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LB 1107 -- as amended by AM 3316 -- which will be debated by the Legislature on Wednesday -- is an expensive and concerning proposal, particularly given the tremendous fiscal uncertainty the state faces amid the global pandemic.

AM 3316 to LB 1107 would enact the ImagiNE Nebraska tax incentive program, set a minimum investment in the property tax credit program, create a new refundable income tax credit to offset school property taxes paid, allocate state funding for the UNMC NExT project starting in FY 25-26 and repeal the personal property tax exclusion.

Issues remain with tax incentive cap, wages and benefits

AM 3316 to LB 1107 evokes concerns raised by previous ImagiNE Nebraska proposals. The measure purportedly caps the annual cost of the ImagiNE Nebraska tax incentive program per year at $25 million in its first two years, $100 million in years three and four, $150 million in year 5 and at 3% of net state tax receipts for each year after that. However, the cap can be overridden by the Governor. The amendment requires that employees in jobs created by the incentives be Nebraska residents but it still does not require that companies pay for benefits for its employees nor does it prevent incentives from subsidizing below-average wages.

Property tax changes come at a large cost to the state

AM 3316 to LB 1107 would maintain the current property tax credit program at $275 million a year, and according to a handout from the Revenue Committee, would also increase it with state revenue generated by gambling should the ballot initiative before Nebraska voters pass.

LB 1107 with AM 3316 also would create a refundable income tax credit for resident and non-resident property taxpayers, distributed by education property taxes paid the year prior. The credit would be funded at $125 million in 2020 and would increase to $375 million by 2024. In years two through four, the credit could be increased by any state revenue that comes in more than 3.5% above the state's certified revenue forecast. In those years, if the state's cash reserve balance is below $500 million, 50% of above-forecast receipts would go toward the income tax credit; if the balance is at or above $500 million, 100% would go toward the credit.

Once the credit reaches $375 million, the amount will increase annually by the previous year's statewide property valuation growth. This new income tax credit would combine with the existing Property Tax Credit Program to reduce revenue by at least $650 million annually once fully implemented in 2024 and more in later years. If this credit had been implemented in 2000, it's cost would have grown to nearly $1 billion in FY 21 -- or 21% of the state's budget. We would note that AM 3316 would grow the refundable income tax credit by actual valuation growth rather than the percent annual change in valuation. We assume in our analysis that this is not the bill's intent and that it will be fixed with an amendment, as the total growth in statewide property valuation was more than $5.3 billion from 2018 to 2019.[1]

UNMC NExT funding

The bill also would provide $50 million annually for six years starting in FY 25-26 to support the UNMC NExT project under the conditions that the project be approved for federal funding and the state has received at least $1.3 billion in federal funding.

Revenue growth needed to pay for the proposal is unrealistic

Revenue growth over the next three fiscal years will need to average 5.4% each year in order to pay for this proposal. That rate of growth is well above the 1.5% projected by IHS over that same time period.[2] It also would be above the historical adjusted average growth of 4.9% and greater than the previous five-year average of 4.5%.[3]

This proposal would further exacerbate a shortfall projected for the following biennium, growing it from $403 million to nearly $840 million. If revenues don't grow as needed, the Legislature would either need to scale back LB 1107's changes, increase other revenue sources or make deep cuts to vital services like education.

The proposal would tie lawmakers' hands regarding state needs

LB 1107 would continue to be funded in future years even when the state doesn't have the resources needed to adequately fund schools, roads and other drivers of a strong economy. This would hinder lawmakers' ability to respond to emerging crises or growing public needs and force them to govern with fewer resources, regardless of what Nebraskans need.

Other options

Lawmakers could take other steps to help reduce property taxes in the near term. For example, they could choose to decouple from tax changes in the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act, which would prevent a $250 million state revenue loss over the next three years, and use the preserved revenue to increase the property tax credit. Or, should Congress give states permission to use CARES Act funding in the Coronavirus Relief Fund to address revenue issues, lawmakers could

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[1] 2019 Annual Report of the Property Assessment Division, Table 1, accessed at https://revenue.nebraska.gov/sites/revenue.nebraska.gov/files/doc/pad/research/annual-reports/2019/annrpt2019_table_1.pdf on August 4, 2020.

[2] Nebraska Department of Revenue, "Report to Nebraska Economic Forecasting Advisory Board," July 23, 2020.

[3] Adjusted growth takes into account revenue growth by economic activity and inflation by adjusting for tax base and rate changes, enacted legislation and one-time items outside of the norm. Nebraska Legislature, "State of Nebraska FY 2019-20 / FY 2020-21 Biennial Budget as Enacted in the 106th Nebraska Legislature First Session," August 2019, accessed at https://nebraskalegislature.gov/pdf/reports/fiscal/2019budget.pdf on August 3, 2020.

dedicate unspent revenue to the Property Tax Credit Program. Then they could then return in January to see if they have the revenue to pass this legislation in a fiscally responsible way.

Conclusion

By passing this proposal now, policymakers will likely be digging a fiscal hole that they may never climb out of. Deep cuts for schools, health care, safe communities and other vital services that Nebraskans need would be all but guaranteed should the measure pass now. Nebraska would be best served if policymakers reexamine the state fiscal situation when they reconvene in January to get a better idea of whether this measure is appropriate for the state.