

**FISCAL NOTE**  
**LEGISLATIVE FISCAL ANALYST ESTIMATE**

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)</b>				
	<b>FY 2024-25</b>		<b>FY 2025-26</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS	\$386,670	(\$400,000)	\$349,020	(\$1,150,000)
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>	<b>\$386,670</b>	<b>(\$400,000)</b>	<b>\$349,020</b>	<b>(\$1,150,000)</b>

**Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.**

LB1356 makes the following amendments to the Community Development Assistance Act:

- Adds operations for a sports complex or sports venue and operations of any inland port authority to the definition of Community Services under the act;
- Adds inland port district to the definition of community development area;
- Adds inland port authority to the definition of community betterment organization;
- Allows for projects undertaken by community betterment organizations to receive tax credits;
- Enumerates what is to be included on proposals submitted to the Department of Economic Development under the Act and strikes the original text of 13-205;
- Strikes the requirement for the Director of the Department of Economic Development to adopt and promulgate rules and regulations for the approval or disapproval of program proposals and the tax credit amounts;
- Requires projects to be approved or disapproved by the Department within forty-five days after receipt of a complete application;
- Requires documentation evidencing contributions made to be programs or projects certified for tax credit status to be submitted to the Department and enumerates generally acceptable documents;
- The value of eligible contributions made to community betterment organizations for programs or projects certified for tax credit status by the department shall be determined based upon the valuation of charitable contributions for federal income tax purposes established by the Internal Revenue Service of the United States Department of the Treasury;
- Strikes the original text of 13-207 and replaces it with a new tax credit formula; and
- Creates a cap on tax credits under the act of two million per fiscal year in each congressional district for a total of six million dollars per fiscal year.

No basis to dispute the estimates for administration related to the legislation. No basis to dispute the estimates for revenue loss provided by the Department of Revenue resulting in increased tax credit usage.

Technical note: The Department of Economic Development lacks the ability to track total amounts of tax credits awarded in a tax year and this legislation does not provide authority to the Department.

<b>ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY &amp; POLT. SUB. RESPONSE</b>			
LB: 1356	AM:	AGENCY/POLT. SUB: Department of Revenue	
REVIEWED BY: Neil Sullivan	DATE: 1/30/2024	PHONE: (402) 471-4179	
COMMENTS: The Department of Revenue assessment of fiscal impact from LB 1356 appears reasonable.			

<b>ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY &amp; POLT. SUB. RESPONSE</b>			
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COMMENTS: The Department of Economic Development assessment of fiscal impact from LB 1356 appears reasonable.			

Please complete ALL (5) blanks in the first three lines.

2024

LB<sup>(1)</sup> 1356

FISCAL NOTE

State Agency OR Political Subdivision Name: <sup>(2)</sup> Nebraska Department of Economic Development

Prepared by: <sup>(3)</sup> Dave Dearthmont Date Prepared: <sup>(4)</sup> 1/26/2024 Phone: <sup>(5)</sup> 402-471-3777

**ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION**

	<u>FY 2024-25</u>		<u>FY 2025-26</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	<u>\$1,055,940</u>		<u>\$1,749,020</u>	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	<u>\$1,055,940</u>		<u>\$1,749,020</u>	

**Explanation of Estimate:**

LB1356 would amend the Community Development Assistance Act to include sports facilities as a community service and inland port authorities as community betterment organizations. The bill would also increase the maximum amount of the nonrefundable tax credit from 40% of the amount contributed to the lesser of the amount contributed, 50% of the tax liability, or \$100,000. Estates and trusts are added as donors eligible for the tax credit. For estates and trusts the tax credit is the lesser of the amount contributed, 50% of the tax liability, or \$1,000,000. LB1356 would also increase the amount of credits granted from an annual total of \$350,000 statewide, to \$2 million per congressional district, or \$6 million total. The bill also restricts the time DED has to approve an application to 45 days.

DED expects that the amount of credits granted would roughly double each year from the current \$350,000 until the \$6 million level is reached. Currently, DED operates the CDAA program with 0.25 FTE of a Business Consultant's time, and produces between 60 and 100 Form 1099s to credit claims. DED expects to process approximately 1,400 199s and review approximately 2,500 additional applications per year when the program is fully implemented.

The Department believes it will need an Economic Development Manager, an Economic Development Business Consultant II and an IT Data/Database Analyst to administer the expanded program, and develop an electronic application system and an electronic system to share the Form 1099 tax credit data with the Department of Revenue. Operating costs include \$8,210 for additional rented office space, and \$100,000 one-time costs for OCIO programming.

**Note:** Section 4(1) of LB1356 provides that tax credits shall be available for contributions to a certified program or project which may qualify as a charitable contribution deduction on the federal income tax return filed by the business firm or individual making such contribution. Additionally, Section 4(5) of LB1356 provides that the value of contributions shall be determined based upon the valuation of charitable contributions for federal income tax purposes established by the IRS. Section 4(4)(d) of LB1356 allows for contributions of services and evidenced by documentation of the time spent and the value of such services. This creates an internal contradiction between Section 4(1) and (5) and Section 4(4)(d) because the IRS does not permit deductions for the value of an individual's time and services.

As drafted, DED would not be able to track the total amount of tax credits awarded in a tax year, as the Department would not know the taxpayer's tax liability to determine how much of the tax credit awarded would be used by the taxpayer. If DED had access to tax records, the agency would still not know what the credit limit would be before the end of the tax year. Neither is there a method established for DED and the Department of Revenue to share information regarding tax credits allowed or certification that the tax credit was paid.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

POSITION TITLE	NUMBER OF POSITIONS		2024-25	2025-26
	<u>24-25</u>	<u>25-26</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
G49550 Econ Dev Manager	0.75	1.00	\$54,480	\$72,640
A49012 Econ Dev Bus Consultant II	0.50	1.00	51,360	68,480
A07051 IT Data/Database Analyst	0.50	0.75	38,010	57,020
<b>Total</b>	<b>1.75</b>	<b>2.75</b>	<b>\$143,850</b>	<b>\$198,140</b>
<b>Benefits</b> .....			44,360	69,350
<b>Operating</b> ...(includes \$100,000 OCIO Costs).....			137,860	60,730
<b>Travel</b> .....			12,670	20,800
<b>Capital outlay</b> .....			17,200	
<b>Aid</b> .....			700,000	1,400,000
<b>Capital improvements</b> .....				
<b>TOTAL</b> .....			<b>\$1,055,940</b>	<b>\$1,749,020</b>



There is a “maximum tax credit allowance” limit on tax credits per project when DED approves the program/project. But there’s no application or method established for requesting and receiving tax credits. It removes the requirement for business firms or individuals to apply to DED for authorization of a tax credit, and the requirement for DED to send a copy of the approved application, which includes the tax credit allowed, and a certification by DED that the contribution has been paid as proposed by the business firm or individual. DOR will need to have the information for DED to administer the tax credit.

Financial institutions and insurance companies can no longer claim tax credits as the credits can only be claimed against the income tax due under the Nebraska Revenue Act.

DOR estimates the program will gradually increase toward the cap of \$6 million over several years. It is estimated the fiscal impact to General Fund revenues will be as follows:

FY 2024-25	(\$400,000)
FY 2025-26	(\$1,150,000)
FY 2026-27	(\$2,650,000)
FY 2027-28	(\$5,650,000)

LB 1356 will require a one-time programming charge of \$30,730 paid to the OCIO to remove lines from Form 1120NF.

The operative date for this bill is three months after adjournment.