

**FISCAL NOTE**  
**LEGISLATIVE FISCAL ANALYST ESTIMATE**

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)</b>				
	<b>FY 2025-26</b>		<b>FY 2026-27</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS	\$2,476,250		See Below	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>	<b>\$2,476,250</b>		<b>See Below</b>	

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

LB 401 requires specified Tax Commissioner notices to include a written statement containing the details of the facts, circumstances, and reasons for Tax Commissioner determinations.

The bill amends the Pass-Through Entity Tax (PTET) election so that for tax years beginning on or after January 1, 2023, such election may be made on the applicable income tax return and shall be made on or before the due date for filing the applicable income tax return, including any extensions that have been granted. The bill requires that for tax returns filed for taxable years beginning on or after January 1, 2022, the PTET credit is allowed for the same taxable year for which the election is made, without regard to the year in which the tax is paid to Nebraska or deducted on a federal income tax return.

The Department of Revenue (DOR) estimates a one-time programming charge of \$292,050 to be paid to the Office of the Chief Information Officer (OCIO) for mainframe system development as a result of the bill. Additionally, the DOR estimates a need for personnel based on the need to do requirements of the bill manually. There is no basis to disagree with these estimates by the DOR, except the DOR does not assume any salary or benefits increases for FY26-27 for the additional personnel needed pursuant to this bill's provisions. Without increases in salary and benefits for the additional personnel, the DOR would absorb costs connected to the increases.

**State Agency Estimate**

State Agency Name: Department of Revenue		Date Due LFO:				
Approved by: James R. Kamm		Phone: 471-5896				
Date Prepared: 01/27/2025						
FY 2025-2026		FY 2026-2027		FY 2027-2028		
Expenditures	Revenue	Expenditures	Revenue	Expenditures	Revenue	
General Funds	\$2,476,250	\$ 0	\$2,009,200	\$ 0	\$2,009,200	\$ 0
Cash Funds						
Federal Funds						
Other Funds						
<b>Total Funds</b>	<b>\$2,476,250</b>	<b>\$ 0</b>	<b>\$2,009,200</b>	<b>\$ 0</b>	<b>\$2,009,200</b>	<b>\$ 0</b>

LB 401 will require the following notices to include a written statement containing the details of the facts, circumstances, and reasons the Tax Commissioner used to:

- Claimant did not make an overpayment in notices denying a sales and use tax refund issued under Neb. Rev. Stat. § 77-2708.
- Sales and use tax return or returns or the amount of tax required to be paid to the State by the person are not satisfactory in notices of deficiency issued under § 77-2709.
- Taxpayer did not report the correct amount of income tax in notice of deficiency issued under § 77-2776 and notices of proposed deficiency determination issued under § 77-2786.
- Taxpayer did not make an overpayment in notices denying an income tax refund under § 77-2796.

LB 401 amends the pass-through entity tax (PTET) election to allow the election to be made on the applicable income tax return. For tax years beginning on or after January 1, 2022, the PTET credit is allowed for the same tax year for which the election is made, without regard to the year in which the tax is paid to Nebraska or deducted on a federal income tax return.

LB 401 changes “must” to “shall” in Neb. Rev. Stat. §§ 77-2727(6)(a), (d), and (h), and § 77-2734.01(8)(a), (d), and (h).

LB 401 will require a one-time programming charge of \$292,050 paid to the OCIO for mainframe system development. The Department of Revenue will need to hire 0.5 FTE of Revenue Agent, 6.0 FTE of Revenue Agent Senior, 24.0 FTE of Revenue Operation Clerk II, 2.0 FTE of Revenue Operations Supervisor I, 1.0 FTE Revenue Operations Supervisor II, 0.5 FTE of Fiscal Compliance Analyst, 0.5 FTE Revenue Auditor III, and 0.5 FTE of Information Technology Business System to implement this bill.

**Major Objects of Expenditure**

Class Code	Classification Title	25-26	26-27	27-28	25-26	26-27	27-28
		FTE	FTE	FTE	Expenditures	Expenditures	Expenditures
X29222	Revenue Agent	0.5	0.5	0.5	\$22,200	\$22,200	\$22,200
X29223	Revenue Agent Senior	6.0	6.0	6.0	\$307,200	\$307,200	\$307,200
S29112	Revenue Op Clerk II	24.0	24.0	24.0	\$929,200	\$929,200	\$929,200
V29114	Revenue Operations Supervisor I	2.0	2.0	2.0	\$100,700	\$100,700	\$100,700
V29115	Revenue Operations Supervisor II	1.0	1.0	1.0	\$58,200	\$58,200	\$58,200
A21211	Fiscal Compliance Analyst	0.5	0.5	0.5	\$24,200	\$24,200	\$24,200
A21253	Revenue Auditor III	0.5	0.5	0.5	\$32,300	\$32,300	\$32,300
A07082	Information Technology Business Systems Analyst/Coordinator	0.5	0.5	0.5	\$36,700	\$36,700	\$36,700
Benefits.....					\$609,000	\$609,000	\$609,000
Operating Costs.....					\$292,050		
Travel.....							
Capital Outlay.....					\$175,000		
Capital Improvements.....							
<b>Total.....</b>					<b>\$2,476,250</b>	<b>\$2,009,200</b>	<b>\$2,009,200</b>

DOR estimates the need to hire FTEs based on the changes made by LB 401. This bill requires a detailed explanation sent to taxpayers to explain notices of deficiency, reduced refunds, or increases in balance due not due to math or clerical errors. The current system at DOR, other than notices of deficiency from an audit, is done automatically, but the changes made by LB 401 cannot be done automatically using the systems available to DOR. In order to meet the demands of the legislation the current automated processes would instead need to be handled manually.

It is estimated that 150,000 returns will require these explanations be sent out via the mail. It is also estimated that each explanation will cost 20 minutes per return.