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DATE PREPARED: March 06, 2017
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LB 561

Revision: 00

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)	FY 2017-18		FY 2018-19	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	$724,553	$0	$439,800	($8,400,000)
CASH FUNDS		$82,900,000		$86,000,000
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	$724,553	$82,900,000	$439,800	$77,600,000

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

LB 561 creates the Taxpayer Investment Program.

The bill creates a program that would allow any natural person (resident or nonresident) to pay the state an advance tax payment (to be known as a tax investment) when they file their income tax return, not to exceed $10,000, and subsequently take a nonrefundable tax credit.

A taxpayer would be entitled to take the credit either: a) five years after making the tax investment; b) the taxpayer is sixty-two years of age; or c) the death of the taxpayer; whichever of these occurs first.

The amount of the tax credit is determined by multiplying the tax investment times the program rate.

Tax Credit = (Program Rate) X (Tax Investment)

The program rate is determined by the following formula: (A x C) + B = Program Rate

A = the lesser of the (1) Treasury Yield Curve Rate (also known as the Constant Maturity Treasury rate), for a 10-year maturity U.S. Government note on the last business day of the month in which the tax investment was made OR (2) five percent per annum;

B = an inflation adjustment calculated by dividing the U.S. Dept. of Labor, Bureau of Labor Statistics, Consumer Price Index for All Urban Consumers, U.S. City Average, All Items Factor on June 30 of the year the credit is claimed by the same factor for the month the tax investment was made;

C = the number of years and fraction thereof between making the tax investment and claiming the tax credit.

Any sums (the tax investment) paid to the state become the property of the state and such sums shall be credited to the State Highway Capital Improvement Fund.

The tax credits are not taxable as state income, may only be used as credits against the state income tax and claimed only against tax liability in the time frame specified in Section 4 (2) of the bill. The bill also states that the tax credits are not to be considered a debt or general obligation of the state. Neither shall the credits be considered a security subject to the Securities Act.

Any tax credits remaining unclaimed upon the death of the taxpayer shall be applied to any state taxes due with the balance, if any, first reducing any inheritance tax and then applied to reimburse the state for any aid or assistance paid by the state under Chapter 68, and then upon payment of a ten percent of the credit fee, transferred to the heirs.

Note: Chapter 68 refers to, in general, health and human services and includes aid to dependent children, child care, medical assistance, assistance to the blind, assistance to the disabled, etc..

In addition, a transfer of credit not arising from the death of the original taxpayer, upon payment of a ten percent transaction transfer fee and cancellation of the corresponding credit arising out of Section 4 (3)(a) described above, a credit (not to exceed the underlying tax investment adjusted for inflation) may be transferred. In such case the transferee is entitled to the credit as if they were the original depositor.

Unused credits expire within twenty years of the original payment unless claimed OR in the case of credits held by the original individual taxpayer, five years from the later of a) the date of death of the payor or b) a surviving joint filer.

The state may, at any time, repurchase outstanding credits based on the current value of the credit (investment times the program rate minus credits previously claimed) or, in the case of transferred credits, the amount the transferee paid for the credit.

It should be noted that payments to the state go to a cash fund, the State Highway Capital Improvement Fund, while credits may be used against state income tax liability, which would have a negative fiscal impact on the General Fund.

LB 561 also provides that if on December 31 the outstanding balance of tax credits under the Taxpayer Investment Program exceed 20 percent of the balance of the Cash Reserve Fund on that day, no advance tax payments shall be made during the subsequent calendar year.

The bill contains the severability clause.

The Tax Commissioner is given rule and regulation authority to carry out the Taxpayer Investment Program.

The Department of Revenue estimates the following fiscal impact as a result of LB 561:

Fiscal Year:	General Fund:	Highway Capital Improvement Fund:
2017-18:	$ 0	$ 82,900,000
2018-19:	($ 8,400,000)	$ 86,000,000
2019-20:	($ 8,700,000)	$ 89,300,000
2020-21:	($ 9,000,000)	$ 92,800,000
2021-22:	($ 9,400,000)	$ 96,400,000
2022-23:	($ 98,400,000)	$ 100,100,000
2023-24:	($ 102,200,000)	$ 104,100,000
2024-25:	($ 106,100,000)	$ 108,100,000
2025-26:	($ 110,200,000)	$ 112,400,000
2026-27:	($ 114,500,000)	$ 116,800,000

For purposes of the estimated impact to the above funds, the Department assumed that the amount of outstanding tax credits does not exceed 20% of the Cash Reserve Fund and that the State will not repurchase any outstanding tax credits.

Implementation of LB 561 will require modifications to the Nebraska Individual Income Tax Return, Form 1040N, and to the NebFile system. The Department expects to be billed $47,116 by the Office of the CIO for one-time mainframe programming costs. Due to the complexities with tracking tax credit usage, transfer of credits, and validating offsets to the inheritance taxes, aid programs under Chapter 68, and transfer fees, the Department will incur $212,937 in costs associated with hiring a contractor to develop a database to track credits under the Act. The Department will also require 6.5 FTE to process and validate tax credits claimed under the Act.

Total cost to implement for FY2017-18 is estimated at $724,553, with PSL of $326,000 and for FY2018-19 a cost of $439,800, with PSL of $330,700.

We have no basis to disagree with the Department of Revenue's estimate of fiscal impact or cost.

LB 561 Fiscal Note 2017

State Agency Estimate

State Agency Name: Department of Revenue					Date Due LFA:	3/6/2017
Approved by: Tony Fulton		Date Prepared: 3/3/2017			Phone: 471-5896	

	FY 2017-2018		**FY 2018-2019**		**FY 2019-2020**	
	Expenditures	Revenue	Expenditures	Revenue	Expenditures	Revenue
General Funds	$ 724,553	$ 0	$ 439,800	($ 8,400,000)	$ 446,500	($ 8,700,000)
Cash Funds		$ 82,900,000		$ 86,000,000		$ 89,300,000
Federal Funds						
Other Funds						
Total Funds	$ 724,553	$ 82,900,000	$ 439,800	$ 77,600,000	$ 446,500	$ 80,600,000

LB 561 adopts the Taxpayer Investment Program. This program allows individuals to invest up to $10,000 in addition to whatever tax liability the person has at the time of filing his or her individual income tax return. The amounts invested are credited to the State Highway Capital Improvement Fund. Individuals who invest may later claim a tax credit. No investments will be allowed if on the preceding December 31st, the outstanding balance of tax credits exceeds 20% of the balance in the Cash Reserve Fund.

The credit may be claimed on the earliest of five years after investment, the taxpayer reaching 62 years of age, or the death of the taxpayer. The amount of the tax credit is the amount of investment times the "program rate." The program rate is the lesser of the Constant Maturity Treasury rate for ten-year US notes or 5%, times the number of years since the investment; plus inflation since the investment was made calculated based on CPI for All Urban Consumers. If the investment was made on a joint return, the credits are held jointly, with right of survivorship. Although the bill does not say it, the Department of Revenue assumes that the credit is also intended to return the original investment to the taxpayer.

Credits may be claimed against the individual income tax liability and are not refundable. LB 561 does not specifically say that they can be carried over, but it does say that the credits expire after 20 years, inferring a carryover. A taxpayer must claim the credits on a first paid, first claimed basis.

If the taxpayer dies, unused credits are applied first against income tax liability for the year of death, second against any inheritance taxes due from the heirs, and third to reimburse the state for any aid or assistance paid by the state on behalf of the decedent under Chapter 68 (presumably, this means Medicaid). If there are still remaining unused credits, the remaining credits may be transferred to heirs and devisees upon payment of a 10% transfer fee to the state.

The Department may promulgate rules and regulations to carry out this program.

Assuming the tax credit includes the amount of the original investment, plus the investment times the program rate, the estimated impact to the General Fund and the Highway Capital Improvement Fund are as follows:

Fiscal Year	General Fund	Highway Capital Improvement Fund
2017-18	$0	$82,900,000
2018-19	($8,400,000)	$86,000,000
2019-20	($8,700,000)	$89,300,000
2020-21	($9,000,000)	$92,800,000
2021-22	($9,400,000)	$96,400,000
2022-23	($98,400,000)	$100,100,000
2023-24	($102,200,000)	$104,100,000
2024-25	($106,100,000)	$108,100,000
2025-26	($110,200,000)	$112,400,000
2026-27	($114,500,000)	$116,800,000

For purposes of the estimated impact to the General Fund and the Highway Capital Improvement Fund, the Department assumes that the amount of outstanding tax credits will not exceed 20% of the Cash Reserve Fund and the State will not repurchase any outstanding tax credits.

LB 561 requires modifications to the Nebraska Individual Income Tax Return, Form 1040N, and to the NebFile system. The Department expects to be billed $47,116 by the OCIO for one-time mainframe programming services. Due to the complexities associated with tracking credit usage, transfer of credits, and validating offsets to the inheritance taxes, aid programs under Chapter 68, and transfer fees, the Department will incur $212,937 in costs associated with hiring a contractor to develop a database to track credits under this program. The Department will also require 6.5 FTEs as identified below to process and validate credits claimed under this program.

LB 561 has a severability clause.

Major Objects of Expenditure

Class Code	Classification Title	17-18 FTE	18-19 FTE	19-20 FTE	17-18 Expenditures	18-19 Expenditures	19-20 Expenditures
A07012	IT Applications Developer Senior	2.5	2.5	2.5	$ 161,800	$ 163,800	$ 166,200
A29622	Revenue Tax Specialist Senior	1.0	1.0	1.0	$ 58,000	$ 58,700	$ 59,600
S29112	Revenue Operations Clerk II	1.0	1.0	1.0	$ 30,500	$ 30,900	$ 31,400
A21211	Fiscal Compliance Analyst	2.0	2.0	2.0	$ 76,400	$ 77,300	$ 78,500
Benefits					$ 107,800	$ 109,100	$ 110,800
Operating Costs					$ 260,053		
Capital Outlay					$ 30,000		
Capital Improvements							
Total					$ 724,553	$ 439,800	$ 446,500