Keisha Patent April 11, 2022 402-471-0059

**LB 1261** 

Revision: 03

## FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

Revised due to adoption of amendments on Select File

ESTIMATE OF FISCAL IMPACT - STATE AGENCIES (See narrative for political subdivision estimates)						
	FY 2022-23		FY 2023-24			
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE		
GENERAL FUNDS	\$473,696	(\$2,000,000)		(\$7,430,000)		
CASH FUNDS						
FEDERAL FUNDS						
OTHER FUNDS						
TOTAL FUNDS		(\$2,000,000)		(\$7,430,000)		

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

LB 1261 amends the Nebraska Advantage Rural Development Act to increase the total credits available for approved projects from \$1 million each calendar year to \$10 million. This increase would begin in calendar year 2022. AM2211 extends the act until 2027.

Additionally, the limit on the maximum credit that can be received by an approved applicant from \$150,000 to \$500,000. This change would occur for applications filed on or after the effective date of LB 1261.

AM2760 adds in the provision of LB 596 to adopt the Nebraska Higher Blend Tax Credit Act. The act creates a new refundable tax credit, beginning in tax year 2022, for retail dealers who sell and dispense E-15 or higher blend ethanol. The credit amount is 5 cents per gallon of E-15 sold and 8 cents per gallon or E-25 or higher blend sold. The bill provides for an application process for the credit.

Annual limits for the Nebraska Higher Blend Tax Credit Act are as follows:

- For tax year 2022: \$2,000,000
- For tax year 2023 and thereafter: 200% of the credits approved in the prior year, if the credits exceeded 90% of the limit to that year; or 100% of the credits approved in the prior year, if the credits did not exceed 90% of the limit in that year. In no case shall the annual limit exceed \$4,000,000.

The credit can be carried forward. The credit is available to members, shareholders, or beneficiaries or pass-through entities in the same manner as income distributed. No applications are allowed under the act after December 31, 2026. The Department of Revenue can adopt and promulgate rules and regulations to carry out the act.

AM2774 amends provisions related to the Urban Redevelopment Act to clarify that more than one qualified location can be part of the same agreement. Terminology is updated to include the term "locations."

LB 1261 has the emergency clause.

## Revenue:

As amended on Select File, we estimate the following impact to the General Fund:

	NE Advantage Rural Development	NE Higher Blend Tax Credit	Total
FY22-23	\$0	(\$2,000,000)	(\$2,000,000)
FY23-24	(\$4,600,000)	(\$2,830,000)	(\$7,430,000)
FY24-25	(\$7,872,000)	(\$2,915,000)	(\$10,787,000)
FY25-26	(\$9,920,000)	(\$3,002,000)	(\$12,922,000)

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## **Expenditures:**

The Department of Revenue estimates a one time cost of \$206,396 for programming and development to OCIO, costs for 0.5 FTE tax specialist and 2.5 FTE application/developer senior level, for total costs of \$473,696 in FY22-23 and \$256,100 in FY23-24.

The changes in AM2774 are not anticipated to have a fiscal impact to the state.

There is no basis to disagree with these estimates.

State Agency Estimate						
State Agency Name: Department o	f Revenue				Date Due LFO:	
Approved by: Tony Fulton		Date Prepared:	4/11/2022		Phone: 471-5896	
	FY 2022	<u>-2023</u>	FY 202	3-2024	FY 202	<u>4-2025</u>
	Expenditures	Revenue	Expenditures	Revenue	Expenditures	Revenue
General Funds	\$473,696	\$ (2,000,000)	\$256,100	\$ (14,330,000)	\$261,100	\$ (22,595,000)
Cash Funds						
Federal Funds						
Other Funds						
Total Funds	\$473,696	\$ (2,000,000)	\$256,100	\$ (14,330,000)	\$261,100	\$ (22,595,000)

LB 1261 amends the Nebraska Advantage Rural Development Act. LB 1261 increases the cap for approved applications under the Nebraska Advantage Rural Development Act to \$25 million for calendar year 2022 and each calendar year thereafter up from \$1 million. AM 2760 amends LB 1261 to provide that, for applications filed after the operative date of LB 1261 (was effective date), the bill increases the credit amount available for qualifying livestock modernization projects from 10% of the investment up to \$150,000 to 10% of investment up to \$500,000 per application.

AM 2211 extends the sunset date of the Nebraska Advantage Rural Development Act five years, from 2022 to 2027.

AM 2760 is essentially LB 596 (with AM 2034) which creates the Nebraska Higher Blend Tax Credit Act (Act).

Under the Act, taxpayers who are retail dealers and who sold and dispensed E-15 or higher blends of gas on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site are eligible to receive tax credits. A retail dealer is defined as a person engaged in the business of storing and dispensing motor fuel from a motor fuel pump for sale on a retail basis. Taxpayer means any natural person or any limited liability company; partnership; private domestic or private foreign corporation; or domestic or foreign nonprofit corporation certified pursuant to I.R.C. § 501(c)(3).

For E-15 sales, the tax credit equals five cents multiplied by the total number of gallons of E-15 sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site. For sales of E-25 or higher blends, the credit equals eight cents multiplied by the total number of gallons of E-25 blend or higher sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site.

The tax credit is refundable and may be used against any income tax imposed by the Nebraska Revenue Act of 1967 or any tax imposed pursuant to sections § 77-907 to 77-918 or § 77-3801 to 77-3807. The credit may be claimed for taxable years beginning or deemed to begin on or after January 1, 2022. Taxpayers must apply for

Major Objects of Expenditure							
Class Code	Classification Title	22-23 <u>FTE</u>	23-24 <u>FTE</u>	24-25 <u>FTE</u>	22-23 Expenditures	23-24 Expenditures	24-25 Expenditures
A29621	Revenue Tax Specialist	0.5	0.5	0.5	\$25,500	\$26,000	\$26,500
A07012	IT Applications Developer/Senior	2.5	2.5	2.5	\$164,200	\$167,500	\$170,800
Benefits				\$62,600	\$62,600	\$63,800	
Operating Costs				\$206,396			
Travel							
Capital Outlay				\$15,000	\$0	\$0	
Capital Improvem	ents						
Total				\$473,696	\$256,100	\$261,100	

the tax credit on a form prescribed by the Department of Revenue (DOR). The tax credits may be distributed by a flow-through entity. No new applications will be filed under the Act after December 31, 2026. All applications and credits pending or approved before that date will continue in full force and effect.

If DOR determines that an application is complete and the taxpayer qualified for credits, DOR must approve the application and certify the credits up to the limit established by the Act. DOR must consider applications in the order in which they are received up to the annual credit limit.

For calendar year 2022, the annual limit is \$2 million. For calendar year 2023 and each calendar year thereafter, the annual limit on tax credits must be calculated by taking the annual limit from the prior year and then multiplying such amount by (a) 200% if the amount of approved tax credits in the prior calendar year exceeded 90% of the annual limit to that calendar year; or (b) 100% if the amount of approved tax credits in the prior calendar year did not exceed 90% of the annual limit to that calendar year. The annual credit limit will not exceed \$4 million.

Taxpayers claim credits by attaching the credit certification to the taxpayer's tax return. Any credit in excess of the taxpayer's tax liability will be refunded, or if the taxpayer elects, carried forward to subsequent tax years. The excess credit may be carried forward until fully used. Any tax credit allowable to a partnership, a limited liability company, a subchapter S corporation, or an estate or trust may be distributed to the partners, limited liability company members, shareholders, or beneficiaries in the same manner as income is distributed.

DOR may adopt and promulgate rules and regulations to carry out the Act.

AM 2760 also amends the Nebraska ImagiNE wage credit under Neb. Rev. Stat. § 77-6831(4)(a)(iii) and the investment credit under Neb. Rev. Stat. § 77-6831(5)(a)(iii) for investments of \$1 million and for hiring 10 new employees to apply when the new employees and investment are at a qualified location or locations within one or more counties that each have a population of less than 100,000.

The estimated fiscal impact to the General Fund revenues would be as follows:

Fiscal Year	Nebraska Advantage Rural Development Act	Nebraska Higher Blend Tax Credit Act	Total General Fund Revenues	
FY 2022-23	\$ -	\$ (2,000,000)	\$ (2,000,000)	
FY 2023-24	\$ (11,500,000)	\$ (2,830,000)	\$ (14,330,000)	
FY 2024-25	\$ (19,680,000)	\$ (2,915,000)	\$ (22,595,000)	
FY 2025-26	\$ (24,800,000)	\$ (3,002,000)	\$ (27,802,000)	

The bill will require a one-time charge of \$206,396 paid to the OCIO for mainframe programming and development costs. This bill will require 0.5 FTE Tax Specialist, and 2.5 FTE IT Application Developer Seniors to develop the application and administer the program, including development of a new database to support the requirement for Nebraska Advantage Rural Development Act. The new data base will require 1 FTE at the Application/Developer Senior level which is included in the 2.5 total FTE.

This bill contains an emergency clause and becomes law upon enactment.