

Updated for the 2014 Legislative Session and includes any amendments adopted to date.

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2014-15		FY 2015-16	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	\$275,872		\$48,000	(\$5,008,000)
CASH FUNDS			\$152,529	\$165,049
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$275,872		\$200,529	(\$4,842,951)

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

LB 191 creates the Nebraska Job Creation and Mainstreet Revitalization Act.

The bill provides for a nonrefundable credit against income tax, the insurance premium tax, or the financial institutions franchise tax for the year a historically significant real property is placed in service. The amount of the credit is to be equal to twenty percent of eligible expenditures up to and including \$10 million, and ten percent of eligible expenditures in excess of \$10 million. (For example, the credit for eligible expenditures totaling \$15 million would be \$2,500,000.)

The credit may be utilized by any natural person, limited liability company, partnership, private domestic or foreign corporation, or a domestic or foreign 501(c)(3) nonprofit corporation.

The credit may be claimed for taxable years beginning on or after January 1, 2015 and any credit amount that is unused may be carried forward until fully utilized.

In addition, the credit may be transferred, sold, or assigned and the person acquiring the credit may use the credit against any liability for state income tax, sales and use taxes, insurance premium tax, or financial institutions franchise tax in the year in which the credit is acquired and carried forward until fully utilized.

The bill also provides that no certificate for the credit shall be issued until the recipient of the credit has paid to the Department of Revenue as a fee, the lesser of: a) \$25,000 or b) one-quarter of one percent of the credit amount. (In the example used above the fee would be \$6,250.) The credit certificate fee is to be remitted for credit to the Civic and Community Center Financing Fund.

Historically significant real property is defined as real property used for any purpose, other than an owner-occupied single-family detached residence, that is:

- > Individually listed in the National Register of Historic Places; and
- > Is located within a district listed in the National Register of Historic Places and is determined to be of historic significance to such district; and
- > Is individually designated pursuant to a landmark ordinance adopted by the pertinent political subdivision and approved by the state historic preservation officer; or
- > Is located within a district designated pursuant to a preservation ordinance by a political subdivision providing for rehabilitation, preservation, or restoration of historically significant real property and approved by the state historic preservation officer.

Eligible expenditures are defined as any cost incurred for the improvement of historically significant real property in Nebraska, including but not limited to, qualified rehabilitation expenditures as defined by the IRS. That type of expenditure is defined by the IRS in general, as any amount properly chargeable to capital account for property for which depreciation is allowable under section 168 of the Code and is a) nonresidential real property, b) residential real property, c) real property which has a class life of more than 12.5 years, d) an addition or improvement to such real property, and in connection with the rehabilitation of a qualified rehabilitation building.

To order to obtain the credit, prior to beginning work on the property a person is file an application containing the necessary information with the state historic preservation officer and include the appropriate fee. Following a determination by the officer, the officer is to notify the person and the Department of Revenue of that determination. Within 12 months after the date the property is placed in service a request for final approval shall be filed with the officer. If the officer issues a final approval, the application shall be referred to the Department of Revenue to determine the amount of eligible expenditures, calculate the amount of the credit, and issue a certificate of credit to the person.

The state historic preservation officer is to establish and collect the application fee and the fee for final approval. The fee is to be in an amount sufficient to offset the costs of processing and monitoring applications. The application fee and the final approval fee are to be remitted for credit to the Nebraska Job Creation and Mainstreet Revitalization Fund, which is created by the Act. The fund is to be used to administer and enforce the Act.

LB 191 also provides for a sliding scale of recapture of the historical preservation credit if at any time during the five years after the historically significant property is placed into service if it is determined that the property has been the subject of work not in substantial conformance with the standards, the approved application, or the documents from which the credit was calculated.

No new applications shall be filed under the Act on or after January 1, 2020.

The State Historical Society originally estimated a General Fund cost of \$174,042 for FY2013-14 and \$173,775 for FY2014-15 to implement and administer the provisions of LB 191. The Society indicates that this program will require staff with knowledge in historic building rehabilitation in order to review architectural plans and specifications and to inspect, monitor, and certify each project. The program will also require extensive travel throughout the state as it is anticipated that the program will generate an extensive number of projects. The program will require 2.0 FTE and PSL of \$87,639 for FY2013-14 and \$89,611 for FY2014-15.

LB 191 in Sec. 3(1) states that a person "may receive a nonrefundable credit . . . for the year the historically significant real property is placed in service." Subsection (7) states that the, "Credits allowed under this section may be claimed for taxable years beginning or deemed to begin on or after January 1, 2015." Given these two sections, the earliest a property could be put in service to be eligible for the tax credit would be January 2015.

The bill requires a fee structure that will cover the costs of processing and monitoring, however, given that LB 191 provides new responsibilities for the Historical Society and that personnel will need to be in place prior to any collection of fees, we agree with their request for General Funds for FY2013-14. However, we disagree with the need for an Administrative Assistant III and believe that the requirements of the bill can be fulfilled with an Administrative Assistant I position. This would reduce the request for FY2013-14 to \$153,077 and PSL of \$74,727.

We disagree with the Historical Society's estimate of a General Fund impact for FY2014-15. As we noted above, the bill requires a fee structure to cover the costs of processing and monitoring and this fee structure should be in place for FY2014-15. The expenditure for the fiscal year should be from the cash fund created by LB 191. In addition, given the change in staffing in the first fiscal year, the amount of the expenditure for FY2014-15 should be \$152,529 with PSL of \$76,482.

The Department of Revenue originally estimated, based on a similar historic tax credit plan in Iowa and the proportion of historic properties in Nebraska, that LB 191 would result in the following fiscal impact to the General Fund.

FY2013-14:	\$ 0
FY2014-15:	(\$ 5,008,000)
FY2015-16:	(\$ 7,011,000)
FY2016-17:	(\$ 7,361,000)

We have no basis to disagree with the Department's estimate of fiscal impact to the General Fund.

The Department indicates that LB 191 will require modifications to the Forms 1040N, 1120N, and 1041N income tax returns, and to the NebFile system. The Department estimates a one-time programming cost of \$90,795 to be paid to the Office of the CIO. The Department will also require an additional staff person to process certification requests and track credit transfers and usage.

We disagree with the Department regarding needing 1.0 FTE for FY2013-14 and believe that only 0.5 FTE will be necessary thereby reducing the request for the first fiscal year to \$122,795 with PSL of \$17,650. We agree with the remainder of their estimate of cost.

Regarding the fiscal impact to the Civic and Community Center Financing Fund, based on the estimate provided by the Department of Revenue for General Fund impact in FY2014-15 the amount remitted would be approximately \$12,520, and for FY2015-16 approximately \$17,527.

NOTE: Assuming that LB 191 is amended to change the appropriate effective dates and the bill would then become operative in mid-2014, the above estimates of fiscal impact do not change and would be pushed back one fiscal year.