

Revised to clarify narrative for fiscal impact.

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

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES</b> (See narrative for political subdivision estimates)				
	<b>FY 2021-22</b>		<b>FY 2022-23</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS	\$125,200	(\$100,000)		(\$100,000)
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>	<b>\$125,200</b>	<b>(\$100,000)</b>		<b>(\$100,000)</b>

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

LB 366 seeks to make various changes to the Nebraska Advantage Microenterprise Tax Credit Act. The deadline for applications is extended from December 31, 2022 to December 31, 2024. LB 366 changes the refundable tax credit for a taxpayer’s new investment or employment in a microbusiness. Rather than being equal to 20% of the investment amount, it is amended to the following:

- 10% of the taxpayer’s new investment in depreciable tangible personal property;
- 20% of any other new investment; and
- 20% of the taxpayer’s new employment.

LB 366 increases the total microenterprise tax credits that any one taxpayer can claim in a lifetime to \$20,000.

In addition, LB 366 requires the report by the Tax Commissioner to provide information on project-specific total credits for each approved application that includes the following information:

- The taxpayer’s identity;
- The location or locations where credits are being earned;
- The new investment or new employment that was produced by the taxpayer; and
- The total credits used in the previous two years.

The changes made by LB 366 are to apply only to applications made after it becomes operative. LB 366 becomes operative 3 months after adjournment.

**Revenue:**

The Nebraska Advantage Microenterprise Tax Credit is currently being under-utilized. There is a maximum of \$2 million in credits that can be granted, and an average of \$1.2 million has been utilized in the last 6 years, according to the most recent tax incentives report by the Tax Commissioner. The Department of Revenue expects no significant increase in the number of applicants utilizing this tax credit, but expects the changes made by LB 366 to increase the tax credits paid out to current recipients by \$100,000.

It is expected that LB 366 will create a revenue loss of \$1.3 million to the general fund in FY23-24 and FY24-25. This is because LB 366 extends the deadline for applications, so there will be two additional years for qualifying taxpayers to receive this credit.

There is no basis to disagree with these estimates.

**Expenditures:**

The Department of Revenue estimates that they will need a 0.5 FTE Fiscal Compliance Analyst in FY21-22 to revise the application process. Additionally, DOR estimates the need for 1 FTE IT Application Developer Senior in FY21-22 to create a new Micro Enterprise program. There is no basis to disagree with these estimates.

<b>ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY &amp; POLT. SUB. RESPONSE</b>			
LB: 366	AM:	AGENCY/POLT. SUB: Department of Revenue	
REVIEWED BY: Lee Will	DATE: 02/03/2021	PHONE: (402) 471-4175	
COMMENTS: No basis to disagree with the Department of Revenue’s assessment of revenue loss related to the increasing of the microenterprise tax credits by changing the previous calculation in statute.			

**State Agency Estimate**

State Agency Name: Department of Revenue				Date Due LFO:			
Approved by: Tony Fulton				Date Prepared: 2/1/2021		Phone: 471-5896	
	<b>FY 2021-2022</b>		<b>FY 2022-2023</b>		<b>FY 2023-2024</b>		
	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	
General Funds	\$125,200	(\$100,000)		(\$100,000)		(\$1,300,000)	
Cash Funds							
Federal Funds							
Other Funds							
<b>Total Funds</b>	<b>\$125,200</b>	<b>(\$100,000)</b>		<b>(\$100,000)</b>		<b>(\$1,300,000)</b>	

LB 366 amends the Nebraska Advantage Microenterprise Tax Credit Act. The bill extends the approval date of applications from December 31, 2022 to December 31, 2024. In addition, the bill provides that the following changes apply to applications received on or after the effective date of LB 366.

LB 366 increases the limit to \$20,000 for the total lifetime microenterprise tax credits any one taxpayer and related person may claim under Neb. Rev. Stat. § 77-5906. The bill also changes the calculation of credits for these applications. Under LB 366, the refundable tax credits for new investment or new employment equal:

- 10% of taxpayer’s new investment in depreciable tangible personal property;
- 20% of any other new investment of the taxpayer; and
- 20% of the taxpayer’s new employment.

The total amount of credits cannot exceed the amount of tentative credits approved by the Department of Revenue.

LB 366 changes the definition or related persons in Neb. Rev. Stat. § 77-5903(6). The bill eliminates from the definition any person considered a related person under IRC §§ 267(b) and (c), and 707(b), and eliminates spouses from the definition of related persons in the subsection addressing familial relationships. LB 366 adds the following to the related persons’ definition:

- an individual and a corporation if more than 50% in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for such individual;
- a fiduciary of a trust and a corporation if more than 50% in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
- a corporation and a partnership if the same persons own (i) more than 50% in value of the outstanding stock of the corporation, and (ii) more than 50% of the capital interest, or the profits interest, in the partnership;
- a subchapter S corporation and another subchapter S corporation if the same persons own more than 50% in value of the outstanding stock of each corporation;

**Major Objects of Expenditure**

<u>Class Code</u>	<u>Classification Title</u>	<u>21-22</u>	<u>22-23</u>	<u>23-24</u>	<u>21-22</u>	<u>22-23</u>	<u>23-24</u>
		<u>FTE</u>	<u>FTE</u>	<u>FTE</u>	<u>Expenditures</u>	<u>Expenditures</u>	<u>Expenditures</u>
A21211	Fiscal Compliance Analyst	0.5			\$20,600		
A07012	IT Applications Developer/Senior	1.0			\$69,800		
Benefits.....					\$29,800		
Operating Costs.....							
Travel.....							
Capital Outlay.....					\$5,000		
Capital Improvements.....							
<b>Total.....</b>					<b>\$125,200</b>		

- a subchapter S corporation and C corporation if the same persons own more than 50% in value of the outstanding stock of each corporation;
- a partnership and a person owning, directly or indirectly, more than 50% of the capital interest, or the profits interest, in such partnership; and
- two partnerships in which the same persons own, directly or indirectly, more than 50% of the capital interests or profits interests.

LB 366 amends Neb. Rev. Stat. § 77-5907 to require more information in the annual report related to applications filed on or after the effective date of LB 366. For these applications, the report must provide information on project-specific total credits used every two years for each approved application and must disclose the :

- identity of the taxpayer;
- location or locations where the taxpayer is earning credits;
- new investment or new employment actually produced by the taxpayer to earn credits; and
- total credits used during the immediately preceding two years, expressed as single, aggregated total.

Nebraska Advantage Microenterprise Tax Credit Act allows Department of Revenue to authorize tax credits in the amount of \$2 million in each calendar year. However, the Microenterprise program is currently undersubscribed. The Department of Revenue shows the General Fund loss from extending this program as \$1.2 million rather than \$2 million.

Considering that the lifetime credit limit amount increases to \$20,000, the investment credit in the depreciable personal property decreases to 10% and the program is extended to December 31, 2024, it is estimated that LB 366 will have the following impact on the General Fund revenues:

FY2021-2022	\$	(100,000)
FY2022-2023	\$	(100,000)
FY2023-2024	\$	(1,300,000)
FY2024-2025	\$	(1,300,000)

LB 366 will require 0.5 FTE Fiscal Compliance Analyst to revise the application and process in the first year. In addition, the Department will require 1 FTE IT Application Developer Senior in the first year to create a new Micro Enterprise program.

The operative date for this bill is 3 months after adjournment.