

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2023-24		FY 2024-25	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS		(\$8,796,000)		(\$3,158,000)
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS		(\$8,796,000)		(\$3,158,000)

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

LB 491 makes changes to the tax credits under the Nebraska Advantage Research and Development Act (Act). The bill changes the date for when a business firm is allowed to first claim the credit from any tax year beginning or deemed to begin after December 31, 2022 to December 31, 2033. LB 491 also adds and amends language for business firms which make expenditures in research and experimental activities as defined in section 174 of the Internal Revenue Code of 1986, as amended, and are allowed a research tax credit under the Act so that for all tax years of a taxpayer which are open for assessment or filing a refund claim, for which a refund claim, including a refund request in an income tax return, concerning this credit has been filed but not yet paid, or for which the Tax Commissioner has issued a notice of proposed assessment of a deficiency, which is not yet final, concerning this credit, the credit is to be allowed for the first tax year it is claimed and for each tax year following. This same amending of and addition of language is placed into the Act for the more specific category of business firms that make expenditures in research and experimental activities as defined in section 174 of the Internal Revenue Code of 1986, as amended, on the campus of a college or university in this state or at a facility owned by a college or university in this state.

Under Section 3, subsection 1, the bill amends a current provision where the Tax Commissioner is not to approve or grant to any person any tax incentive under the Act unless the taxpayer provides evidence satisfactory to the Tax Commissioner that the taxpayer electronically verified the work eligibility status of newly hired employees employed in Nebraska. That provision currently does not apply to any credit claimed before the 2009 taxable year. Under this bill, the provision would apply for taxable years 2009 through 2022 except for the tax year or years for which the taxpayer elects to apply subsection (2) of Section 3 of the bill.

Subsection 2 of Section 3 of the bill is added to the Act and would apply for the 2023 taxable year and after, and, if the taxpayer so elects, tax year or tax years 2009 through 2022. This new language adds that when calculating the research tax credited under the Act, the qualified research expenses claimed in computing the federal credit allowed under section 41 of the Internal Revenue Code of 1986, as amended, shall be adjusted to the extent the taxpayer includes, in such qualified research expenses, compensation paid to an employee of such taxpayer hired during or after the first tax year for which the Act credit is claimed by such firm and to the extent such compensation is subject to the Nebraska income tax. Such compensation, for the tax year in which the credit is being claimed, shall be deducted from the taxpayer's qualified research expenses unless such employee was verified as eligible to work in the United States using the federal E-Verify system within 90 days after the date of hire of such employee or such longer period as may be permitted under the rules of the federal E-Verify system.

Finally, the bill adds that the taxpayer can make the elections from subsections 1 and 2 of Section 3 of this bill for taxable years 2009 through 2022, which is open for assessment or filing a refund claim, for which a refund claim, including a refund request in an income tax return, concerning the research tax credit has been filed but not yet paid, or for which the Tax Commissioner has issued a notice of proposed assessment of a deficiency, which is not yet final, concerning such credit. When made, the elections would apply for the tax year or tax years for which they are made.

The Department of Revenue (DOR) estimates the following reduction to General Fund revenues from this bill:

Fiscal Year	General Fund
FY2023-24	\$8,796,000
FY2024-25	\$3,158,000
FY2025-26	\$1,152,000

The DOR estimates minimal costs to it to implement the bill. There is no basis to disagree with these estimates.

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

The operative date for this bill is 3 months after the session ends.