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LB 872

Revision: 01

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

Revised due to adoption of amendments on General File.

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES *

	FY 2012-13		FY 2013-14	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS			$91,110	($2,573,000)
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS			$91,110	($2,573,000)

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

LB 872, as amended by AM 2317, deals with revenue and taxation and changes the apportionment method for corporate income tax for the sales of services or intangible property from the location of the income-producing activity to the location of the corporation's customer. The bill, as amended, now has an operative date of January 1, 2014.

The bill adopts definitions of several services and intangible property and describes the method for determining how income is apportioned for services and intangibles based on the location of the customer.

AM 2317 changes the apportionment method for the sales of intangibles by communication companies from the location of the communication company's customer to the location of the income-producing activity; defines communications company; strikes definitions of merchant discount and credit card issuer's reimbursement fees and the corresponding provisions regarding the treatment of merchant discounts and credit card issuer's reimbursement fees for purposes of apportioning income; excludes net gains from the sales of marketable securities from the definition of sale; and changed the operative date of the act until January 1, 2014.

The Department of Revenue indicates that LB 872 will reduce corporate income tax for corporations located in Nebraska that provide services or intangibles to customers located outside of Nebraska. The bill will increase corporate income tax for corporations located outside of Nebraska that provide services or intangibles to customers located in Nebraska.

The Department estimates that the average corporate income tax remitted to Nebraska will be reduced by 30% for Nebraska corporations that provide services or intangibles to customers located outside the state. It is estimated that approximately 40% of this loss will be offset by corporate income tax increases from corporations outside of Nebraska, initially. The amount of offset is expected to increase with education and enforcement activities; however, the Department does not expect that the loss will be completely offset.

The Department estimates, based on existing corporate income tax returns, the exclusion of net gains from marketable securities from the apportionment calculation would have increased corporate income tax liability by approximately $560,000 in tax year 2009. The Department estimates a minimal fiscal impact due to the change in treatment of merchant discounts and credit card issuer's reimbursement fees.

The Department estimates the following fiscal impact to revenue as a result of LB 872, as amended by AM 2317:

FY2012-13:	$ 0
FY2013-14:	($ 2,573,000)
FY2014-15:	($ 5,806,000)

The Department indicates they will incur minimal mainframe computer programming costs, paid to the OCIO, and will require several staff positions to identify and collect corporate income tax from businesses that currently have no Nebraska liability. These positions include 1.0 FTE Attorney III, 2.0 FTE Revenue Agent, and 3.0 FTE Auditor Senior. The Attorney III will begin in FY2013-14, and the auditors in FY2015-16. Total implementation costs are estimated at $91,110, $185,700 and $374,730 for fiscal years 2013-14 through 2015-16, respectively.

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