

Doug Gibbs March 29, 2012 402-471-0051

Revision: 04

## FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

Revised due to adoption of amendments on General and Select File.

	ESTIMATE OF FIS	SCAL IMPACT - STAT	E AGENCIES *	
	FY 201:	2-13	FY 201	3-14
_	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS		(\$300,000)		(\$297,819)
CASH FUNDS				(\$12,054)
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS		(\$300,000)		(\$309,873)

<sup>\*</sup>Does not include any impact on political subdivisions. See narrative for political subdivision estimates.

LB 902, as amended by AM 2281, AM 2563, and AM 2638, changes Nebraska Revised Statutes dealing with revenue and taxation regarding government property exempt from property taxes and the state and political subdivisions exemption from sales and use taxes.

Section 77-202 is amended to further define that property of the state and its governmental subdivisions includes property held in fee title by the state or its subdivisions and property beneficially owned by the state or its subdivisions in that it is being used for a public purpose and is being acquired under a lease-purchase agreement, financing lease, or other instrument which provides legal transfer of title to the state or a governmental subdivision upon payment of all amounts due under the agreement, lease, or instrument. The bill would exempt such property from property taxes.

The bill amends Section 77-2704.15 to exempt from sales and use taxes all purchases made by a non-profit corporation under a lease – purchase agreement, financing lease, or other similar instrument which provides for transfer of title to the property to the state or a governmental unit upon payment of all amounts due under the agreement, lease, or instrument.

As amended by AM 2638, the bill now provides that property is eligible for the exemption granted under LB 902 only if the question of acquisition or construction has been approved by the voters of the appropriate governmental subdivision at a primary, general, or special election. Such election is triggered when the total acquisition or construction costs of the property or building exceeds the greater of \$50,000 or six-tenths of one percent of the total actual value of real and personal property of the governmental subdivision. The same requirements apply to a nonprofit corporation which will be making purchases under a lease-purchase agreement, financing lease, or other instrument as part of the project.

The bill contains the emergency clause and as amended now provides an operative date of April 1, 2012 for section 2 of the bill.

The Department of Revenue indicates that there appear to be a number of these projects in the state that are considered subject to the sales tax. They estimate that these projects, looking back only to a three-year statute of limitations for refunds, would amount to a net General Fund sales tax reduction, refunds and smaller collections as follows:

		State Highway		
Fiscal	General	Capital Improvement		
Year:	Fund:	Fund:		
FY2012-13:	(\$ 5,125,000)	\$ 0		
FY2013-14:	(\$ 297,819)	(\$ 12,054)		
FY2014-15:	(\$ 310,228)	(\$ 12,556)		

The Department estimates no cost to implement the provisions of LB 902.

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While we do not completely disagree with the Department of Revenue's estimate of fiscal impact, we do believe the tax remittance by these non-profit entities has been inconsistent. However, it is clear that these taxes are at this time due and payable to the state and would be revenue forgone with the passage of LB 902. We believe the fiscal impact to the state would be approximately as follows:

		State Highway
Fiscal	General	Capital Improvement
Year:	Fund:	Fund:
FY2012-13:	(\$ 300,000)	\$ 0
FY2013-14:	(\$ 297,819)	(\$ 12,054)
FY2014-15:	(\$ 310,228)	(\$ 12,556)

## **IMPACT TO POLITICAL SUBDIVISIONS:**

We estimate the following fiscal impact to the Highway Allocation Fund:

FY2012-13: \$ 0 FY2013-14: (\$ 2,127) FY2014-15: (\$ 2,216)

## LB 902

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FEB 0320	Fiscal Note	2012

4		Date Prepared: 2-2013	Estimate LEO	2012		
State Agency Name: Department	of Revenue		- 4	SZATIL	Date Due LFA:	1/18/2012
Approved by: Douglas Ewald		Date Prepared:	2/2/2012	FISO	Phone: 471-5700	
	FY 2012	2-2013	FY 20	13-2014	FY 20	14-2015
	<b>Expenditures</b>	Revenue	<b>Expenditures</b>	Revenue	<u>Expenditures</u>	Revenue
General Funds		(\$5,125,000)		(\$312,000)		(\$325,000)
Cash Funds						
Federal Funds						
Other Funds						
Total Funds		(\$5,125,000)		(\$312,000)		(\$325,000)
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LB 902 amends Neb. Rev. Stat. § 77-202 to include "Property of the state and its governmental subdivisions," which is property held in fee title or beneficially owned by the state or a political subdivision that is used for a public purpose and was acquired under a lease-purchase agreement or similar instrument where legal title to the property passes to the state or political subdivision at the conclusion of the lease term or when the terms of the instrument have been satisfied.

LB 902 also exempts from sales and use tax all purchases by a nonprofit corporation under a lease-purchase agreement or similar instrument where legal title to the property passes to the state or a governmental subdivision upon payment of all amounts due.

LB 902 is applied retroactively and prevents collection of sales, use, and property taxes that could accrue from property acquired under a lease-purchase agreement.

There appear to be a number of projects in the state that are considered subject to the sales tax. It is estimated that these projects, looking only back to a three-year statute of limitations for refunds, would amount to a net General Fund sales tax reduction, refunds and smaller collections, of \$5.125 million in FY2012-13. This is expected to decrease to \$0.312 million and \$0.325 million in FY 2013-14 and FY 2014-15, respectively.

There will be no costs to the Department to implement.

	Maj	or Objects of E	Expendit	ure			
Class Code	Classification Title	12-13 FTE	13-14 FTE	14-15 FTE	12-13 Expenditures	13-14 Expenditures	14-15 Expenditures
	,						
enefits							
ravel							
apital Outlayid							
apital Improvements							