

Revised per AM906 and AM1066

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	\$1,442,334	(\$168,859,000)	\$428,444	(\$389,153,000)
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$1,442,344	(\$168,859,000)	\$428,444	(\$389,153,000)

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

LB 754 was amended by AM906. AM906 contains a modified version of the original contents of LB 754. AM906 also contains the amended versions of LB 318, LB 754, LB 641, and LB 173 and the original versions of LB 38, LB 497, and LB 492. LB 754 was also amended by AM1066 which contains an amended version of LB 206. Both amendments are discussed separately below.

AM906

Incorporates Provisions of LB 318 with Modifications

LB 318 was amended and included in AM906. This component of the amendment would provide three different income tax credits.

Two of these income tax credits would be created through the establishment of the Child Care Tax Credit Act. For taxable years beginning or deemed to begin on or after January 1, 2024 a parent or legal guardian would be eligible to receive a refundable income tax credit if the parent's or legal guardian's:

- Child is enrolled in a child care program licensed under the Child Care Licensing Act;
- Child receives care from an approved license-exempt provider enrolled in the child care subsidy program; or
- Total household income is less than or equal to 100% of the federal poverty level.

The amount of the credit would be per child and based on the parent's or legal guardian's total household income as follows:

- \$2,000 per child, if the total household income is no more than \$75,000;
- \$1,000 per child, if the total household income is more than \$75,000 but no more than \$150,000;
- A parent or legal guardian with a total household income of more than \$150,000 is not eligible for the credit.

A parent or legal guardian is to file an application with the Department of Revenue (DOR) to receive the credit. The DOR can approve up to \$15,000,000 in these credits each year.

The second income tax credit under the Child Care Tax Credit Act is a nonrefundable income tax credit that starts for the taxable year of 2024. The credit is equal to 100% or 75% of the taxpayer's qualifying contribution to an eligible child care program made during the taxable year, and a taxpayer shall not receive more than \$100,000 per taxable year. The credit is equal to 100% if the eligible program that receives the contribution (a) has a physical presence in an opportunity zone in Nebraska, or (b) has at least one child enrolled in the child care subsidy program and is actively caring and billing for the child as verified by the Department of Health and Human Services (DHHS). For all other contributions, the credit shall be equal to 75%. A taxpayer would not be eligible for this credit if the taxpayer claimed a charitable contribution deduction for the qualifying contribution on the taxpayer's federal income tax return.

A taxpayer is to file an application with the DOR to receive the credit. The DOR can approve up to \$10,000,000 in these credits each year.

The third tax credit for both qualified child care/education providers and eligible staff members is from amending the School Readiness Tax Credit Act.

Qualified child care and education providers with children who participate in the child care subsidy program could receive a nonrefundable income tax credit starting from taxable year 2024 equal to the average monthly number of qualifying children who attend the eligible program multiplied by the amount based on the quality scale rating of the program. A taxpayer is to file an application with the DOR to receive the credit.

Eligible staff members could also apply for a refundable income tax credit starting from taxable year 2024. The credit would be based on the eligible staff member's classification. The classification system is for eligible staff who are employees of or who are self-employed individuals providing services for applicable child care and early childhood education programs listed in the Nebraska Early Childhood Professional Record System. This system would be changed from four to five levels with a change in definition to level one. Level one is the least qualified and level five is the most qualified. This new five-level system is used to calculate this tax credit. A taxpayer is to file an application with the DOR to receive the credit. For this tax credit for eligible staff members, the Tax Commissioner would adjust the credit amounts by the percentage change in the Consumer Price Index for All Urban Consumers beginning taxable year 2025.

The DOR could approve up to \$10,000,000 in tax credits each year under the School Readiness Tax Credit Act.

Incorporates Original Provisions of LB 754 with Modifications

This aspect of the amendment seeks to lower individual and corporate income tax rates.

The rates for the third and fourth individual income tax brackets would be as follows:

- Third Bracket
 - For taxable years beginning on January 1, 2014, and before January 1, 2026: 5.01%
 - For taxable years beginning on January 1, 2026, and before January 1, 2027: 4.55%
 - For taxable years beginning on or after January 1, 2027: 3.99%
- Fourth Bracket
 - For taxable years beginning on January 1, 2014, and before January 1, 2023: 6.84%
 - For taxable years beginning on January 1, 2023, and before January 1, 2024: 6.64%
 - For taxable years beginning on January 1, 2024, and before January 1, 2025: 5.84%
 - For taxable years beginning on January 1, 2025, and before January 1, 2026: 5.20%
 - For taxable years beginning on January 1, 2026, and before January 1, 2027: 4.55%
 - For taxable years beginning on or after January 1, 2027: 3.99%

This aspect of the amendment would eliminate the rate of 5.58% on the first \$100,000 of corporate income after taxable year 2024. After taxable year 2024, the tax rate on the first \$100,000 of taxable income would be eliminated and instead there would be one rate for all taxable corporate income. Thus, under the amendment, the corporate income rates would be the following:

- For taxable years beginning on January 1, 2024, and before January 1, 2025: 5.58% on the first \$100,000 of taxable income and 5.84% on all taxable income in excess of \$100,000
- For taxable years beginning on January 1, 2025, and before January 1, 2026: 5.20%
- For taxable years beginning on January 1, 2026, and before January 1, 2027: 4.55%
- For taxable years beginning on or after January 1, 2027: 3.99%

Incorporates Provisions of LB 641 with Modifications

This aspect of the amendment seeks to change provisions related to social security benefits and federal adjusted gross income (FAGI). FAGI is reduced by a percentage of the social security benefits received and included in the FAGI. The percentage is set to increase each year until 100% of social security benefits can be deducted. The percent of the exemption for social security benefits is changed for the years of January 1, 2024 and after to 100%.

Additionally, this aspect of the amendment makes changes to the existing exemption based on income levels so that it ends at the end of taxable year 2023. Until the end of taxable year 2023, the taxpayer could utilize the exemption based on income or the exemption based on percentage, whichever provides the greater reduction.

Incorporates Provisions of LB 38

This aspect of the amendment seeks to allow an individual to reduce his or her FAGI by the amounts received as annuities under the Federal Employees Retirement System or the Civil Service Retirement System which were earned for being employed by the federal government, to the extent the amounts are included in FAGI. This reduction would commence for taxable years beginning on or after January 1, 2024.

Incorporates Provisions of LB 497

This aspect of the amendment seeks to make changes to what can be deducted from FAGI for taxable year 2022 and after. LB 497 adds to the possibilities for deduction the total amount of state and local property taxes reported on the federal return before any federal disallowance or cap, less the amount of state and local property taxes actually included in federal itemized deductions.

Incorporates Provisions of LB 492

This aspect of the amendment would provide for a reduction to FAGI or, for corporations and fiduciaries, federal taxable income starting in taxable year 2023 for the cost of expenditures for business assets that are qualified property or qualified improvement property and for research or experimental expenditures.

Incorporates Provisions of LB 173 with Modifications

This aspect of the amendment seeks to make changes to the income of nonresident individuals.

This aspect of the amendment changes what constitutes income derived from sources within this state for taxable years beginning on or after January 1, 2024 so that that income would include sources within this state if the individual is a nonresident and the individual's service is performed without Nebraska for his or her convenience, but the service is directly related to a business, trade, or profession carried on within Nebraska and, except for the individual's convenience, the service could have been performed within Nebraska, provided that the individual must be present, in connection with the business, trade, or profession within Nebraska for more than 15 days during the taxable year in which the compensation is earned.

Also, for taxable years beginning on or after January 1, 2024, compensation paid to a nonresident individual would not include income derived from sources within this state if all of the following conditions apply:

- The compensation is paid for employment duties performed by the individual while present in this state for 15 or fewer days in the taxable year;
- The individual performed employment duties in more than one state during the taxable year; and
- The compensation is not paid for employment duties performed by the individual in the individual's capacity as a professional athlete, professional entertainer, or public figure.

The DOR would not require the payment of any penalties or interest otherwise applicable for failing to deduct and withhold income taxes if, when determining whether withholding was required, the employer meets certain conditions including methods of record keeping, among others.

This aspect of the amendment also adds that nonresident income would not include compensation that is paid to an individual who serves on the board of directors or similar governing body of a business and that relates to board or governing body activities taking place in this state.

Fiscal Impact of AM906

The DOR estimates the following fiscal impact to General Fund revenues as a result of AM906:

	FY23-24	FY24-25	FY25-26	FY26-27	FY27-28	FY28-29
<i>Child Credits</i>	\$ -	\$ (27,910)	\$ (27,983)	\$ (28,058)	\$ (28,134)	\$ (28,212)
<i>Individual Income Tax</i>	\$ (72,469)	\$ (230,013)	\$ (387,072)	\$ (586,052)	\$ (721,091)	\$ (749,854)
<i>Corporate Income Tax</i>	\$ (6,103)	\$ (27,668)	\$ (60,181)	\$ (92,764)	\$ (119,324)	\$ (132,525)
<i>Social Security Benefits</i>	\$ (8,183)	\$ (11,457)	\$ -	\$ -	\$ -	\$ -
<i>Retirement Income</i>	\$ (846)	\$ (2,047)	\$ (2,082)	\$ (2,127)	\$ (2,206)	\$ (2,308)
<i>Itemized Deduction</i>	\$ (40,836)	\$ (17,312)	\$ (17,613)	\$ (17,994)	\$ (18,660)	\$ (19,525)
<i>Business assets/Research Expenditures</i>	\$ (29,049)	\$ (45,430)	\$ (50,064)	\$ (43,839)	\$ (42,631)	\$ (45,046)
<i>Nonresident</i>	\$ (11,373)	\$ (27,316)	\$ (27,312)	\$ (27,284)	\$ (27,053)	\$ (27,143)
Total	\$(168,859)	\$ (389,153)	\$(572,307)	\$(798,118)	\$(959,099)	\$(1,004,613)

***Dollar amounts are in thousands**

The DOR estimates a one-time programming charge to be paid to the Office of the Chief Information Officer (OCIO) in the amount of \$1,181,258 for adding lines to forms and the development of a web portal for the child care tax credit aspect with an annual maintenance cost of \$16,395 in subsequent years. This one-time programming charge also includes expenditures for changes to the Partnership system as a result of AM1066 and is discussed further below.

There is no basis to disagree with these estimates by the DOR.

The DHHS estimates a need for an Office Technician to manage the additional volume of requests. For the LB 318 fiscal note, the Office Technician would be at 0.75 FTE for FY23-24. This would amount to costs for DHHS for FY23-25 in the amount of \$30,876 and \$43,225 for FY24-25 for this amendment.

The Nebraska Department of Education (NDE) estimates a need for 1 FTE of Career Development Coordinator and 1 FTE of Education Associate to administer the bill. NDE currently has budgeted personnel for this purpose, and therefore we disagree that additional personnel are needed.

AM1066

This amendment incorporates the provisions of LB 206 with modifications.

Under this amendment, for tax years beginning on or after January 1, 2018, a partnership or small business corporation could annually make an irrevocable election to pay the taxes, interest, or penalties levied by the Nebraska Revenue Act of 1967 at the entity level. The electing partnership and small business corporation would need to pay an income tax equivalent to the highest individual income tax rate multiplied by the electing partnership's or small business corporation's net income as apportioned or allocated to this state in accordance with the Nebraska Revenue Act of 1967. If there is a net operating loss, such net operating loss could not be carried forward to succeeding taxable years.

The electing partnership and small business corporation would be treated as a corporation for payments of estimated tax for tax years beginning on and after January 1, 2024.

Except in the described case of nonresident individuals, the partners of an electing partnership and small business corporation must file a Nebraska return to report their pro rata or distributive share of the income of the electing partnership or small business corporation. In determining the sum of its pro rata or distributive share and computing the tax, an electing partnership and small business corporation would add back any amount of Nebraska tax imposed under the Nebraska Revenue Act of 1967 and deducted by the electing partnership or small business corporation for federal income tax purposes.

In the case of a nonresident individual who is a partner of an electing partnership or shareholder of an electing small business corporation, he or she would not be required to file a Nebraska tax return if for the taxable year, the only source of income derived from or connected with sources within Nebraska for the partner or shareholder, or for the partner or shareholder and the partner's or shareholder's spouse if a joint federal income tax return is filed, is from one or more electing partnerships or electing small business corporations and the nonresident individual partner's or shareholder's tax under the Nebraska Revenue Act of 1967 would be fully satisfied by the refundable credit established in the amendment that is to be available to the partners and shareholders in an amount equal to their pro rata or distributive share of the Nebraska income tax paid by the electing partnership or small business corporation. Excess credits deemed an overpayment could be refunded or applied to the subsequent tax year.

If the electing partnership is a partner of another electing partnership, the upper tier electing partnership would claim a credit for the tax paid by the lower tier electing partnership. The upper tier electing partnership would distribute out the pro rata or distributive share of the credits to its partners for the taxes paid by all tiers of electing partnerships.

The deadline for an electing partnership or small business corporation filing a claim for credit or refund prescribed in section 77-2793 would be extended until the timeframe specified in the mentioned section or January 31, 2026, whichever is later. The Tax Commissioner would not be required to pay interest on any amounts owed to the partners or shareholders resulting from the refund claims. The Tax Commissioner would also have one year from the date an electing partnership or small business corporation files the election with the DOR to review and make a written proposed deficiency determination. The notice of deficiency determination made could be enforced at any time within 6 years from the date of the notice of deficiency determination. The provisions mentioned in this paragraph would apply to tax years beginning on or after January 1, 2018 and before January 1, 2023.

The amendment would expand the credit against the income tax for taxes outside of Nebraska for a resident individual, estate, or trust to include similar tax outside of Nebraska.

The amendment would allow a partnership to elect to file an amended Nebraska income tax return and to pay all Nebraska income tax, penalties, or interest associated with the amended return at the top individual tax rate as if the partnership were an individual. Partners would not be required to file amended Nebraska income tax returns when the election is made and would not be required to pay Nebraska income tax, penalties, or interest arising as a result of the amended return and the basis, and other tax items in the hands of the partners, arising from the partners' interest in the partnership would be determined as if the election had not been made and in a similar manner as set forth for federal income tax purposes.

The DOR estimates that AM1066 would have a negative, indeterminant impact on General Fund revenues.

The DOR estimates that AM1066 would have a one-time programming charge to be paid to the OCIO to add to the existing Partnership system so it has the ability for estimated payments and carryforward. This cost is included in the \$1,181,258 cost discussed above. After that, a first-year maintenance cost is estimated to be paid to the OCIO in the amount of \$142,824 for FY24-25 and \$58,537 each year after.

There is no basis to disagree with these estimates.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE

LB: 754 AM: 906 AGENCY/POLT. SUB: Department of Education

REVIEWED BY: Neil Sullivan DATE: 3/29/2023 PHONE: (402) 471-4179

COMMENTS: No basis to disagree with the Department of Education assessment of fiscal impact from LB 754 as amended by AM 906.

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

State Agency or Political Subdivision Name:(2) Department of Health and Human Services

Prepared by: (3) John Meals

Date Prepared 4-6-2023

Phone: (5) 471-6719

	<u>FY 2023-2024</u>		<u>FY 2024-2025</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	\$41,168		\$43,225	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$41,168		\$43,225	

Return by date specified or 72 hours prior to public hearing, whichever is earlier.

Explanation of Estimate:

LB754 AM 906 (LB318) adopts the Child Care Tax Credit Act. The child care tax credit would be made available to a parent or legal guardian whose child is enrolled in a licensed child care program or is enrolled with an approved license-exempt child care provider who is enrolled in the child care subsidy program. Tax credits would also be made available for any taxpayer who makes a qualifying contribution to a child care program. Taxable years would begin after January 1, 2024. This is a tax credit under the Internal Revenue Code of 1986. Funding does not come from Department of Health and Human Services (DHHS). Additionally, no revenue impact to Division of Children and Family Services (CFS) since this is a tax credit.

DHHS oversees licensed child care providers and programs within the Division of Public Health and the Division of Children and Family Services (CFS) oversees the child care subsidy program and all license-exempt child care providers.

LB318 Section 3 would require the verification of a license-exempt child care provider’s enrollment in the child care subsidy program. Unlike the licensed child care provider roster, DHHS does not publish a public listing of the license-exempt child care providers. License-exempt provider enrollment is not confidential, however, children/families participating in the subsidy program would be confidential.

If this verification is required, DHHS would need to develop a verification process in collaboration with the Department of Revenue (DOR). It is presumed that the process would entail DOR contacting DHHS to verify the enrollment of license-exempt providers enrolled in the child care subsidy program. Verification could be sought via email to a DHHS direct mailbox or by a phone call and would be managed by a child care subsidy program staff member.

LB318 Section 4 would require verification from DHHS about the enrollment of a provider in a child care subsidy program and that the provider is actively caring and billing subsidy for at least one child that is enrolled in the child care subsidy program.

Per Federal Regulation 45 CFR 98.15(b)(13) states receiving federal child care development funds have an obligation to policies governing the use and disclosure of confidential and personally identifiable information about children and families participating in the child care subsidy program. Nebraska Revised Statute §68-313 limits the use of confidential information regarding families participating in our assistance programs. Child Care regulations at 465 NAC 2-005 also protect the confidential information of families who apply for or receive assistance from DHHS. Due to the above statutes and regulations, CFS will not be able to disclose the identities of children/families receiving subsidy assistance to the Department of Revenue.

The applicant (parent/guardian) would have to verify their child’s enrollment via their child care authorization from ACCESSNebraska. A parent/guardian can obtain such documentation online or by requesting it through ACCESSNebraska.

There are 2,833 licensed child care providers, and 1,424 of these providers are enrolled in the child care subsidy program. There are 384 license-exempt child care providers.

If DHHS is required to verify both section 3 and section 4 of the proposed bill, then 1 office technician position will be needed to manage the volume of requests.

MAJOR OBJECTS OF EXPENDITURE

PERSONAL SERVICES:

POSITION TITLE	NUMBER OF POSITIONS		2023-2024	2024-2025
	23-24	24-25	EXPENDITURES	EXPENDITURES
K01011 - Office Technician	1.00	1.00	\$25,459	\$26,732
Benefits.....			\$8,911	\$9,356
Operating.....			\$6,798	\$7,137
Travel.....				
Capital Outlay.....				
Aid.....				
Capital Improvements.....				
TOTAL.....			\$41,168	\$43,225

State Agency Estimate

State Agency Name: Department of Revenue		Date Due LFO:				
Approved by: Glen White		Phone: 471-5896				
Date Prepared: 03/29/2023						
FY 2023-2024		FY 2024-2025		FY 2025-2026		
Expenditures	Revenue	Expenditures	Revenue	Expenditures	Revenue	
General Funds	\$1,411,458	\$(168,859,000)	\$385,219	\$(389,153,000)	\$306,632	\$(572,307,000)
Cash Funds						
Federal Funds						
Other Funds						
Total Funds	\$1,411,458	\$(168,859,000)	\$385,219	\$(389,153,000)	\$306,632	\$(572,307,000)

LB 754 amended by AM 906 and AM 1066 incorporate the following:

Childcare Tax Credit

Section 1 to 5 adopts the Child Care Tax Credit Act and reauthorize tax credits under the School Readiness Tax Credits Act (LB 318). AM 906 amends the LB 318 as follows:

- The refundable credit amount per child is based upon the parent’s or legal guardian’s total household income. The Credit will equal:
 - \$2,000 per child, if the total household income is no more than \$75,000;
 - \$1,000 per child, if the total household income is more than \$75,000 but no more than \$150,000;
- A parent or legal guardian with a total household income of more than \$150,000 is not eligible for the credit.
- Department of Revenue (DOR) may approve up to \$15 million in credits each year.

For taxable years beginning on or after January 1, 2024, any taxpayer who makes a qualifying contribution to a licensed family child care home, child care center, or preschool during the taxable year is allowed a nonrefundable income tax credit equal to either 75% or 100% of the qualifying contribution made during the taxable year, not to exceed \$100,000 in any single tax year. The DOR may approve up to a total of \$10 million in credits. A taxpayer is not eligible for the credit if the taxpayer claimed a charitable contribution deduction for the qualifying contribution on the taxpayer’s federal income tax return.

AM 906 amends the School Readiness Tax Credit Act from LB 318 to allow tax credits for taxable years beginning on or after January 1, 2024. DOR may approve credits under the School Readiness Tax Act of up to \$10 million.

A nonrefundable credit is allowed to qualified child care and education providers whose eligible program services children who participate in the child care subsidy program under § 68-1202. This credit equals the average monthly number of qualifying children who attend the eligible program, multiplied by the amount based on the quality scale rating of the program as follows:

Major Objects of Expenditure								
Class Code	Classification Title	23-24	24-25	25-26	23-24	24-25	25-26	
		FTE	FTE	FTE	Expenditures	Expenditures	Expenditures	
R29112	Revenue Operations Clerk II	1.0	1.0	1.0	\$37,000	\$38,900	\$39,800	
A21211	Fiscal Compliance Analyst	1.0	1.0	1.0	\$46,300	\$48,600	\$49,900	
A07012	Information Technology Applications Developer/Senior	1.0	1.0	1.0	\$78,500	\$82,400	\$84,500	
	Benefits.....				\$53,400	\$56,100	\$57,500	
	Operating Costs.....				\$1,181,258	\$159,219	\$74,932	
	Travel.....							
	Capital Outlay.....				\$15,000			
	Capital Improvements.....							
	Total.....				\$1,411,458	\$385,219	\$306,632	

Quality Scale Rating	Tax Credit per Child Attending
Step Five	\$1,200
Step Four	\$1,000
Step Three	\$800
Step Two	\$600
Step One	\$400

An eligible staff member may apply with DOR to receive a refundable tax credit. The credit amount is based on the staff member’s classification level under Neb. Rev. Stat. § 71-1962(4) as follows:

Eligible Staff Member’s Classification	Tax Credit
Level Five	\$3,500
Level Four	\$3,200
Level Three	\$2,900
Level Two	\$2,600
Level One	\$2,300

Reduction of Individual and Corporation Income Tax Rate

AM 906 Section 7 to 9 amends Neb. Rev. Stat § 77-2715.03 to gradually lower the individual income tax rates.

The fourth and third bracket individual income tax rates are as follows:

- 5.84%, 5.01% for taxable years beginning on or after January 1, 2024, and before January 1, 2025;
- 5.20%, 5.01% for taxable years beginning on or after January 1, 2025, and before January 1, 2026;
- 4.55%, 4.55% for taxable years beginning on or after January 1, 2026, and before January 1, 2027;
- 3.99%, 3.99% for taxable years beginning on or after January 1, 2027.

AM 906 Section 10 amends Neb. Rev. Stat § 77-2743.02 to changes the corporation income tax rate on amounts up to \$100,000; and in excess of \$100,000 as follows:

- 5.58%, 5.84% for taxable years beginning on or after January 1, 2024, and before January 1, 2025;
- 5.20%, 5.20% for taxable years beginning on or after January 1, 2025, and before January 1, 2026;
- 4.55%, 4.55% for taxable years beginning on or after January 1, 2026, and before January 1, 2027;
- 3.99%, 3.99% for taxable years beginning on or after January 1, 2027.

Social Security Benefit

AM 906 Section 10 also amends Neb. Rev. Stat. § 77-2716(14) to change the taxation of benefits received under the federal Social Security Act (social security benefits) included in the federal adjusted gross income (AGI) of the taxpayer. For taxable years beginning on or after January 1, 2024, the taxpayer may exempt 100% of the social security benefits to the extent included in the federal AGI.

Retirement Income

AM 906 Section 10 (21) includes LB 38 and remains the same as introduced. For tax years beginning on or after January 1, 2024, AM 906 allows individuals to reduce federal adjusted gross income by amounts received as annuities under the Federal Employees Retirement System or the Civil Service Retirement System that were earned from employment with the federal government to the extent included in federal AGI.

Itemized Deduction

AM 906 Section 11 changes how individuals who itemized deductions on federal returns calculate the amount to subtract from federal adjusted gross income in Neb. Rev. Stat. § 77-2716.01. For tax years beginning or deemed to begin on or after January 1, 2022, individuals who itemized deductions on their federal return are allowed to subtract from federal AGI the greater of:

- (i) The standard deduction; or
- (ii) The sum of: (A) his or her federal itemized deductions as defined in IRC § 63(d), except for the amount for state or local income taxes included in federal itemized deductions before any federal disallowance; and (B) the total amount of state and local property taxes reported on his or her federal return before any federal disallowance or cap, less the amount of state and local property taxes actually included in federal itemized deductions.

Research Expenditures and Full Expensing:

AM 906 Section 12 creates two deductions. Taxpayers may reduce federal AGI or, for corporations and fiduciaries, federal taxable income by the following amounts:

- Cost of expenditures for business assets that are qualified property and qualified improvement property covered under IRC § 168 become eligible for full expensing and may be deducted as an expense incurred by the taxpayer during the taxable year in which the property is placed in service notwithstanding any changes to federal law related to the depreciation of property beginning January 1, 2023, or any other date. This is allowed to the extent that the cost has not already been deducted when determining federal AGI or federal taxable income. If not fully expensed in the taxable year in which the property is placed in service, the costs may be depreciated over a five-year irrevocable term.
- Research or experimental expenditures which are paid or incurred by the taxpayer during the taxable year in connection with the taxpayer's trade or business as expenses which are not chargeable to the capital account. Expenditures so treated will be allowed as a deduction, notwithstanding changes to the IRC on the amortization of such expenditures. If not fully deducted, the research or experimental expenditures in the taxable year in which the expenditures are paid or incurred, the taxpayer may elect to amortize the expenditures over a five-year irrevocable term.

Nonresident Income

AM 906 Section 14 amends Neb. Rev. Stat. 77-2733 which exempts nonresident teleworker income from Nebraska taxable income if the nonresident is never present in Nebraska. Compensation paid to a nonresident present in Nebraska more than 15 days would be Nebraska source income. AM 906 Section 14 also adopts LB 173 which generally exempts compensation paid to a nonresident from Nebraska source income if the nonresident is not present in the state more than 15 days.

AM 1066 – Partnership paying tax on original returns

AM 1066 allow a partnership and small business corporation to make an annual irrevocable election to be subject to Nebraska income tax. A separate election must be made for each tax year beginning on and after January 1, 2018. The election applies to all returns filed for the year covered by the election.

A partnership and S corporation making the election must compute its tax liability at the highest individual income tax rate imposed for the tax year of the election. The tax is computed on the partnership's or S corporation's net income apportioned or allocated to Nebraska.

A nonresident individual partner or shareholder will not be required to file a Nebraska income tax return if all their Nebraska source income is from electing partnerships or S corporations and their share of the taxes paid by the electing partnership or S corporation satisfied their Nebraska income tax liability.

When computing the partner's or shareholder's tax liability, their share of the Nebraska income taxes deducted on the federal return by the partnerships or S corporation must be added back.

For tax years beginning on and after January 1, 2024, electing partnerships and S corporations will be required to make estimated tax payments as if they were a corporation. An electing partnership or S corporation that incurs a net operating loss cannot carry the loss forward to succeeding taxable years.

Partners and shareholders may claim a refundable credit equal to their share of the Nebraska income tax paid by an electing partnership or S corporation. Partners or shareholders that are corporations, individuals, financial institutions, estates, or trusts may apply any overpayment to the subsequent tax year.

When a partnership or S corporation is a partner of an electing partnership, the refundable credit may be distributed to the partners or shareholders in the same manner as income or applied against the partner's tax, interest, and penalty. If the credit is claimed by the partnership or the S corporation, any related overpayment may be refunded or applied to the subsequent tax year. The overpayment applied to the subsequent year by a partnership is limited to the portion of the overpayment that resulted from the credit for taxes paid by the partnership. No other portion of a partnership's overpayment may be applied to the subsequent year.

When an electing partnership is a partner in an electing partnership, it may claim a credit for the taxes paid by the lower tier. If claiming the credit, the upper tier electing partnership must distribute to its partners a credit for taxes paid by itself and all its lower tier electing partnerships.

The statute of limitations for filing a claim for credit or refund by partners or shareholders of an electing partnership or S corporation is extended to the time specified in section 77-2793 or January 1, 2026, whichever is later. The Tax Commissioner will not pay interest to the partners or shareholders on any related refund. The

Tax Commissioner may issue a proposed notice of deficiency to an electing partnership, S corporation, or its owners within one year from the date a partnership or S corporation files its election. Any notice of deficiency determination may be enforced within six years from the date of the notice of deficiency determination. The provisions in this paragraph are limited to tax years beginning after January 1, 2018 and before January 1, 2023.

A resident individual, estate, or trust may claim a credit for taxes paid to another state on the income taxed by both Nebraska and another state. This amendment expands the credit to include any tax similar to the Nebraska tax imposed on an electing partnership or S corporation by another state.

AM 1066 also allows a partnership to pay tax on an amended return as if it were an individual and would require a partnership making this election to also pay the tax, penalties, or interest due. The use of “or” when used in the “tax, penalties, or interest” clause allows for the payment of one of the three in lieu of the others. DOR estimates AM 1066 will have a negative, but undeterminable, impact on the General Fund revenues.

LB 754AM 906 is estimated to have the following fiscal impact to the General Fund revenues:

***Amounts are in thousands dollar.**

	FY23-24	FY24-25	FY25-26	FY26-27	FY27-28	FY28-29
Research Expenditures	(\$29,049)	(\$45,430)	(\$50,064)	(\$43,839)	(\$42,631)	(\$45,046)
Individual Income Tax	(\$72,469)	(\$230,013)	(\$387,072)	(\$586,052)	(\$721,091)	(\$749,854)
Corporation Income Tax	(\$6,103)	(\$27,668)	(\$60,181)	(\$92,764)	(\$119,324)	(\$132,525)
Nonresident	(\$11,373)	(\$27,316)	(\$27,312)	(\$27,284)	(\$27,053)	(\$27,143)
Itemized Deduction	(\$40,836)	(\$17,312)	(\$17,613)	(\$17,994)	(\$18,660)	(\$19,525)
Retirement Income	(\$846)	(\$2,047)	(\$2,082)	(\$2,127)	(\$2,206)	(\$2,308)
Child Care Tax Credit Act	\$0	(\$27,910)	(\$27,983)	(\$28,058)	(\$28,134)	(\$28,212)
Social Security Benefit	(\$8,183)	(\$11,457)	\$0	\$0	\$0	\$0
Total	(\$168,859)	(\$389,153)	(\$572,307)	(\$798,118)	(\$959,099)	(\$1,004,613)

LB 754 AM 906 will require a one-time programming charge of \$1,181,258 paid to the OCIO for adding lines to the 1040N, 1040N Schedule I, Nebfile, 1120N, 1041N. The cost also includes the development of a web portal for the child care tax credit portion. The web portal will require an annual maintenance cost of \$16,395 in subsequent years. The cost also includes a new Partnership system because the existing Partnership system does not have capabilities for estimated payments or for carryforward. The new Partnership system will require an annual maintenance cost of \$142,824 for FY23-24 and \$58,537 for FY24-25 and subsequent years.

Additionally, the hiring of 1 FTE of Fiscal Compliance Analyst and 1 FTE of Revenue Operations Clerk II to administer and verify the Refundable Child Care and the Child Care Contribution Credit program. AM 1066 will

require the hiring of 1 FTE of an IT Application Developer oversight of the development and maintenance of the new Partnership system.

Please complete ALL (5) blanks in the first three lines.

2023

LB⁽¹⁾ 754 AM 906

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Education

Prepared by: ⁽³⁾ Lauri Cimino/Bryce Wilson Date Prepared: ⁽⁴⁾ 3/27/23 Phone: ⁽⁵⁾ 531-333-6453

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2023-24</u>		<u>FY 2024-25</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	<u>\$173,877</u>	_____	<u>\$178,398</u>	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	<u><u>\$173,877</u></u>	<u><u>0</u></u>	<u><u>\$180,798</u></u>	<u><u>0</u></u>

Explanation of Estimate:

LB754 AM 906 will require the NDE personnel to review and verify staff qualifications including training and education and process the attestation form for each application in the Nebraska Early Childhood Professional Records System (NECPRS) The attestation application opens in July of each year. Based on the previous tax credit attestations were due to the Department of Revenue by March. The forecast estimates are based on the last 5 years and estimates for growth.

NDE is not providing analysis on the rest of AM 906.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2023-24</u>	<u>2024-25</u>
	<u>23-24</u>	<u>24-25</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Career Development Coordinator	<u>1</u>	<u>1</u>	<u>\$61,454</u>	<u>\$63,496</u>
Education Associate	<u>1</u>	<u>1</u>	<u>\$40,064</u>	<u>\$41,667</u>
Benefits.....			<u>\$69,959</u>	<u>\$73,235</u>
Operating.....			_____	_____
Travel.....			<u>\$2,400</u>	<u>\$2,400</u>
Capital outlay.....			_____	_____
Aid.....			_____	_____
Capital improvements.....			_____	_____
TOTAL.....			<u><u>\$173,877</u></u>	<u><u>\$180,798</u></u>