

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2017-18		FY 2018-19	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	\$128,688	(\$20,189,000)	\$25,711	(\$40,838,000)
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$128,688	(\$20,189,000)	\$25,711	(\$40,838,000)

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

LB 374 amends Nebraska Revised Statutes regarding the corporate income tax and the Nebraska Advantage Act.

Section 77-2734.03 is amended to provide a nonrefundable income tax credit to corporate taxpayers equal to 100% of corporate income taxes paid for tax years beginning on or after January 1, 2018. However, the taxpayer is not entitled to use the credit against its own income tax liability. The credit is to be distributed as follows:

- 50% is to be distributed to shareholders of the corporate taxpayer who are natural persons in the same manner as dividends are distributed.
- 50% is to be distributed to all employees of the corporate taxpayer with the amount to be distributed calculated as follows:

$$X = A \times (B/C)$$

X = Amount distributed to employee for credit

A = Total amount available for distribution

B = Employee's wages subject to withholding for social security tax

C = All employees' wages subject to withholding for social security tax

The shareholders and the corporate employees may use the credit as a nonrefundable credit against their Nebraska income tax liability.

Corporate taxpayers distributing these credits are required to report the shareholders and employees receiving the credits and amounts to the Department of Revenue.

Corporate taxpayers receiving tax credits or other incentives under the following acts are ineligible for the new tax credit provided by LB 374:

- Angel Investment Tax Credit Act;
- Beginning Farmer Tax Credit Act;
- Nebraska Advantage Act;
- Nebraska Advantage Microenterprise Tax Credit Act;
- Nebraska Advantage Research and Development Act;
- Nebraska Advantage Rural Development Act;
- Nebraska Job Creation and Mainstreet Revitalization Act;
- New Markets Job Growth Investment Act.

Section 77-5725 is amended to change the sunset date for the Nebraska Advantage Act. As provided by LB 374, no new applications for any of the Act's tiers will be accepted after the effective date of LB 374.

Section 77-5726 is amended to provide that for agreements executed on or after the effective date of LB 374, a taxpayer may not use a credit to reduce the taxpayer's income tax withholding employer or payor tax liability.

The bill contains the emergency clause.

The Department of Revenue estimates that approximately 15% of shareholders and employees would be able to utilize the credit provided in LB 374. As a result, they estimate the following fiscal impact to the General Fund:

FY2017-18:	(\$ 20,189,000)
FY2018-19:	(\$ 40,838,000)
FY2019-20:	(\$ 41,342,000)
FY2020-21:	(\$ 42,292,000)

The Department of Revenue indicates that LB 374 will require a one-time programming charge of \$103,294 paid to the Office of the CIO and will also require 0.5 FTE Fiscal Compliance Analyst to implement and administer the bill. PSL for FY2017-18 is \$19,093 and \$19,332 for FY2018-19.

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

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 374	AM:	AGENCY/POLT. SUB: Department of Economic Development	
REVIEWED BY: Lyn Heaton	DATE: 3/7/2017	PHONE: 402) 471-4181	
COMMENTS: No basis upon which to disagree with the Dept. of Economic Development's analysis.			

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2017

LB⁽¹⁾ 374

FISCAL NOTE

State Agency OR Political Subdivision Name: (2) Nebraska Dept. of Economic Development

Prepared by: (3) Courtney Dentlinger Date Prepared: (4) 1/20/2017 Phone: (5) 471-3777

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2017-18		FY 2018-19	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	=====	<u>(See Below)</u>	=====	<u>(See Below)</u>

Explanation of Estimate:

LB 374 allows for nonrefundable tax credit for being a shareholder or an employee of a corporate taxpayer and changes the sunset dates under the Nebraska Advantage Act. The bill has three major components. First, the bill creates a nonrefundable tax credit in an amount equal to one hundred percent of the corporate income taxes paid.

Second, the bill limits the use of the new tax credit. The corporate taxpayer is not entitled to use the credit for its own income tax liability, but must distribute one half to all shareholders and one half to all employees of the corporate taxpayer. Shareholders and employees may use the credit as a nonrefundable credit against their Nebraska income tax liability. If the corporate taxpayer is receiving tax credits or other incentives under the Angel Investment Tax Credit Act, Beginning Farmer Tax Credit Act, Nebraska Advantage Research and Development Act, Nebraska Job Creation and Mainstreet Revitalization Act, or New Market Jobs Growth Investment Act, then the corporate taxpayer is ineligible for the credit.

Third, LB 374 changes the sunset dates under the Nebraska Advantage Act. The bill changes the sunset dates for applications for each of the tiers of the Nebraska Advantage Act. The last day for accepting new project applications for benefits under each tier is changed from December 31, 2020 to after the effective date of the this act.

The Department of Economic Development has no estimate of the potential General Fund Impact LB 374. The Department of Economic Development will have no costs associated by the provisions of LB 374.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

POSITION TITLE	NUMBER OF POSITIONS		2017-18	2018-19
	<u>17-18</u>	<u>18-19</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____

State Agency Estimate

State Agency Name: Department of Revenue		Date Due LFA: 3/13/2017				
Approved by: Tony Fulton		Date Prepared: 3/14/2017				
		Phone: 471-5896				
	FY 2017-2018		FY 2018-2019		FY 2019-2020	
	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>
General Funds	\$128,688	(\$20,189,000)	\$25,711	(\$40,838,000)	\$26,097	(\$41,342,000)
Cash Funds						
Federal Funds						
Other Funds						
Total Funds	\$128,688	(\$20,189,000)	\$25,711	(\$40,838,000)	\$26,097	(\$41,342,000)

For taxable years beginning on or after January 1, 2018, LB 374 provides a nonrefundable income tax credit to corporations, which must be distributed to individual shareholders or employees of the corporation, for 100% of a corporation’s income tax paid to this State. The corporation must distribute 50% of the credit to individual shareholders (in the same manner as dividends are distributed), and 50% to employees based on a formula in the act.

The credit distributed to each employee is calculated by taking the total amount available for distribution under this subdivision and multiplying such amount by a ratio. The numerator of the ratio is the amount of the employee’s wages subject to withholding for federal social security tax and the denominator is the amount of all employees’ wages subject to withholding for federal social security tax.

A corporate taxpayer receiving tax credits or other incentives under the Angel Investment Tax Credit Act, the Beginning Farmer Tax Credit Act, the Nebraska Advantage Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, the Nebraska Advantage Rural Development Act, the Nebraska Job Creation and Mainstreet Revitalization Act, or the New Markets Job Growth Investment Act is not eligible for the credit under this act.

A corporation must file a report with the Department of Revenue identifying taxpayers receiving a credit.

LB 374 would also amend the Nebraska Advantage Act to allow no new applications to be filed after the effective date of the legislation. Further, a taxpayer executing a Nebraska Advantage Act agreement on or after the effective date of the legislation would not be allowed to use tax credits to reduce the taxpayer's income tax withholding employer or payer tax liability under Neb Rev. Stat. §§ 77-2756 or 77-2757.

It is estimated that 15% of the shareholders and employees would be able to utilize the credit. The estimated reduction to General Fund revenues would be as follows:

FY 2017-2018	\$	20,189,000
FY 2018-2019	\$	40,838,000
FY 2019-2020	\$	41,342,000
FY 2020-2021	\$	42,292,000

