

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	\$435,762	(\$45,500,000)	\$145,499	(\$121,340,000)
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$435,762	(\$45,500,000)	\$145,499	(\$121,340,000)

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

LB 616 creates the Startup Nebraska Program Act.

The bill would exempt qualifying businesses from income, sales and use taxes for three tax years, beginning with the first tax year for which the business would otherwise be liable for such taxes.

To qualify, a business must operate in a historically underutilized business zone designated by the administrator of the U.S. Small Business Administration located in a qualified census tract in a city of the metropolitan class. There are 41 such zones located in Omaha. In addition, the business must create and maintain net new jobs after its first year of operation, and the average number of employees of the business and related persons must equal or exceed the sum of the following:

- a) The average number of employees and its related persons in the state during the year immediately preceding the year of application; and
- b) Net new jobs of the business in the HUBZone during the year.

A qualifying business must also meet a number of other obligations including access to its records by the Department of Revenue; number of net new jobs to be added in the first year; its plan to recruit employees; agreement to allow the Department of Labor to share certain information with the Department of Revenue; documentation of net new jobs, schedule for creating those jobs, details of job titles and salary; agreement to provide certain tax information to the Department of Revenue; certain information on related persons; and certification that the business is in compliance with all environmental, worker protection, and tax laws.

The Department of Revenue is to review the application and any documentation within 60 days of receipt of the application and may reject the application based on certain criteria. If the application is not rejected within the 60 days, the applicant is accepted for participation.

Certain businesses are prohibited by the bill from participation in the program, including the following:

- Retail and wholesale businesses;
- Restaurants;
- Real estate brokers;
- Law firms;
- Medical or dental practices;
- Real estate management companies;
- Hospitality;
- Finance and financial services;
- Businesses providing personal services;
- Businesses providing business administrative or support services, unless they have permission to participate;
- Accounting firms;
- Business providing utilities;
- Businesses engaged in generation or distribution of electricity, distribution of natural gas, production of steam associated with generation of electricity.

The aggregate number of net new jobs may not exceed 10,000 jobs per year. The Tax Commissioner is to allocate to each participating business a maximum number of net new jobs based on the schedule of new job creation submitted with the application. This section is particularly unclear as to the relationship between “eligibility for tax benefits” and additional new jobs, given the requirements of Section 3 of the bill.

The Tax Commissioner is prohibited from accepting any application from an applicant that would compete with other businesses in the same community but outside the HUBZone. It is unclear as to what will constitute competition or how the Tax Commissioner is to make this determination.

No applications for participation in the program will be accepted after December 31, 2020.

The Department of Revenue is given rule and regulation authority.

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

FY2017-18:	(\$ 45,500,000)
FY2018-19:	(\$ 121,340,000)
FY2019-20:	(\$ 182,010,000)
FY2020-21:	(\$ 190,200,000)

The Department of Revenue estimates that LB 616 will require a one-time programming charge of \$282,058 paid to the Office of the CIO to implement. They will also require 1.0 FTE Auditor and 1.0 FTE Attorney III to administer the Act. PSL for FY2017-18 is \$108,048 and for FY2018-19 it is \$109,398.

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

State Agency Estimate

State Agency Name: Department of Revenue		Date Due LFA: 3/6/2017				
Approved by: Tony Fulton		Date Prepared: 3/5/2017				
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	\$435,762	(\$45,500,000)	\$145,499	(\$121,340,000)	\$147,683	(\$182,010,000)
Cash Funds						
Federal Funds						
Other Funds						
Total Funds	\$435,762	(\$45,500,000)	\$145,499	(\$121,340,000)	\$147,683	(\$182,010,000)

LB 616 creates the Startup Nebraska Program Act (Act). Under this Act certain businesses that are new to the state apply to participate. Section 3(1) provides that program participants will be exempt from income, sales, and use taxes for a period of three years beginning with the first year for which the business would otherwise be liable to pay such taxes. The Act provides that to be eligible to participate, the new business must demonstrate that within the first year of operation it will create net new jobs in historically underutilized business zones (HUBZones) and maintain those jobs "after its first year of operation." In addition, the average number of employees of the new business and its related persons during the first year must equal or exceed the sum of: 1) the average number of employees of the business and related persons in the state during the year immediately preceding the application year; and (2) net new jobs of the business in the HUBZone during the year. However, the definition of "new business" requires that it not be operating at the time of application and not be similar in operation or ownership to a business that is or was taxable within the previous three taxable years.

Section 3 (2) provides that eligible businesses may submit an application. Applications must describe the number of net new jobs the business plans to add, and "document" the number of net new jobs that will be created including the schedule for creating those jobs, detailed job titles, and expected salaries. The applicant must agree to open its books to the Department of Revenue and to permit the Department of Labor to share its tax and employer information with the Department of Revenue.

Section 3(3) provides that the Tax Commissioner shall review and make a determination based on the application within 60 days. Section 6 provides that applications from businesses that would compete with other businesses in the same community but outside the HUBZone shall not be accepted. Pursuant to Section 4, the following types of businesses are not eligible to participate: (a) retail and wholesale businesses; (b) restaurants; (c) real estate brokers; (d) law firms; (e) medical or dental practices; (f) real estate management companies; (g) hospitality; (h) finance and financial services; (I) businesses providing personal services; (j) businesses providing administrative or support services (unless such business has received permission from the Tax Commissioner and has demonstrated it would create at least 100 net new jobs); (k) accounting firms; (l) businesses providing utilities; and (m) businesses engaged in the generation or distribution of electricity, natural gas, or steam.

Section 5 places a limitation on the number of jobs that can be created by participants. The section states that the aggregate number of net new jobs for participating businesses shall not exceed 10,000 jobs per year. The Tax Commissioner is directed to allocate to each participant businesses a maximum number of net new jobs that shall be eligible based on the schedule of job creation included in the application. The act is unclear what is meant by eligibility and because the benefits received do not depend on the number of jobs created, the effect of the limitation is also unclear. This section also provides that a business may amend its schedule of job creation.

Section 8 provides that the Department of Revenue shall issue an annual report to the Governor and the Legislature on the program.

