PREPARED BY: Doug Gibbs
DATE PREPARED: March 19, 2009
PHONE: 471-0051

LB 385

Revision: 00

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES *

	FY 2009-10		FY 2010-11	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	$3,000			
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	$3,000			

*Does not include any impact on political subdivisions. See narrative for political subdivision estimates.

LB 385 would amend Nebraska statutes dealing with revenue and taxation.

The bill terminates the sales tax exemptions provided in the following sections as of July 1, 2011:

77-2704.03 (aircraft fuel), 77-2704.04 (minerals, oil, or gas), 77-2704.05 (motor vehicle fuels, diesel & compressed fuels), 77-2704.07 (newspapers), 77-2704.08 (leased property), 77-2704.10 (meals and food products), 77-2704.11(shipments outside this state), 77-2704.13 (fuel, energy, or water sources), 77-2704.14 (coin-operated laundering & cleaning services), 77-2704.16 (purchases by Nebraska State Fair Board), 77-2704.17 (purchases by Nebraska Investment Finance Authority), 77-2704.19 (purchases by Small Business Development Authority), 77-2704.20 (purchases by licensees of the State Racing Commission), 77-2704.23 (semen and insemination services), 77-2704.24 (food or food ingredients), 77-2704.27 (railroad rolling stock), 77-2704.28 (leases between related companies), 77-2704.29 (sales tax payment, exemption from use tax), 77-2704.30 (Use tax, general exemptions), 77-2704.32 (projects outside the United States, refund of tax), 77-2704.36 (agricultural machinery and equipment), 77-2704.38 (state lottery tickets), 77-2704.39 (copyrighted material used for rebroadcasting), 77-2704.40 (molds, dies, and patterns), 77-2704.41 (feed, water, veterinary medicines and agricultural chemicals), 77-2704.42 (copies of public records), 77-2704.43 (industrial machinery and equipment), 77-2704.47 (containers), 77-2704.48 (occasional sale); 77-2704.50 (railroad rolling stock, common or contract carrier), 77-2704.51 (telecommunications services between telecommunications companies), 77-2704.52 (prepaid telephone calling arrangements), 77-2704.53 (videotape & film rentals, satellite programming & service), and 77-2704.54 (purchase by electronic benefits transfer or food coupons).

The Department of Revenue estimates the fiscal impact of the termination of the above statutes relating to sale tax exemptions to be a $3,231,000,000 increase in income to the General Fund. The estimated increase to local sales taxes would be $820,000,000.

The bill terminates the sales tax exemptions provided in the following sections as of July 1, 2012:

77-2704.09 (insulin, prescription drugs, medical equipment), 77-2704.12 (nonprofit religious, service, education, or medical organization), 77-2704.15 (purchases by state, schools, governmental units), 77-2704.21(purchase of motor vehicle for disabled person), 77-2704.22 (manufacturing machinery and equipment & related services), 77-2704.25 (sales by school organizations), 77-2704.26 (aircraft), 77-2704.31 (sales or use tax paid in another state, credit given), 77-2704.44 (use tax, when imposed), 77-2704.45 (ingredient or component parts), 77-2704.46 (food for human consumption, agricultural components, oxygen for aquaculture), 77-2704.49 (reciprocal exemption), 77-2704.56 (purchase of fine art by museum), 77-2704.57 (personal property used by C-BED projects, community-based energy development), 77-2704.58 (depositions, bills of exceptions, transcripts sold by court reporter), and 77-2704.59 (medical records).

The Department of Revenue estimates the fiscal impact of the termination of the above statutes relating to sales tax exemptions to be $1,353,000,000 increase in income to the General Fund. The estimated increase to local sales taxes would be $340,000,000.

The total estimated fiscal impact for the termination of these statutes relating to sales tax exemptions would be an increase in income to the General Fund of $4,584,000,000. The total estimated increase in local sales taxes would be $1,160,000,000.

The bill terminates the various definitions of "gross receipts" found in section 77-2701.16 as of July 1, 2013.

> The Department of Revenue estimates this would result in a $2,360,000,000 decrease in income to the General Fund. The estimated decrease to local sales taxes would be $600,000,000.

The bill would terminate the local option sales and use tax sections on July 1, 2014. This includes sections 13-319, 13-2813, and 77-27,142.

> The Department of Revenue estimates this would result in a decrease in local option sales taxes of $350,000,000.

The bill terminates section 77-2703(1), allowing a state sales tax, as of July 1, 2016 and section 77-2703(2) dealing with the state use tax, as of July 1, 2015.

> The Department of Revenue estimates the fiscal impact to the General Fund would be a decrease in income of $1,488,000,000. The estimated decrease to local sales tax would be $380,000,000.
>
> The fiscal impact of terminating the consumer's use tax is unknown. Consumers would be able to legally purchase items out of state without an obligation to pay sales tax to Nebraska.

The bill terminates the definition of "sale" found in section 77-2701.33 as of July 1, 2012.

LB 385 terminates the following definitional sections as of July 1, 2011: Sec. 77-2701.24 (occasional sale), 77-2701.34 (sale for resale), 77-2701.35 (sales price).

The Department of Revenue estimates the cost to implement LB 385 to be $3,000 for FY2009-10 for some programming costs. The department estimates the cost in FY2011-12 to be $3,430,000 to add 57 FTE, this includes 48 Auditors and 9 Attorney III positions. The cost in FY2012-13 would be $3,204,000.

The Department of Health and Human Services indicates that two programs within the department would be affected by the changes proposed by LB 385. Those programs are the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), and the Federal Supplemental Nutrition Assistance Program (SNAP) – formerly known as the Food Stamp program.

The bill terminates the sales tax exemption found in section 77-2704.24 (food or food ingredients). The federal Child Nutrition Act of 1966 authorizing the WIC Program and federal WIC regulations prohibit the collection of sales tax on WIC food purchases. If 77-2704.24 were terminated, this would result in a sales tax on food. States collecting sales tax on WIC foods are not eligible to participate in the WIC Program.

For SNAP, federal regulations (CFR 272.1 (b)) provide that state sales tax may not be levied on food purchased with SNAP benefits.

The Department of Health and Human Services estimates the fiscal impact as follows:

> The state-wide WIC Program could potentially lose over $30,000,000 in federal USDA funds and over $10,000,000 in Formula rebates. The loss of funding would result in the elimination of 11 FTE (10 FTE dedicated to WIC and I IS&T FTE that is 95% assigned to WIC).
>
> It is unknown at this time what federal sanctions would be imposed by the federal USDA on the state's Food Stamp/SNAP Programs, which in calendar year 2008 provided $138,000,000 in benefits to participants in Nebraska.