PREPARED BY:	Doug Gibbs
DATE PREPARED:	February 19, 2013
PHONE:	402-471-0051

LB 82

Revision: 00

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)

	FY 2013-14		FY 2014-15	
	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

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

LB 82 creates the Taxpayer Investment Program.

The bill creates a program that would allow an individual to pay the state an advance tax payment (to be known as a tax investment) and subsequently take a nonrefundable tax credit.

A taxpayer would be entitled to take the credit either: a) five years after making the tax investment; b) the taxpayer is sixty-two years of age; c) the death of the taxpayer; whichever occurs first.

The amount of the credit is determined by multiplying the tax investment times the program rate.

The program rate is determined by the following formula:

A = an inflation adjustment calculated by dividing the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items Factor on June 30 of the year the credit is claimed by the same factor for the month the tax investment was made;

B = the lesser of the annual U.S. Bond Yield for 10-year Notes on the last business day of the month in which the tax investment was made OR five percent per annum.

C = the number of years and fraction thereof between making the tax investment and claiming the tax credit.

(A + B) x C = Program Rate.

(Program Rate) x (Tax Investment) = Tax Credit

Any sums (the tax investment) paid to the state become the property of the state and such sums shall be credited to the State Highway Capital Improvement Fund.

Any tax credits remaining unclaimed upon the death of the taxpayer shall be applied to any state taxes due with the balance, if any, first reducing any inheritance tax and then applied to reimburse the state for any aid or assistance paid by the state under Chapter 68, and then upon payment of a ten percent of the credit fee, transferred to the heirs.

Note: Chapter 68 refers to, in general, health and human services and includes aid to dependent children, child care, medical assistance, assistance to the blind, assistance to the disabled, etc..

In addition, a transfer of credit not arising from the death of the original taxpayer, upon payment of a ten percent transaction transfer fee and cancellation of the corresponding credit arising under Section 1 (3)(b), described above, a credit (not to exceed the underlying tax investment) may be transferred. In such case the transferee is entitled to the credit as if they were the original depositor.

Credits expire within twenty years of the original payment unless claimed OR in the case of credits held by the original individual taxpayer, five years from the later of a) the date of death of the payor or b) a surviving joint filer.

It should be noted that payments to the state go to a cash fund, the State Highway Capital Improvement Fund, while credits may be used against any state tax liability, which would include income taxes, sales and use taxes, corporate income taxes, or miscellaneous taxes and would have a negative fiscal impact on those revenues.

The bill also provides that the tax credits are not a debt or general obligation of the state, a security of the state, or taxable as income.

The bill contains the severability clause.

The Department of Revenue has provided the following information regarding LB 82: They are unable to estimate the increased revenue to the State Highway Capital Improvement Fund or the reductions to the General Fund or cash funds for which the tax credit could be claimed with any degree of accuracy.

For example, assuming the legislation had been in effect in 2007, a tax investment made in June of that year would have been eligible for a credit in June of 2012. The program rate in LB 82 would have resulted in an annual rate of return of approximately 45%. As a result, the Department's assumption is that the interest in the program by both individuals and businesses would be significant.

However, as introduced, the Department believes that LB 82 does not allow a tax investment to be used against any tax imposed under the Nebraska Revenue Act of 1967 because LB 82 does not specifically amend the Revenue Act. The inability to claim a tax credit against taxes imposed under the Revenue Act would reduce interest in the program, but the Department is also unable to estimate the revenue impact to the State Highway Capital Improvement Fund or other cash funds for which a tax investment could be utilized given the indeterminable number of participants and the size of the tax investments.

The Department estimates significant administrative costs associated with the tax investment program due to tracking tax investments, transferability of the credits, carry forward period, utilization against tax programs administered by other state agencies, the offset allowed against the county inheritance tax, and the recapture of benefits paid under the Medicaid program and Chapter 68. If there were any use of the credits against a tax program under the Revenue Act would also significantly increase interest in the program and the costs associated with its administration.

The Revisor of Statutes has indicated that they believe that LB 82 applies to all state imposed taxes including those taxes provided for in the Nebraska Revenue Act, which includes the state income tax and sales and use taxes.

In general we agree with the Department of Revenue's analysis of LB 82. We believe the bill, as written, would provide a substantial tax credit and would draw considerable interest from taxpayers; especially given the position of the Revisor of Statutes that the bill does indeed apply to income tax and sales and use taxes. The Department itself notes that if the bill applies to those particular taxes the interest in the program would increase significantly as would the cost to administer the program.

While we are also unable to estimate the fiscal impact of LB 82 because we are neither able to determine the number of taxpayers that might participate with any degree of accuracy or which taxes against which they might apply the tax credit. We do believe the bill, as written, would draw considerable interest from individuals with Nebraska tax liability and as a result, would have a positive impact on the State Highway Capital Improvement Fund and a substantial negative impact to the state's General Fund and negative impact on other state tax revenue.

We agree with the Department of Revenue that administrative costs would be significant.

ADMINISTRATIVE SERVICES-STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES		
LB: 82	AM:	AGENCY/POLT. SUB: NACO
REVIEWED BY: Lyn Heaton	DATE: 1/17/2013	PHONE: 402.471.4181
COMMENTS: Concur. No discernible fiscal impact to counties.		

LB 82 Fiscal Note 2013

State Agency Estimate

State Agency Name: Department of Revenue		Date Due LFA: 02/20/2013
Approved by: Douglas Ewald	Date Prepared: 02/14/2013	Phone: 471-5896

	FY 2013-2014		FY 2014-2015		FY 2015-2016	
	Expenditures	Revenue	Expenditures	Revenue	Expenditures	Revenue
General Funds	See Below	See Below	See Below	See Below	See Below	See Below
Cash Funds	See Below	See Below	See Below	See Below	See Below	See Below
Federal Funds						
Other Funds						
Total Funds	See Below	See Below	See Below	See Below	See Below	See Below

LB 82 (Taxpayer Investment Program) provides a transferrable, nonrefundable tax credit for tax investments made with the State. Tax investments will be credited to the State Highway Capitol Improvement Fund.

A tax investment is a prepayment of tax designated as a tax investment, multiplied by the program rate. The program rate is the sum of an inflation adjustment calculated by dividing the Consumer Price Index (CPI) on June 30 of the year the credit is claimed by the CPI for the month the tax investment was made, plus the lesser of the annual U.S. Bond Yield on a 10-year note on the last business day of the month in which the tax investment was made or 5% per annum, times the number of years, or fraction thereof, between the making of the tax investment and the claiming of the tax credit.

An individual may claim the tax credit against any state tax beginning five years after making the tax investment, at 62 years of age, or upon the death of the taxpayer. Any other taxpayer may claim the credit against any state tax beginning five years after the making of the investment. Any unused credits expire within 20 years of the initial investment, or 5 years after the death of the original payor or surviving joint filer if the credits were held by the original payor.

If a tax investment was made in a year in which the taxpayer filed a joint return, the credit may be claimed by either taxpayer, unless otherwise agreed to by the taxpayers, and is subject to a right of survivorship. The tax credit may be transferred upon the death of the taxpayer or by agreement. Upon the death of the taxpayer, the credit is used first to reduce any applicable inheritance tax; the credit would then be used to reimburse the State for any public benefits paid to the decedent under Chapter 68 (Medicaid, public assistance, etc.). The remainder of the credit, upon payment to the State of a transfer fee equal to 10% of the remaining credit, may be transferred to the heirs or devisees of the decedent in accordance with state law.

A taxpayer must claim credits held by the taxpayer on a first paid, first claimed basis. The State can redeem outstanding credits by paying the taxpayer or transferee the amount of the credit (investment multiplied by the program rate). The tax credits are not a debt or general obligation of the state, a security of the state, or taxable as income.

The Department may adopt rules and regulations.

The Department is unable to estimate the increased revenue to the State Highway Capitol Improvement Fund or reductions to the General Fund or cash funds for which the tax credit could be claimed with any degree of accuracy. For example, assuming the legislation had been in effect in 2007, a tax investment made in June of that year would have been eligible for a credit in June of 2012. The program rate in LB 82 would have resulted in an annual rate of return of approximately 45%. As a result, our assumption is that the interest in the program by both individuals and businesses would be significant.

However, as introduced, LB 82 does not allow a tax investment to be used against any tax imposed under the Revenue Act. The inability to claim a tax credit against the taxes imposed under the Revenue Act would reduce interest in the program, but the Department is also unable to estimate the revenue impact to the State Highway Capitol Improvement Fund or other cash funds for which a tax investment could be utilized given the indeterminable number of participants and the size of the tax investments.

The Department estimates significant administrative costs associated with the program due to tracking tax investments, transferability of the credits, carry forward period, utilization against tax programs administered by other state agencies, offsets allowed against the county inheritance tax, and recapture of benefits paid under the Medicaid program and Chapter 68. Any use of the credits against a tax program under the Revenue Act would also significantly increase interest in the program and the costs associated with its administration.

Major Objects of Expenditure

Class Code	Classification Title	13-14 FTE	14-15 FTE	15-16 FTE	13-14 Expenditures	14-15 Expenditures	15-16 Expenditures
Benefits							
Operating Costs							
Travel							
Capital Outlay							
Aid							
Capital Improvements							
Total							

Please complete ALL (5) blanks in the first three lines. **2013**

LB(1) 82 FISCAL NOTE

State Agency OR Political Subdivision Name: (2) Nebraska Association of County Officials

Prepared by: (3) Elaine Menzel **Date Prepared: (4)** 1/14/2013 **Phone: (5)** 402.434.5660, ext. 225

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2013-14		FY 2014-15	
	EXPENDITURES	**REVENUE**	**EXPENDITURES**	**REVENUE**
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS				

Return by date specified or 72 hours prior to public hearing, whichever is earlier.
Explanation of Estimate:

LB 82 would adopt the Taxpayer Investment Program. There does not appear to be a fiscal impact to counties because the program would be administered by the State for income tax.

MAJOR OBJECTS OF EXPENDITURE

Personal Services:

POSITION TITLE	NUMBER OF POSITIONS 13-14	14-15	2013-14 EXPENDITURES	2014-15 EXPENDITURES
Benefits……………………………...……				
Operating…………………………...……….				
Travel………………………………………..				
Capital outlay…………………...…………..				
Aid…………………………………………...				
Capital improvements……………………...				
TOTAL……………………………….....				

Please complete ALL (5) blanks in the first three lines. **2013**

LB[1] 82 FISCAL NOTE

State Agency OR Political Subdivision Name: (2) Nebraska Department of Roads

Prepared by: (3) Becky Fleming Date Prepared: (4) 2/13/13 Phone: (5) 402-479-4692

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2013-14		FY 2014-15	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS				

Return by date specified or 72 hours prior to public hearing, whichever is earlier.
Explanation of Estimate:

LB 82 adopts the Taxpayer Investment Program. This program is to encourage private investment and to mobilize private capital for public purposes. Any person may pay to the state an advance tax payment to be known as a tax investment. This investment shall be identified on the books and records of the Department of Revenue. The sums paid to the Taxpayer Investment Program shall be credited to the State Highway Capital Improvement Fund.

A tax credit may be claimed against the investment on the earlier of five calendar years after the making of a tax investment or the individual taxpayer being sixty-two years of age, or the death of the taxpayer. The taxpayer shall be entitled to claim a tax credit against taxes owed to the state in an amount equal to the tax investment multiplied by the program rate. The tax credits are not refundable, are not taxable as state income and may only be claimed as a credit against a taxpayers state taxes.

At this time the Department of Revenue is determining the potential investment to this program. There will be a revenue impact to the Department of Roads based on what the finally analysis is from the Department of Revenue. Any additional revenue to the State Highway Capital Improvement Fund will result in an increase in funds available for highway capital improvement.

MAJOR OBJECTS OF EXPENDITURE

Personal Services:

POSITION TITLE	NUMBER OF POSITIONS 13-14	14-15	2013-14 EXPENDITURES	2014-15 EXPENDITURES
Benefits…………………………………………				
Operating…………………………………………				
Travel…………………………………………				
Capital outlay…………………………………………				
Aid…………………………………………				
Capital improvements…………………………				
TOTAL…………………………………………				