

FISCAL NOTE
Requested by Legislative Council
12/20/2016

Bill/Resolution No.: HB 1045

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 2015-2017 Biennium | | 2017-2019 Biennium | | 2019-2021 Biennium | |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | | | | | |
| Expenditures | | | | | | |
| Appropriations | | | | | | |

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

| | 2015-2017 Biennium | 2017-2019 Biennium | 2019-2021 Biennium |
|------------------|--------------------|--------------------|--------------------|
| Counties | | | |
| Cities | | | |
| School Districts | | | |
| Townships | | | |

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1045 changes the laws governing the angel fund and seed capital income tax credit programs. The purposes of the changes are to discontinue the angel fund credit and to expand the seed capital credit.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of the bill pertains to the angel fund income tax credit program. Current law allows an income tax credit for making an investment in an angel fund that the North Dakota Commerce Department certifies as meeting certain criteria. The credit is 45% of the investment, not to exceed \$45,000 per year. A number of other limitations on the credit amount apply to the investor and the angel fund.

The bill makes two changes to the angel fund credit program. One change places a sunset date on the program, providing that the credit will no longer be allowed for investments made on or after January 1, 2018. The other change removes obsolete language in the law relating to the sale or other transfer of the angel fund credit to another taxpayer.

Sections 2 through 4 of the bill pertain to the seed capital income tax credit program. Current law allows an income tax credit for making an investment in a business that the North Dakota Commerce certifies as meeting certain criteria. The credit is 45% of the investment. A number of other limitations apply to the investor and the business.

The bill makes the following changes to the seed capital credit program: (1) It increases the amount of investments in a qualified business for which the credit is allowed from \$500,000 to \$4 million. (2) It increases the credit amount that an investor may use per tax year from \$112,500 to \$225,000. (3) It increases the ceiling on the total credits allowed under the program from \$3.5 million to \$15 million. (4) It increases the unused credit carryover period from 4 to 7 tax years. (5) It requires a qualified business to file an annual report with the North Dakota Tax Department in each of the five years following the receipt of an investment to show that the business continues to meet the certification requirements.

Section 5 of the bill provides that the changes to the two programs apply to tax years 2018 and after.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

If enacted, HB 1045 may have net positive or negative fiscal impact on state general fund revenues for the 2017-19 biennium depending primarily on whether the changes increase the level of participation and investment activity under the seed capital tax credit program.

There has been significant use of the angel fund credit program since its creation in 2007. Based on prior years' activity, there is a reasonable expectation that, absent the placement of the sunset date on the program, there would be continued investment activity resulting in additional credits being claimed. Therefore, the placement of the sunset on the program, which would not allow any new credits to be claimed after 2017, would have a positive fiscal impact on state general fund revenues. The amount of that impact is uncertain because it is dependent on what the future investment activity might be without the sunset. Assuming future investment activity is similar to that during the 2011 through 2016 period, the amount of the positive fiscal impact on state general revenues attributable to ending the angel fund credit program could range from \$2 million to \$7 million for the second year of the 2017-19 biennium.

While the seed capital credit program has also seen significant use since its first use in 2002, the level of activity under the program has steadily decreased since 2005. Credits claimed under the program have decreased from a high of \$5.6 million in 2004 to just under \$267,000 in 2015 (with an average of approximately \$540,000 for the years 2006 through 2015). The decrease in activity under the seed capital program could be attributable to any number of factors, but the creation of the angel fund credit program in 2007 with its less restrictive requirements may be one of them. It is uncertain if the ending of the angel fund credit program and the expansion of the credit limits under the seed capital credit program will result in more use of the seed capital program. An increase in the use of the seed capital program would result in a decrease in state general fund revenues for the second year of the 2017-19 biennium; however, the amount of the decrease, if any, is uncertain.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

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