PREPARED BY: Doug Gibbs
DATE PREPARED: February 04, 2013
PHONE: 402-471-0051

LB 405

Revision: 00

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

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

LB 405 eliminates certain sales tax exemptions; eliminates the income tax on individuals, estates and trusts; eliminates the income tax on corporations; eliminates the financial institutions franchise tax; changes requirements regarding certain tax incentive programs; makes adjustments to the Tax Expenditure report; amends certain definitions; harmonizes language; and provides operative dates.

The Department of Revenue has provided an estimate of fiscal impact to the General Fund and, pursuant to the provisions of LB 84 (2011), the impact to the State Highway Capital Improvement Fund and the Highway Allocation Fund.

In general, we agree with the estimates of fiscal impact presented by the Department. As regards the reduction of revenue as a result of the elimination of the corporate income tax and the increase in revenue from eliminating the sales tax exemptions noted below, we find the Department's estimates to be reasonable and have no basis to disagree. We also find no basis to disagree with the estimate of fiscal impact in the Department's fiscal note on the changes to the Nebraska Advantage Act.

We do disagree somewhat with the Department's estimate of revenue loss due to elimination of the individual income tax and have noted the difference below.

Fiscal Year:	Revenue estimate of Elimination of Individual Income Tax: $	LFO estimate of Elimination of Individual Income Tax: $	Elimination of Corporate Income Tax & Financial Institutions Tax:	Elimination of Sales & Use Tax Exemptions:	Changes to Nebraska Advantage Act:	Revenue Total:	LFO Total:
2013-14:	(812,023,000)	(902,015,000)	(51,108,000)	1,615,405,000	0	752,274,000	662,282,000
2014-15:	(1,995,220,000)	(2,071,328,000)	(195,820,000)	2,208,264,000	0	17,224,000	(58,884,000)
2015-16:	(2,108,445,000)	(2,224,606,000)	(275,195,000)	2,274,512,000	0	(109,128,000)	(225,289,000)
2016-17:	(2,222,439,000)	(2,389,227,000)	(293,335,000)	2,342,748,000	1,657,000	(171,369,000)	(339,814,000)

Based on the average of the two estimates, we estimate the net fiscal impact to the General Fund as a result of LB 405 to be the following:

FY2013-14: $ 707,278,000
FY2014-15: ($ 20,830,000)
FY2015-16: ($ 167,208,000)
FY2016-17: ($ 255,591,000)

With regard to FY2013-14, the elimination of the income tax (individual, corporate and financial institutions tax) goes into effect for tax years beginning on or after January 1, 2014, so is in effect for half the fiscal year. The elimination of the sales and use taxes exemptions becomes operative on October 1, 2013. The full effect of the changes proposed by LB 405 regarding the elimination of the sales tax exemptions and the individual income tax will not be seen until FY2014-15. Because of the nature of the corporate income tax, the full effect of the elimination will not be seen until FY2015-16.

CONTINUED ON PAGE 2

LB 405 outright repeals the following sections (sales tax exemption unless otherwise noted):

77-2701.46 Manufacturing; defined
77-2701.47 Manufacturing machinery & equipment; defined
77-2701.54 Data center; defined
77-2704.03 Aircraft fuel
77-2704.04 Minerals, oil, and gas
77-2704.08 Leased to own property
77-2704.09 Insulin, prescription drugs, durable medical goods
77-2704.11 Property shipped outside Nebraska
77-2704.13 Fuel used in irrigation, farming, manufacturing, or by hospital
Water used for irrigation & manufacturing
77-2704.22 Manufacturing machinery & equipment, related services
77-2704.23 Semen & insemination services
77-2704.26 Aircraft, services rendered
77-2704.27 Railroad rolling stock
77-2704.36 Agricultural machinery & equipment
77-2704.40 Molds, dies & patterns
77-2704.43 Industrial machinery & equipment, reciprocal agreement
77-2704.45 Ingredient or component parts
77-2704.47 Containers
77-2704.50 Railroad rolling stock, common or contract carrier
77-2704.60 Mineral oil as a dust suppressant
77-2704.61 Biochips
77-2704.62 Data center, equipment built in state & sold outside Neb.

77-2708.01 Depreciable ag. equipment repairs or parts: refund of sales

In addition, several other sections of statute are amended which deal with sales tax exemptions:
2-2701 regarding the sales tax exemption on purchase of a tractor;
77-2701.16 regarding labor for repair of tangible personal property as it applies to aircraft repairs and railroad rolling stock;
77-2701.24 regarding definition of occasional sale, after October 1, 2013 such sales by a religious organization become taxable;
77-2701.32 regarding a seller, now provides that a person who furnishes a room in a facility licensed under the Health Care Facility Licensure Act is a seller as is a person who furnishes rooms used to house students at educational institutions established under either Chapter 79 or Chapter 85;
77-2701.35 regarding "sales price" adds language that a tax or fee imposed on aircraft fuel is now part of the sales price;
77-2704.41 removes the sales tax exemption for agricultural chemicals, this includes insecticides, fungicides, etc.;
77-2704.46 is changed to remove the sales tax exemption for seeds and annual plants the product of which constitutes human food, agricultural chemicals used in commercial agriculture applied to land or crops, and oxygen used in aquaculture.

Also, 77-2704.12 is amended to remove the sales and use tax exemption for purchases by the following:

Nonprofit organization created exclusively for religious purposes;
Nonprofit organization providing services to the blind;
Nonprofit private educational institution established under 79-1601 to 79-1607;
Private colleges;
Hospital;
Skilled nursing facility;
Intermediate care facility;
Assisted living facility;
Intermediate care facility for mentally retarded;
Nursing facility;
Home health agency;
Hospice or hospice service;
Respite care service;
Nonprofit licensed child caring agency;
Nonprofit licensed child placement agency;
Any nonprofit organization certified by DHHS to provide community-based services for personal with developmental disabilities.

Purchases by health clinics owned by one or more hospitals and nonprofit mental health centers are still sales tax exempt.

It should be noted that neither the Department of Revenue nor the Legislative Fiscal Office was able to estimate the increase in sales tax revenue associated with the repeal of the following sales tax exemptions:

Lease-to-own property;
Aircraft temporarily stored or repaired in Nebraska;
Oxygen for use in aquaculture;
Property sold for delivery outside Nebraska;
Occasional sales of agricultural or business machinery

The bill also makes a number of changes to the Nebraska Advantage Act. The qualified investment credit is now 5% for all eligible Tiers; no refundable or nonrefundable income tax credits will be allowed after January 1, 2014; the attainment period for all Tiers is now the end of the fourth year after the year of application; the entitlement period for all projects for use of credits is five years with no carryover; and the changes made to the Act apply to applications filed on or after the effective date of the bill. The changes proposed by LB 405 do not apply to applications filed before the effective date of the bill.

The Department of Revenue indicates that the increase in sales and use tax receipts and the elimination of the individual and corporation income tax will result in additional refund claims under the Advantage Act of approximately $70 million in FY2013-14. Note: this amount is not accounted for as a separate item in the table on page one but is included in the Department's General Fund impact.

CONTINUED ON PAGE 3

The Department of Revenue has estimated the following fiscal impact to the State Highway Capital Improvement Fund (Cash):

FY2013-14: $ 65,385,000
FY2014-15: $ 89,382,000
FY2015-16: $ 92,064,000
FY2016-17: $ 94,826,000

There is no basis to disagree with the Department's estimate of fiscal impact to the Highway Capital Improvement Fund.

The Department has estimated they will need additional staff due to an increase in administrative costs associated with new sales tax permit holders and changes to the tax incentive programs. This cost is estimated at $363,000 for FY2013-14 and $285,000 for FY2014-15.

The Department also estimates an annual cost savings of $186,000 due to reduced programming expenses associated with the income tax program beginning in FY2014-15. The Department would also realize significant staff reductions beginning in FY2014-15 due to the decrease in processing individual and corporation income tax returns in FY2016-17; the cost savings would be fully realized for an annual savings of $2,035,000. They will also realize a savings of $140,000 because of the expiration of an audit contract with the Multistate Tax Commission beginning in FY2015-16.

There is no basis to disagree with the Department's estimate of cost.

IMPACT TO LOCAL POLITICAL SUBDIVISIONS:

The Department of Revenue estimates the following impact to the Highway Allocation Fund:

FY2013-14: $11,539,000
FY2014-15: $15,773,000
FY2015-16: $16,247,000
FY2016-17: $16,734,000

The Department also estimates an increase in local option sales tax revenue of approximately $397,000,000 beginning in FY2013-14.

There is no basis to disagree with the Department's estimate of fiscal impact to local political subdivisions.

ADMINISTRATIVE SERVICES-STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES		
LB: 405	AM:	AGENCY/POLT. SUB: Dept. of Revenue
REVIEWED BY: Lyn Heaton	DATE: 2/5/2013	PHONE: 402.471.4181
COMMENTS: No basis upon which to disagree with the Dept. of Revenue's revenue estimate. Analysis of the bill's estimated impact on the Department's operational costs will be ongoing.		

LB 405 Fiscal Note 2013

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	
	Expenditures	Revenue	Expenditures	Revenue	Expenditures	Revenue
General Funds	$ 177,000	$ 752,274,000	$ 99,000	$ 17,224,000	($ 1,945,000)	($ 109,128,000)
Cash Funds		$ 76,924,000		$ 105,155,000		$ 108,311,000
Federal Funds						
Other Funds						
Total Funds	$ 177,000	$ 829,198,000	$ 99,000	$ 122,379,000	($ 1,945,000)	$ (817,000)

LB 405 eliminates the income tax on individuals, estates, trusts, and corporations; eliminates the financial institutions franchise tax and select sales tax exemptions; changes reporting requirements for the Nebraska Tax Expenditure Report; and changes certain benefits under various tax incentive programs.

LB 405 eliminates the income tax on individuals, estates, trusts, and corporations, and the financial institutions franchise tax for tax years that begin or are deemed to begin on or after January 1, 2014. For taxable years beginning on or after January 1, 2014, no refundable or nonrefundable income tax credits will be allowed.

LB 405 eliminates the following sales tax exemptions as of October 1, 2013: renting or furnishing (for consideration) of any room by a health care facility licensed under the Health Care Facility Licensure Act or by an educational institution regularly used to house students; industrial machinery and equipment and repair parts by another state; property sold for delivery outside the state; nonprofit religious, service, educational, or medical organizations or their purchasing agent except for nonprofit mental health centers or nonprofit health clinics; rent-to-own property; occasional sales of agricultural or business machinery and property sold by religious organizations; prescription drugs, insulin, mobility enhancing equipment, durable medical equipment, home medical supplies, prosthetic devices, oxygen, and oxygen equipment; biochips; data centers; energy or fuel used in industry, agriculture, or by hospitals; water used for irrigation of agricultural lands and manufacturing purposes; manufacturing machinery and equipment; molds, dies, and patterns; containers; common carriers and railroads; aircraft fuel; aircraft temporarily stored in or repaired in the state; minerals, oil, and gas severed from real property; chemicals used in agriculture; semen and insemination services; mineral oil used as a dust suppressant; agricultural machinery and equipment; seeds and annual plants sold to commercial producers or for exclusively agricultural purposes; oxygen for use in aquaculture; and ingredient or component parts. LB 405 also eliminates the refund of sales tax paid on depreciable repairs or parts for agricultural machinery or equipment used in commercial agriculture.

LB 405 also limits the attainment and entitlement periods for all Nebraska Advantage projects to five years per period; and limits the investment credit to 5% for all Nebraska Advantage projects. The changes to Nebraska Advantage apply to all applications filed on or after the effective date of LB 405. For taxable years beginning on or after January 1, 2014, no refundable or nonrefundable income tax credits will be allowed.

The Department estimates the following impact on the General Fund:

Fiscal Year	Elimination of Individual Income Tax	Elimination of Corporation Income Tax & Financial Institutions Tax	Elimination of Sale Tax Exemptions	Changes to Nebraska Advantage	Total
FY 2012-2013	$ -	$ -	$ -	$ -	$ -
FY 2013-2014	$ (812,023,000)	$ (51,108,000)	$ 1,615,405,000	$ -	$ 752,274,000
FY 2014-2015	$ (1,995,220,000)	$ (195,820,000)	$ 2,208,264,000	$ -	$ 17,224,000
FY 2015-2016	$ (2,108,445,000)	$ (275,195,000)	$ 2,274,512,000	$ -	$ (109,128,000)
FY 2016-2017	$ (2,222,439,000)	$ (293,335,000)	$ 2,342,748,000	$ 1,657,000	$ (171,369,000)
FY 2017-2018	$ (2,338,354,000)	$ (302,307,000)	$ 2,413,030,000	$ 2,187,000	$ (225,444,000)
FY 2018-2019	$ (2,459,980,000)	$ (302,996,000)	$ 2,485,421,000	$ 3,314,000	$ (274,241,000)

The Department is unable to estimate the increase in sales tax revenue associated with the repeal of the following sales tax exemptions: rent-to-own property, aircraft temporarily stored in or repaired in the state, oxygen for use in aquaculture, property sold for delivery outside the state and occasional sales of agricultural or business machinery.

The increase in sales tax receipts and elimination of the individual and corporation income tax will result in additional refund claims under the Nebraska Advantage Act of approximately $70 million in FY 2013/14.

In FY2013/14 and FY2014/15, the Department will require additional staff due to an increase in administrative costs associated with new sales tax permit holders and changes to the tax incentive programs at a cost of $363,000 for FY13/14, and $285,000 for FY2014/15.

It is estimated that the Department would realize approximately $186,000 in annual cost savings due to reduced programming expenses associated with the income tax program beginning in FY 2014/15. Additionally, the Department would realize significant savings in staff reductions beginning in FY 2014/15 due to a reduction in processing of individual and corporation income tax returns in FY 2016/17; the cost savings would be fully realized for an annual savings of $2,035,000. The Department will also realize annual savings of $140,000 due to the expiration of an audit contract with the Multistate Tax Commission beginning in FY2015/16.

The proposal would also have the following impact on the Highway Trust Fund:

Fiscal Year	State Highway Capital Improvement Fund	Highway Allocation Fund
FY 2012-2013	$ -	$ -
FY 2013-2014	$ 65,385,000	$ 11,539,000
FY 2014-2015	$ 89,382,000	$ 15,773,000
FY 2015-2016	$ 92,064,000	$ 16,247,000
FY 2016-2017	$ 94,826,000	$ 16,734,000
FY 2017-2018	$ 97,670,000	$ 17,236,000
FY 2018-2019	$ 100,600,000	$ 17,753,000

The Department estimates an increase in local option sales tax receipts of $397 million beginning in FY2013/14.

Major Objects of Expenditure

Class Code	Classification Title	13-14 FTE	14-15 FTE	15-16 FTE	13-14 Expenditures	14-15 Expenditures	15-16 Expenditures
A21211	Fiscal Compliance Analyst	3	6	6	$ 108,000	$ 221,000	$ 226,000
S01113	Office Clerk III	1	1	(17)	$ 24,000	$ 24,000	($ 420,000)
S29111	Revenue Operations Clerk I	0	0	(1)	$ 0	$ 0	($ 26,000)
S29112	Revenue Operations Clerk II	1	1	(17)	$ 29,000	$ 29,000	($ 512,000)
A29621	Revenue Tax Specialist	0	0	(2)	$ 0	$ 0	($ 99,000)
V03351	Office Service Manager I	0	0	(1)	$ 0	$ 0	($ 37,000)
V29114	Revenue Operations Supervisor I	0	0	(1)	$ 0	$ 0	($ 41,000)
V29115	Revenue Operations Supervisor II	0	0	(1)	$ 0	$ 0	($ 47,000)
V29116	Revenue Operations Manager	0	0	(1)	$ 0	$ 0	($ 58,000)
A86530	Forms Management Analyst	0	0	(1)	$ 0	$ 0	($ 36,000)
X29222	Revenue Agent	2	(2)	(6)	$ 66,000	($ 67,000)	($ 207,000)
Benefits					$ 76,000	$ 69,000	($ 414,000)
Operating Costs					($186,000)	($186,000)	($326,000)
Travel							
Capital Outlay					$ 60,000	$ 9,000	
Aid							
Capital Improvements							
Total					$ 177,000	$ 99,000	($ 1,945,000)