and immediately begin saving the state millions. I strongly urge you to advance LB 295 to General File. Please do not hesitate to contact me with additional questions.

Sincerely,



Tom Venzor
Executive Director

[Attachments]

Opportunity Scholarships Act (LB 295): Parental Choice and State Savings

Introduction: It's ironic. It was in *Meyer v. Nebraska* (1923) where the United States Supreme Court first recognized that "it is the natural duty of the parent to give [their] children education suitable to their station in life[.]" The Court recognized that the U.S. Constitution protects "the power of parents to control the education of their own."²

Yet today, Nebraska remains one of only six states without publicly supported options for a non-public education. Thus, it is impossible for many parents in Nebraska to choose the education best suited for their children.

Opportunity Scholarships provide a much-needed answer. Similar laws exist in 17 other states – including Kansas, Iowa, and South Dakota. Their time has come in Nebraska.

Overview: Opportunity Scholarships have a two-fold purpose: (1) providing low- and middle-income students with scholarships for non-public schools, and (2) realizing net fiscal savings.

(1) Parental Choice: LB 295 enacts a large tax credit for private donations to non-profit "Scholarship Granting Organizations" (SGOs), which in turn provide scholarships to eligible students for use at non-public schools. It's simple:

- An individual or businesses donates to an SGO and receives a dollar-for-dollar tax credit – i.e., one dollar less in taxes for every dollar donated.
- The SGO then awards scholarships to students from low- and middle-income families – i.e., those with incomes no greater than twice the Free-and-Reduced Lunch eligibility level (about \$89,000 for a family of four).
- The Act prohibits the state from using Opportunity Scholarships as a reason to further regulate non-public schools.
- The aggregate allowable tax credit would be "capped" at \$10 million a year. However, the cap would increase when the prior year's donations near the maximum credit amount.
- "SGOs" are no mystery: Children's Scholarship Fund in Omaha serves more than 1,800 non-public school students annually and turns down another 600 students a year for lack of funding.

(2) State Savings: LB 295 leads to direct state and local savings.

- Opportunity Scholarships are funded exclusively by *private donations* to SGOs. Thus, they do not divert any public money from public to non-public schools.
- Further, LB 295 limits eligibility mostly to students transferring from public to non-public schools, or who would otherwise be in public school but for an Opportunity Scholarship.³
- This creates a direct savings for the state, because such students will not receive state aid in a non-public school. It also leads to a significant reduction in expenses for local schools.
- In Iowa, Opportunity Scholarships have saved at least \$280 million since their enactment in 2006.⁴
- In 17 states overall, Opportunity Scholarships have saved \$1.7 to \$3.4 *billion* to date.⁵

Conclusion: Opportunity Scholarships breathe life into a parent's right to choose the education best suited for their child. And they produce a large state savings to boot. The time for Opportunity Scholarships in Nebraska is now. Too many families are depending on it.

² *Meyer v. Nebraska*, 262 U.S. 390 (1923).

³ With exceptions for students who are entering kindergarten or 9th grade or who are a sibling of an awardee.

⁴ Martin Lueken, Ph.D., *The Tax Credit Scholarship Audit*, EdChoice, at pp. 51-53 (October 2016)

⁵ *Id.* at 18-19.

Tax Credit Scholarships in Other States (2017)

Neighboring States:

Iowa

Launched:

- 2006

Students:

- Eligibility: family income must not exceed 300% of the federal poverty level (\$72,900 for a family of four).
- 10,848 participating students (2015-16).

Scholarship Tuition Organizations (STOs):

- 12 Scholarship Tuition Organizations (STOs)
- Average scholarship value: \$1,624 (2015-16)
- 139 participating schools (2014-15)
- STO must use at least 90% of contributions for scholarships.
- Must make scholarships available to students at more than one school.

Tax credits:

- Allows a 65% credit for donations.
- Individuals, businesses, corporations are all eligible for the credit.
- Corporate donations may constitute only 25% of the aggregate credit cap.
- \$12 million aggregate credit cap

Kansas

Launched:

- 2015

Students:

- Eligibility: family income must not exceed 100% of the *Free Lunch* level (\$31,590 for a family of four in 2016-17). Must be assigned to a Title 1 Focus or Priority School. And must have been enrolled in a public school the previous year, unless the child is less than 5 years old.
- 188 participating students (2016-2017).

Scholarship Granting Organizations:

- 7 Scholarship Granting Organizations (SGOs)
- Average scholarship value: \$1,693 (2016-17)
- 90 participating schools (2016-17)
- SGO must use at least 90% of its contributions for scholarships.
- No scholarship can exceed \$8,000, for tuition, fees, expenses, and transportation.

Tax credits:

- Allows a 70% credit for donations to SGOs.
- Only corporations may receive the designated credit.
- \$10 million aggregate credit cap.

South Dakota

Launched:

- 2016

Students:

- Eligibility: family income must not exceed 150% of the Free and Reduced Lunch level (\$67,433 for a family of four in 2016-17). Student must (a) have attended a public school the previous semester, (b) be starting K-12 school in South Dakota for the first time, or (c) be entering kindergarten, first grade, or ninth grade. Recipient student remains automatically eligible for three years, or until graduation if entering high school, regardless of income. Remain eligible beyond year three if family income doesn't exceed 200% of the Free and Reduced Lunch Level (about \$89,000 for a family of four).
- 281 participating students (2016-17).

Scholarship Granting Organizations:

- 1 SGO
- Average scholarship value: \$748
- SGO may award scholarships worth up to 82.5% of the state's share of per-pupil education spending (about \$4,000 in 2015-16).
- 43 participating schools.

Tax credits:

- Allows an 80% credit for donations to SGOs.
- Only insurance companies may receive the designated credit.
- \$2 million aggregate credit cap.

Prototypes: Florida and Arizona

Florida

Launched:

- 2001

Students:

- Eligibility: family income must not exceed 260% of the Federal Poverty Level (\$63,180 for a family of four). Students in families below 200% FPL (\$48,600) are eligible for full scholarships, worth up to \$5,886. Priority is given to new students eligible for the Free and Reduced Lunch Program (about \$44,000 for a family of four) and for renewal students. Siblings of recipients are also eligible if they live in the same household. Further, students

placed in foster-care or out-of-home care are also categorically eligible. Previous requirement that first-time recipients spend their prior year in public school was eliminated in 2014.

- 97,826 participating students (Fall 2016).

Scholarship Granting Organizations:

- 2 SGOs
- Average scholarship value: \$5,476 (2016-2017)
- Scholarships may not exceed private school tuition and fees.
- 1,712 participating schools (Fall 2016)
- Schools must administer a nationally norm-referenced test to scholarship students.

Tax credit:

- Allows a 100% credit for donations to SGOs.
- Limited to corporate donations only.
- The program was originally capped at \$50 million in annual tax credits, and set to increase 25% when 90% of the cap was reached in the prior year.

Arizona

Original Individual Income Tax Credit Scholarship Program

Launched:

- 1997

Students:

- Eligibility: open to any student in grades K-12 or enrolled in preschool and identified by the school district as having a disability under the federal Individuals with Disability Education Act or Section 504 of the Rehabilitation Act. No family income limits.
- 30,049 scholarships awarded (2014-15).

Scholarship Granting Organizations:

- 50 SGOs.
- Average scholarship value: \$1,846 (2014-15)
- SGO must consider financial need of student applicants.
- 338 participating schools.

Tax credits:

- Allows a 100% tax credit for donations to SGOs.
- Limits credits to individual taxpayers up to a total of \$546, and married couples filing jointly up to \$1,092.
- No aggregate credit limit in this program.

Low-Income Corporate Income Tax Credit Scholarship Program

Launched:

- 2006

Students:

- Eligibility: family income must be no more than 185% of the Free and Reduced Lunch level (about \$83,000 for a family of four). Must also be (a) enrolled in private school kindergarten, (b) enrolled in private school preschool program for students with disabilities, (c) a public school enrollee for at least 90 days the previous year, or one full semester of the current school year, (d) a dependent of an active-duty military member stationed in Arizona, OR (e) a previous recipient under this program *or* the individual tax-credit scholarship program.
- 16,573 scholarships awarded in 2014-15.

Scholarship Granting Organizations:

- 27 SGOs.
- Average scholarship value: \$1,892 (2014-15)
- Scholarships may not exceed \$5,200 in grades K-8 and \$6,500 in grades 9-12. Amounts increase annually by \$100.
- 237 participating schools.

Tax Credits:

- Allows a 100% tax credit for donations to SGOs.
- Limits credit to corporate donations only.
- \$51.6 million aggregate credit cap per year, increasing by 20% annually.

“Switcher” Individual Income Tax Credit Scholarship Program

Launched:

- 2012 (supplements the Original Individual Income Tax Credit Scholarship Program)

Students:

- Eligibility: no family income limit. Student must be in K-12 and have attended a public school in the previous year for at least 90 days or in the current year for at least a full semester, or be a preschool enrollee identified as disabled for purposes of the federal IDEA or Section 504 of the Rehabilitation Act. Also extends eligibility to all students who are in kindergarten, and who are previous recipients of a scholarship under the Low-Income Corporate Tax Credit Scholarship Program or under the “Switcher” Individual Income Tax Credit Scholarship Program and who have remained in private school.
- 16,493 scholarships awarded in 2014-2015.

Scholarship Tuition Organization:

- 52 STOs.
- Average scholarship value: \$1,339 (2013-14)
- STO must consider financial need in awarding scholarships.
- 317 participating schools.

Tax credit:

- Allows a 100% tax credit for donations to an STO.
- Limited to individual donations up to \$543, and married couples filing jointly up to \$1,085 – after the individual or the married couple has maxed out their donations under the Original Individual Income Tax Credit Scholarship Program.
- No cap.