

FISCAL NOTE
Requested by Legislative Council
02/02/2017

Amendment to: Engrossed 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).*

Engrossed HB 1045 changes the law governing the angel fund and seed capital income tax credit programs. The changes will discontinue the angel fund credit program, expand and rename the seed capital credit program, and repeal both programs after 2019.

- 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. 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 qualifying criteria. The credit is 45% of the investment, not to exceed \$45,000 per year. A number of other limitations on the amount of allowable credits apply to both the investor and the angel fund.

The bill places a sunset date of January 1, 2018, on the credit, which means the credit will no longer be allowed for investments made on or after this date, and it requires an angel fund to pay back to the state a portion of the credits allowed to its angel investors in the form of a surcharge on a certain portion of the monies it has not invested in business enterprises.

Sections 3 through 8 of the bill pertain to the seed capital income tax credit. Current law allows an income tax credit for making an investment in a qualified business in North Dakota. A qualified business is one that the North Dakota Commerce Department certifies as meeting certain conditions, which include being primary sector and having its principal or a significant operation in North Dakota. The credit is 45% of the investment. A number of other limitations apply to both the investor and the business.

The bill reduces the credit rate from 45% to 25% of the qualifying investment and increases the unused credit carryover period from 4 to 5 years. In addition, it increases the maximum number of credits allowed under the program from \$3.5 million to \$10 million, and provides that the seed capital credit is not allowed to an angel fund certified before 4/1/2017.

Section 9 of the bill repeals both the angel fund and seed capital tax credit programs, effective for tax years after 2019.

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.*

Based on past activity, it is reasonably expected that, if left unchanged, there will be continued use of the angel fund tax credit program. Therefore, discontinuance of the program along with the surcharge on uninvested dollars are expected to have a positive impact on state general fund revenues for the second year of the 2017-19 biennium. The amount of that impact is cannot be determined because it is dependent on future investment behavior, but based on previous years' investment activity could potentially range from \$2 million to \$7 million, excluding the effect of the surcharge.

The use of the seed capital tax credit program has significantly decreased since 2004, with earned credits ranging from \$5.6 million credits in 2004 to \$267,000 credits in 2015. Assuming there is investment activity under the program, the reduced credit rate will have a positive fiscal effect. The increase in the credit ceiling will not have a fiscal effect unless investments under the program increase to the point of generating credits in excess of \$3.5 million per year. Credits earned each year since 2005 have not exceeded \$890,000. Certain limitations in current law will remain in place, one of which limits the credit to the first \$500,000 of eligible investments received by a qualified business. This lifetime \$500,000 investment limit per qualified business means that it would require \$500,000 to be invested in each of 28 qualified businesses for total credits to reach \$3.5 million, and a \$500,000 investment in each of 80 qualified businesses for total credits to reach \$10 million. The number of qualified businesses certified under the seed capital tax credit program has averaged about four per year.

If enacted, Engrossed HB 1045 could have a net positive or negative fiscal impact on state general fund revenues for the 2017-19 biennium; however, historical data suggest that there would need to be a significant increase in the level of activity under the seed capital tax credit program to offset the expected positive fiscal impact of discontinuing the angel fund tax credit program. Therefore, the enactment of Engrossed HB 1045 is expected to have an overall net positive fiscal impact on state general fund revenues for the second year of the 2017-19 biennium, the amount of which cannot be estimated because it is dependent on future investment behavior.

- 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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