

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

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES</b> (See narrative for political subdivision estimates)				
	<b>FY 2016-17</b>		<b>FY 2017-18</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS	\$19,556		\$55,347	
CASH FUNDS	\$200,000	\$200,000		\$0
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>	<b>\$219,556</b>	<b>\$200,000</b>	<b>\$55,347</b>	<b>\$0</b>

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

LB 1048 creates the Nebraska Agriculture and Manufacturing Jobs Act.

The bill would grant nonrefundable tax credits for investment in a small business growth fund (SBGF). The credits could be used to offset the individual income tax, fiduciary income tax, corporate income tax, insurance premium tax or related retaliatory taxes. The credits may not be sold, transferred, or allocated to any entity other than an affiliate of the taxpayer.

The credit is equal to the amount of the taxpayer’s credit-eligible capital contribution to the small business growth fund.

“Credit-eligible capital contribution” is defined as an investment of cash by a person in a small business growth fund that equals the amount specified on a tax credit certificate issued by the Department of Revenue.

“Small business growth fund” means an entity certified by the Department of Revenue under Sec. 13 (6) (a) of the Act. Sec. 13 (6) refers to notices issued by the Department of Revenue and Sec. 13 (6) (a) states, “To the applicant, a written notice certifying that the applicant qualifies as a small business growth fund and specifying the amount of the applicant’s eligible investment authority.”

A person wishing certification as a SBGF may, beginning October 1, 2016, make application to the Department of Revenue for such certification. The application shall include the following:

- \$5,000 nonrefundable application fee;
- The total eligible investment authority sought by the applicant;
- Documentation sufficient to prove to the Department’s satisfaction that the applicant meets the following criteria:
  - They or an affiliate is a rural business investment company as defined in 7 U.S.C. 2009cc or is licensed as a small business investment company under 15 U.S.C. 681;
  - As of the date of application, the applicant has invested more than \$100 million in operating companies, including at least \$50 million in such companies in rural areas;
  - The industries in which the applicant proposes to make small business growth investment and the percentage of the small business growth investments that will be made in each industry using NAIC codes;
  - An estimate of the number of jobs that will be created or retained in Nebraska as a result of the investment;
  - A revenue impact statement prepared by a nationally recognized third-party independent forecasting firm using a dynamic forecasting model such as IMPLAN; and
  - A signed affidavit from each investor successfully solicited to make a credit-eligible capital contribution in support of the SBGF.

The Department is to make a determination on each application within 30 days of receipt in the order in which they are received. The Department shall not approve more than \$100 million in eligible investment authority and not more than \$70 million in credit-eligible capital contributions. NOTE: It is unclear if this is an annual restriction or in total; we are assuming it is in total.

After receiving notice from the Department that they qualify as an SBGF, the applicant has 60 days to collect the investments and return documentation to the Department that the investments have been made. Failure to do so means the investment authority lapses and the tax credits are forfeited and returned to the pool.

The SBGF may make investments in a “small business concern,” that:

- Has its principal operations in Nebraska; which means that 80% of the employees reside in Nebraska, the individuals who receive 80% of the payroll reside in Nebraska or the company has agreed to use the proceeds of the investment to relocate at least 80% of its employees to Nebraska or pay at least 80% of its payroll to individuals residing in Nebraska;

- Has fewer than 250 employees or not more than \$15 million in net income in the preceding taxable year; and meets any of the following criteria:
  - The principal business operations are located in a rural area (as defined by the bill);
  - The company produces or provides goods or services normally used by farmers, ranchers, or producers and harvesters of aquatic products in their business operations or to improve the welfare or livelihood of such persons or is involved in the processing and marketing of agricultural products, farm supplies, or input suppliers; OR
  - The company is primarily engaged in manufacturing.

The tax credit is 100% of the credit-eligible capital contribution and may be taken as follows:

- 20% of the contribution for the taxable years that include the third, fourth, and fifth anniversary dates of the closing date (the closing date is the date on which a SBGF collected all of the investment amounts);
- 10% of the contribution for the taxable year that includes the sixth anniversary date of the closing date
- If the amount of credit exceeds the tax otherwise due for the taxable year, the excess may be carried forward until fully used.

A tax credit certificate may be revoked if the SBGF fails to make or maintain the investment, or invests more than 20% of its investment authority in a single operating company. Revocation results in an assessment of tax for any tax against which the credit was taken.

The bill also creates the Nebraska Agriculture and Manufacturing Jobs Fund, to which all application fees are to be credited. The Department of Revenue shall use the fund to administer the Act.

The Department of Revenue is given rule and regulation authority to administer the Act.

The Department of Revenue estimates the following fiscal impact:

Fiscal Year:	General Fund:	Premium & Retaliatory Tax Fund:	Total:
2016-17:	\$ 0	\$ 0	\$ 0
2017-18:	\$ 0	\$ 0	\$ 0
2018-19:	\$ 0	\$ 0	\$ 0
2019-20:	(\$ 12,000,000)	(\$ 4,400,000)	(\$ 16,400,000)
2010-21:	(\$ 13,470,000)	(\$ 4,930,000)	(\$ 18,400,000)
2021-22:	(\$ 13,470,000)	(\$ 4,930,000)	(\$ 18,400,000)
2022-23:	(\$ 5,830,000)	(\$ 3,370,000)	(\$ 9,200,000)
Total:	(\$ 44,770,000)	(\$ 17,630,000)	(\$ 62,400,000)

The Department of Revenue indicates a one-time programming charge of \$160,506 paid to the Office of the CIO to develop and implement the tracking system and additional costs of \$97,530 to add a line to Forms 1040N, 1120N, 1041N, and NebFile in 2019-20. They will also require 1.0 FTE Auditor to implement the provisions of LB 1048. PSL for FY 2016-17 is \$40,639 and for FY2017-18 is \$41,614.

We have no basis to disagree with the Department of Revenue's estimate of fiscal impact or cost to implement.



If approved, the Department is to send the applicant a written certification that the applicant qualifies as a small business growth fund and sent to each investor in the fund a tax credit certificate specifying the amount of the investor’s credit-eligible capital contribution. The small business growth fund is to then collect the investments and return documentation to the Department that the investments have been made. If it doesn’t, the investment authority lapses and the forfeited tax credits are put back in the pool and are available for other certifications.

The credit amount is 100% of the credit-eligible capital contribution (70% of the total contribution to the small business). The credits can be claimed as follows: (a) 20% of the contribution to the small business on the third, fourth and fifth anniversary dates, and (b) 10% on the sixth anniversary date. The credits may be taken against the insurance premium tax, the related retaliatory tax, or any income tax due under the Revenue Act. Credits cannot be sold or transferred except to an affiliate of the taxpayer, defined as owned by, ownership of, or in common ownership with the investor. Unused credits may be carried over.

The Department may revoke a tax credit certificate if the small business growth fund fails to make or maintain the investment, or invests more than 20% of its investment authority in a single operating company. It may reinvest investments that are returned. Revocation results in an assessment of tax by the Department of Revenue, including an assessment of premium tax or retaliatory tax. Each small business growth fund has a reporting requirement and the Department may adopt regulations to carry out the Act.

The Department estimates the impact to the General Fund as follows:

Fiscal Year	General Fund	Premium and Retaliatory Tax Suspense Fund	Total
FY 2016-2017	\$200,000	\$0	\$200,000
FY 2017-2018	\$0	\$0	\$0
FY 2018-2019	\$0	\$0	\$0
FY 2019-2020	(\$12,000,000)	(\$4,400,000)	(\$16,400,000)
FY 2020-2021	(\$13,470,000)	(\$4,930,000)	(\$18,400,000)
FY 2021-2022	(\$13,470,000)	(\$4,930,000)	(\$18,400,000)
FY 2022-2023	(\$5,830,000)	(\$3,370,000)	(\$9,200,000)

LB 1048 would require a one-time programming charge of 160,506 paid to the OCIO to develop and implement the tracking system. There will be additional costs of \$97,530 to add a line to Forms 1040N, NebFile, 1120N, 1041N in 2019-20. The Department will require 1.0 FTE Auditor to implement this bill.