

Revised due to adoption of amendments.

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2015-16		FY 2016-17	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	\$54,106	\$0	\$50,285	(\$2,950,000)
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$54,106	\$0	\$50,285	(\$2,950,000)

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

LB 423, as amended by AM1103, amends Nebraska Revised Statutes regarding the renewable energy tax credit.

Current statute provides for a nonrefundable tax credit for any producer of electricity generated by a renewable energy source that is located in Nebraska and is approved by the Department of Revenue as a community-based energy development project. The bill as amended provides for a credit that is either (but not both) of the following:

- A) For each kilowatt-hour (kwh) of electricity generated by a facility that begins commercial operation after the effective date of LB 423, this credit may be earned for the first ten years of commercial operation as follows;
 - For the first two years of commercial operation a credit equal to 1.0 cents for each kwh generated;
 - For the next two years of commercial operation a credit equal to 0.9 cents for each kwh generated;
 - For the next two years of commercial operation a credit equal to 0.8 cents for each kwh generated;
 - For the next two years of commercial operation a credit equal to 0.7 cents for each kwh generated;
 - For the next two years of commercial operation a credit equal to 0.6 cents for each kwh generated; OR
- B) A one-time credit equal to 30% of the total cost of construction of a renewable energy electric generation facility that begins commercial operation after the effective date of LB 423, this credit shall not exceed \$2 million.

The taxpayer must select which credit option they are going to use and notify the Department of Revenue of their selection prior to placing the facility into commercial operation.

The bill defines renewable electric generation facility to mean a renewable electricity generation facility located in Nebraska that qualifies as a community-based energy development project (C-BED).

If the facility has a nameplate capacity of 20 megawatts or less, the tax credit may be transferred, sold, pledged, or assigned multiple times either in whole or in part. The holder of the credit may carry it forward for a maximum of five years after the first year in which it is claimed. The credit may be used against income tax liability, the insurance premium tax, and the franchise tax, but may no longer be used to obtain a refund of sales and use taxes.

The credit has a current cap of \$50,000 total for all taxpayers; that cap is removed.

The bill, as amended, now requires the Department of Revenue to provide an annual report to the Legislature on July 1, 2017 and each July 1 thereafter, detailing the number of facilities receiving credits, the amount of credits earned, the amount of credits claimed, and the amount of credits outstanding.

The credits may be claimed for tax years beginning on or after January 1, 2017.

The bill, as amended by AM1103 (as amended by AM1328), provides that the section of statute providing for the credit terminates on December 31, 2021, unless extended by the Legislature. It is unclear if this means no new credits or facilities will be approved or that no credits may be taken after that date.

The Department of Revenue estimates that the credit will result in one to two additional C-BED projects each year, using wind as a fuel source, with electrical generation capacity of less than 80 megawatts.

We estimate the following fiscal impact to the General Fund as a result of LB 423, as amended by AM1103:

FY2015-16:	(\$ 0)
FY2016-17:	(\$ 2,950,000)
FY2017-18:	(\$ 8,500,000)
FY2018-19:	(\$ 13,450,000)
FY2019-20:	(\$ 14,900,000)

The Department of Revenue estimates the cost to implement LB 423 will require 1.0 FTE Fiscal Compliance Analyst to administer the bill. PSL will be \$36,922 for FY2015-16 and \$37,808 for FY2016-17.

There is no basis to disagree with the Department of Revenue's estimate of cost.