PREPARED BY: Keisha Patent
DATE PREPARED: August 05, 2020
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LB 1107

Revision: 01

Revised due to adoption of amendments on General File

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)

	FY 2020-21		FY 2021-22	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	($12,387,595)	($95,000,000)	($12,863,285)	($135,000,000)
CASH FUNDS		($30,000,000)		
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	($12,387,595)	($125,000,000)	($12,863,285)	($135,000,000)

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

As amended on General File by AM3316 and AM3349, LB 1107 adopts the ImagiNE Nebraska Act, the Key Employer and Jobs Retention Act, the Renewable Chemicals Production Tax Credit Act, the Customized Job Training Act, the Nebraska Transformational Projects Act, and the Nebraska Property Tax Incentive Act. The bill also amends provisions of the Property Tax Credit Act and eliminates the Personal Property Tax Relief Act for tax year 2020 and thereafter.

The operative date is January 1, 2021 for provisions related to the ImagiNE Nebraska Act, the Key Employer and Jobs Retention Act, the Renewable Chemicals Production Tax Credit Act, the Customized Job Training Act, the Nebraska Transformational Projects Act. Provisions related to the Nebraska Property Tax Incentive Act, the Property Tax Credit Act, and the Personal Property Tax Relief Act are operative on their effective date.

<u>ImagiNE Nebraska Act:</u> The act provides for tax incentives for qualifying taxpayers at qualified locations.

A qualified location means a location where a majority of business is: manufacturing; testing laboratories; rail transportation; truck transportation; insurance carriers; wired or wireless telecommunications carriers (except satellite); telemarketing bureaus; data processing; computer facilities management services; warehousing and storage; administrative management of the taxpayer's activities; logistics facilities; services provided on aircraft; research, development, or testing for scientific, agricultural, animal husbandry, food product, industrial, or technology purposes; production of electricity using renewable energy; computer systems design; financial services; or any other business location where at least 75% of revenue is from sales to customers who are not related that are delivered outside Nebraska.

To use incentives under the act, the taxpayer must apply with the Department of Economic Development (DED), requesting an agreement. The application fee is $5,000. There must be no new application filed after December 31, 2030. The fee is credited to the Nebraska Incentives Fund.

If approved, DED and the taxpayer will enter into an agreement regarding qualified location(s); documentation to claim an incentive; application date; E-verify number(s); and requirements that the taxpayer provide: (1) any needed information to perform responsibilities under the act, (2) an annually updated table of sales and use tax refunds, (3) any changes in plans which will affect the level of new investment of number of new employees, (4) the value of health coverage provided to employees, (5) information that the taxpayer is not violating laws against discrimination, and (5) information that the taxpayers offers sufficient employee benefits.

The taxpayer can request review and certification from DED that the predominant business activity at the location(s) in the application are qualified locations and from the DOR that base year employment and wage levels are as reported. If not requested, these items are subject to audit by DOR.

An agreement is valid for up to 15 years. Employment and investment levels must be reached by the end up the ramp up period. The ramp up period is the four years after the year of the application. Credits can be used in the order they were first allowed, and when credits are the same age, credits from an older tax incentive program (e.g. Nebraska Advantage) must be applied first. Credits can be used beginning with the taxable year the minimum levels were reached. The performance period is the year the employment and investment were met and the following 6 years, and the carry over period is the 3 years after the performance period.

The bill prescribes the levels of investment and employment that qualify for incentives:
- 20 new employees;
- Investment of $250,000 to $1,000,000 and 5 new employees within economic redevelopment areas;

- Investment of $1 million and 10 new employees;
- Investment of $5 million and 30 new employees;
- Investment of $250 million and 250 new employees; and
- Investment of $50 million.

Only hours paid to employees who are Nebraska residents are included in the computation to determine the number of equivalent employees.

At each level, the taxpayer is eligible for some or all of the following: wage credits, investment tax credits, sales tax refunds, personal property tax exemptions, and real property tax refunds. For certain investment levels, the wage and investment credits are increased by one percentage point (1) for wages and investments in extremely blighted areas; or (2) is the taxpayer is a benefit corporation.

Wage credits can be used to reduce to reduce employer withholding, subject to limitations. Wage credits or investment credits can be used against income tax liability, to repay job training or infrastructure development loans, to receive payment from the state equal to the amount paid for job training and talent recruitment, to receive payment for amounts paid for childcare at qualified locations, or to obtain a refund of sales and use taxes which are not subject to direct refund.

To claim an investment credit, a taxpayer must pay a fee of 0.5% of the incentive claimed, which can be paid via a sales and use tax return, direct payment, or withholding of a refund. The fee is to be credited to the ImagiNE Nebraska Cash Fund.

Refund claims can only be filed after levels of employment and investment have been met and can only be filed once per quarter, except a refund exceeding $25,000 can be filed at any time. Refunds must be paid within 180 days, but are subject to later recovery upon an audit by the Tax Commissioner.

DED must make determinations of whether: an application under the act is complete; a location is a qualified location; and to approve an application and sign the agreement. All other interpretations of the act are made by the Tax Commissioner. DOL must provide DED with information requested.

The Tax Commissioner or other taxing authority can recover any payment, exemption, or allowance upon review or audit. The bill specifies the amount of recapture if the taxpayer fails to meet required levels within the specified time period. LB 1107 includes transferability provisions.

LB 1107 permits DED to contract with DOR for services necessary to fulfill DED's responsibilities under the act and requires the Tax Commissioner to maintain an electronic application and reporting system to be used by DED and DOR. DED, within input from DOR, can adopt and promulgate rules and regulations to carry out the act.

Beginning in 2021, DED and DOR must jointly submit an annual report to the Legislature by October 31 each year and the report must include certain information regarding agreements, total incentives issues, and other information. DED and DOR must also jointly appear at a hearing before the Appropriations and Revenue Committees of the Legislature annually by December 15.

DED and DOR must jointly submit an annual report to the Legislature by October 15 and February 15 each year and, on or before April 15 in odd numbered years, provide an estimate of sales and use tax refunds to be paid and tax credits used based on recent data. The estimate must be sent to the Legislative Fiscal Analyst, the Nebraska Economic Forecasting Board (NEFAB), and the Governor. Base authority equals $25 in 2021 and 2022; $100 million 2023 and 2024; $150 million in 2025; and 3% of the actual General Fund net receipts for 2026 and each year thereafter.

DOR must notify municipalities liable for refunds exceeding $1,500 by March 1 each year and deduct the refund in monthly installments beginning the following January if total annual refunds exceed $1 million or 25% of the municipality's sales and use tax receipts. Qualifying businesses who filed an application to receive incentives under the Employment and Investment Growth Act, the Nebraska Advantage Act, and the ImagiNE Nebraska Act must provide on or before June 30 annually to each municipality, in aggregate data, the maximum amount the business is eligible to receive in sales and use tax refunds for the previous year and an estimate of sales and use taxes the business intends to claim. Amounts held by a municipality to make sales and use tax refunds pursuant to the Employment and Investment Growth Act, the Nebraska Advantage Act, and the ImagiNE Nebraska Act do not count toward restricted funds or cash reserve budget limitations.

<u>Nebraska Revolving Loan Fund</u>: LB 1107 also creates the ImagiNE Nebraska Revolving Loan Fund, administered by DED, to offer workforce training or infrastructure development loans to taxpayers with applications under the ImagiNE Act. The bill includes intent language to transfer $5 million per year from the General Fund to the ImagiNE Nebraska Revolving Loan Fund in FY 22-23 and FY23-24, and intent to appropriate $5 million Cash Funds per year each of those years for a workforce training and infrastructure development revolving loan program.

<u>Key Employer and Jobs Retention Act:</u> The act provides a wage retention credit for a key employer, which is defined as a taxpayer that employs at least 1,000 employees, offers insurance and benefits, enforces a policy against discrimination, electronically verifies work eligibility, has gone through a change in ownership in the previous 24 months, is at risk of moving more than 1,000 employees out of the state, is a qualified business, and retains at least 90% of its base-year employment.

The amount of the credit must not exceed $4 million per year, or $40 million total over ten years. A taxpayer must apply and enter into an agreement with DED. Applications and agreements must be entered into by May 31, 2021. The act provides for recapture and transferability of credits. Credits can be used against withholding or income tax liability. DED and DOR must submit a report to the Legislature by October 31 each year.

Renewable Chemicals Production Tax Credit Act: LB 1107 incorporates provisions of LB 605 and creates a refundable tax credit equal to 7.5 cents per pound of chemical produced for eligible renewable chemical businesses. Eligible businesses must produce at least one million pounds of renewable chemicals in the state the year the tax credit is sought and must meet location and application requirements. Credits are subject to repayment or recapture if the business fails to fulfil any requirements of the act or terms of their agreement.

The maximum credit per business per year is $1.5 million and is not available for chemicals produced prior to 2022. Applications can be approved for up to $3 million in credits for 2022 and 2023, and up to $6 million in credits per year in 2024 and thereafter.

DOR must submit an annual report on or before January 31, 2024, and each January 31 thereafter to the Legislature's Revenue Committee, and the report must contain certain information. DED and DOR can adopt and promulgate rules and regulations.

Customized Job Training Act: LB 1107 creates a grant program to reimburse employers for job training expenses. Grants are available to employers creating net new jobs or jobs resulting in a net increase in wages per employee. DED is required to create an application, approve applications, authorize the total amount of grants awarded, and submit an annual report to the Legislature including certain information.

Nebraska Transformational Projects Act: The act allows Nebraska postsecondary institutions with a college of medicine to apply for matching funds for a federally awarded project. Applications are due December 31, 2021, and the institution must enter into an agreement with DED. The institution must make an investment of $1.6 billion, of which $1 billion must be federal funding, before the end of the transformational period (10th year after application year). By the end of the continuation period (5 years after the transformational period), the institution must obtain $300 million in private donations.

The institution is entitled to matching funds of the remaining $300 of the total $1.6 billion investment if: (1) the commitments of investment of $1.3 billion have been secured; (2) the institution is selected for participation in the required federal program; and (3) the total amount of credits under the Nebraska Property Tax Refund Act reaches $375 million. LB 1107 creates the Nebraska Transformational Projects Fund, and transfers to the fund for matching funds pursuant to the act are allowed beginning in FY 25-26, subject to appropriation of the Legislature.

Nebraska Property Tax Incentive Act: The act provides a refundable income tax credit for any taxpayer who pays school district taxes, which is property taxes levied by a school district or school system, excluding property taxes levied for bonded indebtedness and property taxes levied as a result of an override of limits on property tax levies approved by voters.

Beginning tax year 2020, the credit is equal to the credit percentage determined by DOR multiplied by the amount of school district taxes paid during the tax year. For pass through entities, the credit will be allocated in the same proportion that income is distributed. DOR must provide forms and schedules for verifying eligibility. DOR must also develop a procedure for eligible taxpayers who are not subject to Nebraska income tax to claim and receive the credits. DOR can adopt and promulgate rules and regulations.

The credit percentage is set so the total amount of credits does not exceed $125 million. In tax year 2021 to 2023, the total amount of credits is the amount of credits the previous year, plus any amount added pursuant to section 77-4602. Section 77-4602 requires the Tax Commissioner to determine whether the Cash Reserve Fund balance is more or less than $500 million at the end of the fiscal year.

Additionally, the Tax Commissioner must determine: (1) the actual net receipts minus estimated net receipts; and (2) actual net receipts minus 103.5% of estimated net receipts. If both numbers are positive, but the balance in the Cash Reserve Fund is less than $500 million, 50% of the amount calculated in (2) is added to the amount of the income tax credit. If both numbers are positive, but the balance in the Cash Reserve Fund is more than $500 million, 100% of the amount calculated in (2) is added to the amount of the income tax credit. Regardless of the amount the credit grows due to the formula in section 77-4602, the amount of the credit in 2024 must be $375 million.

Beginning in 2025, the amount of the credit is the maximum amount of the credit in the prior year plus the allowable growth percentage. The allowable growth percentage is defined as the percentage increase, if any, in total assessed value of all real property from the prior year to the current year.

Nebraska Property Tax Credit Act: LB 1107 codifies a minimum amount of relief pursuant to the act of $275 million per year and adds that if money is transferred or credited to the Property Tax Credit Cash Fund pursuant to any other state law, such amount shall be added to the minimum amount for purposes of determining the amount of relief under the act.

Personal Property Tax Relief: The act is eliminated for tax year 2020 and thereafter.

The bill contains the emergency clause.

Revenue:

DOR estimates the impact to the General Fund as follows:

Fiscal Year	Tax Incentive (ImagiNE + Other Incentives)	New Refundable Property Tax Credit	Sunset Personal Property Tax Exemption	Total General Fund Revenues
FY 2020-21	-	$ (125,000,000)	$14,800,000	$ (110,200,000)
FY 2021-22	$ (10,000,000)	$ (145,000,000)	$15,200,000	$ (139,800,000)
FY 2022-23	$ (24,000,000)	$ (165,000,000)	$15,600,000	$ (173,400,000)
FY 2023-24	$ (50,000,000)	$ (185,000,000)	$15,756,000	$ (219,244,000)
FY 2024-25	$ (66,000,000)	$ (375,000,000)	$15,914,000	$ (425,086,000)
FY 2025-26	$ (88,000,000)	$ (388,000,000)	$16,073,000	$ (459,927,000)
FY 2026-27	$ (107,000,000)	$ (402,000,000)	$16,234,000	$ (492,766,000)
FY 2027-28	$ (125,000,000)	$ (416,000,000)	$16,396,000	$ (524,604,000)
FY 2028-29	$ (141,000,000)	$ (431,000,000)	$16,560,000	$ (555,440,000)
FY 2029-30	$ (156,000,000)	$ (446,000,000)	$16,726,000	$ (585,274,000)
FY 2030-31	$ (168,000,000)	$ (462,000,000)	$16,893,000	$ (613,107,000)

This estimate of General Fund revenue loss includes the loss attributed to the incentives and credits contained within the bill. However, the revenue loss does not include the intent to transfer $5 million per year from the General Fund to the ImagiNE Nebraska Revolving Loan Fund in FY 22-23 and FY23-24, nor does it include the obligation to transfer from the General Fund to the Nebraska Transformational Projects Fund, beginning in FY25-26. The bill also requires a transfer of $30 million from the Cash Reserve Fund to the General Fund in FY 20-21.

We disagree with DOR that the changes to the personal property tax exemption result in General Fund revenue gain because the program is an expenditure, and eliminating the exemption results in a decrease in General Fund expenditures.

In addition, we disagree with the increase in the revenue loss attributed to Property Tax Incentive Act in FY21-22, 22-23, and 23-24 because, as the bill is currently written, we estimate revenue would have to exceed 103.5% of the certified forecast for the total amount of the income tax credit to increase in those years, which we do not estimate will occur. As a result, we estimate the credit remains at $125 million those years.

As a result, we estimate the overall impact to General Fund revenue to be as follows:

Fiscal Year	Tax Incentive (ImagiNE + Other Incentives)	New Refundable Property Tax Credit	Nebraska Transformational Projects Fund*	Cash Reserve Fund	Nebraska Revolving Loan Fund	Total General Fund Revenues
FY 2020-21	-	$ (125,000,000)	-	$30,000,000	-	$ (95,000,000)
FY 2021-22	$ (10,000,000)	$ (125,000,000)	-	-	-	$ (135,000,000)
FY 2022-23	$ (24,000,000)	$ (125,000,000)	-	-	$(5,000,000)	$ (154,000,000)
FY 2023-24	$ (50,000,000)	$ (125,000,000)	-	-	$(5,000,000)	$ (180,000,000)
FY 2024-25	$ (66,000,000)	$ (375,000,000)	-	-	-	$ (441,000,000)
FY 2025-26	$ (88,000,000)	$ (388,000,000)	$(50,000,000)	-	-	$ (526,000,000)
FY 2026-27	$ (107,000,000)	$ (402,000,000)	$(50,000,000)	-	-	$ (559,000,000)
FY 2027-28	$ (125,000,000)	$ (416,000,000)	$(50,000,000)	-	-	$ (591,000,000)
FY 2028-29	$ (141,000,000)	$ (431,000,000)	$(50,000,000)	-	-	$ (622,000,000)
FY 2029-30	$ (156,000,000)	$ (446,000,000)	$(50,000,000)	-	-	$ (652,000,000)
FY 2030-31	$ (168,000,000)	$ (462,000,000)	$(50,000,000)	-	-	$ (680,000,000)

*Assumes annual transfers of equal amounts, beginning in FY25-26, totaling $300 million.

Finally, the provisions requiring a minimum amount of relief of $275 million annually pursuant to the Nebraska Property Tax Credit Act have no impact on General Fund revenue.

Expenditures:

We estimate the reduction in General Fund expenditures due to the elimination of the personal property tax exemption as follows:

Eliminate Personal Property Tax Exemption
$(14,800,000)
$(15,200,000)
$(15,600,000)
$(15,756,000)
$(15,914,000)
$(16,073,000)
$(16,234,000)
$(16,396,000)
$(16,560,000)
$(16,726,000)
$(16,893,000)

DOR estimates administrative expenditures for:

- 1.0 FTE Revenue Agent Senior each year;
- 1.0 FTE Revenue Operations Clerk II each year;
- 1.5 FTE Revenue Agents each year;
- 0.5 FTE Auditor in FY 20-21, increasing to 1.5 FTE in FY 21-22 and thereafter;
- 0.5 FTE IT Business Systems Analyst for two years;
- 1.0 FTE Fiscal Compliance Analyst in FY 21-22, increasing to 2.0 FTE in FY 22-23;
- 1.0 FTE Applications Developer Senior each year;
- A one-time programming charge of $450,000 to OCIO for the ImagiNE Nebraska Act and Revolving Loan Fund programming for computer programming, which was included in the costs associated with DED in the original fiscal note, but is estimated by DOR to be a responsibility of DOR; and
- A one-time programming charge of $436,000 to OCIO for the Property Tax Incentive Act.

Total administrative costs estimated to implement the bill are $1,259,100 in FY 20-21 and $456,600 in FY 21-22. There is no basis to disagree with this estimate.

DED estimates administrative expenditures for:

- A one-time charge of $200,000 to OCIO for computer programming for the Renewable Chemical Production Act;
- A one-time charge of $50,000 for contract services in FY 20-21;
- A one-time charge of $125,000 to contract with Department of Labor in FY20-21;
- Increased rent expense of $16,500 in FY 20-21 and $30,000 in FY 21-22;
- A one-time cost of $50,000 for grant management software;
- Travel expenses for two vehicles totaling $136,735 in FY 20-21 and $94,535 in FY 21-22;
- 0.8 FTE Economic Development Division Administrator in FY 20-21, increasing to 1.0 FTE in FY 21-22 and thereafter;
- 0.75 FTE Economic Development Manager in FY 20-21, increasing to 1.0 FTE in FY 21-22 and thereafter;
- 2.0 FTE Economic Development Business Consultant in FY 20-21, increasing to 6.0 FTE in FY 21-22 and thereafter;
- 0.75 FTE Attorney III in FY 20-21, increasing to 1.0 FTE in FY 21-22 and thereafter;
- 0.5 FTE Attorney II in FY 20-21, increasing to 1.0 FTE in FY 21-22 and thereafter;
- 0.75 FTE Economic Development Financial Packager in FY 20-21, increasing to 2.0 FTE in FY 21-22 and thereafter;
- 0.75 FTE Internal Auditor in FY 20-21, increasing to 1.0 FTE in FY 21-22 and thereafter; and
- 0.5 FTE Revenue Economist in FY 20-21, increasing to 1.0 FTE in FY 21-22 and thereafter.

Total administrative costs, including the one-time charges, salary and benefits for employees, travel, and capital outlay, are estimated to be $1,153,305 in FY 20-21 and $1,880,115 in FY 21-22. There is no basis to disagree with this estimate. In addition, we agree with DED that there will be insufficient funds in the ImagiNE Nebraska Cash Fund to pay for administrative costs in the first two years.

The University of Nebraska estimates the impact to the University, if an application is approved and criteria are met, could be $300 of matching funds pursuant to the Nebraska Transformational Projects Act, beginning in FY 25-26. There is no basis to disagree with this estimate.

The Customized Job Training Act creates a grant program, but does not include any intent to appropriate funds. There is no fiscal impact to this program at this time.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 1107	AM: 3316 3349	AGENCY/POLT. SUB: Department of Revenue
REVIEWED BY: Lee Will	DATE: 08/10/2020	PHONE: (402) 471-4175
COMMENTS: The Department of Revenue's assessment of fiscal impact seems reasonable given the assumptions used.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 1107	AM: 3349	AGENCY/POLT. SUB: Department of Economic Development
REVIEWED BY: Lee Will	DATE: 08/10/2020	PHONE: (402) 471-4175
COMMENTS: The Department of Economic Development's estimate of costs associated with administering the provisions of the bill seem reasonable given the assumptions provided.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 1107	AM: 3316, 3349	AGENCY/POLT. SUB: University of Nebraska
REVIEWED BY: Lee Will	DATE: 08/10/2020	PHONE: (402) 471-4175
COMMENTS: Concur with the University of Nebraska's assessment of fiscal impact. The bill further outlines that no state matching funds will be provided prior to FY 2025-26 or before the total amount of refundable credits in the NE Property Tax Incentive Act reaches $375 million.		

State Agency Estimate

State Agency Name: Department of Revenue — Date Due LFA:

Approved by: Tony Fulton — Date Prepared: — Phone: 471-5896

	FY 2020-2021		FY 2021-2022		FY 2022-2023	
	Expenditures	Revenue	Expenditures	Revenue	Expenditures	Revenue
General Funds	($13,540,900)	($95,000,000)	($14,743,400)	($135,000,000)	($15,117,500)	($149,000,000)
Cash Funds		($30,000,000)			$5,000,000	$5,000,000
Federal Funds						
Other Funds						
Total Funds	($13,540,900)	($125,000,000)	($14,743,400)	($135,000,000)	($10,117,500)	($144,000,000)

LB 1107 as amended by AM 3316 and AM adopts the ImagiNE Nebraska Act, the ImagiNE Nebraska Revolving Loan Fund, the Nebraska Transformational Projects Act, the Key Employer and Jobs Retention Act, the Renewable Chemical Production Tax Credit Act, the Customized Job Training Act and the Nebraska Property Tax Incentive Act.

The ImagiNE Nebraska Act

The ImagiNE Nebraska Act (Act) allows taxpayers who enter into an agreement with the Department of Economic Development (DED) to obtain tax benefits based on new investment and employment at qualified locations. An agreement may consist of a single location, all qualified locations within a single county, all qualified locations within more than one county, or all qualified locations within the state.

A qualified location is a location where the majority of the business activities conducted are within the following NAICS codes and descriptions.

a. Manufacturing – 31, 32, or 33, including pre-production services;
b. Testing laboratories – 541380;
c. Rail Transportation – 482;
d. Truck Transportation – 484;
e. Insurance Carriers – 5241;
f. Wired Telecommunications Carriers – 517311;
g. Wireless Telecommunications Carriers (except Satellite) – 517312;
h. Telemarketing Bureaus and Other Contact Centers – 561422;
i. Data Processing, Hosting, and Related Services – 518210;
j. Computer Facilities Management Services – 541513;
k. Warehousing and Storage – 4931;
l. The administrative management of the taxpayer's activities, including headquarter facilities relating to such activities, or the administrative management of any of the activities of any business entity or entities in which the taxpayer or a group of its owners hold any direct or indirect ownership interest of at least ten percent, including headquarter facilities relating to such activities;
m. Logistics Facilities – Portions of NAICS 488210, 488310, and 488490 dealing with independently operated trucking terminals, independently operated railroad and railway terminals, and waterfront terminal and port facility operations;
n. Services provided on aircraft not based or registered in the states;
o. Research, development, or testing, or any combination thereof, for scientific, agricultural, animal husbandry, food product, industrial, or technology purposes;
p. Using one or more sources of renewable energy to product electricity for sale. For purposes of this subdivision, sources of renewable energy includes, but is not limited to, wind, solar, energy storage, geothermal, hydroelectric, biomass, and transmutation of elements;
q. Computer System Design and Related Services – 5415; or

r. The performance of financial services. For purposes of this subdivision, financial services includes only financial services provided by any financial institution subject to tax under Chapter 77, article 38, or any person or entity licensed by the Department of Banking and Finance or the federal Securities and Exchange Commission;
s. Any business location where at least 75% of revenue at the location is derived from sales to customers who are not related persons, which are delivered out of state. Intermediate sales to related persons within the state are included as sales to persons outside the state if the related person sells the goods or services to a location outside Nebraska.
   a. Even if the qualified location meets the 75% test, the location is not a qualified location under this subsection if a majority of the business activities are one or more of the following:
      i. Agriculture, forestry, fishing, and hunting – 11;
      ii. Transportation and Warehousing – 48-49;
      iii. Information – 51;
      iv. Utilities – 22;
      v. Mining, quarrying and oil and gas extraction – 21;
      vi. Public Administration – 92; or
      vii. Construction – 23;

Taxpayers who want to participate in the program must submit an application to the DED. The application must include a nonrefundable $5,000 application fee which is remitted to the Nebraska Incentive Fund. Applications will be accepted until December 31, 2030.

The Director will not approve applications that would include refunds or credits in a calendar year in which the base authority is projected to be exceeded unless the Director is granted additional authority from the Governor. Applications that are not approved because the base authority has been exceeded will be placed on a wait list in the order they have been received and will be given first priority once applications may be approved again.

Prior to entering into an agreement, the taxpayer may request that DED certify that each location is a qualified location under the Act. The taxpayer may also request that the Department of Revenue (DOR) certify the base-year employment. If the taxpayer does not request certification, the location's majority business activity and or base-year employment level will be subject to audit. If the application is approved, the taxpayer will enter into an agreement with DED. The Tax Commissioner is to develop and maintain an electronic application and reporting system.

The Agreement will require that the taxpayer not violate any state or federal law against discrimination, provide a sufficient benefits package, and offer health coverage to its full-time employees. The agreement will also lay out reporting requirements and state that the Tax Commissioner may defer pending incentive utilization if a taxpayer has not compiled with the reporting requirements.

The Director will disclose to any municipalities in which a project location exists, the approval of an application and the execution of an agreement. The Tax Commissioner will notify each municipality of the amount and taxpayer identity for each refund of local option sales and use taxes of the municipality within thirty days after the refund is allowed or approved.

The following benefits are available to taxpayers that meet the required levels of employment and investment:

	Quality Jobs Investment	Quality Jobs	Mega-Project	Modern-ization	Growth and Expansion	Manufacturing Growth and Expansion	Rural Manufact-uring	Economic Redevelop-ment Area
Number of Jobs (FTE)	30	20	250	0	10	10	5	5
Investment ($M)	$5	None	$250	$50	$1	$1	$1	At least $250,000 but less than $1 M
Wage Threshold	100% Statewide Average	100% Statewide Average	150% Statewide Average	150% Statewide Average	90% Statewide Average	75% Statewide Average	70% Statewide Average	70% Statewide Average
Wage Credit	5% @ 100% SA; 7% @ 150% SA; 9% @ 200% SA		7% @ 150% SA; 9% @ 200% SA	None	4%	4%	6%	6%
Investment Tax Credit	7%	None	7%	None	4%	4% if $10M or less; 7% if over $10M	4% if $10M or less; 7% if over $10M	4%
Sales Tax Refund - Exemption	Yes	Yes	Yes	Yes	No	No	No	No
Personal Property Tax Exemption	Data center, business equipment used directly in manufacturing or processing ag products	None	All	Data center, business equipment used directly in manufacturing or processing ag products	None	None	None	None
Location					Any	County population greater than 100,000	County population under 100,000	Economic Redevelopment Area
Business Type					Any	Manufacturing and aircraft repair	Manufacturing and aircraft repair	

An Economic Redevelopment Area is an area in which (i) the average rate of unemployment in the area during the period covered by the most recent federal decennial census or American Community Survey 5-Year Estimate is at least 150 percent of the average rate of unemployment in the state during the same period and (ii) the average poverty rate in the area exceeds twenty percent of the total federal census tract or tracts or federal census block group or block groups in the area.

If the compensation and investment are made at a qualified location in an extremely blighted area, the investment and wage credit will increase by 1%.

A taxpayer may receive an additional 1% wage and compensation credit if it was a benefit corporation as defined by Neb. Rev. Stat. 21-403 for at least one year prior to submitting an application under this act and remains a benefit corporation for the duration of the agreement. A taxpayer may receive both a 1% extra credit for being located in a blighted area and a 1% extra credit for being a benefit corporation.

Employment and investment levels must be met by the end of the ramp-up period. The ramp-up period means the year of application and the subsequent 4 years. The performance period means the year during which the required increases in employment and investment were met and the subsequent 6 years. The carryover period means the period of three years immediately following the end of the performance period. An agreement under the act may last up to 15 years.

For purposes of calculating employment levels, equivalent employee means the number of employees computed by dividing the total hours paid in a year by the product of 40 times the number of weeks in a year. Only the hours of employees who are Nebraska residents will count towards the number of new employees. A salaried employee who receives a predetermined amount of compensation each pay period on a weekly or less frequent basis is deemed to have been paid for forty hours per week during the pay period. The number of new employees includes only those employees who are paid the applicable rate, meet the health coverage and benefit requirements and are employed full-time. A base year employee who becomes a full time employee during the performance period is counted only for the increased hours.

The base year is the year immediately preceding the year of application, except that if the year of application is 2021 the base year will be either 2019 or 2020, the year the applicant had the larger equivalent number.

At the time an agreement is executed the taxpayer will be issued a direct payment permit. The taxpayer must pay and remit use tax until it has made the required employment and investment. The applicant is exempt from tax on qualified property during the performance period.

Before eligible to use benefits, a taxpayer must pay to the DED an administrative fee equal to ½% of the benefits requested, except for the exemption on personal property. The fee may be paid by direct payment or by withholding available funds. A credit is allowed against the fee for the amount of the application fee.

Wage and investment credits may be used to repay a loan received through the ImagiNE Nebraska Revolving Loan Fund. Credits may also be used to obtain a payment from the state equal to the amount the taxpayer paid for job training, talent recruitment, or taxpayer-sponsored child care at a qualified location.

The Act provides that the DOR must pay refunds within 180 days of receipts. Improper refunds are subject to later recovery upon audit.

Once an agreement is signed, a taxpayer may file for and receive benefits without waiting for DOR to verify that it has met employment and investment levels if the tax return or claim has been signed by an authorized person who declares under penalties of perjury that the tax return, claims, or schedules are correct. If the DOR or DED later determine that the taxpayer did not qualify, the benefits may be recaptured.

Upon request of DED or DOR, the Department of Labor (DOL) will share the employment data it collects related to the number of employees and wages paid for each taxpayer.

On or before October 15 and February 15 of every year, and April 15 in odd numbered years, DED will estimate the amount of sales and use tax refunds to be paid and credits to be used under the Act during the fiscal years to be forecast under Neb. Rev. Stat. § 77-27,158. The estimate is forwarded to the Legislative Fiscal Analyst and Nebraska Economic Forecasting Advisory Board and made part of the advisory forecast.

In addition, on or before October 15 and February 15 of every year, DED estimates the amount of sales and use tax refunds to be paid and credits to be used for each of the upcoming three calendar years and reports that estimate to the Governor. If the estimate for any year exceeds the base authority, DED prepares an analysis explaining the reason the base authority was exceeded. The Director cannot approve any additional applications that would include refunds or credits in the calendar year in which the base authority is projected to be exceeded.

The Base authority is the total amount of refunds and credits that may be approved in any calendar year. No refunds or credits may be paid or used in any calendar year in excess of the base authority. The base authority is: $25 million for years 2001 and 2022, $100 million for years 2023 and 2024, and $150 million for year 2025. Beginning with calendar year 2026 and every three years thereafter, the Director adjusts the base authority to equal 3% of the actual General Fund net receipts for the most recent fiscal year. Any amount unused carries forward to the following year, except that the base authority for any calendar year prior to 2026 may not exceed $400 million.

Beginning in 2021, DED or DOR will submit an annual report of program activity to the legislature no later than October 31 of each year. The report is on a fiscal year accrual basis.

DED and DOR may adopt rules and regulations.

If a claim for a refund of local sales tax is more than $25 thousand is filed by June 15 of a given year, the refund will be made on or after November 15 of the same year. If a refund claim is filed on or after June 16, the refund is made on or after November 15 of the following year. DOR will notify each municipality liable for a refund exceeding $25 thousand of the pending refund. The notification is made by June 1 of the year before the claims will be paid. Refunds of local option tax are delayed in accordance with Neb. Rev. Stat. § 77-27,144.

Deductions for refunds of local option sales tax are delayed in cases where the total annual refunds exceed $1 million or 25% of a municipality's total sales and use tax receipts for the prior fiscal year. Beginning in 2021, DOR must notify each municipality liable for a refund exceeding $1,500 of the pending refund and amount claimed under the Act. The notification is made by March 1 of each year beginning in 2021; DOR will deduct the refund in equal amounts each month beginning in January following the notification.

On or before June 30 of each year, every business that has filed an application to receive tax incentives under the Employment and Investment Growth Act, the Nebraska Advantage Act, or the ImagiNE Nebraska Act will report to each municipality, in aggregate data, the maximum amount of sales and use tax refunds it is eligible to receive for the previous year and an estimate of the amount it intended to claim in each future year.

DED may contract with DOR for services that the director determines are necessary to fulfill DED's responsibility under the Act.

<u>ImagiNE Nebraska Revolving Loan Fund</u>

The ImagiNE Nebraska Revolving Loan Fund will be administered by DED. Taxpayers with an ImagiNE Nebraska Act agreement may apply to receive a loan for workforce training and infrastructure development expenses. All loans must be repaid with interest. Taxpayers may use ImagiNE Nebraska Act credits to repay loans. If a taxpayer fails to attain minimum investment and employment, the loan is considered an underpayment of tax and may be recovered by DOR.

The State Treasurer intent to transfer $5 million from the General Fund to the ImagiNE Nebraska Revolving Loan Fund for fiscal years 2022-23 and 2023-24.

The Nebraska Transformational Projects Act

The Nebraska Transformational Projects Act (Act) will be administered by the DED. The Act allows applicants investing at least $1.6 billion to carry out a project related to the federal pilot program on civilian and military partnerships to enhance interoperability and medical surge capacity of the National Disaster Medical System and procures at last $300 million in private donations to receive matching funds from the State in the amount of $300 million. The payment from the State will not occur before FY 2025-2026. An applicant may include any postsecondary institution having a college of medicine located in Nebraska. To participate, an application must be filed with the DED along with a $25 thousand application fee. The investment and private donations must be made within 10 years of application and maintained for an additional 5 years. If the investment or donations are not met or maintained, the matching funds must be repaid. Applications will be accepted on or before December 31, 2021.

The total matching funds paid by the State for any fiscal year cannot exceed 1% of the State tax receipts in the prior fiscal year. If all projects under the act cannot be paid in full for any year, the available matching funds will be allocated and dispersed proportionately among the applicants based on the amount of matching funds that would be due to the applicant for that year. Any deferred, unpaid matching funds will be paid in later years until fully funded. The State makes the payments on an annual basis. Applicants cannot accrue interest on matching funds. The bill requires that matching funds are considered a tax expenditure for State fiscal analysis purposes.

The bill also creates the Nebraska Transformation Project Fund. The fund receives application fees paid under the Act and appropriations from the legislature, grants, private contributions, and repayments of matching funds.

The bill states that it is the intent of the Legislature to transfer $300 million to the Nebraska Transformational Project Fund by fiscal year 2026-27. Money is transferred only after an applicant has been selected and commitments of at least $1,300 million have been secured by the applicant. Any money remaining in the fund after all obligations have been met for all projects is returned to the General Fund.

Key Employer and Jobs Retention Act

The Key Employer and Jobs Retention Act provides incentives to encourage employers to remain in the State and retain employment in the State when there is a change in ownership or control of the employer. Employers are eligible to participate if it:

1) Employs at least 1,000 equivalent employees in Nebraska during the base year,
2) Offers all full time employees health care and benefits,
3) Has gone through a change in ownership and control within the 24 months immediately prior to the application.
4) Is at risk of moving more than 1,000 existing equivalent employees from the State,
5) Retains at least 90% of its base-year employees, and
6) Is in a qualified business.

Eligible employers submit an application to DED. Once the application is approved by DED, the taxpayer may receive a wage retention credit. The credit may be used to reduce the employer’s income tax liability or income tax withholding liability. The wage retention credits equal 5% of the total compensation paid in the year to all employees of the key employer in Nebraska who are paid wages of at least 100% of the Nebraska statewide average hourly wage for the year of application. The credit will be allowed for each year in the performance period. The performance period means the year of application plus nine years. If the taxpayer fails to retain the required level of employment through the entire performance period, all or a portion of the credits are recaptured. Unused credits may carried over until the end of the performance period. These credits will be in addition to any credits the employer qualifies for under the ImagiNE Nebraska Act, Nebraska Advantage Act, or the Employment and Investment Growth Act. The total amount of wage retention credits that may be received by all employers under this Act cannot exceed $40 million.

DED and DOR will jointly submit an annual report to the Legislature no later than October 31 of each year.

There will be no new applications under the Key Employer and Jobs Retention Act filed after May 31, 2021 without further authorization from the Legislature.

The Renewable Chemical Production Tax Credit

The Renewable Chemical Production Tax Credit Act provides certified eligible businesses a refundable credit equal to the product of 7 ½ cents times the number of pounds of renewable chemicals produced in this State by the eligible business during the calendar year in excess of the business's pre-eligibility production threshold. A renewable chemical is a chemical converted from biomass feedstock such as sugar, starch, fat, grease, or oil derived from plants or animals by means of a biological or chemical conversion process that can be used for products including polymers, plastics, food additives, solvents, intermediate chemicals or other formulated products with a significant non-fossil carbon content. Renewable chemicals do not include a chemicals sold or used for fuel.

To be eligible to receive credits, a business must first be certified as eligible by the DED. To be certified a business must:

1) Have produced at least 1 million pounds of renewable chemicals in Nebraska during the calendar year for which tax credits are sought,
2) Be physically located in this State,
3) Have organized, expanded, or located in Nebraska after the effect date of the Act, and
4) Be in compliance with all other agreements for tax credits entered into with DED or DOR.

The eligible business will enter into an agreement with DED. The agreement may certify the business to receive tax credits under the Act for up to four years. DED may accept applications for eligible businesses for up to $3 million in tax credits for calendar years 2022 and 2023 and $6 million per calendar year for calendar year 2024 and later. Program certification applicants approved after the annual limit has been reach will be placed on a waiting list in the order in which they are received.

To receive tax credits, the eligible business must submit an application to the DOR in the calendar year following the calendar year in which it produced the renewable chemicals for which it seeks credits. If the business does not fulfill all requirements of Act and the agreement with DED, DOR can decline to issue tax credits. If DOR determines the application is complete, that the business qualifies for credits, and that the business has fulfilled its agreement with DED, it will approve the application for credits within limits set in the agreement with DED. The maximum amount of credits that may be issued to a single eligible business per application is $1.5 million per year. A business may not receive a credit for chemicals produced before the date the business first qualified as an eligible business. The credit is not available for chemicals produced before 2022.

If the eligible business does not meet terms of agreement with DED, credits will be recaptured. The Director and the Department must submit a report each year, beginning January 31, 2024, to the Revenue Committee on the activity under the Act.

The Customized Job Training Act

The Customized Job Training Act will be administered by DED. The Customized Job Training Cash Fund is also created. Taxpayers may apply to DED to receive job training reimbursement grants. Grants provide reimbursement for job training programs for net new jobs or jobs that result in a net increase in wages per employee. The amount of each grant and number of grants will be determined by DED based on available funds. A taxpayer may partner with a post-secondary educational institution in Nebraska, a private, nonprofit educational organization in Nebraska, or a school district in Nebraska to assist in providing the workforce training.

The Property Tax Incentive Act

Sections 110 through 114 would enact the Property Tax Incentive Act. The Property Tax Incentive Act provides a refundable income tax credit beginning with taxable years beginning on or after January 1, 2020. The credit amount is a percentage of school district taxes. School district taxes is defined as the property taxes levied on real property in Nebraska by a school district or multiple district school system, excluding property taxes levied for bonded indebtedness or any levy override approved by voters pursuant to Neb. Rev. Stat. § 77-3444. The credit is available to individuals, corporations, partnerships, limited liability companies' trusts, estates, or other entities that pay property taxes for school purposes. The amount of school district taxes paid during the taxable year is to be allocated to shareholders, partners, members, or beneficiaries in the same proportion that income is distributed, as verified by the taxpayer on forms and schedules provided by DOR. For pass-through entities, the credit is to be allocated to its owners in the same proportion that income is distributed.

The credit percentage is calculated by DOR by dividing the amount of dollars available for the credit by the total real property taxes levied for school purposes (except for bonded indebtedness and levy overrides) for the calendar year of the credit. The dollars available are:

1. For taxable years beginning or deemed to begin during calendar year 2020 - $125 million;
2. For taxable years beginning in 2021 - $125 million plus an amount, if any, available because net General Fund receipts for the fiscal year ending June 30, 2021 exceeded the certified forecast by more than 3.5%. The amount is certified due to changes made to Neb. Rev. Stat. § 77-4602 by section 135 of the bill;
3. For taxable years beginning during calendar year 2022 – the 2021 amount plus the amount certified in § 77-4602, if any;
4. For taxable years beginning during calendar year 2023 – the 2022 amount plus the amount certified in § 77-4602, if any;
5. For taxable years beginning in 2024 - $375 million; and
6. For taxable years beginning in 2025 and each year thereafter –
   a. AM 3316 states $375 million plus the "allowable growth amount."
   b. AM 3349 amends AM 3316 for taxable years beginning in 2025 and thereafter to "the maximum amount of credits allowed in the prior year increased by the allowable growth percentage" and clarifies that "Allowable growth percentage means the percentage increase, if any, in the total assessed value of all real property in the state from the prior year to the current year, as determined by the department."

DOR will develop a procedure to allow taxpayers that are not subject to Nebraska income tax to receive the credit. DOR is authorized to adopt regulations.

Neb. Rev. Stat. §§ 77-693, 77-801, 77-1238, 77-1239, and 77-1248 are amended to sunset the personal property exemption and the compensating exemption factor after the 2019 tax year.

Neb. Rev. Stat. § 77-1514 is amended to eliminate the requirement that county assessors prepare and file a personal property abstract with the Property Tax Administrator.

Neb. Rev. Stat. § 77-4212 is amended to provide that the minimum amount of relief granted under the Property Tax Credit Act is to be $275 million for tax year 2020 and each tax year thereafter. Any amount that is transferred or credited to the Property Tax Credit Cash Fund is to be added to this minimum amount.

Section 135 of AM 3316 would amend Neb. Rev. Stat. § 77-4602 (which describes the transfer of funds to the Cash Reserve Fund if receipts exceed the certified forecast) to provide for the certifications necessary to determine the dollars available for the income tax credit in years 2021 through 2024. Within 15 days after the end of fiscal years 2020-21 through 2022-23, the Tax Commissioner is to determine the actual General Fund Net Receipts minus both the estimated General Fund net receipts, and the estimated General Fund net receipts times 1.035. If the amount currently in the Cash Reserve Fund is less than $500 million, one-half of any excess over the 103.5% would be transferred to the Cash Reserve Fund (in addition to the 3.5% automatically transferred) and the other half left in the General Fund and added to the amount available for the income tax credit for the calendar year. If the Cash Reserve Fund is already greater than $500 million and the actual net receipts is more than 3.5% over the estimate, only the 3.5% is transferred to the Cash Reserve Fund and 100% of the amount over 3.5% is left in the General Fund and added to the amount available for the income tax credit for that calendar year. If the actual General Fund Net Receipt is only 3.5% over the estimate or less, no additional amount is added to the prior year and the amount available for the income tax credit remains the same.

AM 3349 inserts into Sec. 139. Section 84-612, Revised Statutes Supplement, 2019, is amended to include that the State Treasurer will transfer $30 million from the Cash Reserve Fund to the General Fund after November 15, 2020, but before December 31, 2020. Except for the transfer authorized in this subsection, no funds will be transferred from the Cash Reserve Fund to fulfill the obligations created under the Nebraska Property Tax Incentive Act until the balance in the Cash Reserve Fund is $500 million or more.

The department estimates that this bill will have the following impact to the general fund revenues:

Fiscal Year	Tax Incentive (ImagiNE + Others Incentives)*	New Refundable Property Tax Credit	Sunset Personal Property Tax Exemption	Total General Fund Revenues
FY 2020-21	-	$ (125,000,000)	$ 14,800,000	$ (110,200,000)
FY 2021-22	$ (10,000,000)	$ (145,000,000)	$ 15,200,000	$ (139,800,000)
FY 2022-23	$ (24,000,000)	$ (165,000,000)	$ 15,600,000	$ (173,400,000)
FY 2023-24	$ (50,000,000)	$ (185,000,000)	$ 15,756,000	$ (219,244,000)
FY 2024-25	$ (66,000,000)	$ (375,000,000)	$ 15,914,000	$ (425,086,000)
FY 2025-26	$ (88,000,000)	$ (388,000,000)	$ 16,073,000	$ (459,927,000)
FY 2026-27	$ (107,000,000)	$ (402,000,000)	$ 16,234,000	$ (492,766,000)
FY 2027-28	$ (125,000,000)	$ (416,000,000)	$ 16,396,000	$ (524,604,000)
FY 2028-29	$ (141,000,000)	$ (431,000,000)	$ 16,560,000	$ (555,440,000)
FY 2029-30	$ (156,000,000)	$ (446,000,000)	$ 16,726,000	$ (585,274,000)
FY 2030-31	$ (168,000,000)	$ (462,000,000)	$ 16,893,000	$ (613,107,000)

*Does not include $300 million transfers attributable to the Nebraska Transformational Projects Act which will not occur before FY 2025-2026.

DOR will require 1.0 FTE Revenue Agent Senior, 1.0 FTE Revenue Operations Clerk II for credit verification, and 1.5 FTE Agents for Taxpayer Assistance additional calls/emails. DOR also needs a 0.5 FTE auditor in the first year, increasing to 1.5 FTE beginning in the second year; 0.5 FTE business systems analyst for the first two years; and 1.0 fiscal compliance analyst in the second year, increasing to 2.0 FTE fiscal compliance analyst beginning in the third year.

DOR estimates a cost of $436,000 for an OCIO programming contractor to implement the Property Act Incentive Act. Under the original LB 720 fiscal note, DED showed an OCIO charge of $450,000 for computer programming required in the administration of the ImagiNE Nebraska Act application program and Revolving Loan Fund portion of the program. After consultation with DED, the $450,000 in OCIO costs is added to the DOR's operating costs and removed from the DED's costs.

This bill contains an emergency clause and becomes law upon enactment.

Major Objects of Expenditure

Class Code	Classification Title	20-21 FTE	21-22 FTE	22-23 FTE	20-21 Expenditures	21-22 Expenditures	22-23 Expenditures
A07011	Revenue Agent Senior	1.0	1.0	1.0	$44,200	$43,500	$44,500
R29112	Revenue Operations Clerk II	1.0	1.0	1.0	$32,900	$32,400	$33,200
X29222	Revenue Agent	1.5	1.5	1.5	$57,400	$56,500	$57,800
A21212	Auditor	0.5	1.5	1.5	$22,500	$66,400	$67,900
A07081	IT Business Systems Analyst	0.5	0.5		$26,400	$26,000	$0
A21211	Fiscal Compliance Analyst		1.0	2.0	$0	$41,200	$84,200
A07011	IT Applications Developer/Senior	1.0	1.0	1.0	$70,800	$69,800	$71,400
Benefits					$83,900	$110,800	$118,500
Operating Costs					$886,000		
Travel							
Capital Outlay					$35,000	$10,000	$5,000
Capital Improvements							
Total					$1,259,100	$456,600	$482,500

Please complete ALL (5) blanks in the first three lines. **2020**

LB(1) 1107—AM3349 **FISCAL NOTE**

State Agency OR Political Subdivision Name: (2) Department of Economic Development

Prepared by: (3) Tony Goins Date Prepared: (4) 8/10/2020 Phone: (5) 402-471-3777

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2020-21		FY 2021-22	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	$1,153,305	$0	$1,880,115	$0
CASH FUNDS	0			
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	$1,153,305	$0	$1,880,115	$0

Explanation of Estimate:

AM 3349 to LB1107 amends the committee amendment AM3316. AM3349 amends Section 40(2)(a)(ii) and strikes Section 40(2)(c) and (d) to remove the Governor's ability to override DED's base authority to approve tax credits under the ImagiNE Nebraska Act. AM3349 also amends Section 84-612 Revised Statutes Supplement 2019 to transfer $30 million from the Cash Reserve Fund to the General Fund between November 15 and December 31, 2020; and to prohibit additional transfers under the Nebraska Property Tax Incentive Act until the balance of in the Cash Reserve Fund is $500 million or more. AM3349 also amends Section 111 of AM3316 to define the term "allowable growth percentage," and section 112(g) is amended to define the maximum amount of credit beginning calendar year 2026.

LB1107 as amended by AM3349 and AM3349, adopts the ImagiNE Nebraska Act (Sections 1-43); the Key Employer and Jobs Retention Act (Sections 44-65); the Renewable Chemical Production Tax Credit Act (Sections 66-76); the Customized Job Training Act (Sections 77-82); the Nebraska Transformational Projects Act (Sections 83-109); and the Nebraska Property Tax Relief Act (Sections 110-114). The bill as amended also creates four new cash funds: the ImagiNE Nebraska Cash Fund, the ImagiNE Nebraska Revolving Loan Fund, the Customized Job Training Cash Fund, and the Nebraska Transformational Project Fund.

The ImagiNE Nebraska Act allows taxpayers operating businesses at qualified locations enter into signed agreements with DED to receive tax benefits for new employment and investment. LB1107 as amended by AM3349 sets a base spending authority for the ImagiNE act, requiring DED to forecast and report tax credit and refund usage to the Legislature each October and February for the current and next three calendar years. If the estimate exceeds the base authority, DED must prepare an analysis explaining why the estimate exceeds the base authority, and the DED director must not approve additional applications for the program in the calendar year where the base year is expected to be exceeded. The base authority is set at $25 million for calendar years 2021 and 2022. Base authority increases to $100 million for 2023 and 2024, and $150 million for 2025. Beginning with 2026 and every three years thereafter, base authority is adjusted to an amount equal to 3% of actual general fund receipts for the most recent fiscal year.

The signed agreement requires that the taxpayer provide a "sufficient" benefit package, and offer health insurance coverage to full-time employees. The agreement will state that failure to report may result in deferred benefits paid by NDR. DED will disclose the existence of the agreement to municipalities containing locations covered by an agreement. NDR will notify municipalities of the amount and taxpayer for each refund of local option sales and use taxes within 30 days after a refund is approved.

The bill as amended includes provisions of LB 1179, providing for lower investment and job thresholds for project locations within an "economic redevelopment zone." The investment, jobs and wage thresholds in a qualified location in an economic redevelopment zone is $250,000 to $1 million, 5 FTE and average wages greater than 70% of the state average. In addition, locations that are in extremely blighted areas earn an additional 1% in tax credits, locations owned by benefit corporations also earn an additional 1% in tax credits.

LB1107, as amended, also creates the ImagiNE Nebraska Revolving Loan Fund, housed in DED for the purpose of providing loans to the business, for the purpose of workforce training or infrastructure development at a qualified location. The loan will be repaid with tax credits earned under the act, or directly by the business, and if the project does not qualify, NDR will collect outstanding loans. AM3316 contains intent language to transfer $5 million from the General Fund in FY2022-23 and FY2023-24, and intent language to appropriate $5 million to DED in those years for the purposes of the revolving loan fund.

AM3316 creates the Key Employer and Jobs Retention Act. This act provides an incentive for employers to remain in Nebraska when there is a change in ownership or control of the business. A business may apply to DED for benefits under the act. In order to qualify:

1. A business employed at least 1,000 FTEs in Nebraska in the year before the ownership changed;
2. Offers all full-time employees health care and benefits;
3. Has had a change of ownership and control of the business within the last 24 months prior to the application;
4. Is at risk of moving more than 1,000 existing employees out of Nebraska;
5. Retains at least 90% of its base-year employment; and
6. Is a qualified business under the ImagiNE act. Businesses that qualify for the act will apply to DED, and DED has 30 days to approve or deny an application.

If the application is approved, the business is entitled to receive a wage retention credit to be used against the employer's income tax liability or withholding tax liability. The credit is equal to 5% of total compensation paid in the year to all employees who are paid wages at least 100% of the statewide average wage for the year of application. The taxpayer may receive the wage retention credit for each year of the performance period—the year of application, plus the next nine years. The credit is in addition to credits earned through the ImagiNE, Nebraska Advantage, or the Employment and Investment Growth acts. The credit is subject to recapture if the taxpayer fails to retain the required level of employment through the entire performance period. Benefits under the Key Employer and Jobs Retention Act is capped at $4 million in a single year, and $40 million over ten years for all applicants. DED and NDR are required to jointly submit a report to the Legislature by October 31 of each year, and by December 15 appear at a joint hearing of the Appropriations and Revenue committees. The Key Employer act sunsets for new applications after May 31, 2021.

LB1107 as amended by AM3316 and AM3349 also creates the Renewable Chemical Production Tax Credit Act. The bill allows businesses that produce "renewable chemicals" from Nebraska-based agricultural products to apply to DED for certification as an eligible business. To be eligible, a business must:

1. Produce at least 1 million pounds a year of renewable chemicals in Nebraska during the calendar year for which tax credits are sought;
2. Be organized, expanded, or located in Nebraska on or after the effective date of the act;
3. Be in compliance with all agreements entered into under the act and any other tax credit programs administered by DED or NDR.

If the business is certified, it may enter into an agreement with DED to receive tax credits under the act for up to four years. An eligible business can apply to NDR for tax credits based on the prior year's production of renewable chemicals. The credit is refundable, and based upon $0.075 per pound of renewable chemical produced in Nebraska that is in excess of the business's pre-eligibility production. The maximum amount of credits that a single application may receive is $1.5 million per year. The program is capped at $3 million for calendar years 2022 and 2023 and $6 million thereafter. Based on the number of businesses in Nebraska producing renewable chemicals, DED expects the caps to be met each year. The first year's production eligible for tax credits is 2022.

LB1107 as amended by AM3316 and AM3349, creates the Nebraska Transformational Projects Act. The act, allows for a qualified applicant pursuing a partnership with the federal government under Title VII, Subtitle C, section 740 of Public Law 116-92, a pilot program on civilian and military partnerships to enhance interoperability and medical surge capability and capacity of National Disaster Medical System, to receive up to $300 million in state matching funds. The state matching funds are to match $300 million in private funds received by the applicant. In order to qualify for state funds the project must involve total new investment of at least $1 billion, with an economic impact to Nebraska of at least $2.7 billion during the planning and construction period and at least $4.6 billion during the ten-year period beginning with start of construction or the date of application. If the investment or the private matching fund levels are not met or maintained, the state matching funds must be repaid. Applications will be accepted until December 31,2021.

LB1084 creates the Nebraska Transformational Project Fund. The fund may accept funds from the $25,000 nonrefundable application fee, appropriations from the Legislature, grants, private contributions, repayments of matching funds, and other sources. The bill contains intent language to transfer up to $300 million to the Nebraska Transformational Projects Fund once the private and federal funding has been secured. Transfers to the fund will not occur before FY2025-26, or before the total amount of refundable credits under the Nebraska Property Tax Refund Act reaches $375 million. The bill has an operative date of January 1, 2021.

LB 1107 as amended by AM 3316 and AM3349, creates the Customized Job Training Act, and the Customized Job Training Fund. The act is to provide DED-administered grants to employers to reimburse the cost training expenses authorized under the act. Job training that is eligible for reimbursement are net new jobs at a business that pay at least the state average wage, or for training that result in higher wages. To be eligible for a grant, the training must be provided by:

1. A community college, or an accredited postsecondary institution;
2. A Nebraska secondary school;
3. A Nebraska educational service unit; or
4. A qualified training provider if the training results in a national, state, or locally recognized certificate, is in preparation for a processional examination or license, and endorsement for an existing credential or license, or development of a recognized skill defined by an industrial sector.

DED is also required to prepare an annual report on the program. The bill, as amended, contains no intent language for funds to be transferred to the new cash fund.

Due to the provisions of LB1107, as amended by AM3316 and AM3349, the department expects a number of new positions will need to be created, due to the expanded responsibilities. DED assumes that programming costs to OCIO for computer programming for administration of the ImagiNE application, qualification and for the revolving loan fund portion tasks will be included in the Department of Revenue's fiscal note. The Department estimates that $200,000 will be needed to cover OCIO costs for programming necessary for administration of the Renewable Chemical Production Act in FY2021-22. When the Customized Job Training Act is funded, DED expects a one-time cost of $50,000 for grant management software for the Nebraska Transformational Project Act. Included in the operating costs for FY2020-21 for the ImagiNE Act is $50,000 in for contract services, and another $125,000 to contract with the Nebraska Department of Labor for a benefits survey to aid in determining what constitutes "sufficient" and "customarily offered" benefits in Nebraska. It should be noted that a benefits survey should occur every two years. Also included in operating expenses for FY2020-21 is $16,500 for additional building rent to house the new staff, increasing to $30,000 in FY2021-22. The Nebraska Transformational Project Act requires an audit is to be part of the annual report on the program, and is to satisfy the requirements set by the Governmental Accounting Standards. Assuming an annual audit of the program, with results to be included in the annual report, DED will require the services of an auditor, or contract with an outside auditing firm to perform this work. Travel expenses also include leases of two vehicles given that applicants may ask for a certification that their locations qualify, the ImagiNE Act will require in-state travel.

DED estimates that the provisions of LB1107 as amended, will require 6.8 FTE in the current fiscal year. These positions include the services of a division administrator, an economic development manager, an attorney II, an attorney III two economic development business consultants an internal auditor, an economic development financial packager and a revenue economist. The FTE counts are reduced in recognition that part of the fiscal year has passed; however, there will be training and work needed to be ready to accept applications on January 1, 2021. In FY2021-22, these positions will move to full-time and as the revolving loan fund, the Renewable Chemical program, and the Transformational Projects act ramp up and required reports and audits come due, an additional financial packager and 4 business consultants will need to be added.

The bill directs ½% of the refunds to the ImagiNE Nebraska Cash Fund, to be used for administration of the act. However, it is unknown at this time how much revenue the administration fee will raise, and how soon this source of funds will be available. It is assumed there will not be cash funds available from refunds in the first two years of the ImagiNE act. The Department expects that the staffing of the currently unfunded Customized Job Training Act can be accomplished with current resources.

LB1107 contains the emergency clause; therefore, the operative date for the bill, as amended, will be sometime in mid-August, 2020.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

POSITION TITLE	NUMBER OF POSITIONS 20-21	21-22	2020-21 EXPENDITURES	2021-22 EXPENDITURES
G49430 Econ Dev. Division Administrator	0.80	1.00	$65,795	$84,300
G49550 Econ Dev Manager	0.75	1.00	49,660	67,860
A49310 Econ Dev. Bus Consultant	2.00	6.00	118,850	365,465
G31113 Attorney III	0.75	1.00	64,340	87,935
A31112 Attorney II	0.50	1.00	33,830	69,355
A49280 Econ. Dev. Financial Packager	0.75	2.00	44,600	121,820
G21200 Internal Auditor	0.75	1.00	53,380	72,955
A29511 Revenue Economist	0.50	1.00	36,910	75,670
Benefits…………………………………...……			186,935	375,145
Operating…(Includes OCIO costs, contract services & rent)			284,970	419,075
Travel…(Includes two vehicles)			136,735	94,535
Capital outlay…………………....…………..			77,300	43,000
Aid…………………………………………...				
Capital improvements……………………...				
TOTAL……………………………….….	6.80	14.00	$1,153,305	$1,880,115

Please complete **ALL** (5) blanks in the first three lines. **2020**

LB(1) 1107 amended with AM 3316 now AM 3349 **FISCAL NOTE**

State Agency OR Political Subdivision Name: (2) University of Nebraska

Prepared by: (3) Michael Justus Date Prepared: (4) August 6, 2020 Phone: (5) 402-472-7109

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2019-20 EXPENDITURES	FY 2019-20 REVENUE	FY 2020-21 EXPENDITURES	FY 2020-21 REVENUE
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS				

Explanation of Estimate:

AM 3349 to LB 1107, as amended by AM 3316, does not appear to change the fiscal impact from that provided in our fiscal note on AM 3316, which includes the Nebraska Transformational Projects Act. If passed and the University of Nebraska's application for the project is approved by the Department of Economic Development, the University would be eligible to receive up to three hundred million dollars in state matching funds if specific criteria is met.

Eligibility for state matching funds in LB 1107 with AM 3316 is based on a minimum one billion dollars federal investment and three hundred million private matching funds.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

POSITION TITLE	NUMBER OF POSITIONS 19-20	NUMBER OF POSITIONS 20-21	2019-20 (Revised) EXPENDITURES	2020-21 EXPENDITURES
Benefits				
Operating				
Travel				
Capital outlay				
Aid				
Capital improvements				
TOTAL				