

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		See Below		See Below
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS		See Below		See Below

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

LB 159 amends the Nebraska Revenue Act of 1967 to create a tax amnesty program related to the non-payment of sales and use taxes on the purchase of gold, silver, and platinum commodities for investment.

The bill provides for a tax amnesty period for those taxpayers who have not paid sales or use taxes on the purchase of gold, silver, or platinum commodities when purchased for investment purposes before December 31, 2013. The amnesty period shall run from October 1, 2013 through December 31, 2013. Any person whose application is accepted shall have all penalties and interest waived on the delinquent sales and use taxes.

To be eligible for the tax amnesty, a taxpayer must file an application with the Department of Revenue within the amnesty period, file a return for each taxable period for which amnesty is requested, and pay the unreported sales and use taxes with the return or within 30 days after the application.

The Department of Revenue may not seek civil or criminal prosecution against any person for whom tax amnesty has been granted, although the amnesty would not be available to any person under civil or criminal audit investigation or prosecution for any tax program by the state or federal government.

The bill also allows a taxpayer to apply for a refund, of an unspecified percentage, of the sales or use taxes paid on the purchase of gold, silver, or platinum commodities for investment purposes after October 1, 2013. The purchaser is to file a claim within three years after the date of purchase, affirm that they have paid all sales or use taxes due on any purchases of the specified commodities since January 1, 2007, disclose the identity of the seller of those commodities, and disclose the dollar amount of each purchase.

A person who receives a refund but fails to disclose the identity of the seller shall be required to return all refunds received, with interest.

The bill also extends the statute of limitation for issuing a deficiency determination as regards the purchase of gold, silver, or platinum commodities occurring between January 1, 2007 and January 1, 2013 to twenty years for failure to report or pay sales or use taxes. For criminal prosecution involving the sale or purchase of these commodities the statute of limitation is extended to twenty years.

The bill has an operative date of October 1, 2013.

Because the amount of the sales or use taxes refund provided for in Section 4 of LB 159 is unspecified there is no fiscal impact as a result. However, the Department of Revenue has provided the following estimate of impact based on a 100% refund of such taxes:

Fiscal Year:	General Fund:	Highway Capital Improvement Fund:	Highway Allocation Fund:	Total:
2013-14:	(\$ 322,000)	(\$ 15,000)	(\$ 2,000)	(\$ 339,000)
2014-15:	(\$ 464,000)	(\$ 19,000)	(\$ 3,000)	(\$ 486,000)
2015-16:	(\$ 463,000)	(\$ 19,000)	(\$ 3,000)	(\$ 485,000)
2016-17:	(\$ 463,000)	(\$ 19,000)	(\$ 3,000)	(\$ 485,000)

The Department of Revenue indicates that they are unable to determine the possible revenue increase from the tax amnesty program.

The Department indicates the cost to implement the provisions of LB 159 to be minimal.

There is no basis to disagree with the Department of Revenue's estimate of fiscal impact and cost.

ADMINISTRATIVE SERVICES-STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES		
LB: 159	AM:	AGENCY/POLT. SUB: Dept. of Revenue
REVIEWED BY: Lyn Heaton	DATE: 3/12/2013	PHONE: 402.471.4181
COMMENTS: No basis upon which to disagree with the Dept. of Revenue's analysis given the stated assumptions. The Department's estimate of the operational cost to implement the bill appears reasonable.		

State Agency Estimate

State Agency Name: Department of Revenue		Date Due LFA: 3/13/13				
Approved by: Douglas Ewald		Date Prepared: 3/6/13				
		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		See Below		See Below		See Below
Cash Funds						
Federal Funds						
Other Funds						
Total Funds		See Below		See Below		See Below

LB 159 would enact a tax amnesty period for sales and use taxes that have not been paid or reported on purchases of gold, silver, and platinum commodities purchased for investment. The tax amnesty period would be from October 1, 2013 through December 31, 2013 and would cover any unpaid sales or use taxes due on or before December 31, 2013. Any person desiring tax amnesty would have to apply to the Tax Commissioner and pay the sales or use taxes on or before December 31, 2013. The tax amnesty would not be available to any person under civil or criminal audit investigation or prosecution for any tax program by the state or the U.S. government.

If tax amnesty is granted, all interest and penalties would be waived and the Department could not seek civil or criminal prosecution for any delinquencies in any tax program. The Department is to develop forms for applying for the tax amnesty, conduct a public awareness campaign about the program, and prepare a report detailing the results of the tax amnesty. Any proceeds from the tax amnesty, except local sales taxes, are to be deposited in the General Fund.

Section 4 provides that any purchaser of gold, silver, or platinum commodities for investment after October 1, 2013 may apply for a refund of a portion of the state sales or use taxes paid, but not local sales or use taxes paid. The percentage to be refunded is not specified in the bill. The claim must be filed within three years after the date of purchase. The claimant must affirm that the sales or use taxes were paid and disclose the name of the seller. Failure to disclose the name of the seller subjects the taxpayer to recapture of all amounts refunded plus interest. Section 5 would amend Neb. Rev. Stat. § 77-2708, to incorporate this refund into the refund statute.

Sections 6 and 7 would amend Neb. Rev. Stat. §§ 77-2709 & 77-2713 to extend the statutes of limitation for issuing a deficiency determination and for criminal prosecution from 3 or 5 years to 20 years for failure to report or pay sales or use taxes on purchases of gold, silver or platinum commodities purchased for investment between January 1, 2007 and January 1, 2013. LB 159 is to be operative October 1, 2013.

The revenue increase from the tax amnesty program is indeterminable.

Assuming taxpayers are allowed a 100% refund of state sales and use taxes paid on purchases of gold, silver, and platinum, the revenue decrease due to refunds is summarized below:

Fiscal Year	General Fund	State Highway Capital Improvement Fund	Highway Allocation Fund	Total
2013-14	(\$322,000)	(\$15,000)	(\$2,000)	(\$339,000)
2014-15	(\$464,000)	(\$19,000)	(\$3,000)	(\$486,000)
2015-16	(\$463,000)	(\$19,000)	(\$3,000)	(\$485,000)
2016-17	(\$463,000)	(\$19,000)	(\$3,000)	(\$485,000)

