

Revised to clarify dates and timing of the fiscal impact

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

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)</b>				
	<b>FY 2020-21</b>		<b>FY 2021-22</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS	\$1,423,390	\$5,000,000	\$1,150,230	(\$5,000,000)
CASH FUNDS		(\$5,000,000)	\$7,000,000	\$2,000,000
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>	<b>\$1,423,390</b>	<b>\$0</b>	<b>\$8,150,230</b>	<b>(\$3,000,000)</b>

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

As amended on General File, LB 720 adopts the ImagiNE Nebraska Act, the Renewable Chemicals Production Tax Credit Act, the Customized Job Training Act, and the Community Economic Opportunities Act. The operative date is January 1, 2020. For purposes of this estimate, the operative date of the bill is January 1, 2021. We assume all other dates remain unchanged, except for purposes of this estimate, we assume the dates of the required transfers from the Cash Reserve Fund to the General Fund are moved forward one year from July 15, 2019, and July 15, 2020, to July 15, 2020, and July 15, 2021. This revision clarifies that the estimates of revenue loss to the General Fund are also assumed to move forward one year.

ImagiNE Nebraska Act: 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 telecommunications carriers; telemarketing bureaus; data processing; computer facilities management services; warehousing and storage; administrative management of the taxpayer's activities; logistics facilities; 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, 2029.

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; description of base-year employees, hire date, hours, and wages; unemployment insurance accounts; information provided as part of its report filed with the Department of Labor (DOL); timetable for expected sales tax refunds, including direct refunds and credits; and a requirement to update the Department of Revenue (DOR) annually on changes to the timetable of sales tax refunds. AM 1975 specifies that only full time employees are included in the calculation of hours paid.

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.

On or before the receipt or use of any incentives, the taxpayer must pay DED a fee of one-half of 1% of the incentives to administer the act. The fee can be offset by the application fee. LB 720 creates the ImagiNE Nebraska Cash Fund, and fees are remitted to the fund.

The bill prescribes five levels of investment and employment that qualify for incentives:

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

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. If the investment is \$1 million and 5 new employees, 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 the taxpayer's income tax liability, to obtain a refund of sales and use taxes which are not otherwise refundable, or to reduce employer withholding attributable to all employees. 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, or to obtain a refund of sales and use taxes which are not otherwise refundable.

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 30 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; to approve an application and sign the agreement; and all other interpretations of the act. DOL must provide DED with information requested.

The taxpayer can report, claim, and receive incentives allowed by the act without waiting for a determination that the required investment and employment levels have been met if the taxpayer certifies the tax return or claim is correct and complete, the payment of the claim has not been previously made, and the taxpayer has not claimed or received a refund of the sales and use tax from the retailer. 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 720 requires DED and DOR to 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 to the Legislative Fiscal Analyst and the Nebraska Economic Forecasting Board (NEFAB). The bill creates a committee of:

- The Speaker of the Legislature;
- The chairpersons of the Legislature's Revenue Committee, Appropriations Committee, and Legislature Performance Audit Committee;
- The Tax Commissioner; and
- The director of DED.

The committee must meet annually to review data on refunds and credits provided to NEFAB and can request additional information.

AM 1975 also requires DED to estimate the amount of sales and use tax refunds and tax credits to be used under the act for each of the upcoming 3 calendar years and report the estimates to the Legislature. If the estimate for any calendar year exceeds the base authority (defined as \$125 million for 2020 through 2023, and for 2024 and every 3 years thereafter, 3% of the actual General Fund gross receipts for the most recent fiscal year) the director of DED must request approval to exceed the base authority from the Executive Board of the Legislature prior to approving any additional applications. AM 1975 includes a procedure for the Executive Board to approve exceeding the base authority.

DED, within input from DOR, can adopt and promulgate rules and regulations to carry out the act.

LB 720 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. As amended by AM 1975, the bill includes intent language to transfer \$5 million per year from the General Fund to the ImagiNE Nebraska Revolving Loan Fund in FY 21-22 and FY 22-23. Additionally, the bill includes a transfer of \$5 million per year from the Cash Reserve Fund to the General Fund on July 15, 2019, and July 20, 2020, and because the first of these has since passed, we assume both transfers move forward one year.

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.

The bill also changes the sunset date of the Nebraska Advantage Act from December 31, 2020, to the operative date of the bill.

Renewable Chemicals Production Tax Credit Act: LB 720 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 2021. Applications can be approved for up to \$3 million in credits for 2021 and 2022, and up to \$6 million in credits per year in 2023 and thereafter.

DOR must submit an annual report on or before January 31, 2022, 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 720 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.

Community Economic Opportunities Act: LB 720 creates a board, with 5 members appointed by the Governor and the Speaker of the Legislature, the chairperson the Appropriations Committee, and the chairperson of the Revenue Committee serving as non-voting members. Actual and necessary expenses are authorized.

The board is responsible for selecting projects for funding under the act and can approve up to \$2 million of funding each year of eligible projects. DED must develop procedures for applying for funding and guidelines for rating and selecting projects. The board must submit an annual report to the Legislature on or before October 31, 2020, and each October 31 thereafter.

The bill creates the Community Economic Opportunities Fund to provide funding for eligible projects under the act. The bill includes intent to appropriate \$2 million each year.

**Revenue:**

The Community Economic Opportunities Act requires a transfer from the \$2,000,000 General Fund per fiscal year, beginning in FY21-22, and continuing each year, which results in a General Fund revenue loss.

The Department of Revenue estimates revenue to the General Fund, including the \$2,000,000 per year for the transfer to the Community Economic Opportunities Fund, as follows:

Fiscal Year	General Fund Revenue
FY 2020-21	\$(3,000,000)
FY 2021-22	\$(21,000,000)
FY 2022-23	\$(50,000,000)
FY 2023-24	\$(68,000,000)
FY 2024-25	\$(94,000,000)
FY 2025-26	\$(114,000,000)
FY 2026-27	\$(135,000,000)
FY 2027-28	\$(153,000,000)
FY 2028-29	\$(169,000,000)
FY 2029-30	\$(183,000,000)

There is no basis to disagree with these estimates based on the data available. However, DOR did not assume the operative date would move forward to January 1, 2021, which we did. As a result, we estimate the following revenue to the General Fund, including the \$2,000,000 per year for the transfer to the Community Economic Opportunities Fund:

Fiscal Year	General Fund Revenue
FY 2020-21	0
FY 2021-22	\$(5,000,000)
FY 2022-23	\$(21,000,000)
FY 2023-24	\$(50,000,000)
FY 2024-25	\$(68,000,000)
FY 2025-26	\$(94,000,000)
FY 2026-27	\$(114,000,000)
FY 2027-28	\$(135,000,000)
FY 2028-29	\$(153,000,000)
FY 2029-30	\$(169,000,000)
FY 2030-31	\$(183,000,000)

**Expenditures:**

DOL previously estimated the bill, as amended, does not result in any additional cost.

DOR estimates expenditures for:

- 1.0 FTE IT Application Developer Senior each year;
- 0.5 FTE Auditor in FY 20-21, increasing to 1.5 FTE in FY 21-22 and thereafter;
- 0.5 FTE Business Systems Analyst for two years;
- 1.0 FTE Fiscal Compliance Analyst in FY 21-22, increasing to 2.5 FTE in FY 22-23; and
- A one-time programming charge to OCIO of \$450,000 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.

Total administrative costs estimated to implement the bill are \$619,200 in FY 20-21 and \$280,500 in FY 21-22.

DED estimates 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;
- 1.0 FTE Economic Development Division Administrator each year;
- 0.25 FTE Economic Development Manager in FY 20-21, increasing to 1.0 FTE in FY 21-22 and thereafter;
- 1.5 FTE Economic Development Business Consultant in FY 20-21, increasing to 3.75 FTE in FY 21-22;
- 0.75 FTE Attorney II in FY 20-21, increasing to 1.0 FTE in FY 21-22; and
- 0.5 FTE Economic Development Financial Packager in FY 20-21, increasing to 1.25 FTE in FY 21-22.

Total administrative costs, including the one-time charges, salary and benefits for employees, travel, and capital outlay, are estimated to be \$804,190 in FY 20-21 and \$2,869,730 in FY 21-22, which includes \$2,000,000 in aid pursuant to the Community Economic Opportunities Act.

There is no basis to disagree with these estimates. Administrative costs will be necessary in FY 20-21 with an operative date of January 1, 2021. In addition, the bill directs a fee of one-half of 1% of the incentive for administration of the act, and while the fee is directed to a particular fund, we estimate that any fees deposited in the fund in FY 20-21 or FY 21-22 will be insufficient to pay for the administrative costs of DED, and as such, the expenditures are listed as General Fund expenditures in those years.

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: 720	AM: ER136, AM1975	AGENCY/POLT. SUB: Department of Economic Development	
REVIEWED BY: Lee Will	DATE: 01/08/2020	PHONE: (402) 471-4175	
COMMENTS: The Department of Economic Development assessment of fiscal impact seems reasonable given the assumptions used. The bill provides for a \$5 million to be appropriated from the General Fund to the ImagiNE Nebraska Revolving Loan Fund, which is assumed as a transfer by the Department for purposes of the fiscal note.			

**State Agency Estimate**

State Agency Name: Department of Revenue		Date Prepared: 11/7/2019		Date Due LFA:		
Approved by: Tony Fulton				Phone: 471-5896		
	<b>FY 2020-2021</b>		<b>FY 2021-2022</b>		<b>FY 2022-2023</b>	
	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>
General Funds	\$619,200	(\$3,000,000)	\$280,500	(\$21,000,000)	\$330,300	(\$50,000,000)
Cash Funds	\$0	\$5,000,000	\$7,000,000	\$2,000,000	\$2,000,000	\$2,000,000
Federal Funds						
Other Funds						
Total Funds	\$619,200	\$2,000,000	\$7,280,500	(\$19,000,000)	\$2,330,300	(\$48,000,000)

LB 720 as amended by ER 136 and AM 1975 adopts the ImagiNE Nebraska Act (ACT), creates the ImagiNE Nebraska Revolving Loan Fund, creates additional reporting requirements for applicants and sunsets the Nebraska Advantage Act. In addition, the bill creates the Renewable Chemical Production Tax Credit Act, and the Community Economic Opportunities Act.

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

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

- a. Manufacturing – 31, 32, and 33;
- 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 taxpayer’s activities including the administrative management of any business entity in which the taxpayer or a group of its owners holds directly or indirectly at least 10% interest;
- m. Logistics facilities - portions of NAICS 488210, 488310, and 488490 dealing with independently operated trucking terminals, independently operated rail and railway terminals, and waterfront terminals and port facility operations;
- n. Research, development, and testing for scientific, agricultural, or animal husbandry, food product, industrial, or technology purposes;
- o. Production of electricity by using one or more sources of renewable energy to produce electricity for sale.
- p. Computer Systems Design and Information technology services - 5415; or
- q. 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.

- r. Any business location where at least 75% of revenue 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. The definition of qualified location specifically excludes locations where a majority of the business activities are one or more of the following:
    - i. Agriculture – 11;
    - ii. Transportation and Warehousing - 48 – 49;
    - iii. Information - 51;
    - iv. Utilities - 22;
    - v. Mining – 21;
    - vi. Public Administration – 92; or
    - vii. Construction – 23.

Taxpayers who want to participate in the program must submit an application to the Department of Economic Development (DED). The agreement must identify whether the agreement is for a single qualified location, all qualified locations within a county, or all qualified locations in more than one county, or all qualified locations within the state. Within the agreement the taxpayer must acknowledge that they understand the requirements for offering health coverage and for reporting the value of such coverage and a “sufficient” benefits package, including dental coverage, pension, retirement, and profit-sharing. The applicant must submit a nonrefundable \$5,000 application fee which will be remitted to the State Treasurer for credit to the Nebraska Incentive Fund. Applications will be accepted until December 31, 2029.

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 will 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, must provide a sufficient benefits package, and offer health coverage to its employees. The agreement will also lay out reporting requirements and state that the Tax Commissioner may defer pending incentive utilization if the taxpayer has not complied with the reporting requirements.

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

	A	B	C	D	E
Minimum Number of Jobs	5 FTE	20 FTE	30 FTE	250 FTE	N/A
Minimum Investment	1 M	None	5 M	250 M	50 M
Wage Threshold	90-County Average	Statewide Average	Statewide Average	Statewide Average	150% Statewide Average
Health Care offered to Full-time Employees	Required	Required	Required	Required	Required
Wage Credit (WC)	4% @ 90 County Average	5% @100% Statewide Avg. 7% @150% Statewide Avg. 9% @175% Statewide Avg. 12% @200% Statewide Avg.	5% @100% Statewide Avg. 7% @150% Statewide Avg. 9% @175% Statewide Avg. 12% @200% Statewide Avg.	7% @150% Statewide Avg. 9% @175% Statewide Avg. 12% @200% Statewide Avg.	None
Investment Tax Credit	4%	None	7%	7%	None
Sales Tax Refund-Exemption	None	None	Yes	Yes	Yes
Personal Property Tax Exemption	None	None	For all personal property at data center; MME	For All personal property	For all personal property at data center; MME
Real Property Tax ITC Refund	None	None	None	Yes	None

If the compensation and investment are made at a qualified location in an extremely blighted area the investment and wage credit is increased by 1% for the first year of the performance period for investment made after the date of the completed application and before the beginning of the performance period. If the company is a benefit corporation, as defined in Neb. Rev. Stat. § 21-403, the credit percentages are increased by 1%.

Employment and investment levels must be met by the end of the Ramp-up period. For purposes of attaining levels and earning credits, the employees must be full-time, as defined in the Affordable Care Act. The Ramp-up period means the year of application and the subsequent four years. The Performance period means the year during which the required increases in employment and investment were met and the subsequent six 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. 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 40 hours per week during the pay period. Only employees who work full time at least 30 hours per week shall be included in the calculation of the base year and qualification year total hours paid. The number of new employees includes only those employees who meet the health coverage requirement.

Before it is eligible to use benefits, a taxpayer must pay to DED an administrative fee equal to 1/2% of the benefits requested, except for the exemption on personal property. The fee may be paid by direct payment or by the withholding of 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 refunds shall be paid by DOR within 180 days of receipt. Such payments shall be subject to later recovery upon audit.

Once an agreement is signed a taxpayer may file for and receive benefits without waiting for the DOR to verify it 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. The Act provides that refunds will be paid by the DOR within 180 days of receipt. If the DOR or DED later determines that the taxpayer did not qualify, the benefits may be recaptured.

Upon request of the 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, the DED shall make an estimate of the amount of sales and use tax refunds to be paid and credits to be used under the Act for each of the upcoming three calendar years and shall make a report to the Legislature. If the estimates exceed the base authority, \$125 million for calendar years 2020-2023, the DED must prepare an analysis explaining why the estimate was over the base authority and submit it to the Legislature. The Director shall not approve any additional applications to receive credits for the year that is projected to exceed the base authority unless he or she receives additional authority from the executive board of the Legislature.

DED and DOR must submit an annual report of program activity to the legislature no later than October 31 of each year. The report will be on a fiscal year accrual basis.

DED, with input from DOR, may adopt rules and regulations.

The DOR must notify each municipality liable for a refund exceeding \$1,500 of the pending refund. The notification will be made by March 1 beginning in 2020. For total refunds in excess of \$1 million or 25% of the municipalities' total sales and use tax receipts for the prior fiscal year, the Department will deduct the refund in equal monthly amounts 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 must report to each municipality, in aggregate date, 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 intends to claim.

The Nebraska Advantage Act is sunset on the effective date of the bill.

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.

To participate in this program employers must submit an application to DED. Grants shall be awarded in proportion to the committed number of net new jobs created or committed net increase in wages per employee. Eligible jobs must meet or exceed the Nebraska average annual wage. The amount of each grant and number of grants shall 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 State Treasurer must transfer \$5 million from the Cash Reserve Fund to the ImagiNE Nebraska Revolving Loan Fund no later than July 15, 2019 and again on July 15, 2020. Any future activity in the Revolving Loan Fund is assumed to have a canceling effect. With July 15, 2019 already in the past, the Department assumed that this transfer would only occur in 2020. The bill calls for a Cash Reserve Fund transfer to the General Fund and then appropriates from the General Fund to the ImagiNE Nebraska Revolving Loan Fund, which is not permissible. Therefore, the Department assumes this transfer to occur between Cash Funds.

The Renewable Chemical Production Tax Credit Act provides certified eligible businesses a refundable credit equal to the product of 7 1/2 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 nonfossil 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 effective date of the Act, and 4) be in compliance with all other agreements for tax credits entered into with the DED or DOR. The eligible business shall enter into an agreement with the 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 a total of up to \$3 million in tax credits for calendar years 2021 and 2022 and up to \$6 million per calendar year for calendar years 2023 and later. Program certification applications approved after the annual limit has been reached shall be placed on a wait 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 a business does not fulfill all requirements of the act and agreement with the DED, the DOR can decline to issue tax credits. If the 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 2021.

The Customized Job Training Act will be administered by DED. The Customized Job Training Cash Fund is also created. Taxpayers may apply to the DED to receive job training reimbursement grants. Grants will provide reimbursement for job training programs for net new jobs or jobs that result in a net increase in wages per employee.

The Community Economic Opportunities Act will be administered by the DED. The purpose of this act is to provide capital for economic development to areas that are underserved by the state's other incentives programs. A newly created Community Economic Opportunities Board may approve up to \$2 million of funding each year to projects that are not otherwise eligible for incentives under the ImagiNE Nebraska Act and that will provide employment and investment to a community with fewer than 40,000 residents. The Community Economic Opportunities Fund will consist of \$2 million from the General Fund for fiscal year 2021-2022 and each year thereafter; plus any gifts or donations. Beginning in 2020, the Director and Tax Commissioner must submit an electronic report to the legislature on the Acts activity each year.

The Department estimates LB720 ER 136 AM 1975 will have the following impact to the General Fund revenues:

Fiscal Year	Reduction To General Fund Revenue
FY 2019-20	\$ 0
FY 2020-21	\$ 3,000,000
FY 2021-22	\$ 21,000,000
FY 2022-23	\$ 50,000,000
FY 2023-24	\$ 68,000,000
FY 2024-25	\$ 94,000,000
FY 2025-26	\$ 114,000,000
FY 2026-27	\$ 135,000,000
FY 2027-28	\$ 153,000,000
FY 2028-29	\$ 169,000,000
FY 2029-30	\$ 183,000,000

LB 720 ER 136 AM 1975 will need 1.0 FTE IT Application Developer/Senior to develop and maintain a tracking system for data analysis for the reporting requirement. The Department 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 2.5 FTE fiscal compliance analyst beginning in the third year. Under the original LB 720 fiscal note the Department of Economic Development (DED) showed an OCIO charge of \$450,000 for computer programming required in the administration of the ImagiNE application program and Revolving Loan Fund portion of the program. According to Section 37(4) this responsibility rests with the Department. After consultation with DED, the \$450,000 in OCIO costs is added to the Department’s operating costs and removed from the DED’s costs.

**Major Objects of Expenditure**

<u>Class Code</u>	<u>Classification Title</u>	<u>20-21 FTE</u>	<u>21-22 FTE</u>	<u>22-23 FTE</u>	<u>20-21 Expenditures</u>	<u>21-22 Expenditures</u>	<u>22-23 Expenditures</u>
A07012	IT Applications Developer/Senior	1.0	1.0	1.0	\$70,800	\$69,800	\$71,400
A07081	IT Business Systems Analyst	0.5	0.5	0.0	\$26,400	\$26,000	\$0
A21211	Fiscal Compliance Analyst	0.0	1.0	2.5	\$0	\$41,200	\$105,300
A21212	Auditor	0.5	1.5	1.5	\$22,500	\$66,400	\$67,900
Benefits.....					\$39,500	\$67,100	\$80,700
Operating Costs.....					\$450,000		
Travel.....							
Capital Outlay.....					\$10,000	\$10,000	\$5,000
Capital Improvements.....							
<b>Total.....</b>					<b>\$619,200</b>	<b>\$280,500</b>	<b>\$330,300</b>

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

**2020**

**LB<sup>(1)</sup> 720 with adopted amendments ER136, AM1975**

**FISCAL NOTE**

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

Prepared by: <sup>(3)</sup> Tony Goins Date Prepared: <sup>(4)</sup> 1/2/2020 Phone: <sup>(5)</sup> 402-471-3777

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

	<u>FY 2020-21</u>		<u>FY 2021-22</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	<u>\$804,190</u>	<u>(\$5,000,000)</u>	<u>\$869,730</u>	<u>(\$7,000,000)</u>
CASH FUNDS	<u>0</u>	<u>\$5,000,000</u>	<u>7,000,000</u>	<u>7,000,000</u>
FEDERAL FUNDS	<u></u>	<u></u>	<u></u>	<u></u>
OTHER FUNDS	<u></u>	<u></u>	<u></u>	<u></u>
TOTAL FUNDS	<u>\$804,190</u>	<u>\$0</u>	<u>\$7,869,730</u>	<u>\$0</u>

**Explanation of Estimate:**

LB720 as amended by AM1795 and ER136, creates a new tax incentive program called the ImagiNE Nebraska Act, which replaces the Nebraska Advantage Act, and sunsets all six tiers of the Nebraska Advantage Act. The bill also creates a revolving loan program administered by the Department of Economic Development (DED), the Renewable Chemical Production Tax Credit Act, the Community Economic Opportunities Act, and the Customized Job Training Act. The bill as amended also increases the benefits under the ImagiNE act for qualifying business activities that are located in "extremely blighted areas," and for "benefit corporations." The bill defines activities that qualify for incentives under the ImagiNE Nebraska Act according to the North American Industrial Classification System (NAICS). DED becomes responsible for receiving, reviewing, and within 90 days, approving applications for ImagiNE Nebraska. In addition, the DED director would be responsible for signing 15-year agreements between the State of Nebraska and qualifying businesses. The bill as amended also creates four new cash funds in DED, the ImagiNE Nebraska Cash Fund, the Community Economic Opportunities Fund, the ImagiNE Nebraska Revolving Loan Fund, and the Customized Job Training Cash Fund.

The bill allows, as amended, for businesses to request DED review and certify that the predominant business activity at a proposed location is qualified for benefits under the act. In these cases, DED has 90 days to complete the review. A business may also request NDR certify base year employment and investment. Under the provisions of LB720, businesses with a signed agreement may earn tax credits and become eligible for direct refunds that are reported to NDR. Unlike Nebraska Advantage, there is no tier structure, and benefits earned increase with employment, average wages, and investment at qualified locations. Tax credits may be used against individual and corporate income taxes, sales and use taxes, and employee withholding. ImagiNE Nebraska contains new uses for tax credits, including payment of documented costs for job training, and talent attraction. The bill directs ½% of the refunds to the ImagiNE Nebraska Cash Fund.

LB720 as amended by ER 136 and AM1975 requires employees that are counted toward meeting the employment threshold of the program to be full-time employees. Second, it requires applicants to provide their employees with a "sufficient" benefits package. This could include medical and dental insurance, pension, retirement, or profit-plans, child care or other insurance policies. The DED director may adopt rules and regulations to specify what constitutes a sufficient benefit package.

LB720 also requires DED and NDR to jointly estimate the amounts of sales and use tax refunds paid and tax credits to be used under the ImagiNE Act for use by the Fiscal Analyst and the Nebraska Economic Forecasting Advisory Board for their advisory forecasts. These forecasts are to be available on or before the 15<sup>th</sup> of February and October, and April of odd-numbered years. In addition, AM1975 also requires DED report these forecasts to Legislature each October and February. If the estimate exceeds the base authority for spending under the ImagiNE Act, 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, unless the director requests, and receives additional authority from the Executive Board of the Legislative Council. The base authority is set at \$125 million for calendar years 2020 through 2023, and beginning in 2024 is equal to 3% of actual General Fund gross receipts for the most recent available fiscal year. The base authority is reset every three years, beginning in 2024.

The operative date for the ImagiNE act in the bill, as amended, is currently January 1, 2020.

LB720, 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. AM1975 transfers \$5 million from the Cash Reserve Fund to the General Fund in FY2021-22 and FY2022-23 to be made no later than July 15, 2019 and July 15, 2020. AM1975 also contains intent language to appropriate \$5 million from the General Fund to the revolving loan fund for fiscal years 2021-22 and 2022-23.

LB720 as amended 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. An eligible business must produce at least 1 million pounds a year of renewable chemicals in Nebraska, the business must be organized, expanded, or located in Nebraska on or after the effective date of the act, and the business must 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 2021 and 2022 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 2021, which means the first tax credits paid out would not occur until calendar year 2022. The bill requires an annual report to the Revenue Committee of the Legislature, due on or before January 31, of 2022.

LB 720 as amended by ER 136 and AM 1975, creates the Customized Job Training Act, and the Customized Job Training Fund. The act is to provide grants administered by DED 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 or for training that results in higher wages. The training must be provided by a community college, an accredited postsecondary institution, or a qualified training provider if the training results in a national, state, or locally recognized certificate, is in preparation for a professional 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. As drafted, AM 1975 transfers no funds to the new cash fund.

LB720 as amended by ER 136 creates the Community Economic Opportunities Act. This program is designed to provide capital to businesses in counties with less than 40,000 population, which do not qualify for ImagiNE, and are likely to have a high rate of return on investment. The act creates a board to oversee the program. Five members are voting members appointed by the Governor and approved by the Legislature. The non-voting members include the Speaker of the Legislature, and the chairs of the Appropriations and Revenue committees. The act also creates the Community Economic Opportunities Fund administered by DED to fund up to \$2 million annually for eligible projects, with intent language to transfer \$2 million per year to the cash fund. The board members serve without compensation; however, they may be reimbursed for actual and necessary expenses. As drafted, there is no authorization to pay these expenses from the cash fund. Expenses would be determined by the frequency of meetings and distance of reimbursable travel. This act also requires DED to produce an annual report on the program.

The Department expects several new positions will need to be created, due to the expanded responsibilities under LB720 as amended. For purposes of this note, 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.

For purposes of this note, there will be no applications for the ImagiNE act before January 1, 2021. Beginning in FY2020-21, DED will require a division administrator and a business consultant for the full year, and a financial packager and attorney for part of the fiscal year, totaling 3.25 FTE. DED also believes there will be some ramp-up time for the revolving loan program, which will require 0.25 FTE of an Economic Development manager, hired in the last part of the year. Included in the operating costs for FY2020-21 is \$50,000 in for contract services. In FY2021-22. The ImagiNE act will require an additional 2.25 FTE, including a second business consultant, and the attorney and manager positions will be filled for the full year, plus an additional 0.25 FTE for a financial packager, for a total of 5.75 FTE for the ImagiNE act.

The Renewable Chemical Act will require a business consultant beginning the last half of FY2020-21 to administer the program. For FY2021-22, the personnel requirements will increase by an additional 0.75 FTE of a business consultant’s time, plus 0.5 FTE for a financial packager, for a total of 2.25 FTE in the second year.

Although the half percent of refunds are to be collected and used for administration of the ImagiNE Act, it is unknown 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, and the Community Economic Opportunity Act can be accomplished with current resources.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

POSITION TITLE	NUMBER OF POSITIONS		2020-21	2021-22
	20-21	21-22	EXPENDITURES	EXPENDITURES
G49430 Econ Dev. Division Administrator	1.00	1.00	\$82,240	\$84,300
G49550 Econ Dev Manager	0.25	1.00	16,550	67,860
A49310 Econ Dev. Bus Consultant	1.50	3.75	89,140	228,420
A31112 Attorney II	0.75	1.00	51,510	70,390
A49280 Econ. Dev. Financial Packager	0.50	1.25	29,710	76,140
<b>Benefits</b> .....			107,700	190,320
<b>Operating</b> ...(Includes OCIO costs and contract services)			303,840	105,400
<b>Travel</b> ...(Includes vehicles) .....			72,000	21,100
<b>Capital outlay</b> .....			51,500	25,800
<b>Aid</b> .....				2,000,000
<b>Capital improvements</b> .....				
<b>TOTAL</b> .....	4.00	8.00	\$804,190	\$2,869,730