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PREPARED BY: Doug Gibbs
DATE PREPARED: March 16, 2012
PHONE: 402-471-0051

LB 727

Revision: 01

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

Revised due to adoption of amendments

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES *				
	FY 2012-13		FY 2013-14	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	(\$117,000)	(\$53,000)	(\$117,000)	(\$76,364)
CASH FUNDS		\$106,000		\$157,909
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	(\$117,000)	\$53,000	(\$117,000)	\$81,545

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

LB 727, as amended by AM 1902 and AM 2132, makes a number of changes to numerous sections of statute. The bill contains the emergency clause.

The bill eliminates the certified or registered mailing requirement in a number of statutes and by amending Section 77-27,135 to include first-class mail gives the Department that mailing option.

The Department of Revenue estimates that eliminating this requirement will save the Department approximately \$117,000 in General Funds each year.

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

The bill outright repeals Section 66-737 which thereby eliminates the Cash Bond Fund Committee. This Committee was originally set up to oversee the operation of the motor fuel trust fund set up in Section 66-733. The trust fund consists of the cash bonds furnished by all motor fuel producers, suppliers, distributors, importers and retailers to secure payment of all fuel taxes.

Elimination of the Cash Bond Fund Committee has no fiscal impact.

The bill reduces certain motor fuel tax commissions by disallowing any commissions for taxes collected as a result of a final assessment occurring pursuant to a notice of deficiency determination.

The Department estimates that reducing these commissions will increase the Highway Trust Fund by \$10,000 per year.

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

LB 727 changes the due date for motor fuel tax returns from the 25th of the month to the 20th of the month. This will harmonize the motor fuels tax returns with other tax programs.

The Department estimates, using LB 210 (2011) as a guide, that this change will result in increased interest earned for the Highway Trust Fund of approximately \$96,000 for FY12-13 and \$151,000 each fiscal year thereafter.

While we do not disagree with the Department's estimate of revenue, it should be noted that obtaining a precise figure of interest gained is difficult due to the variables involved; a daily analysis of revenue and interest, done over the period of a year, would probably be necessary to provide a relatively exact figure and even then would be dependent on changing interest rates over the period examined, market fluctuations, and actual revenue collected. Also using LB 210 (2011) as a guide, the Department's estimate of \$96,000 in additional interest may be a conservative estimate.

The bill amends Section 66-489.02 to change the data base used by the Department to calculate the average wholesale price of gasoline. With the change proposed by LB 727, the Department will now use data provided by the State Energy Office instead of data provided by the U.S. Department of Energy's Energy Information Administration.

The Department estimates this change will increase revenue to the Department of Roads Cash Fund by \$154,000 per year.

We do not agree with the Department of Revenue's estimate. In actuality, the variable fuel tax will decrease to offset any increase in the wholesale tax, for a net revenue impact of zero for the Department of Roads. The Department of Revenue's

estimate of increased revenue also assumes that the one cent cap on the change in the wholesale tax from one six-month period to another does not come into play.

It should be noted that the U.S. Department of Energy's Energy Information Administration will no longer provide this information.

LB 727 amends Section 77-3,116 to change the due date for the Tax Burden Study and provide that the study be updated every two years instead of every four years and that the next update will be due December 1, 2013.

The Department indicates no fiscal impact as a result of this change.

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

The bill amends Section 77-2704.10 to clarify language regarding the sales and use tax exemption for prepared food and food ingredients served by schools, school districts, student organizations, or parent-teacher associations, and institutions of higher education.

The Department estimates this clarification will have minimal revenue impact on the General Fund.

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

Included below is the Department's estimate of the effect in changing the data bases for the wholesale gasoline price calculation.

Wholesale Tax Source Comparison
Nebraska Energy Office (NEO) v U.S. Energy Information Administration (DOE)

Effective Date:	Projected Wholesale Tax NEO Data:	Actual Wholesale Tax DOE Data:	Difference	Net Impact to Dept. of Roads:	Net Impact to Cities & Counties:	Total Projected Impact:
7/1/2009	9.8	9.7	0.1	\$96,000	\$204,000	\$300,000
1/1/2010	8.8	8.7	0.1	\$96,000	\$204,000	\$300,000
7/1/2010	9.8	9.7	0.1	\$96,000	\$204,000	\$300,000
1/1/2011	10.8	10.7	0.1	\$96,000	\$204,000	\$300,000
7/1/2011	11.3	11.3	0.0	\$ 0	\$ 0	\$ 0
Total:				\$384,000	\$816,000	\$1,200,000
Fiscal Year Average:				\$153,600	\$326,400	\$480,000

(The 7/1/2011 data reflects the last available data from DOE.)

AM 1902 amends the provisions of LB 903 into LB 727 by amending Nebraska Revised Statutes dealing with taxation to exempt youth sports events, youth sports leagues, and youth competitive education activities conducted by a political subdivision or a 501(c)(3) organization from sales and use tax.

"Sports event" is defined to mean a tournament or single competition that occurs over a limited period of time annually or intermittently where the participants engage in a sport.

"Sports league" is defined to mean an organized series of sports competitions taking place over several weeks or months between teams or individuals who are members of the league.

"Youth sports event or youth sports league" are defined to mean an event or league that is restricted to participants who are less than 19 years of age.

"Competitive educational activity" is defined to mean a tournament or a single competition annually or intermittently where the participants engage in a competitive educational activity.

The definition of "admissions" is changed to mean the right or privilege to have access to a place or location where amusement, entertainment, or recreation is provided to an audience, spectators, or the participants in the activity.

AM 1902 also defines "entertainment", "recreation", and "access to a place or location."

The Department of Revenue indicates that the exemption for entry fees provided by AM 1902 will result in a minimal reduction in sales tax revenue.

In terms of current revenue lost if LB 727 as amended by AM 1902 becomes law, it appears that tax remittance has been inconsistent at best with taxpayers submitting or not submitting taxes when they did or did not have tax liability. The confusion over the current statute has probably led to a high degree of noncompliance and any tax revenue actually collected has probably been relatively small, so in terms of lost revenue as a result of these types of events the Department is probably correct.

We do not completely agree with the Department's estimate of fiscal impact. Given the number of youth sports leagues, youth sports events, and competitive educational activities conducted each year in Nebraska, we believe the amount of potential revenue currently forgone could be substantial. However, we are unable to estimate a dollar amount of fiscal impact because of the lack of precise data regarding number of events, number of leagues, fees charged, number of participants, and any tax currently collected.

Therefore, while we believe there is probably a relatively small net loss of General Fund revenue as a result of LB 727 as amended by AM 1902, we are unable to provide a credible estimate of that loss.

The Department of Revenue indicates no cost to implement AM 1902.

We agree with the Department's estimate of cost to implement AM 1902.

LB 727, as amended by AM 2132, amends Section 77-2704.10 to add new exemptions regarding youth sports from sales and use tax. The new exemptions are for entry fees to participate in activities conducted by a nonprofit 501(c)(3) organization which conducts statewide sporting events with multiple sports or a nonprofit 501(c)(3) organization affiliated with a national organization, primarily dedicated to youth development and healthy living that offers sports instruction, leagues, or events in multiple sports.

The Department of Revenue indicates that the exemption for an organization conducting statewide sporting events will result in a \$30,000 reduction in sales tax revenue. The exemption for an organization primarily dedicated to youth development will result in a \$50,000 reduction in sales tax revenue. Similar services provided by other groups will not be exempt.

The Department indicates no cost to implement AM 2132.

We agree with the Department's estimate of cost.

We estimate the fiscal impact of AM 2132 as follows:

Fiscal Year:	General Fund:	State Highway Capital Improvement Cash Fund:	Highway Allocation Cash Fund:	Total:
FY2012-13:	(\$ 53,000)	\$ 0	\$ 0	(\$ 53,000)
FY2013-14:	(\$ 76,364)	(\$ 3,091)	(\$ 545)	(\$ 80,000)
FY2014-15:	(\$ 76,364)	(\$ 3,091)	(\$ 545)	(\$ 80,000)

DEPARTMENT OF ADMINISTRATIVE SERVICES

REVIEWED BY	Lynn Heaton	DATE	3/16/12	PHONE	471-2526
COMMENTS					
DEPARTMENT OF REVENUE – AM1902: No basis upon which to disagree.					
DEPARTMENT OF REVENUE – AM2132: No basis upon which to disagree.					

Wholesale Tax Source Comparison
 Nebraska Energy Office (NEO) v US Energy Information Administration (DOE)

Effective Date	Projected Wholesale Tax NEO Data	Actual Wholesale Tax DOE Data	Difference	Net Impact to Cities/Counties	Net Impact to Dept of Roads	Total Projected Impact
7/1/2009	9.8	9.7	0.1	\$204,000	\$96,000	\$300,000
1/1/2010	8.8	8.7	0.1	\$204,000	\$96,000	\$300,000
FY 2009-10				\$408,000	\$192,000	\$600,000
7/1/2010	9.8	9.7	0.1	\$204,000	\$96,000	\$300,000
1/1/2011	10.8	10.7	0.1	\$204,000	\$96,000	\$300,000
FY 2010-11				\$408,000	\$192,000	\$600,000
7/1/2011	11.3	11.3	0.0	\$0	\$0	\$0
Total			0.4	\$816,000	\$384,000	\$1,200,000
1 year average			0.2	\$326,400	\$153,600	\$480,000

Wholesale Tax Source Comparison
 Nebraska Energy Office (NEO) v US Energy Information Administration (DOE)

Effective Date	Projected Wholesale Tax NEO Data	Actual Wholesale Tax DOE Data	Difference	Net Impact to Cities/Counties	Net Impact to Dept of Roads	Total Projected Impact
7/1/2009	9.8	9.7	0.1	\$204,000	\$96,000	\$300,000
1/1/2010	8.8	8.7	0.1	\$204,000	\$96,000	\$300,000
FY 2009-10				\$408,000	\$192,000	\$600,000
7/1/2010	9.8	9.7	0.1	\$204,000	\$96,000	\$300,000
1/1/2011	10.8	10.7	0.1	\$204,000	\$96,000	\$300,000
FY 2010-11				\$408,000	\$192,000	\$600,000
7/1/2011	11.3	11.3	0.0	\$0	\$0	\$0
Total			0.4	\$816,000	\$384,000	\$1,200,000
1 year average			0.2	\$326,400	\$153,600	\$480,000