

Nebraska legislators and legislative committees have designated their priority bills for the session. Priority bills are placed ahead of non-priority bills on the legislative debate schedule, so receiving a priority designation increases a bill's likelihood of being debated by the full Legislature. The [list of priority bills](#) can help provide insight into what measures will be on the legislative agenda for the remainder of the session. Below we discuss some of the priority bills that relate to OpenSky's work and what position we have taken on them.

### Priority bills that OpenSky supports

**LB 918** -- LB 918 would create the Commission on African American Affairs.<sup>1</sup> Working to ensure fiscal policies provide equal opportunity for all Nebraskans helps to promote prosperity and the commission created by LB 918 could play a pivotal role in advancing the interests of Nebraska's African American community on that front. The commission also could help collect new data that could be helpful in analyzing the impact of fiscal policy, as well as health, education and transportation policy, on racial equity. This data would empower the Legislature to better craft policy solutions that eliminate racial inequities.

**LB 1073** -- LB 1073 could reduce our reliance on property taxes while maintaining the equalization principle of the state's school funding formula.<sup>2</sup> Furthermore, unlike LB 974 -- another property tax proposal before the Legislature -- LB 1073 would not squeeze school spending by imposing new tax and spending constraints on school districts. To achieve these goals, LB 1073:

- Reduces agricultural land value from 75% to 55% in the school funding formula, which would increase the number of school districts that receive equalization aid and increase state aid for equalized districts that have agricultural land;
- Reduces the Local Effort Rate from \$1.00 to \$0.99, which would bring more state aid to both urban and rural equalized school districts; and
- Provides school districts with 7.5% of basic funding, which would grant a consistent level of state support for non-equalized districts.

While LB 974 would result in our K-12 funding providing more per-pupil aid -- or foundation aid -- which doesn't take into account the diverse needs of individual districts, LB 1073 ensures that the school funding formula remains equalization-based. This means under LB 1073, more state funding would go to districts with less ability to raise resources locally, which helps ensure equitable educational opportunities across districts regardless of their local resources. LB 1073 also reinstates a school finance review committee to study the financing of public schools in Nebraska. While LB 1073 is funded

<sup>1</sup> Nebraska Legislature, "LB 918," accessed at [https://www.nebraskalegislature.gov/bills/view\\_bill.php?DocumentID=41313](https://www.nebraskalegislature.gov/bills/view_bill.php?DocumentID=41313) on Feb. 27, 2020.

<sup>2</sup> Nebraska Legislature, "LB 1073," accessed at [https://www.nebraskalegislature.gov/bills/view\\_bill.php?DocumentID=41198](https://www.nebraskalegislature.gov/bills/view_bill.php?DocumentID=41198) on Feb. 27, 2020.

by projected revenue growth, the measure is easy to modify should revenue come in below projections in any given year. [Read more about LB 1073 in our policy brief.](#)

### Priority bills that OpenSky opposes

**LB 720** -- LB 720 creates a new state tax incentive program to replace the Nebraska Advantage Act, which will sunset this year.<sup>3</sup> OpenSky has concerns with LB 720 because it would have large, variable and unpredictable costs with minimal fiscal protection measures in place. While LB 720 as amended by AM 2207<sup>4</sup> includes a cap on the amount of incentives the state can distribute, its structure is unlikely to have any substantive impact as it would not prevent the state from awarding credits and refunds in a particular year. Rather, the cap would simply halt new program applications in years where incentives are projected to exceed the cap. Furthermore, the Nebraska Attorney General has issued an opinion stating that the cap, which gives the Legislature's Executive Board discretion to authorize more tax incentives should the cap be reached, is unconstitutional as it would be an unlawful delegation of the Legislature's authority as well as an encroachment on the powers of the executive branch.<sup>5</sup> LB 720 also does not necessarily incentivize high wage jobs. Rather, the legislation as amended by AM 2207 in some cases incentivizes jobs that offer below-average wages, doesn't require companies to pay for benefits and allows for the pooling of part time employees to count as full-time equivalent jobs. LB 720 also would add on to the outstanding liability that Nebraska has for its other incentive programs, namely LB 775, which was passed in 1987 and is still reducing state revenue, and the Nebraska Advantage Act, which will continue to reduce state revenue for decades because of the length of the program agreements. Furthermore, the measure fails to respond to the state's current economic conditions or needs, doesn't target incentives to underserved areas or conform to several other best practices regarding tax incentive programs. [Read more about our concerns with LB 720 in our policy brief.](#)

**LB 974** -- LB 974<sup>6</sup>, as amended by AM 2433,<sup>7</sup> purports to reduce property taxes by making an assortment of changes to Nebraska's school finance formula. The measure would significantly change school funding in Nebraska and raises concerns about fiscal sustainability and equity in educational opportunities. The bill seeks to lower property taxes by reducing the taxable value of all property types for school districts, limiting school spending and increasing state aid to K-12 schools by way of per-student funding - also known as foundation aid. The bill would transform our school funding formula from

<sup>3</sup> Nebraska Legislature, "LB 720," accessed at [https://www.nebraskalegislature.gov/bills/view\\_bill.php?DocumentID=37565](https://www.nebraskalegislature.gov/bills/view_bill.php?DocumentID=37565) on Feb. 27, 2020.

<sup>4</sup> Nebraska Legislature, "AM 2207 to LB 720," accessed at <https://www.nebraskalegislature.gov/FloorDocs/106/PDF/AM/AM2207.pdf> on March 3, 2020.

<sup>5</sup> Office of the Attorney General, "Opinion 20-004," accessed at <https://ago.nebraska.gov/sites/ago.nebraska.gov/files/docs/opinions/Ag%20Opinion%2020-004.pdf> on March 3, 2020.

<sup>6</sup> Nebraska Legislature, "LB 974," accessed at [https://www.nebraskalegislature.gov/bills/view\\_bill.php?DocumentID=41351](https://www.nebraskalegislature.gov/bills/view_bill.php?DocumentID=41351) on Feb. 27, 2020.

<sup>7</sup> Nebraska Legislature, "AM 2433 to LB 974," accessed at <https://www.nebraskalegislature.gov/FloorDocs/106/PDF/AM/AM2433.pdf> on Feb. 27, 2020.

an equalization-based formula to a foundation aid formula, which would result in less state funding going to districts with high educational needs and less ability to raise revenue locally and more state aid going to districts with lower educational needs and more ability to raise revenue locally. This could hinder the state's effort to provide equitable educational opportunities for all Nebraska students. The measure also would limit school funding growth to the Consumer Price Index measure of inflation, which is not reflective of what schools actually spend money on and would likely result in damaging funding restrictions for school districts on top of the tax and spending lids they are already subject to. The bill does contain some revenue recoup provisions but they are not guaranteed to allow districts to make up for all the lost revenue they would lose because of other provisions in the bill. LB 974 also banks on projected revenue growth as a funding source, which would leave the state vulnerable to service cuts or tax increases should revenues fail to meet projections. [Read more in our policy brief about LB 974.](#)

**LB 1202** – LB 1202<sup>8</sup> would create nonrefundable income tax credits for donations to private school scholarship programs, costing the state up to \$10 million a year. Under LB 1202, an individual, couple, or business can receive a credit equal to 100 percent of their total contributions or 50 percent 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 make a donation to a private scholarship granting organization of \$500,000 and receive a \$500,000 tax credit. Or, if a couple has income tax liability of at least \$20,000, and they make a donation to a private scholarship granting organization of \$10,000, they would receive a state tax benefit of \$10,000. The same donation to a non-profit public-school foundation would allow the couple to take at most a \$684 deduction, which means the measure provides a 14.5 times greater benefit to those donating to private school scholarship programs over other types of charitable gifts. Furthermore, the bill would create another tax credit, and tax credits are often passed and not reviewed again to see if they actually benefit the state.

**LR 300 CA** -- LR 300 CA<sup>9</sup> is a constitutional amendment that would eliminate all current forms of taxation in Nebraska and replace them with a consumption tax, which would be a retail sales tax on all new goods and services purchased in the state. LR 300CA would constitute a fundamental shift in how the State of Nebraska collects revenue, requiring huge hikes to the sales tax that would apply to transactions the state hasn't previously taxed, including health care, rent and private school tuition. While not included in the written statute, LR 300 CA's proponents have indicated a "prebate" will be available for those taxpayers below the poverty level to offset the regressivity of the measure. That would, however, leave the tax falling disproportionately on middle-income Nebraskans,

<sup>8</sup> Nebraska Legislature, "LB 1202," accessed at [https://www.nebraskalegislature.gov/bills/view\\_bill.php?DocumentID=40666](https://www.nebraskalegislature.gov/bills/view_bill.php?DocumentID=40666) on Feb. 27, 2020.

<sup>9</sup> Nebraska Legislature, LR 300CA, " accessed at [https://www.nebraskalegislature.gov/bills/view\\_bill.php?DocumentID=41385](https://www.nebraskalegislature.gov/bills/view_bill.php?DocumentID=41385) on Feb. 27, 2020.

as the highest-income earners are unlikely to pay as much in consumption taxes as they're currently paying in income taxes. History has demonstrated that consumption taxes rarely work out as the proponents say they will and in the end lead to much higher rates than were initially proposed in order to maintain revenue neutrality.

### Other priority bills OpenSky is monitoring

**LB 865 and LB 1042** -- LB 865<sup>10</sup> and LB 1042<sup>11</sup> relate to employer contributions to the Nebraska educational savings plan. Both measures would allow employees to deduct employer contributions to 529 college savings plans from their income taxes. The bills also specify that 529 contributions should not be included as income in means testing for Supplemental Nutrition Assistance Program benefits. LB 1042 would cap deductions for employer contributions at \$10,000 for married couples filing jointly and \$5,000 for others. Presently married couples filing jointly are subject to a \$10,000 cap on deductions for their own contributions to 529 plans. It's unclear based on how LB 1042 is written if it creates a separate cap just for employer contributions, thus allowing married couples filing jointly to deduct \$20,000 total -- \$10,000 in employer contributions and \$10,000 in their own contributions. This could effectively double the existing caps on deductions for participant contributions and increase the state fiscal impact of deductions for 529 plan contributions. It also leaves room for owners of businesses who also act as employees to take both deductions while the company also receives an incentive payment under LB 610,<sup>12</sup> passed last year. Another change proposed in LB 1042 would allow Nebraskans to put their tax refunds into their 529 accounts. [Read more about these bills in this blog post.](#)

**LB 930** -- LB 930<sup>13</sup> would require a minimum amount of funding for the property tax credit fund. The property tax credit fund is an important tool in providing property tax relief. Requiring a minimum amount of funding, however, could tie the hands of future Legislatures. Furthermore, if revenues come in below forecast and the Legislature has to take funding from the K-12 funding formula and move it into the property tax credit to fulfill a minimum requirement, local taxes may have to increase or funding for vital services may need to be cut.

**LB 1106 and LB 1107** -- LB 1106<sup>14</sup> and LB 1107<sup>15</sup> are "shell bills" that can be amended later to craft and advance legislation.

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<sup>10</sup> Nebraska Legislature, "LB 1042," accessed at [https://www.nebraskalegislature.gov/bills/view\\_bill.php?DocumentID=41347](https://www.nebraskalegislature.gov/bills/view_bill.php?DocumentID=41347) on Feb. 27, 2020.

<sup>11</sup> Nebraska Legislature, "LB 865," accessed at [https://www.nebraskalegislature.gov/bills/view\\_bill.php?DocumentID=41011](https://www.nebraskalegislature.gov/bills/view_bill.php?DocumentID=41011) on Feb. 27, 2020.

<sup>12</sup> Nebraska Legislature, "LB 610," accessed at [https://www.nebraskalegislature.gov/bills/view\\_bill.php?DocumentID=36818](https://www.nebraskalegislature.gov/bills/view_bill.php?DocumentID=36818) on March 3, 2020.

<sup>13</sup> Nebraska Legislature, "LB 930," accessed at [https://www.nebraskalegislature.gov/bills/view\\_bill.php?DocumentID=41364](https://www.nebraskalegislature.gov/bills/view_bill.php?DocumentID=41364) on Feb. 27, 2020.

<sup>14</sup> Nebraska Legislature, "LB 1106," accessed at [https://www.nebraskalegislature.gov/bills/view\\_bill.php?DocumentID=41566](https://www.nebraskalegislature.gov/bills/view_bill.php?DocumentID=41566) on Feb. 27, 2020.

**LB 1203** -- LB 1203<sup>16</sup> would retroactively exempt certain types of foreign corporate income from the state corporate income tax. The income has been taxed in Nebraska since the passage of the 2017 Tax Cuts and Jobs Act, which expanded the federal corporate income tax base. However, retroactively decoupling from the federal law could leave the state facing a significant amount corporate tax refunds for which it hasn't budgeted. The bill's fiscal note shows it would reduce revenue by more than \$290 million by FY 23; however, during the committee hearing on the bill, it was mentioned that there was a drafting error that inflated the fiscal office's estimate and so the actual fiscal impact could be less.<sup>17</sup> This revenue is built into the forecast and likely contributed to the large increase in corporate income tax receipts Nebraska has been experiencing. As a result, any refunds required could significantly minimize projected revenue gains the Legislature is depending on to pass property tax relief this session.

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<sup>15</sup> Nebraska Legislature, "LB 1107," accessed at [https://www.nebraskalegislature.gov/bills/view\\_bill.php?DocumentID=41565](https://www.nebraskalegislature.gov/bills/view_bill.php?DocumentID=41565) on Feb. 27, 2020.

<sup>16</sup> Nebraska Legislature, "LB 1203," accessed at [https://www.nebraskalegislature.gov/bills/view\\_bill.php?DocumentID=41354](https://www.nebraskalegislature.gov/bills/view_bill.php?DocumentID=41354) on Feb. 27, 2020.

<sup>17</sup> Nebraska Legislature, "LB 1203 Fiscal Note," accessed at [https://www.nebraskalegislature.gov/FloorDocs/106/PDF/FN/LB1203\\_20200211-122323.pdf](https://www.nebraskalegislature.gov/FloorDocs/106/PDF/FN/LB1203_20200211-122323.pdf) on March 2, 2020.