PREPARED BY: Doug Gibbs
DATE PREPARED: March 04, 2013
PHONE: 402-471-0051

LB 411

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		($334,000)		($2,013,000)
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS		($334,000)		($2,013,000)

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

LB 411 amends Nebraska Revised Statutes Section 77-27,235, regarding the renewable energy tax credit.

Current statute provides for a tax credit equal to .05 cent per kilowatt-hour for any producer of electricity generated by a renewable energy source. The bill provides that the credit shall be as follows:

- 0.5 cent per kilowatt-hour for the 2014 calendar year;
- 1.5 cent per kilowatt-hour for the 2015 and 2016 calendar years;
- 0.75 cent per kilowatt-hour for the 2017 and 2018 calendar years; and
- 0.50 cent per kilowatt-hour for calendar year 2019 and thereafter.

The bill defines renewable electric generation facility to mean a facility located within Nebraska that is placed into commercial operation on or after January 1, 2013 and produces electricity using solar, wind, biomass, or landfill gas as a fuel source. Only electricity produced by one of those fuel sources is eligible for the tax credit. The bill removes moving water, geothermal, fuel cell, methane, and photovoltaic as specific fuel sources.

LB 411 further provides that the tax credit may only be used against income tax liability, the franchise tax, or the insurance premium tax and may be transferred; however, no transfer mechanism is specified.

In addition, the credit may now be earned by a C-BED generator and may be earned for eight years after the date the facility is placed into commercial operation.

The credit has a current cap of $50,000 total for all taxpayers. The bill changes the cap to $2 million per year per individual taxpayer.

Because the definition of a renewable electric generation facility is changed to mean a facility that is placed into commercial operation on or after January 1, 2013, it appears that current beneficiaries of the credit will no longer be eligible for credits if LB 411 is adopted, and because the new credit begins January 1, 2014, no credits would be available for 2013 under the existing program.

The Department of Revenue indicates that they assume one wind farm will be placed into service and qualify for the credit, operating at 25% of its nameplate capacity, and they also assume a number of small-scale wind, solar, and biomass projects. It is expected that other wind farms will be constructed in three-to-five year increments, but precise construction dates are unknown. Each additional wind farm will likely generate enough electricity to qualify for $2 million in tax credits per year.

The Department estimates the following fiscal impact to the General Fund:

FY2013-14:	($ 334,000)
FY2014-15:	($2,013,000)
FY2015-16:	($2,019,000)
FY2016-17:	($2,014,000)

The Department estimates the cost to implement LB 411 to be minimal.

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

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ADMINISTRATIVE SERVICES-STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES			
LB: 411	AM:	AGENCY/POLT. SUB: Dept. of Revenue	
REVIEWED BY: Lyn Heaton		DATE: 3/5/2013	PHONE: 402.471.4181
COMMENTS: No basis upon which to disagree with the Dept. of Revenue's analysis. At an estimated $2 million impact for each wind farm project the program could over time grow to a much larger impact than shown in the short-term four year outlook provided in the Department's fiscal note.			

LB 411 Revised Fiscal Note 2013

State Agency Estimate

State Agency Name: Department of Revenue					Date Due LFA:	1/30/13
Approved by: Douglas Ewald		Date Prepared: 3/04/13			Phone: 471-5896	

	FY 2013-2014		FY 2014-2015		FY 2015-2016	
	Expenditures	Revenue	Expenditures	Revenue	Expenditures	Revenue
General Funds		($334,000)		($2,013,000)		($2,019,000)
Cash Funds						
Federal Funds						
Other Funds						
Total Funds		($334,000)		($2,013,000)		($2,019,000)

LB 411 would amend Neb. Rev. Stat. § 77-27,135 to reform the renewable energy tax credit, increase the tax credit percentage, and increase the maximum amount of credits that may be granted. Currently, the amount of the credit is 0.05 cent per kilowatt-hour and the total amount that can be claimed for all taxpayers is $50,000 for the life of the program. Under LB 411, the credit amount would increase to 0.5 cent per kilowatt-hour for renewable energy generated in 2014. Therefore, the credit amount would increase by a factor of ten. The credit amount would also increase to 1.5 cents for 2015 and 2016, and then decrease to 0.75 cent for 2017 and 2018, and return to 0.5 cent beginning January 1, 2019. The total amount of tax credits granted under the program would be increased to $2 million per year, per taxpayer. Taxpayers may receive the credit for eight years after the facility is placed in commercial operation.

The definition of "renewable electric generation facility" would be changed to a facility placed into commercial operation on or after January 1, 2013, that generates electricity using solar, wind, biomass, or landfill gas as a fuel source. Since the current provisions require it to be placed in service after July 14, 2006, any current beneficiaries under the program would be eliminated from it for tax year 2013. Also, because the new credit begins with 2014, there could be no credit granted for 2013 under the existing program. The current prohibition against taxpayers receiving Community-Based Energy Development benefits would be struck.

Under LB 411, the credit could only be used against income taxes, insurance premium taxes, or financial institutions deposit taxes. It could not be used to obtain a refund of sales taxes as can be done with the current program. The credit would be transferrable, however there are no specific provisions detailing how to transfer the credit.

This fiscal note assumes that one wind farm will be placed in service this year and qualify for the credit, operating at 25% of its nameplate capacity, and it also includes a number of small-scale wind, solar, and biomass projects. It is expected that other wind farms will be constructed in three- to five-year increments, but precise construction dates are presently unknown. Each additional wind farm would likely generate enough electricity to qualify for $2 million in tax credits per year.

LB 411 is estimated to have the following impact on the General Fund:

FY 2013-14: ($334,000)
FY 2014-15: ($2,013,000)
FY 2015-16: ($2,019,000)
FY 2016-17: ($2,014,000)

It is estimated that Departmental cost to implement the bill is minimal.

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							