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DATE PREPARED: February 08, 2012
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LB 1050

Revision: 00

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES *

	FY 2012-13		FY 2013-14	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	See Below	See Below	See Below	See Below
CASH FUNDS	See Below	See Below	See Below	See Below
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	See Below	See Below	See Below	See Below

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

LB 1050 amends the Nebraska Revenue Act of 1967 to allow the Tax Commissioner to enter into contracts with procurement processing companies.

The Tax Commissioner could enter into a contract with a procurement processing company (PPC) with the approval of the Governor if the PPC agrees to locate its business operations in Nebraska and if the Governor determines it is in the best interests of the state. The Governor determination is to be based on new taxable sales that would be generated as a result of the contract. Such a contract cannot exceed an initial term of 20 years.

The contract entered into with the PPC by the Tax Commissioner is not subject to the public bidding requirements (73-501 to 73-509) or the contingency fee contract limitations (Sections 73-201 to 73-204) set forth in current statute.

In return for locating in the state a PPC would be entitled to a rebate of sales and use taxes paid by purchasing companies that are managed by the PPC and which results from the activities of the PPC.

A "procurement processing company" is defined as person engaged in managing the activities of unrelated purchasing companies.

A "purchasing company" is defined as a person engaged in the activity of selling property and services to affiliated entities.

An "affiliated entity" is defined as a person who directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person.

<u>The Department of Revenue has provided the following information:</u>

The effect of the bill on the General Fund cannot be determined. If purchasing companies and their affiliated entities are companies already operating in the state, any rebates granted to the PPC would be entirely subtracted from General Fund receipts and the negative fiscal impact could be many millions of dollars. If the purchasing companies and the affiliated entities are limited to business purchases currently being made out of state, there is the potential for a positive impact, at least initially.

However, much of this positive impact could be offset by later refunds. For example, states where the property is delivered may deny credit for sales tax paid to Nebraska by determining that the sales were not properly sourced to Nebraska. In that event, the purchasing companies may seek a refund of sales taxes paid to Nebraska pursuant to Section 77-2708.

Since there is no hold harmless provision in the bill, our assumption is that the procurement processing company would keep the rebates. This combination of circumstances could result in a negative fiscal impact of many millions of dollars.

Local option sales tax, the Highway Capital Improvement Fund, and the Highway Allocation Fund will all be affected in the same manner as the state sales tax by the provisions of LB 1050.

There would be minimal cost to implement the bill.

We agree with the Department of Revenue's analysis of LB 1050. However, we do note that because LB 1050 is permissive and does not mandate that the Tax Commissioner enter into this type of contract, the fiscal impact is indeterminate. Any fiscal impact would occur only if and after a contract was executed and even then would depend on the specifics of the contract.

LB 1050 **Fiscal Note** **2012**

State Agency Estimate

State Agency Name: Department of Revenue		Due LFA:	02/07/2012
Approved by: Douglas Ewald	Date Prepared: 02/06/2012	Phone: 471-5700	

	FY 2012-2013		FY 2013-2014		FY 2014-2015	
	Expenditures	Revenue	Expenditures	Revenue	Expenditures	Revenue
General Funds		See below		See below		See below
Cash Funds						
Federal Funds						
Other Funds						
Total Funds		See below		See below		See below

LB 1050 authorizes the Tax Commissioner to enter into contracts with procurement processing companies that agree to locate their business operation in the state if the Governor determines the contract to be in the best interest of the state. The Governor's determination shall be based upon the new sales and use tax generated as a result of the contract.

A procurement processing company that locates in the state would be entitled to a rebate of sales and use taxes paid by purchasing companies that are managed by the procurement processing company, and which result from the activities of the procurement processing company. The contracts are not subject to public bidding requirements or contingency fee contract limitations. A contract cannot exceed an initial term of 20 years. A procurement processing company is defined as a person engaged in managing the activities of unrelated purchasing companies. A purchasing company is defined as a person engaged in the activity of selling property and services to affiliated entities. An affiliated entity means a person who directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person.

The Tax Commissioner must annually submit a report to the Legislature on all contracts entered into with procurement processing companies; the report must include total sales occurring in this state as a result of this bill and total sales tax revenue generated on those sales for this state.

The effect of the bill on the General Fund cannot be determined. If the purchasing companies and their affiliated entities are companies already operating in the state, any rebates granted to the procurement processing companies would be entirely subtracted from general fund receipts and the negative fiscal impact could be many millions of dollars. If the purchasing companies and the affiliated entities are limited to business purchases currently being made out of state, there is a potential for a positive impact, at least initially.

However, much of this positive impact could be offset by later refunds. For example, states where the property is delivered may deny credit for sales taxes paid to Nebraska by determining that the sales were not properly sourced to Nebraska. In that event, the purchasing companies may seek a refund of sales taxes paid to Nebraska pursuant to section 77-2708.

Major Objects of Expenditure

Class Code	Classification Title	12-13 FTE	13-14 FTE	14-15 FTE	12-13 Expenditures	13-14 Expenditures	14-15 Expenditures
Benefits							
Operating Costs							
Travel							
Capital Outlay							
Aid							
Capital Improvements							
Total							

Since there is no hold harmless provision in the bill, our assumption is that the procurement processing company would keep the rebates. This combination of circumstances could result in a negative fiscal impact of many millions of dollars.

Local option sales tax, the highway capital improvement, and highway allocation funds will be affected in the same manner as the state sales tax by the provisions of LB 1050

It is estimated that there will be minimal costs for the Department to implement this bill.