Memorandum

DATE	September 12, 2019
TO	Members, Joint Revenue Committee
FROM	Dean Temte, Senior Fiscal Analyst
SUBJECT	Fiscal impact estimates of a potential corporate income tax

LSO contacted the Department of Revenue (DOR) to request a series of estimates of the fiscal impact of imposing an income tax on C corporations with at least 100 shareholders and has been working with them regarding assumptions and data sources. The parameters of this estimate are similar to the parameters for 2019 HB 220 (National Retail Fairness Act) except that this estimate reflects a proposed tax that would apply to all NAICS code classifications.

DOR has responded by providing a series of revenue estimates at three different tax rates (3.4 percent, 7.0 percent and 10.0 percent). The 7.0 percent rate was selected to provide a revenue estimate for 20LSO-0073 WD 0.7, National corporate tax recapture, drafted at the request of Rep. Jerry Obermueller and under consideration by the Joint Revenue Committee. The 3.4 percent rate was selected to provide an approximate estimate of the breakeven tax rate for the proposed tax. As you know, Article 15, Section 18 of the Wyoming Constitution states, "No tax shall be imposed upon income without allowing full credit against such tax liability for all sales, use, and ad valorem tax paid in the taxable year by the same taxpayer to any taxing authority in Wyoming.". The 3.4 percent is the tax rate which would generate revenue at approximately the same level as the estimate of the tax credits required by this Constitutional provision; however, even with this low rate, some corporations would undoubtedly have some income tax liability. In other words, not all corporations will have the same breakeven point. The 10.0 percent tax rate was selected as the high rate in the range because of its approximate equidistance from the 7.0 percent rate as the 3.4 percent breakeven rate.

The estimated revenue increases from the imposition of this tax at a 3.4 percent tax rate, at a 7.0 percent tax rate and at a 10.0 percent tax rate are presented in the table below:

Tax Rate		FY 2021	FY 2022	FY 2023
	NON-ADMINISTRATIVE IMPACT			
	Anticipated Revenue increase			
3.4%	SCHOOL FOUNDATION PROGRAM	$0	$0	$0
7.0%	SCHOOL FOUNDATION PROGRAM	$0	$23,100,000	$23,100,000
10.0%	SCHOOL FOUNDATION PROGRAM	$0	$42,600,000	$42,600,000

DOR's revenue estimates are based on the information obtained by DOR regarding the corporate income tax currently in place in Nebraska. DOR selected Nebraska because of its geographic proximity, its economic and demographic similarities to Wyoming, its current corporate income tax with a top tax rate near 7 percent, and the availability of the information pertaining to its corporate income tax.

As reflected in the table above, imposition of a 7.0 percent franchise tax upon the taxable business income from subchapter C corporations with over 100 shareholders would generate an estimated $23.1 million in annual revenues. Imposition of the proposed tax at a 10.0 percent rate would generate an estimated $42.6 million in annual revenues. Imposition of the proposed tax at a 3.4 percent rate would generate very little revenue, as the tax would be completely offset by allowable tax credits for most corporations, under the assumptions. According to the current bill draft, these revenues would be distributed to the School Foundation Program Account, beginning in FY 2022.

DOR utilized the following assumptions in arriving at their revenue estimates:

- The tax imposed would apply beginning in calendar year 2022 for business income earned in the 2021 tax year.
- Tax revenues were estimated based on Nebraska's corporate income tax revenues, averaged over a 5-year timeframe from 2012 through 2016. No inflation rate has been applied.
- It is assumed that Nebraska C corporations with 100 shareholders or more would consist of Nebraska corporate income tax filers with taxable income in in excess of $1,000,000. The Nebraska corporate income tax paid by these taxpayers represents 82.04% of the total corporate income taxes paid in Nebraska.
- The above estimates are adjusted for the difference in Nebraska's top tax rate of 7.81 percent and the 7.0 percent tax rate proposed in working draft 0.7.
- The above estimates are also adjusted based on the ratio of Wyoming's 2018 Gross Domestic Product (GDP) and Nebraska's GDP in order to estimate the amount that Wyoming might expect to receive from the tax. Wyoming's GDP was adjusted to exclude the extraction industry sector, as it is assumed that the Wyoming extraction industry would not pay this tax due to the tax credits that could be claimed by this sector.
- The above estimate is further reduced by estimates of tax credits for Wyoming property taxes and Wyoming sales and use taxes.
    - It is assumed that the property tax credits allowed would equal 5.0 percent of the total Wyoming property taxes due in 2018 for commercial and industrial properties. This assumption is provided to represent what this credit could look like and is admittedly a best guess. This is a fairly significant assumption, which cannot immediately be verified.
    - It is also assumed that the sales and use tax credits allowed would equal 5.0 percent of the total Wyoming use tax paid for fiscal year 2018 by all taxpayers. This assumption also is provided to represent what this credit could approximate. Like the assumption of property tax credits, this assumption cannot be immediately verified.

The DOR has also provided their estimate of the additional administrative costs that will be incurred under the proposed tax. The DOR's Agency estimate of Administrative Impact is also attached. The DOR's estimate of administrative impact reflects initial system development costs of $3,995,000 and ongoing costs of $1,597,000 per fiscal year ($3,194,000 per biennium). The estimate reflects a total administrative impact of $7,189,000 for the 2021-22 biennium. If the draft is sponsored by an individual member or committee, it will also be sent to the Department of Audit (DOA) to determine any administrative impact. LSO has not yet formally requested or received an estimate from DOA.

I have also provided the information in this memo to Rep. Obermueller. Please let me know if you have any questions.

LSO BUDGET AND FISCAL SECTION • 200 West 24th Street • Cheyenne, Wyoming 82002
TELEPHONE (307)777-7881 • FAX (307)777-5466 • E-MAIL lso@wyoleg.gov • WEB SITE http://wyoleg.gov

AGENCY ESTIMATE OF ADMINISTRATIVE IMPACT

ESTIMATE PREPARED BY AGENCY – NOT VERIFIED BY LSO

Agency #: 011 **Agency name:** Department of Revenue

Does the bill contain an appropriation? **Yes** ___ **No** X

*****Please note: All impacts contained in this agency estimate of administrative impact are in addition to any appropriation contained in the bill.***

Will passage of this bill require additional expenditures? **Yes** X **No** ___

Will passage of this bill require additional personnel? **Yes** X **No** ___

If so, please provide the following information:

Description: Please give a brief description of the added duties or responsibilities required of your agency which will require additional expenditure or personnel.

The imposition of an income tax would require the purchase of a new tax system. Income taxes are among the most complicated taxes to implement and any attempt to incorporate that to our aging ETS II System would not make sense. The below estimate for the coding of a system was provided to Department of Enterprise Technology Services. The estimate was prepared with the assistance of ETS. Managed Business Solutions estimated the project duration to be 18 to 24 months. **Because of the time needed to code the system the effective date of the tax may have to be delayed for a year.** Staffing of the income tax would require establishment of a new division including 10 employees and the associated cost of materials and mailing costs. Assume costs will be approximately 50% of the material costs of the Excise Tax Division.

	FY 2020	FY 2021	FY2022
0100 Personnel/Benefit costs:		$850,000	$850,000
0200 Supportive Services costs:		$150,000	$150,000
0400 Central/Data Services costs:			
0500 Space Rental costs:			
0600 Grant & Aid payments:			
0700 Capital expenditures:			
0900 Contractual services costs:	$3,995,000	$597,000	$597,000
Other costs: (please describe)			
Total costs:	$3,995,000	$1,597,000	$1,597,000
Funding			
General:			
Federal:			
Other:			

Assumptions: Please list any relevant assumptions including those concerning growth rates of caseload or number of clients; relevant timing or implementation date and sources of information.

Prepared by: Dan Noble Phone: 777-5287