

Revised due to adoption of amendments on Select File.

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	\$395,929	\$ 0	\$122,100	(\$5,003,000)
CASH FUNDS			\$153,909	\$166,409
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$395,929	\$ 0	\$276,009	(\$4,836,591)

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.

As amended by AM2569, AM2606, and AM2602, the bill provides for a nonrefundable credit against either the income tax, the insurance premium tax, or the financial institutions franchise tax beginning in the year a historically significant real property is placed in service; and requires the income approach to value certain real property for taxation purposes.

The amount of the credit is to be equal to twenty percent of eligible expenditures up to a maximum credit of \$1 million. Total allocation of credits is capped at \$15 million per year. If the entire amount (\$15 million) is not allocated in a year, the unallocated amount shall be carried forward to the next year.

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. As amended, the credit may now be utilized by a political subdivision.

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 except that no credit shall be used on any tax return or similar filing after December 31, 2024. In addition, no new applications shall be filed after December 31, 2018.

In addition, the person who receives the original credit may transfer, sell, or assign up to 50% of the credit, except that a political subdivision or 501(c)(3) entity may transfer, sell, or assign up to 100% of the credit. Thereafter the credits may be transferred, sold, or assigned multiple times either in whole or in part to any person or legal entity and used against any liability for state income tax, insurance premium tax, or financial institutions franchise tax in the year in which the credit is acquired and carried forward until fully utilized. The person transferring the credit is required to notify the Department of Revenue and the historic preservation officer, in writing, within 15 days of the transfer and remit to the Department the credit certificate. The Department is to issue new certificates whose issuance shall perfect the transfer.

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. 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 shall 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. No applications for credits are to be accepted prior to January 1, 2015 and, as noted above, accepted after December 31, 2018.

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.

The Department of Revenue is required to develop a system to track the transfer, sale, and assignment of credits and to certify the ownership of credits.

The Historical Society indicates that the implementation of LB 191 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.

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 beginning in FY2014-15. 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 make the appropriation for FY2014-15, \$154,685 and PSL of \$76,335.

We estimate a cash fund expenditure for the Historical Society 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 no later than January 1, 2015. In addition, given the change in staffing in the first fiscal year, the amount of the expenditure for FY2015-16 should be \$153,909 with PSL of \$77,862.

The Department of Revenue estimates that LB 191, as amended, will result in the following fiscal impact to the General Fund.

FY2014-15:	\$	0
FY2015-16:	(\$	5,003,000)
FY2016-17:	(\$	8,418,000)
FY2017-18:	(\$	11,168,000)
FY2018-19:	(\$	12,109,000)

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 expects to pay the office of the CIO, \$100,844 for one-time mainframe programming services. Based on a similar historic preservation tax credit program in Iowa, the complexities associated with tracking credit usage, and credit transfers between multi-level pass-through business entities with varying ownership structures, the Department of Revenue will incur cost associated with hiring a contractor to develop a database to track the use, transfer, and recapture of credits pursuant to the Act and as is required by the Act. The Department will also require staff to validate expenditures incurred to improve the property, to process certification and tax credit transfer requests, and to answer legal questions that arise in administering the new program.

The estimate of cost for the Department of Revenue is \$241,244 for FY2014-15, \$122,100 for FY2015-16, and \$116,300 for FY16-17. PSL for FY2014-15 would be \$47,400, for FY2015-16 PSL would be \$85,400, and for FY2016-17 it would be \$87,400.

We agree with the Department of Revenue's estimate of fiscal impact and expenditure.

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 FY2015-16 the amount remitted would be approximately \$12,500, and for FY2016-17 approximately \$21,000.

LB 191, as amended by AM2602 (LB 885), amends Section 77-132 to provide that two or more vacant or unimproved lots in the same subdivision and same tax district, owned by the same person, and held for sale or resale shall be included in one parcel if the owner so elects. The election is to be made annually by filing an application with the county assessor by December 31.

AM2602 adds language to the statute requiring the county assessor, when determining the value of such parcels, to utilize the income approach, including the use of a discounted cash-flow analysis. The amendment also provides the county assessor with an alternative to using the income approach.

There is no fiscal impact to the state as a result of AM2602.

State Agency Estimate

State Agency Name: Department of Revenue		Date Due LFA: 3/27/2014				
Approved by: Kim Conroy		Date Prepared: 3/27/2014				
		Phone: 471-5896				
<u>FY 2014-2015</u>		<u>FY 2015-2016</u>		<u>FY 2016-2017</u>		
<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	
General Funds	\$ 241,244	\$ 0	\$ 122,100	(\$ 5,003,000)	\$ 116,300	(\$ 8,418,000)
Cash Funds						
Federal Funds						
Other Funds						
Total Funds	\$ 241,244	\$ 0	\$ 122,100	(\$ 5,003,000)	\$ 116,300	(\$ 8,418,000)

LB 191 AM 2569/AM2606 (Nebraska Job Creation and Mainstreet Revitalization Act) provides a transferrable, nonrefundable tax credit for eligible expenditures to improve qualifying historically significant real property for tax years beginning or deemed to begin on or after January 1, 2015. Any natural person, political subdivision, limited liability company, partnership, private corporation, or nonprofit corporation (person) is eligible for the credit. LB 191 as introduced did not include political subdivisions as a person eligible for the credit. A qualifying expenditure includes any cost incurred for the improvement of historically significant real property. Historically significant real property (property) may be designated by the U.S. Department of the Interior or by local ordinance, but may not include a single-family detached residence or buildings less than 50 years old.

The credit may be used against income tax, insurance premium tax, and financial institutions franchise tax for the year in which the property is placed in service. A person is entitled to a 20% credit, up to \$1 million, for eligible expenditures per property. The credit may be carried forward until fully utilized, but may not be claimed by any person on any return filed after December 31, 2024.

The person making the eligible expenditures must file an application with the State Historic Preservation Officer (Officer); receive a preliminary allocation of credits; and final approval of expenditures before utilizing approved credits. The Officer may not accept applications before January 1, 2015, and may not allocate more than \$15 million in credits annually, except that any unallocated credits may be carried forward and added to the eligible allocation amounts for future allocation periods. If the credits applied for exceed the maximum authorized, the Officer must prioritize applications based on the date the application is completed or deemed complete. The Officer may allocate additional credits (once available) based on the priority date regardless of the calendar year the priority date was established. An allocation may also be released (and reissued) if the person awarded the credit fails to commence improvements or provide notice of intent to retain such credits within a specified timeframe.

Upon final approval of an improvement, the Department of Revenue (Department) must determine the amount of the eligible expenditures and issue a credit certificate to the person making the expenditure. If the Officer does not approve or deny an application within 30 days, the taxpayer may petition the Department directly to determine the amount of the eligible expenditures and issue a credit certificate to the taxpayer. The Department may approve expenditures not included in the application, up to 110% of the allocation, if the expenditures are eligible pursuant to the Act. The Department must notify the Officer of any variance between the expenditures approved in the application and expenditures validated by the Department.

A person must pay a fee equal to one-quarter of one percent of the credit amount before a tax credit certificate may be issued. The fee will be credited to the Civic and Community Center Financing Fund.

A person may transfer, sell, or assign up to 50% of the tax credits to any person, unless the person originally allocated the credits is a political subdivision or a tax-exempt entity under Internal Revenue Code § 501(c)(3), in which case they may transfer, sell, or assign credits without restriction. There is no limit on the size of a credit transfer or number of times a credit may be transferred. The transferor must notify the Department within 15 days of the transfer and remit previously issued credit certificates to the Department. The Department must reissue credit certificates as designated by the transferor. The Department is required to track all transfers of credits and must certify ownership of all credits issued or transferred.

The credits are subject to recapture at any time within five years after the property is placed into service. If the Officer determines that the historically significant property has been the subject of work not in substantial conformance with the standards, approved application, or documents from which the credits were calculated, recapture is warranted. The credits must be recaptured from the person owning the property at the time the Officer determines the credits are subject to recapture. The Department may recapture the credits by foreclosing on a filed lien on the property or against the current owner of the property (not the owner of the property on the date of the allocation and completion of the application).

A notice of recapture must be sent to the owner of the property who may cure the defect within six months of the notice. The amount of the recapture varies depending on the number of years the project was in compliance with the requirements of the Act.

The Historical Society and the Department must issue a report to the Legislature by December 31, 2017, regarding applications, credit usage, and other specified items.

No new applications may be filed after December 31, 2018. A person may not claim a credit on any tax return or similar filing after December 31, 2024 (or after tax year 2023).

The estimated reduction in General Fund revenues would be as follows:

FY 2014-15	\$ 5,003,000
FY 2015-16	\$ 8,418,000
FY 2016-17	\$ 11,168,000
FY 2016-18	\$ 12,109,000

LB 191 requires modifications to the Forms 1040N, 1120N, and 1041N income tax returns and to the NebFile system. The Department expects to be billed \$100,844 by the OCIO for one-time mainframe programming services. Based on a similar historic preservation tax credit program in Iowa, the complexities associated with tracking credit usage, and credit transfers between multi-level pass-through business entities with varying ownership structures, the Department will incur costs associated with hiring a contractor to develop a database to track the use, transfer, and recapture of credits pursuant to the Act. The Department will also require staff to validate expenditures incurred to improve the property, to process certification and tax credit transfer requests, and to answer legal questions that arise in administering this new program.

The Department may promulgate rules and regulations to carry out the Act.

Major Objects of Expenditure

Class Code	Classification Title	14-15	15-16	16-17	14-15	15-16	16-17
		FTE	FTE	FTE	Expenditures	Expenditures	Expenditures
A21211	Fiscal Compliance Analyst		1.0	1.0	\$ 0	\$ 36,900	\$ 37,800
A29621	Revenue Tax Specialist	1.0	1.0	1.0	\$ 47,400	\$ 48,500	\$ 49,600
Benefits.....					\$ 15,700	\$ 28,200	\$ 28,900
Operating Costs.....					\$ 169,644		
Travel.....							
Capital Outlay.....					\$ 8,500	\$ 8,500	
Aid.....							
Capital Improvements.....							
Total.....					\$ 241,244	\$ 122,100	\$ 116,300