

Revised due to additional information

**FISCAL NOTE**  
**LEGISLATIVE FISCAL ANALYST ESTIMATE**

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES</b> (See narrative for political subdivision estimates)				
	<b>FY 2013-14</b>		<b>FY 2014-15</b>	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS		\$ 0		(\$6,446,000)
CASH FUNDS		\$ 0		(\$255,000)
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>		<b>\$ 0</b>		<b>(\$6,701,000)</b>

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

LB 402 amends Nebraska Revised Statutes dealing with community-based energy development (C-BED) projects.

The bill amends Section 70-1903 to change the definition of project to also include, in addition to wind, biomass or landfill gas as a fuel source and therefore, qualify as a C-BED project; changes to 25% the amount of payments to qualified owners or the local community; strikes the definition of debt financing; changes the gross definition of gross power purchase agreement payments to the first twenty years of the agreement and not the life of the agreement; provides that payments to the local community would now include construction costs, lease and easement payments, construction material payments, and parts payments; and now allows a corporation to be a qualified owner.

Section 70-1904 is amended to strike language referring to qualified owners working with an equity partner and the transfer of a C-BED project to a person other than a qualified owner.

Section 77-2704.57 is amended to add the new definitions in Section 70-1903 regarding gross power agreement payments and qualified owner; strikes the language referring to the ownership structure, the local resolution of support, debt financing, qualified owner, percentage of ownership, the definition of new wind energy project, gross power purchase agreement payments, and the payments to the local community.

The Department of Revenue has indicated that the fiscal impact of LB 402 depends in part on future congressional action on the federal wind energy Production Tax Credit and they assume one wind project will be built in 2013. This assumption is based on information from the Nebraska Energy Office, with ongoing capital replacement expenses based on data from the National Renewable Energy Laboratory. The estimate is based on prior wind projects of comparable size. The Department expects that wind farms will be constructed in 3 to 5 year increments thereafter, but precise construction dates are unknown.

The Department also assumes that future wind farm projects will procure materials from Nebraska-domiciled businesses which are qualifying payments to the local community.

We disagree somewhat with the Department of Revenue's estimate as to the assumption regarding the size of a possible project and when such a project will occur. We are assuming a somewhat smaller project occurring no sooner than the second year of the biennium and, therefore, estimate the following fiscal impact:

Fiscal Year:	General Fund:	State Highway Capital Improvement Fund (Cash):	Highway Allocation Fund (Local Cash):	Total:
2013-14:	\$ 0	\$ 0	\$ 0	\$ 0
2014-15:	(\$6,446,000)	(\$255,000)	(\$40,200)	(\$6,741,200)
2015-16:	(\$ 95,000)	(\$ 3,000)	(\$ 680)	(\$ 98,680)
2016-17:	(\$ 95,000)	(\$ 3,000)	(\$ 680)	(\$ 98,680)

The cost to implement LB 402 is expected to be minimal.

The Department of Revenue had originally estimated the following fiscal impact:

Fiscal Year:	General Fund:	State Highway Capital Improvement Fund (Cash):	Highway Allocation Fund (Local Cash):	Total:
2013-14:	(\$7,481,000)	(\$303,000)	(\$53,000)	(\$7,837,000)
2014-15:	(\$ 109,000)	(\$ 4,400)	(\$ 780)	(\$ 114,180)
2015-16:	(\$ 109,000)	(\$ 4,400)	(\$ 780)	(\$ 114,180)
2016-17:	(\$ 109,000)	(\$ 4,400)	(\$ 780)	(\$ 114,180)

As noted above, we disagree with the Department's estimate of fiscal impact based on the assumption regarding the size and timing of a project.

**IMPACT TO POLITICAL SUBDIVISIONS:**

The Highway Allocation Fund will be impacted as follows:

FY2013-14:	\$ 0
FY2014-15:	(\$ 40,200)
FY2015-16:	(\$ 680)
FY2016-17:	(\$ 680)

ADMINISTRATIVE SERVICES-STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES			
LB: 402	AM:	AGENCY/POLT. SUB: Nebraska Department of Revenue	
REVIEWED BY: Cindy Miserez		DATE: 2/28/2013	PHONE: 402-471-4174
COMMENTS: I concur with the analysis and conclusions of the Nebraska Department of Revenue regarding the fiscal impact of LB402 based on the assumption of one wind project in 2013.			

**State Agency Estimate**

State Agency Name: Department of Revenue		Date Due LFA: 1/30/13				
Approved by: Douglas Ewald		Date Prepared: 2/25/13				
		Phone: 471-5896				
	<b>FY 2013-2014</b>		<b>FY 2014-2015</b>		<b>FY 2015-2016</b>	
	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>
General Funds		(\$7,481,000)		(\$109,000)		(\$109,000)
Cash Funds		(\$356,000)		(\$5,180)		(\$5,180)
Federal Funds						
Other Funds						
Total Funds		(\$7,837,000)		(\$114,180)		(\$114,180)

LB 402 would amend Neb. Rev. Stat. §§ 70-1903, 70-1904, & 7704.57 to eliminate restrictions on ownership of a Community-Based Energy Development (C-BED) project, expand the types of projects that may qualify as C-BED projects, and otherwise make it easier to qualify for the sales tax exemption.

The bill would expand the types of projects which may qualify for C-BED to include biomass and landfill gas projects. “Qualified owner” would be expanded to include corporations and the restrictions as to how much of a project may be owned by a single owner would be eliminated. The percentage of the gross power purchase agreement payments which must flow to the qualified owners or the local community would be lowered from 33% to 25% and measured over 20 years rather than the life of the power purchase agreement. “Payments to the local community” would be defined to include construction costs, including parts, materials, or components made in Nebraska, lease and easement payments to property owners and could be paid in advance of receiving revenue from the power purchase agreement.

While the fiscal impact depends in part on future congressional support for the federal wind energy Production Tax Credit, the Department assumes one wind project will be built in 2013, based on information from the Nebraska Energy Office, with ongoing capital replacement expenses based on data from the National Renewable Energy Laboratory. The fiscal estimate is based on prior wind projects of comparable size. It is expected that wind farms will be constructed in 3 to 5 year increments thereafter, but precise construction dates are presently unknown.

The note also assumes that future wind farm projects will procure materials from Nebraska-domiciled businesses which are qualifying payments to the local community.

The bill is expected to have an impact on the following funds:

Fiscal Year	General Fund	State Highway Capital Improvement Fund	Highway Allocation Fund	Total
2013-14	(\$7,481,000)	(\$303,000)	(\$53,000)	(\$7,837,000)
2014-15	(\$109,000)	(\$4,400)	(\$780)	(\$114,180)
2015-16	(\$109,000)	(\$4,400)	(\$780)	(\$114,180)
2016-17	(\$109,000)	(\$4,400)	(\$780)	(\$114,180)

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

