PREPARED BY: John Wiemer
DATE PREPARED: February 13, 2024
PHONE: 402-471-0051

LB 1084

Revision: 00

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

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

	FY 2024-25		FY 2025-26	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS		($2,918,000)		($5,837,000)
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS		($2,918,000)		($5,837,000)

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

LB 1084 would establish the Nebraska Shortline Rail Modernization Act.

For taxable years beginning on or after January 1, 2024 an eligible taxpayer would be allowed a nonrefundable income tax credit or on any tax imposed by sections 77-907 to 77-918 or 77-3801 to 77-3807 for qualified shortline railroad expenditures or qualified new rail infrastructure expenditures.

The credit would be equal to:
- 50% of the qualified shortline railroad maintenance expenditures incurred during the taxable year by the eligible taxpayer. The amount of the credit could not exceed an amount equal to $5,000 multiplied by the number of miles of railroad track owned or leased in the state by the eligible taxpayer at the end of the taxable year; and
- 50% of the qualified new rail infrastructure expenditures incurred during the taxable year by the eligible taxpayer.

The total amount of tax credits allowed in any taxable year under the Act would not be able to exceed $4 million for qualified shortline railroad maintenance expenditures and $5 million for qualified new rail infrastructure expenditures. The maximum allowable amount of tax credits for qualified new rail infrastructure expenditures in any singe taxable year for an individual infrastructure project would not be able to exceed $3 million.

To receive the tax credits under the Act, an eligible taxpayer would need to submit an application to the Department of Revenue (DOR) after incurring the relevant qualified shortline railroad maintenance expenditures or qualified new rail infrastructure expenditures. The application could be submitted no later than May 1 of the calendar year immediately following the calendar year in which the expenditures were incurred. If the DOR determines that an application is complete and the eligible taxpayer qualifies for tax credits under the Act, the DOR would approve the application and issue a tax credit certificate to the eligible taxpayer. The DOR would consider and approve applications for tax credits under the Act in the order in which the applications are received. The taxpayer would claim the credit under the Act by attaching the certification to its tax return.

Any amount of the credit that is unused could be carried forward and applied against the taxpayer's tax liability for the next five taxable years immediately following the taxable year in which the credit was first allowed. The tax credits under the Act could be assigned by the eligible taxpayer to another taxpayer by written agreement at any time during the taxable year in which the credit is first allowed for the eligible taxpayer. Any tax credit allowable to a partnership, a limited liability company, a subchapter S corporation, or an estate or trust could be distributed to the partners, limited liability company members, shareholders, or beneficiaries in the same manner as income is distributed.

The DOR could adopt and promulgate rules and regulations to carry out the Act.

No new application for tax credits could be filed under the Act after December 31, 2033. All applications and all credits pending or approved before such date would continue in full force and effect.

The DOR estimates the following decrease to General Fund revenues as a result of the bill:
- FY 24-25: ($2,918,000)
- FY 25-26: ($5,837,000)
- FY 26-27: ($8,755,000)
- FY 27-28: ($8,837,000)

CONTINUED ON PAGE 2

The DOR estimates minimal costs to it as a result of the bill.

There is no basis to disagree with these estimates.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 1084	AM:	AGENCY/POLT. SUB: Department of Revenue	
REVIEWED BY: Neil Sullivan		DATE: 2/13/2024	PHONE: (402) 471-4179
COMMENTS: The Department of Revenue assessment of fiscal impact from LB 1084 appears reasonable.			

LB 1084 Fiscal Note 2024

State Agency Estimate

State Agency Name: Department of Revenue			Date Due LFO:	
Approved by: James R. Kamm	Date Prepared:	02/12/2024	Phone: 471-5896	

	FY 2024-2025		FY 2025-2026		FY 2026-2027	
	Expenditures	Revenue	Expenditures	Revenue	Expenditures	Revenue
General Funds		($2,918,000)		($5,837,000)		($8,755,000)
Cash Funds						
Federal Funds						
Other Funds						
Total Funds		($2,918,000)		($5,837,000)		($8,755,000)

LB 1084 creates the Nebraska Shortline Rail Modernization Act (Act). The Act creates a nonrefundable income tax credit for tax years beginning January 1, 2024, on qualified shortline maintenance expenditures by any railroad located in Nebraska or for qualified new rail infrastructure expenditures made by Class II or Class III railroad.

The nonrefundable tax credit is equal to:

- 50% of the qualified shortline railroad maintenance expenditures incurred during the taxable year by the taxpayer not to exceed the amount equal to $5,000 times the number of miles or railroad track owned or leased in Nebraska by the taxpayer at the end of the taxable year. Qualified shortline railroad maintenance expenditures include gross expenditures for railroad infrastructure maintenance and capital improvement. Expenditures do not include expenditures used to generate a federal tax credit or expenditures funded by a grant.

- 50% of qualified new rail infrastructure expenditures during the taxable year by the taxpayer. Qualified new rail infrastructure expenditures include new rail infrastructure and improvement including right-of-way, engineering, and construction of new track. The maximum allowable of tax credit for qualified new rail infrastructure expenditures is $3 million for an individual project.

The total amount of credits allowed in a taxable year is limited to $4 million for shortline railroad maintenance expenditures and $5 million for new rail infrastructure expenditures.

Applications are submitted to the Department of Revenue (DOR) by May 1 of the calendar year immediately following the calendar year in which the expenditures were incurred. DOR will consider applications in the order received. The application will list the amount of qualified expenditures incurred. If DOR approves the application, a tax certificate will be issued. The certificate will list the identification number of the certificate, the date of issuance, and amount of tax credit allowed.

The tax credit certificate will be attached to the income tax return when claiming the credit. Any unused credit can be used for the next five taxable years immediately following the taxable year in which the credit was first

Major Objects of Expenditure

Class Code	Classification Title	24-25 FTE	25-26 FTE	26-27 FTE	24-25 Expenditures	25-26 Expenditures	26-27 Expenditures
Benefits							
Operating Costs							
Travel							
Capital Outlay							
Capital Improvements							
Total							

allowed. Credits can also be distributed in the same manner as an income by an S corporation, partnership, estate or trust to partners, members, shareholders, or beneficiaries. The credit can also be utilized by a financial institution as a credit against franchise tax.

The credit is allowed to be assigned by the taxpayer to another taxpayer at any time during the first year the credit was allowed or five following years. The assignor and assignee file a jointly written agreement with DOR within 30 days of assignment. The written agreement will contain the name, address, and taxpayer identification, number of the parties to the assignment, the taxable year the taxpayer incurred the expenditures, the amount of credit being assigned, and all taxable years for which the credit may be claimed.

No new applications can be submitted after December 31, 2033.

Based on the number of Class II and III railroad operators and total railroads miles, DOR estimates that LB 1084 would impact the General Fund revenues as follows:

FY2024-25	($2,918,000)
FY2025-26	($5,837,000)
FY2026-27	($8,755,000)
FY2027-28	($8,837,000)

It is estimated that there will be minimal costs to DOR to implement this bill.