

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2022-23		FY 2023-24	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	\$238,891		\$68,700	(\$10,000,000)
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$238,891		\$68,700	(\$10,000,000)

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

LB 1237 adopts the Opportunity Scholarships Act, which creates a non-refundable tax credit for qualifying taxpayers who make contributions to certain organizations for education scholarships.

A scholarship-granting organization must be certified by the Department of Revenue (DOR) prior to providing education scholarships to eligible students under the act. Organizations must be charitable organizations, exempt from federal income tax under I.R.C. section 501(c)(3). An organization meets certification requirements if it: offers education scholarship programs to eligible students; meets revenue allocation requirements regarding how much revenue is used for scholarships and for administrative costs; does not limit scholarship availability to only one qualified school; gives first priority to eligible students who received a scholarship during the previous year and then to new applicants who meet certain requirements; limits maximum scholarship to any student to the cost of tuition and fees at the qualified school such student attends; and limits scholarship amounts awarded to students in a manner that assures the average of scholarship amounts awarded per student does not exceed 75% of statewide average general fund operating expenditures per formula students for most recently available year as defined in Neb. Rev. Stat. sec. 79-1003.

“Eligible student” means a resident of Nebraska who is:

- A dependent member of a household that qualified for reduced price meals under the National School Lunch Program as of January 1, 2021;
- Receives an education scholarship for the first time and is (a) entering kindergarten or ninth grade in a qualified school or (b) transferring from public school at which the student was enrolled for at least one semester immediately preceding the first semester for which the student receiving an education scholarship to a qualified school and is entering any of grades K-12;
- Has previously received a scholarship and is continuing at a qualified school until graduation or reaching age 21, whichever is first; or
- Is the sibling of a student receiving a scholarship and resides in the same household.

A taxpayer who makes a cash contribution to a certified organization is eligible for a non-refundable tax credit equal to 50% of the contribution amount, not to exceed the lesser of: (1) \$25,000; or (2) 50% of the income tax liability of the taxpayer. A taxpayer can only claim a credit for the portion of the contribution not claimed as a charitable contribution under the I.R.C. Any unused credit can be carried forward and applied against tax liability for 5 years immediately following the tax year the credit is first allowed, but cannot be carried back. The tax credit will be available for tax years 2023 to 2027.

The credit is available to individual taxpayers, partnerships, limited liability companies, S corporations, trusts, estates, and corporate taxpayers. Married filing separate taxpayers that could have filed a joint return can only claim one-half of the tax credit. Prior to claiming the credit, the taxpayer must notify the organization of the intent to make a contribution and amount to be claimed as a credit. The organization must notify DOR of the intended tax credit amount. If the amount exceeds the limit specified in the act, DOR will notify the organization within 30 days. The taxpayer must make the contribution within 31 to 60 days after notifying the organization of the intent to contribute and will receive a receipt of payment.

DOR must consider notifications in the order they are received to ascertain whether the credits are within the annual limit under the act. The annual limit on total tax credits is \$5 million for each tax year it is available. Credits must be prorated among the notifications received on the day the limit is exceeded.

Organizations must submit audited financial information to DOR annually, which must be forwarded to the Governor and the Legislature by December 31 each year. DOR can adopt and promulgate rules and regulations. LB 1237 Page 11 provides the act must not be construed as granting any expanded or additional authority to the state to control or influence the governance or policies of any qualified school due to the fact that the school admits students who receive scholarships.

LB 1237 also adopts the Nebraska Child Care Contribution Tax Credit Act.

Beginning January 1, 2023, and ending January 1, 2028, the Department of Revenue shall provide a nonrefundable income tax credit for qualifying taxpayers that made contributions to an eligible child care and early childhood education program during the tax year. This includes contributions made to promote or enhance the quality of child care and early childhood education programs. The credit is equal to 50% or 75%, and a taxpayer shall not receive more than \$25,000 of 50% of the taxpayer's liability, whichever is less, per taxable year.

The credit is equal to 75% if the qualifying contribution made by a taxpayer was made to an eligible program that either (a) is located in a designated opportunity zone in Nebraska, or (b) that has at least one child enrolled in the child care subsidy program and is actively caring and billing for the child. For all other contributions, the credit shall be equal to 50%.

Under LB 1237, any credit received in excess of a taxpayer's liability, the taxpayer may carry this forward for up to five taxable years after the year the credit was first allowed.

REVENUE:

The Department of Revenue estimates the following impact on the General Fund:

FY 2022-23 \$ 0
FY 2023-24 \$ (10,000,000)
FY 2024-25 \$ (10,000,000)
FY 2025-26 \$ (10,000,000)

The Legislative Fiscal Office agrees that it seems reasonable to estimate the annual limit will be reached each year based on the data available.

We do not anticipate any significant reduction in General Fund expenditures related to state aid to schools pursuant to the Tax Equity and Educational Opportunities Support Act (TEEOSA). Many students impacted by LB 1237 could be transfer students from public schools to private schools. However, in order for there to be TEEOSA savings due to LB 1237, there would not only need to be a reduction in the number of students in the public school system, but also the reduction would need to be concentrated at the building or even classroom level to reduce expenditures.

EXPENDITURES:

The Department of Revenue estimates a one-time OCIO charge of \$199,991 in FY22-23 and 1.0 FTE Revenue Tax Specialist, beginning in FY22-23, to implement the bill. Total costs are \$238,891 in FY22-23 and \$68,700 in FY23024.

The Department of Education does not anticipate any administrative expenses.

There is no basis to disagree with these estimates.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 1237	AM:	AGENCY/POLT. SUB: Department of Revenue
REVIEWED BY: Neil Sullivan	DATE: 2/7/2022	PHONE: (402) 471-4179
COMMENTS: No basis to disagree with the Department of Revenue assessment of fiscal impact from LB 1237.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE

LB: 1237 AM: AGENCY/POLT. SUB: Nebraska Department of Education

REVIEWED BY: Gary Bush DATE: 1/31/22 PHONE: (402) 471-4161

COMMENTS: Unable to provide comment as the agency did not give an estimate of the impact to the agency.

B. Child Care Contribution Act

For taxable years beginning on or after January 1, 2023, and before January 1, 2028, the Childcare Contribution Act provides nonrefundable tax credits to taxpayers who make qualifying contributions for childcare and early childhood education purposes after applying for credits with DOR. DOR may approve up to \$5 million of credits. Taxpayers must apply for the credit with DOR by submitting documentation showing its contribution is a qualifying contribution and otherwise meets the Act’s requirements. LB 1237 defines eligible childcare and early childhood programs and what constitutes a qualifying contribution, including specific circumstances that do not qualify as contributions. If DOR finds the taxpayer qualifies, DOR must approve the application and certify the credit amount to the taxpayer. DOR must accept applications on an annual basis and consider them in the order received. Taxpayers may carry forward unused credits for up to five taxable years after the credits were earned. Credits cannot be carried back. The credits are subject to recapture if DOR finds the person obtained them by fraud or misrepresentation. DOR may recover credits later disallowed within three years after the end of the taxable year in which the credit was claimed.

For taxable years beginning on or after January 1, 2023, and before January 1, 2028, the nonrefundable credit will equal either 50% or 75% of the qualifying contribution made by the taxpayer during the tax year, not to exceed the lesser of \$25,000 or 50% of the State income tax liability of the taxpayer for any single tax year. Generally, the credit will equal 50% of the contribution, except it will equal 75% of the contribution if the eligible childcare and early childhood education program receiving the contribution has at least one child enrolled in the childcare subsidy program established under Neb. Rev. Stat. § 68-1202, and the childcare and education provider is actively caring for and billing for the child as verified by the Department of Health and Human Services.

DOR may adopt and promulgate rules and regulations to carry out the OSA and the Child Care Contribution Act. LB 1237 contains a severability clause.

The estimated fiscal impact to the General Fund revenues would be as follows:

FY 2022-23	\$ 0
FY 2023-24	\$ (10,000,000)
FY 2024-25	\$ (10,000,000)
FY 2025-26	\$ (10,000,000)

LB 1237 would require a one-time programming charge of \$199,991 paid to the OCIO for mainframe, web development changes, and for developing a tracking system. DOR will also require a Revenue Tax Specialist starting in January 2023 to implement this bill.

The operative date is three months after adjournment.

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2022

LB⁽¹⁾ 1237

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Education

Prepared by: ⁽³⁾ Bryce Wilson Date Prepared: ⁽⁴⁾ 1/24/22 Phone: ⁽⁵⁾ 402-471-4320

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2022-23		FY 2023-24	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	=====	=====	=====	=====

Explanation of Estimate:

LB 1237 creates a scholarship program for students wanting to attend private schools in the State of Nebraska. Students may qualify if; their families have gross income which does not exceed the reduced-price meals threshold set under the National School Lunch Program, is receiving an education scholarship for the first time after transferring from a public school, has previously received an education scholarship, or is a sibling of a student receiving an education scholarship.

This bill also creates an income tax credit for individuals, corporations, estates, etc. that contribute to qualifying organizations that grant scholarships for private schools for tax years 2023 through 2028. The annual amount is limited to \$5 million of total credits.

LB 1237 also creates the Nebraska Child Care Contribution tax credit for organizations donating to childcare programs that receive a quality rating as part of the step up to quality program. Contributions can be for several different but specific childcare related purposes but cannot be made to childcare programs that the donor receives direct benefit from. Credits for donors are limited to a max of \$25,000 per filer and a total of \$5 million annually.

This bill may result in reduced income tax revenue up to a total of \$10 million for tax years 2023 through 2028 as a result of the tax credits offered for entities making contributions to scholarship granting organizations to private schools or qualifying childcare programs.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

POSITION TITLE	NUMBER OF POSITIONS		2022-23 EXPENDITURES	2023-24 EXPENDITURES
	22-23	23-24		
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Benefits	_____	_____	_____	_____
Operating			_____	_____
Travel			_____	_____
Capital outlay			_____	_____
Aid			_____	_____
Capital improvements			_____	_____
TOTAL			_____	_____