PREPARED BY: DATE PREPARED: PHONE: Doug Gibbs February 08, 2016 402-471-0051

LB 951

Revision: 00

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT - STATE AGENCIES (See narrative for political subdivision estimates)						
	FY 201	6-17	FY 2017-18			
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE		
GENERAL FUNDS	\$329,097	\$0	\$25,746	(\$4,410,000)		
CASH FUNDS						
FEDERAL FUNDS						
OTHER FUNDS						
TOTAL FUNDS	\$329,097	\$0	\$25,746	(\$4,410,000)		

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

LB 951 creates the Affordable Housing Tax Credit Act and provides a nonrefundable tax credit.

Basically, the bill creates a companion tax credit to the federal Low-Income Housing Tax Credit (LIHTC). The amount of the Nebraska tax credit is to be the amount of federal low-income housing tax credits. Nebraska tax credits are to be issued for the first six years of the credit period and shall only be allocated to qualified projects placed in service after January 1, 2017. The maximum amount of Nebraska affordable housing credits awarded in an allocation year shall be no more than 100% of the total amount of federal low-income housing tax credits.

Credits may be used to offset any personal, corporate, or fiduciary income tax or any insurance premium and related retaliatory taxes. Unused tax credits may be carried forward. Credits may be claimed on tax returns filed after January 1, 2018.

Nebraska credits may be recaptured to the extent any federal credits are required to be recaptured or otherwise disallowed.

The Department of Revenue and the Nebraska Investment Finance Authority are given rule and regulation authority to carry out the provisions of the Act.

The Department of Revenue estimates the following fiscal impact to the General Fund as a result of LB 951:

FY2016-17: \$ 0 FY2017-18: (\$ 4,410,000) FY2018-19: (\$ 4,530,000)

The Department indicates that LB 951 will require a one-time programming charge of \$258,036 paid to the Office of the CIO to add a line to Forms 1040N, 1120N, 1041N, and NebFile and to implement a tracking system. The Department will also require 1.0 FTE Revenue Tax Specialist to implement this bill in the first year and 0.5 FTE Fiscal Compliance Analyst to administer this bill in subsequent years. PSL for FY2016-17 will be \$49,670 and \$19,358 for FY17-18.

We agree with the Department of Revenue's estimate of fiscal impact and have no basis to disagree with the estimate of cost to implement.

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State Agency Estimate						
State Agency Name: Department of			Date Due LFA:	2/8/2016		
Approved by: Tony Fulton		Date Prepared:	02/04/2016		Phone: 471-5896	
FY 2016-2017		2017	FY 2017-2018		FY 2018-2019	
	Expenditures	Revenue	Expenditures	Revenue	Expenditures	Revenue
General Funds	\$329,097	\$0	\$25,746	(\$4,410,000)	\$26,363	(\$4,530,000)
Cash Funds						
Federal Funds						
Other Funds						
Total Funds	\$329,097	\$0	\$25,746	(\$4,410,000)	\$26,363	(\$4,530,000)

LB 951 would adopt the Affordable Housing Tax Credit Act. It allows an owner of an affordable housing project to apply to NIFA for approval of tax credits. The amount of tax credits is the amount of the federal low-income tax credit available to the project. The project must be placed in service after January 1, 2017 and the credit would be awarded for the first six years of the credit period as defined in 26 U.S.C. 42(f)(1). Generally, this means beginning with the year the building is placed in service, but at the election of the taxpayer, it may begin with the first year following. The Nebraska credit shall be allocated among some or all of the partners, members, or shareholders of the project in any manner agreed to.

The credit is nonrefundable and is available to both residents and nonresidents. A taxpayer may assign (sell) all or part of his or her ownership interest, including the Nebraska tax credits. To assign credits, the taxpayer is to file a written statement with his or her return specifying the amount of credits that were assigned. The amount of credits granted cannot exceed 100% of the total low-income housing credits awarded in the state, but NIFA is prohibited from awarding any more credits than are necessary to make the project feasible. NIFA is to determine if the project qualifies and determine the amount of credits to be granted. Then, it issues an "eligibility statement" to the owner of the project. (This is usually called a tax credit certificate in similar bills.)

Section 4 provides that the owner of the project is to submit the eligibility statement at the time of filing its tax return. NIFA or the Department may require other information as necessary. An insurance company claiming the credit against the insurance premium tax is not required to pay any additional retaliatory tax as a result. The retaliatory tax section, Neb. Rev. Stat. § 44-150, is not harmonized within the bill.

If a portion of any federal low-income housing tax credits are recaptured or disallowed within the applicable six-year federal credit period, the same portion of the Nebraska credit is to be recaptured by the Department. Recaptured credits are income to the owner. NIFA and the Department are authorized to adopt regulations to carry out the Affordable Housing Tax Credit Act.

LB 951 would also amend the insurance premium tax section, § 77-908, the individual income tax section, § 77-2715.07, the fiduciary income tax section, § 77-2717, and the corporate income tax section § 77-2734.03, to reference the Affordable Housing Tax Credit. With regard to the fiduciary income tax, the credit is incorporated for both the estate or trust and the beneficiaries, and for both residents and nonresidents.

Major Objects of Expenditure							
		16-17	17-18	18-19	16-17	17-18	18-19
Class Code	Classification Title	FTE	FTE	<u>FTE</u> 0.5	Expenditures	Expenditures	Expenditures
A21211	Fiscal Compliance Analyst	0.0	0.5	0.5	\$0	\$19,358	\$19,822
A29621	Revenue Tax Specialist	1.0	0.0	0.0	\$49,670	\$0	\$0
Benefits				\$16,391	\$6,388	\$6,541	
Operating Costs.				\$258,036			
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Capital Outlay					\$5,000		
Aid							
Capital Improveme	ents						
Total					\$329,097	\$25,746	\$26,363

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The Department estimates the reduction to the General Fund as follows:

2016-2017	0
2017-2018	\$ 4,410,000
2018-2019	\$ 4,530,000

LB 951 would require a one-time programming charge of \$258,036 paid to the OCIO to add a line to the Forms 1040N, NebFile, 1120N, 1041N, and to implement a tracking system. The Department will require 1.0 FTE Revenue Tax Specialist to implement this bill in the first year and 0.5 FTE Fiscal Compliance Analyst to administer this bill in subsequent years.