

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2013-14		FY 2014-15	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	\$275,872		\$48,000	(\$5,008,000)
CASH FUNDS			\$152,529	\$165,049
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$275,872		\$200,529	(\$4,842,951)

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

LB 191 creates the Nebraska Job Creation and Mainstreet Revitalization Act.

The bill provides for a nonrefundable credit against income tax, the insurance premium tax, or the financial institutions franchise tax for the year a historically significant real property is placed in service. The amount of the credit is to be equal to twenty percent of eligible expenditures up to and including \$10 million, and ten percent of eligible expenditures in excess of \$10 million. (For example, the credit for eligible expenditures totaling \$15 million would be \$2,500,000.)

The credit may be utilized by any natural person, limited liability company, partnership, private domestic or foreign corporation, or a domestic or foreign 501(c)(3) nonprofit corporation.

The credit may be claimed for taxable years beginning on or after January 1, 2015 and any credit amount that is unused may be carried forward until fully utilized.

LB 191 in Sec. 3(1) states that a person “may receive a nonrefundable credit . . . for the year the historically significant real property is placed in service.” Subsection (7) states that the, “Credits allowed under this section may be claimed for taxable years beginning or deemed to begin on or after January 1, 2015.” Given these two sections, the earliest a property could be put in service to be eligible for the tax credit would be January 2015.

In addition, the credit may be transferred, sold, or assigned and the person acquiring the credit may use the credit against any liability for state income tax, sales and use taxes, insurance premium tax, or financial institutions franchise tax in the year in which the credit is acquired and carried forward until fully utilized.

The bill also provides that no certificate for the credit shall be issued until the recipient of the credit has paid to the Department of Revenue as a fee, the lesser of: a) \$25,000 or b) one-quarter of one percent of the credit amount. (In the example used above the fee would be \$6,250.) The credit certificate fee is to be remitted for credit to the Civic and Community Center Financing Fund.

Historically significant real property is defined as real property used for any purpose, other than an owner-occupied single-family detached residence, that is:

- > Individually listed in the National Register of Historic Places; and
- > Is located within a district listed in the National Register of Historic Places and is determined to be of historic significance to such district; and
- > Is individually designated pursuant to a landmark ordinance adopted by the pertinent political subdivision and approved by the state historic preservation officer; or
- > Is located within a district designated pursuant to a preservation ordinance by a political subdivision providing for rehabilitation, preservation, or restoration of historically significant real property and approved by the state historic preservation officer.

Eligible expenditures are defined as any cost incurred for the improvement of historically significant real property in Nebraska, including but not limited to, qualified rehabilitation expenditures as defined by the IRS. That type of expenditure is defined by the IRS in general, as any amount properly chargeable to capital account for property for which depreciation is allowable under section 168 of the Code

and is a) nonresidential real property, b) residential real property, c) real property which has a class life of more than 12.5 years, d) an addition or improvement to such real property, and in connection with the rehabilitation of a qualified rehabilitation building.

In order to obtain the credit, prior to beginning work on the property a person is to file an application containing the necessary information with the state historic preservation officer and include the appropriate fee. Following a determination by the officer, the officer is to notify the person and the Department of Revenue of that determination. Within 12 months after the date the property is placed in

service a request for final approval shall be filed with the officer. If the officer issues a final approval, the application shall be referred to the Department of Revenue to determine the amount of eligible expenditures, calculate the amount of the credit, and issue a certificate of credit to the person.

The state historic preservation officer is to establish and collect the application fee and the fee for final approval. The fee is to be in an amount sufficient to offset the costs of processing and monitoring applications. The application fee and the final approval fee are to be remitted for credit to the Nebraska Job Creation and Mainstreet Revitalization Fund, which is created by the Act. The fund is to be used to administer and enforce the Act.

LB 191 also provides for a sliding scale of recapture of the historical preservation credit if at any time during the five years after the historically significant property is placed into service it is determined that the property has been the subject of work not in substantial conformance with the standards, the approved application, or the documents from which the credit was calculated.

No new applications shall be filed under the Act on or after January 1, 2020.

The State Historical Society has estimated a General Fund cost of \$174,042 for FY2013-14 and \$173,775 for FY2014-15 to implement and administer the provisions of LB 191. The Society indicates that this program will require staff with knowledge in historic building rehabilitation in order to review architectural plans and specifications and to inspect, monitor, and certify each project. The program will also require extensive travel throughout the state as it is anticipated that the program will generate an extensive number of projects. The program will require 2.0 FTE and PSL of \$87,639 for FY2013-14 and \$89,611 for FY2014-15.

The bill requires a fee structure that will cover the costs of processing and monitoring, however, given that LB 191 provides new responsibilities for the Historical Society and that personnel will need to be in place prior to any collection of fees, we agree with their request for General Funds for FY2013-14. However, we disagree with the need for an Administrative Assistant III and believe that the requirements of the bill can be fulfilled with an Administrative Assistant I position. This would reduce the request for FY2013-14 to \$153,077 and PSL of \$74,727.

We disagree with the Historical Society's estimate of a General Fund impact for FY2014-15. As we noted above, the bill requires a fee structure to cover the costs of processing and monitoring and this fee structure should be in place for FY2014-15. The expenditure for the fiscal year should be from the cash fund created by LB 191. In addition, given the change in staffing in the first fiscal year, the amount of the expenditure for FY2014-15 should be \$152,529 with PSL of \$76,482.

The Department of Revenue estimates based on a similar historic tax credit plan in Iowa and the proportion of historic properties in Nebraska, that LB 191 will result in the following fiscal impact to the General Fund.

FY2013-14:	\$	0
FY2014-15:	(\$	5,008,000)
FY2015-16:	(\$	7,011,000)
FY2016-17:	(\$	7,361,000)

We have no basis to disagree with the Department's estimate of fiscal impact to the General Fund.

The Department indicates that LB 191 will require modifications to the Forms 1040N, 1120N, and 1041N income tax returns, and to the NebFile system. The Department estimates a one-time programming cost of \$90,795 to be paid to the Office of the CIO. The Department will also require an additional staff person to process certification requests and track credit transfers and usage.

We disagree with the Department regarding needing 1.0 FTE for FY2013-14 and believe that only 0.5 FTE will be necessary thereby reducing the request for the first fiscal year to \$122,795 with PSL of \$17,650. We agree with the remainder of their estimate of cost.

Regarding the fiscal impact to the Civic and Community Center Financing Fund, based on the estimate provided by the Department of Revenue for General Fund impact in FY2014-15 the amount remitted would be approximately \$12,520, and for FY2015-16 approximately \$17,527.

ADMINISTRATIVE SERVICES-STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES		
LB: 191	AM:	AGENCY/POLT. SUB: State Historical Society
REVIEWED BY: Lyn Heaton	DATE: 2/12/2013	PHONE: 402.471.4181
<p>COMMENTS: Without more certainty regarding the number of projects that will qualify and seek to apply for the tax credit, there is no basis to disagree with the Historical Society's estimate of cost.</p> <p>LB 191 provides that the State Historical Society is to establish and collect an application fee from persons commencing work on "historically significant real property" for which the applicant is seeking an income tax credit under the bill.</p> <p>LB 191 further provides that, "Such fees shall be in amounts sufficient to offset the costs of processing and monitoring applications filed under the Nebraska Job Creation and Mainstreet Revitalization Act" (emphasis added). The fees are to be credited to the Nebraska Job Creation and Mainstreet Revitalization Fund. Consequently, I do not agree with the Historical Society's conclusion that the expenses related to implementing the bill's provisions will require a General Fund appropriation. All expenses of the State Historical Society will be recorded as cash funds.</p>		

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

2013

LB⁽¹⁾ 191 FISCAL NOTE

State Agency OR Political Subdivision Name: (2) Nebraska State Historical Society

Prepared by: (3) Michelle Furby Date Prepared: (4) 1/17/2013 Phone: (5) (402) 471-3171

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2013-14</u>		<u>FY 2014-15</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	<u>174,042</u>	<u>(see note*)</u>	<u>173,775</u>	<u>(see note*)</u>
CASH FUNDS	<u> </u>	<u> </u>	<u> </u>	<u> </u>
FEDERAL FUNDS	<u> </u>	<u> </u>	<u> </u>	<u> </u>
OTHER FUNDS	<u> </u>	<u> </u>	<u> </u>	<u> </u>
TOTAL FUNDS	<u> </u>	<u> </u>	<u> </u>	<u> </u>

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

Explanation of Estimate:

LB191 will require staff with knowledge in historic building rehabilitation to review architectural plans and specifications and inspect, monitor, and certify each project. The position would be team leader to administrative staff assistant and report to management. Position would develop rules, regulations, management reports, policies and procedures. An administrative assistant would be responsible for administrative support, accounting and tracking of fees, program analysis, coordination with Department of Revenue and local government designees, database management, generation of reports and statistics, and program promotion. The program would require extensive travel across the state. It is anticipated that an extensive number of projects will be generated under this program. Agency's federal historic preservation grant could not be used to support these positions.

*LB191 authorizes a fee to be charged to applicants, intended to offset costs to administer the program. (See Section 8). A fee schedule will need to be adopted, but we do not feel that the fee will cover total costs in start-up year(s) or thereafter.

MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2013-14</u>	<u>2014-15</u>
	<u>13-14</u>	<u>14-15</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
<u>Building Program Specialist</u>	<u>1</u>	<u>1</u>	<u>45,328</u>	<u>46,348</u>
<u>Administrative Assistant III</u>	<u>1</u>	<u>1</u>	<u>42,311</u>	<u>43,263</u>
<u>Benefits.....</u>			<u>55,131</u>	<u>55,430</u>
<u>Operating.....</u>			<u>22,772</u>	<u>23,134</u>
<u>Travel.....</u>			<u>5,000</u>	<u>5,100</u>
<u>Capital outlay.....</u>			<u>3,500</u>	<u>500</u>
<u>Aid.....</u>			<u> </u>	<u> </u>
<u>Capital improvements.....</u>			<u> </u>	<u> </u>
<u>TOTAL.....</u>			<u>174,042</u>	<u>173,775</u>

State Agency Estimate

State Agency Name: Department of Revenue		Date Due LFA:				
Approved by: Douglas Ewald		Date Prepared:				
		Phone: 471-5896				
FY 2013-2014		FY 2014-2015		FY 2015-2016		
<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	
General Funds	\$ 146,295	\$ 0	\$ 48,000	(\$ 5,008,000)	\$ 49,100	(\$ 7,011,000)
Cash Funds						
Federal Funds						
Other Funds						
Total Funds	\$ 146,295	\$ 0	\$ 48,000	(\$ 5,008,000)	\$ 49,100	(\$ 7,011,000)

LB 191 (Nebraska Job Creation and Mainstreet Revitalization Act) provides a transferrable, nonrefundable tax credit for qualified rehabilitation expenditures of historically significant real property for tax years beginning or deemed to begin on or after January 1, 2015. The credit may be used by the original recipients against income tax, insurance premium tax, and financial institutions franchise tax for the year in which the property is placed in service. A taxpayer is entitled to a 20% credit for eligible expenditures equal to or less than \$10 million and 10% of for eligible expenditures in excess of \$10 million. The credit may be carried forward until fully utilized. The credit may be distributed to owners, shareholders, partners, or members as determined by the entity.

The taxpayer making the expenditures must file an application with the State Historic Preservation Officer (Officer) for a determination regarding whether the property is qualified historically significant real property. Upon approval, the Department of Revenue (Department) must determine the amount of the eligible expenditures and issue a credit certificate to the taxpayer. If the officer does not approve or deny an application within 30 days, the taxpayer may petition the Department directly to determine the amount of the eligible expenditures and issue a credit certificate to the taxpayer. Prior to the Department issuing the certificate, the taxpayer must pay a fee equal to the lesser of .25% of the credit amount or \$25,000; the fee is credited to the Civic and Community Center Financing Fund.

The credit may be transferred without restriction and may be used by the transferee to offset income tax, sales or use tax, insurance premium tax, and financial institutions franchise tax for the year in which the credit is acquired and until fully utilized. The transferor must notify the Department of the transfer within 15 days. The Department is required to develop a system to track the transfer, sale, and assignment of credits and must certify ownership of all credits issued or transferred.

The credit may be recaptured from the original recipient if at any time within five years after the property is placed into service, the Officer or Department determine that the historically significant property has been the subject of work not in substantial conformance with the standards, approved application, or documents from which the credit was calculated. A notice of recapture must be sent to the original recipient who may cure the defect within six months of the notice. The amount of the recapture varies depending on the number of years the project was in compliance with the requirements of the Act.

No new applications may be filed after January 1, 2020.

Based on a similar historic preservation tax credit program in Iowa, and the proportion of historic properties in Nebraska, it is estimated that LB 191 will result in a reduction to the General Fund of \$5.008 million in fiscal year 2014-15, \$7.011 million in fiscal year 2015-16, and \$7.361 million in fiscal year 2016-17.

LB 191 requires modifications to the Forms 1040N, 1120N, and 1041N income tax returns and to the NebFile system. The Department expects to be billed \$90,795 by the OCIO for one-time mainframe programming services. The Department also requires staff to process certification requests and track credit transfers and usage.

The Department may promulgate rules and regulations to carry out the Act.

Major Objects of Expenditure

<u>Class Code</u>	<u>Classification Title</u>	<u>13-14 FTE</u>	<u>14-15 FTE</u>	<u>15-16 FTE</u>	<u>13-14 Expenditures</u>	<u>14-15 Expenditures</u>	<u>15-16 Expenditures</u>
A21211	Fiscal Compliance Analyst	1.0	1.0	1.0	\$ 35,300	\$ 36,100	\$ 36,900
Benefits.....					\$ 11,700	\$ 11,900	\$ 12,200
Operating Costs.....					\$ 90,795		
Travel.....							
Capital Outlay.....					\$ 8,500		
Aid.....							
Capital Improvements.....							
Total.....					\$ 146,295	\$ 48,000	\$ 49,100