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DATE PREPARED: May 12, 2021
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LB 682

Revision: 02

FISCAL NOTE

Revised to include AM 1433

LEGISLATIVE FISCAL ANALYST ESTIMATE

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

	FY 2021-22		FY 2022-23	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS		See below		See below
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS		See below		See below

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

LB 682 seeks to make various changes to the New Markets Job Growth Investment Act (Act).

LB 682 was revised by AM 195. AM 195 changes the timeline for which new applications can be accepted to utilize the 2021 federal notice, rather than the 2020 federal notice. Furthermore, the new deadline is between 30 and 45 days after the 2021 federal notice, rather than between 30 days and 1 year after the 2020 federal notice.

AM 195 also harmonizes language in the bill to the federal statutes and removes a provision relating to the certification of qualified equity investments by the Tax Commissioner.

Section 2 specifies the purpose of the Act as helping small businesses gain access to capital and investment dollars.

Section 4 redefines qualified equity investment in context of the 2021 allocation. Section 5 defines 2021 federal notice as a federal announcement indicating funding availability in September of 2020.

2021 allocation is defined in Section 5 as a monetary amount of qualified equity investments given by the Tax Commissioner after the 2021 federal notice to maximize tax credit utilization of no more than $15 million in any fiscal year of new tax credits under the Act.

LB 682 excludes tax credits received under the 2021 allocation from the $15 million new tax credits cap. The deadline for new applications for designation as a qualified equity investment is extended from December 31, 2022 to December 31, 2029.

As amended by AM 1433, LB 682 carries the emergency clause, and would become effective immediately if enacted. This resolves any concerns regarding the timing of the application deadline.

The Department of Revenue estimates the following impact to General Fund Revenues:

- FY21-22: $0
- FY22-23: $0
- FY23-24: $0
- FY24-25: ($15,000,000)
- FY25-26: ($15,000,000)
- FY26-27: ($15,000,000)

This estimate assumes that returned or unfulfilled allocations will be re-allocated in a later allocation round. DOR notes that there is uncertainty on how these allocations will be treated if LB 682 were to pass. If such returned or unfulfilled allocations would be disallowed from re-allocation, the revenue loss would more closely match the current program at $12 million per year, starting in FY24-25.

DOR expects no cost to implement LB 682.

There is no basis to disagree with these estimates.

CONTINUED

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 682	AM: 195	AGENCY/POLT. SUB: Department of Revenue
REVIEWED BY: Neil Sullivan	DATE: 5/12/2021	PHONE: (402) 471-4179
COMMENTS: No basis to disagree with the Department of Revenue contingent assessment of fiscal impact from LB 682 as amended by AM 195.		

LB 682 AM 195 Fiscal Note 2021

State Agency Estimate

State Agency Name: Department of Revenue					Date Due LFO:	
Approved by: Tony Fulton		Date Prepared: 5/12/2021			Phone: 471-5896	
	FY 2021-2022		FY 2022-2023		FY 2023-2024	
	Expenditures	Revenue	Expenditures	Revenue	Expenditures	Revenue
General Funds		See Below		See Below		See Below
Cash Funds						
Federal Funds						
Other Funds						
Total Funds		See Below		See Below		See Below

LB 682 as amended by AM 195 retains sections 1 through 9 of LB 682 with some changes. LB 682 defined 2021 allocation to mean a monetary amount of qualified equity investments to be awarded by the Tax Commissioner after the 2020 federal notice under the New Markets Job Growth Investment Act that results in a maximum tax credit utilization in any fiscal year of no more than $15 million of new tax credits. AM 195 to LB 682 changed the definition to utilize the 2021 federal notice instead of the 2020 federal notice. AM 195 to LB 682 changes the time in which the Tax Commissioner must begin accepting applications with respect to the 2021 allocation to "not less than 30 days or more than 45 days after the 2021 federal notice." The time for accepting applications in LB 682 is "not less than 30 days or more than one year after the 2020 federal notice." This change creates uncertainty with the administration of the bill. Because LB 682 does not have the emergency clause, it is possible that the 45 days after the federal notice deadline will have passed before the effective date of LB 682 and no allocations will be permissible under the bill.

LB 682 provides a method by which the Tax Commissioner will certify applications by applicants that agree to designate qualified equity investments as federal qualified equity investments in accordance with Neb. Rev. Stat. § 77-1116 (1)(h), with respect to applications for the 2021 allocation. AM 195 to LB 682 removes the provision in LB 682 that mandates the Tax Commissioner to certify the qualified equity investments of "all other applicants" including the remaining qualified equity investment authority requested by applicants not designated as federal qualified equity investments pursuant to § 77-1116.

Section 9 of AM 195 LB 682 amends Neb. Rev. Stat. § 77-1117 to provide that, with respect to the 2021 allocation, amounts received periodically by a qualified community development entity will be treated as maintained in qualified low-income community investments if the amounts are reinvested in one or more qualified low-income community investments by the end of the following calendar year.

LB 682 Section 1 amends § 77-1101 to add 4 new sections to the New Markets Job Growth Investment Act (New Markets Act).

Major Objects of Expenditure

Class Code	Classification Title	21-22 FTE	22-23 FTE	23-24 FTE	21-22 Expenditures	22-23 Expenditures	23-24 Expenditures
Benefits							
Operating Costs							
Travel							
Capital Outlay							
Capital Improvements							
Total							

Section 2 states the purpose of the New Markets Act.

Section 4 amends the definition of equity investment in § 77-1110. It now includes an equity investment in or long-term debt security issued by a qualified community development entity that has at least100%, with respect to the 2021 allocation, of its cash purchase price used by the issuer for qualified low-income community investments. In addition to being designated by the issuer as a qualified equity investment, it adds that the qualified community development entity, with respect to awards of the 2021 allocation pursuant to § 77-1116(6)(a), must also be designated by the issuer as a qualified equity investment under § 45D of the IRC to the definition of equity investment in § 77- 1110(1)(c).

Section 5 adds the definition of 2020 federal notice. It means the announcement by the Community Development Financial Institutions Fund of the United States Department of the Treasury of allocation awards under a notice of funding availability that was published in the Federal Register in September 2020.

Section 6 adds the definition of 2021 allocation. It means a monetary amount of qualified equity investments to be awarded by the Tax Commissioner after the 2020 federal notice under the New Markets Act that results in a maximum tax credit utilization in any fiscal year of no more than $15 million of new tax credits.

Section 7 amends § 77-1115 to exclude tax credits acquired with respect to qualified equity investments issued under the 2021 allocation from the $15 million new tax credits cap.

Section 8 extends the deadline for new applications for designation as a qualified equity investment and eligibility for tax credits under the New Markets Act to December 31, 2029. Section 8 adds additional information to be included in the application for the 2021 allocation and provides the method in which the applications must be certified by the Tax Commissioner.

Section 9. Qualified community development entities that have received an allocation pursuant to the 2021 allocation, must submit an annual report to the Tax Commissioner on or before the last day of February following the second through seventh credit allowance date. Section 9 provides the information to be included in the annual report. The Tax Commissioner must submit a report to the Legislature on or before April 1, 2022 and on or before each April 1 thereafter through April 1, 2028 a report with respect to the 2021 allocation.

The remainder of LB 682 harmonizes provisions.

It is unclear under the bill if the 2021 federal allocation is the only state allocation allowed. With the current program, returned or unfulfilled allocations were re-allocated in a later allocation round. Under LB 682, it is unclear if that is intended to occur.

The estimated fiscal impact for LB 682 AM 195 will depend on how the returned or unfulfilled allocations are treated. If the returned or unfulfilled allocations are re-allocated in a later allocation round, then the estimated fiscal impact would be as follows:

FY21-22	$	-
FY22-23	$	-
FY23-24	$	-
FY24-25	$	(15,000,000)
FY25-26	$	(15,000,000)
FY26-27	$	(15,000,000)

However, if the allocation is a one-time allocation and the returned or unfulfilled allocation cannot be re-allocated in a later allocation round, then based on the rate of returned or unfulfilled allocations in the current program, the estimated fiscal impact would be as follows:

FY21-22	$	-
FY22-23	$	-
FY23-24	$	-
FY24-25	$	(12,000,000)
FY25-26	$	(12,000,000)
FY26-27	$	(12,000,000)

If the allocation is a one-time allocation and unfulfilled allocations cannot be re-allocated in a later round and the federal notice occurs 45 days or more before the effective date of the bill, the fiscal impact will be zero.

It is estimated that there will be minimal costs to the Department to implement this bill.