

**FISCAL NOTE**  
 LEGISLATIVE FISCAL ANALYST ESTIMATE

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES</b> (See narrative for political subdivision estimates)				
	<b>FY 2024-25</b>		<b>FY 2025-26</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS	\$260,457			
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>	\$260,457			See Below

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

LB 825 would establish the Nebraska Farmers of Color Opportunity Act.

Under the bill, a taxpayer who would make a cash contribution to a qualified granting organization is eligible for a nonrefundable income tax credit equal to the lesser of: (1) the total amount of the contributions made during the tax year; or (2) 50% of the income tax liability of the taxpayer for the tax year. A taxpayer could only claim a credit for the portion of the contribution not claimed as a charitable contribution under the Internal Revenue Code. Any unused credit could be carried forward and applied against tax liability for 5 years immediately following the tax year the credit is first allowed, but could not be carried back. A qualified granting organization under the Act would be one that is a 501(c)(3) organization and would offer one or more grant programs for eligible farmers. Eligible farmers would be individuals who are black residents of Nebraska with a primary source of income of crop or livestock production in the state.

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 each. 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 organization is to then promptly notify the taxpayer that the credit is unavailable. If the amount of available tax credits is less than the amount hoping to be claimed by the taxpayer, the organization shall notify the taxpayer of the available amount within three business 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.

The DOR must consider notifications in the order they are received to determine whether the credits are within the annual limit under the Act. The annual limit on total tax credits would be \$25 million in calendar year 2025, and would increase by 125% in each following calendar year if the amount granted exceeded 90% of the annual limit in the prior year. If less than 90% was granted, the credit would remain the same for the following year. The Department of Agriculture and the DOR would publish on their website's information identifying the annual limit when it would be increased. Credits would be prorated among the notifications received on the day the limit is exceeded.

Organizations must submit audited financial information and summary descriptions to DOR by December 1 annually, which must be forwarded to the Governor and the Legislature by December 31 each year.

The DOR could adopt and promulgate rules and regulations to carry out the Act.

The bill would be operative for all tax years beginning or deemed to begin on or after January 1, 2025.

The DOR estimates an unknown negative impact to General Fund revenues. The DOR notes that the impact is unknown due to a small number of black farmers, 22, in the state, which would benefit from the credit and the fact that there is an unknown dollar limit for the grants to eligible farmers under the bill. Thus, the impact is unknown but could be up to the possible limit for credits.

The DOR also estimates a one-time programming charge of \$260,457 to be paid to the Office of the Chief Information Officer (OCIO) as a result of this bill. There is no basis to disagree with this estimate.

The Department of Agriculture estimates no fiscal impact to it as a result of the bill. There is no basis to disagree with this estimate.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 825	AM:	AGENCY/POLT. SUB: Department of Revenue
REVIEWED BY: Neil Sullivan	DATE: 2/16/2024	PHONE: (402) 471-4179
COMMENTS: No basis to disagree with the Department of Revenue assessment of indeterminate revenue impact from LB 825.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 825	AM:	AGENCY/POLT. SUB: Department of Agriculture
REVIEWED BY: Neil Sullivan	DATE: 2/16/2024	PHONE: (402) 471-4179
COMMENTS: The Department of Agriculture assessment of no fiscal impact from LB 825 appears reasonable.		



amount and the qualified organization must notify the taxpayer of the available amount within three business days.

To be allowed a credit under the Act, the taxpayer must make its contribution between 31 and 60 days of notifying the qualified organization of their intended tax credit. If the contribution is not timely received, the qualified organization must notify DOR and DOR must not include that amount when calculating whether the annual limit is exceeded.

DOR must consider notifications of intended tax credit amounts in the order received. The annual limit for tax credits for calendar year 2025 is \$25 million. For calendar year 2026 and after, the annual limit is calculated by taking the annual limit from the prior calendar year and multiplying such amount by:

- (a) 125%, if the intended tax credit amounts in the prior calendar year exceeded 90% of the annual limit for that calendar year; or
- (b) 100%, if the intended tax credit amounts did not exceed 90% of the annual limit for that calendar year.

The Department of Agriculture and DOR must publish on their website information identifying when the annual limit is increased under the Act. Once credits have reached the designated annual limit for a calendar year, no additional credits shall be allowed for such calendar year. Credits must be prorated among the notifications received on the data the annual limit is exceeded.

#### Certification of Qualified Granting Organizations:

An eligible organization must apply to become certified with DOR before providing grants under the Act. Eligible organizations are required to allocate revenue as follows:

- (a) if the annual limit on tax credits is less than \$35 million, the organization must allocate at least 90% for grants and no more than 10% can be used or reserved for administrative costs; and
- (b) if the annual limit on tax credits is \$35 million or more, the organization must allocate at least 95% for grants and no more than 5% can be used or reserved for administrative costs.

Revenue is allocated when it is expended or otherwise irrevocably encumbered for expenditure. The percentage must be measured as a monthly average over the most recent 24-month period, or for an organization certified for less than 24 months, over the period of time the organization has been certified.

No later than December 1 each year, each organization must annually submit to DOR an audited financial information report that is certified by an independent public accountant. DOR must electronically forward the reports and summary descriptions to the Governor and Legislature no later than December 31 each year.

#### Fiscal Impact:

It is estimated that the Act will have an unknown negative impact to general fund revenues, up to \$25 million. DOR is unable to estimate the fiscal impact because we cannot estimate the uptake rate for this credit given a very small number of black farmers in the Nebraska. Based on the 2017 USDA data, there are only 22 black farmers in the Nebraska. In addition, the Act does not have specific dollars amount (XX dollars) limit on the grants for an eligible farmer.

LB 825 will require a one-time programming charge of \$260,457 paid to the OCIO for the following: adding a line to forms 1065N, 1041N, and NebFile for individuals, changes to the mainframe, and developing a tracking system.

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

**2024**

**LB<sup>(1)</sup> 825**

**FISCAL NOTE**

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

Prepared by: <sup>(3)</sup> Ashley Dempsey Date Prepared: <sup>(4)</sup> 1/4/2023 Phone: <sup>(5)</sup> 402-429-2487

**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	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	=====	=====	=====	=====

Explanation of Estimate:

No fiscal impact.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2024-25</u>	<u>2025-26</u>
	<u>24-25</u>	<u>25-26</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____