

Revised to correct error in sales tax calculation and change language.

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2018-19		FY 2019-20	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	See Below	See Below	See Below	See Below
CASH FUNDS	See Below	See Below	See Below	See Below
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	See Below	See Below	See Below	See Below

Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate. LB 1084 is an omnibus bill that amends a number of Nebraska Revised Statutes, creates a new Act, repeals certain sales tax exemptions, imposes new sales and use taxes, and provides sunset dates for several Acts.

Section 77-382 is amended to change certain reporting requirements for the tax expenditure report.

Sections 77-202, 77-693, 77-801, 77-1238, and 77-1248, are amended to provide that the calculations for and exemption granted by the Personal Property Tax Relief Act applies to tax years prior to tax year 2019, which in effect terminates the Act following tax year 2018.

Section 77-1116 is amended to provide a sunset date of December 31, 2018 for the New Markets Job Growth Investment Act.

Section 77-2602 is amended to increase the cigarette tax by \$1.00. The new tax rate would be \$1.64 per package (not containing more than 20 cigarettes). In addition, the equivalent of \$1.00 of the cigarette tax is to be placed in the Property Tax Credit Cash Fund. If necessary, the distribution of the cigarette tax to the General Fund is to be reduced to meet this requirement.

Section 77-2701 is amended to provide that for tax years after January 1, 2019 there is imposed a surtax on any individual who is subject to Nebraska income tax and has a federal adjusted gross income (AGI) of \$500,000 or more. The surtax will be in addition to any other income taxes owed and shall be equal to the income tax liability multiplied by a rate of:

- Two and a half percent if the AGI is at least \$500,000 but less than \$1,000,000;
- Five percent if the AGI is at least \$1,000,000.

The Tax Commissioner is to adjust the income tax forms to include the calculation of the surtax.

Section 77-2701.02 is amended to increase the state sales tax rate to 6%, effective October 1, 2018.

Section 77-2701.16 is amended to impose sales and use taxes on the following:

- Animal specialty and pet services which would now include veterinary services, specialty services performed on livestock as defined by Section 54-183, animal grooming performed by a licensed veterinarian or licensed veterinary technician in conjunction with medical treatment;
- Cleaning of tangible personal property;
- Storage and moving services;
- Investment advice;
- Personal care services, including hair care, massage, nail services, spa services, and tattoo services;
- Maintenance, painting, repair, and interior decorating services for single-family housing;
- Limousine, taxi, and other transportation services;
- Travel agents and tour operator services;
- Lawn care, gardening, and landscaping services;
- Parking lot services;
- Swimming pool cleaning and maintenance services;
- Dating and escort services;
- Instruction in music, dance, golf, and other recreational activities;
- Custom meat slaughtering services;
- Real estate services relating to the sale of single-family housing;
- Tanning services;
- Telefloral delivery services;

- Contractor labor for any major addition, remodeling, restoration, repair, or renovation of owner-occupied residential housing.

Section 77-2701.32 is amended to insert new language to impose a duty to collect sales and use tax for internet sales if:

- The seller made retail sales to purchasers in this state totaling \$100,000 or more; or
- The seller made retail sales to purchasers in this state in 200 or more transactions.

The amended subsection becomes operative on the later of July 1, 2018 or the first day of the calendar quarter following a court decision or federal legislation abrogating the physical nexus requirement of Quill Corp. v. North Dakota.

Section 77-2701.35 is amended to repeal the sales tax exemption for motor vehicle, motorboats, all-terrain vehicles, and utility-type vehicles trade-ins.

Section 77-2704.10 is amended to remove the sales tax exemption for the following:

- Prepared food and food and food ingredients served by public or private schools, school districts, student organizations, or parent-teacher associations, in an elementary or secondary school or at any institution of higher education during the regular school day or at an approved school function;
- Fees and admissions charged for political events;
- Fees and admissions charged by a public or private elementary or secondary school, etc.;
- Fees and admissions charged for participants in any activity provided by a nonprofit organization exempt for income tax which conducts statewide sports events with multiple sports for both adults and youth;
- Fees and admissions charged for participants in any activity provided by a nonprofit organization exempt from income tax which is affiliated with a national organization primarily dedicated to youth development and healthy living, and offers sports instruction, leagues, and events in multiple sports.

Section 77-2704.24 is amended to impose a sales tax on the following:

- Soft drinks;
- Candy;
- Bottled water.

Sections 77-2715 and 77-2717 regarding the income tax are amended to impose a Nebraska alternative minimum tax.

Section 77-2734.01 is amended to provide for tax years beginning on or after January 1, 2019, that residents of Nebraska who are shareholders of a small business S corporation or who are members of an LLC shall include in their Nebraska taxable income, to the extent includable in federal gross income, their proportionate share of such corporation or LLC federal income without any adjustments pursuant to this section.

Section 77-27,132 is amended, regarding credit to the Highway Allocation Fund, to change the percentage from the "excess of five percent" to "the excess of five and one-half percent," and provides that the proceeds derived from the sales tax on motor vehicle trade-in value shall be credited to the Property Tax Credit Cash Fund.

In addition, the Property Tax Credit Cash Fund is to be credited with an amount equal to the net increase in sales and use tax revenue and state income tax revenue received as a result of the changes made by LB 1084, minus the increase in funds paid to school districts pursuant to the Tax Equity and Educational Opportunities Support Act (TEEOSA) as a result of the changes made by LB 1084, and minus \$200,000 for the education study required by the bill.

Section 77-2912 is amended to sunset the Nebraska Job Creation and Mainstreet Revitalization Act as of December 31, 2018.

The bill inserts new language that would require the Department of Education to oversee and in-depth review of the financing of the public schools. There are a number of criteria the Department is to consider in the study.

The bill states that it is the intent of the Legislature to appropriate at least \$200,000 to the Department of Education to carry out the study.

The following sections of statute are outright repealed:

- 77-2704.07: the sales tax exemption for newspapers;
- 77-2704.14: the sales tax exemption for coin-operated laundering and cleaning machines;
- 77-2704.52: the sales tax exemption for prepaid calling service or prepaid wireless calling service;
- 77-2704.55: the sales tax exemption for certain contractor labor;
- 77-2704.56: the sales tax exemption for the purchase of certain property or fine art by a museum;
- 77-2704.65: the sales tax exemption of purchases by a historic automobile museum;
- 77-2704.67: the sales tax exemption for membership or admission to or purchase by a zoo or aquarium;
- 77-2715.09: Capital stock; sale or exchange; extraordinary dividend and capital gains treatment;
- 77-2715.08: Capital gains; terms, defined.

Sections 1 to 8 of LB 1084 creates the Property Tax Request Limitation Act.

Section 3 provides that a school district's property tax request for any year shall not exceed the school district's property tax request authority. In addition, Section 3 provides that the district's property tax request authority shall be calculated as follows:

- The prior year property tax authority shall be increased by the highest percent of the following:
 - Base percent (in definitions this is the higher of 2.5% or CPI);
 - Percent increase in enrollment;
 - Percent increase in Limited English Proficiency (LEP) students;
 - Percent increase in poverty students.

Based on this inflated amount, the tax authority shall then be increased by the amount of any reduction in non-property tax revenues or shall be reduced by the amount of any increases in non-property tax revenues.

It is very difficult to calculate what impact this section may have relative to current practice. The growth in property tax request authority allowed by LB 1084 can be volatile, especially in smaller school districts, as the growth rate in total tax authority is triggered by the largest growth rate of any of the four areas shown. For example, for a school with 600 enrollment and a small LEP student population, a growth of 10 LEP students to 12 LEP students would allow for a 20% increase in the district's total property tax authority. These types of fluctuations occurring in 244 school districts makes it virtually impossible to estimate any change in property tax impacts.

Section 6 of the bill, allows for any unused property tax request authority to carry forward into future years. However, there doesn't appear to be a reference to this in the calculation of the property tax authority amount in Section 3.

With respect to TEEOSA school aid, there are four specific provisions which would affect the FY2018-19 and FY2019-20 aid amounts:

- Section 33 increases the income tax rate rebate from 2.23% to 20% beginning in FY2019-20;
- Section 34 removes the 95.5% rate applied to the FY2018-19 net option funding;
- Section 35 reduces the local effort rate for FY2018-19 from \$1.0203 to \$1.00 for FY2018-19; and
- Section 32 and Section 39 adjust the FY2018-19 allowable growth rate and change references to the FY2017-18 allowable growth rate, the combination of which increases the cost growth factor to 5.0% for both FY2018-19 and FY2019-20 aid calculation.

Legislative Fiscal Office estimate of TEEOSA Impact of LB 1084:

	<u>FY2018-19:</u>	<u>FY2019-20:</u>
➤ Cost growth factor to 5.0%:	\$44,140,383	\$25,982,011
➤ Local effort rate to \$1.00:	\$24,887,875	\$ 0
➤ Net option funding to 100%:	\$ 2,451,365	\$ 0
➤ Income tax to full 20%:	\$ 0	\$69,889,514

The Department of Revenue has estimated the following fiscal impact of LB 1084, which does not include the impacts on TEEOSA:

Program or Proposal:	FY2018-19:	FY2019-20:	FY2020-21:	FY2021-22:
1. End Personal Property Tax Exemption Program:	\$ 0	\$ 16,000,000	\$ 17,000,000	\$ 17,000,000
2. Sunset New Markets Job Growth Investment Tax Credit:	\$ 0	\$ 0	\$ 2,300,000	\$ 2,700,000
3. Sunset the Job Creation and Mainstreet Revitalization Act:	\$ 0	\$ 10,000,000	\$ 10,000,000	\$ 10,000,000
4. Increase in cigarette tax:	\$ 47,940,000	\$ 68,477,000	\$ 65,565,000	\$ 62,760,000
5. Sales tax changes and rate change:	\$ 259,145,000	\$ 402,172,000	\$ 420,456,000	\$ 438,199,000
6. Income tax changes provisions:	\$ 36,005,000	\$ 86,649,000	\$ 91,188,000	\$ 95,968,000
7. Total increase to Property Tax Credit Cash Fund:	\$ 343,090,000	\$ 583,298,000	\$ 606,509,000	\$ 626,627,000

The Department of Revenue indicates they will require a one-time programming charge of \$298,429 for mainframe changes and development costs for the NebFile online filing system. They will also require 1.0 FTE Auditor III, 1.0 FTE Tax Specialist Senior, 2.0 FTE Tax Specialists for the first two fiscal years, decreasing to 1.0 FTE thereafter, and 1.0 Revenue Operations Clerk II.

Total cost for FY2018-19 is \$644,729, for FY2019-20 is \$328,600, and for FY2020-21 is \$263,700. PSL is \$241,600 for FY2018-19, \$247,100 for FY2019-20, and \$198,300 for FY2020-21.

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

The Nebraska Department of Education has estimated that LB 1084 will result in an increase in TEEOSA expenditures of \$144,400,000 in FY2018-19 and that all 244 school districts would receive additional TEEOSA aid as a result of the provisions of LB 1084. In addition, as noted above, LB 1084 states that it is the intent of the Legislature to appropriate \$200,000 to the Department to carry out the school financing study.

We disagree somewhat with the Department of Education's estimate of fiscal impact. We believe they have moved the impact of the 20% income tax provision to FY2018-19, instead of when it actually should occur in FY2019-20. Therefore, we believe the LFO estimate of the fiscal impact to TEEOSA to be as noted above.

State Agency Estimate

State Agency Name: Department of Revenue		Date Due LFA:				
Approved by: Tony Fulton		Date Prepared: 3/2/2018				
		Phone: 471-5896				
	FY 2018-2019		FY 2019-2020		FY 2020-2021	
	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>
General Funds	See Below	See Below	See Below	See Below	See Below	See Below
Cash Funds		See Below		See Below		See Below
Federal Funds						
Other Funds						
Total Funds	See Below	See Below	See Below	See Below	See Below	See Below

LB 1084 would:

1. Adopt the Property Tax Request Limitation Act. This Act creates a new limit on school budgets called the property tax request authority. The school board is to calculate the property tax request authority beginning with the previous year’s property tax request plus the highest of
 - a. The base limitation rate of 2.5%;
 - b. The percentage increase in student enrollment;
 - c. The percentage increase in Limited English Proficiency (LEP) students; or
 - d. The percentage increase in poverty students.

The amount is increased or decreased respectively, by the decrease or increase in non-property tax revenue. The limit does not apply to property taxes for principal and interest on bonds and the limit can be exceeded with a vote of the people. With a 75% vote of the school board, the limit can be increased by as much as 7% for small schools and 5% for large schools. Unused property tax request authority may be carried over.

2. End the personal property tax exemption/credit program after 2018;
3. Sunset the New Markets Job Growth Investment Tax Credit after 2018;
4. Increase the cigarette tax by \$1.00 per pack and deposit the proceeds into the Property Tax Credit Fund;
5. Impose an income tax surcharge beginning in tax year 2019 on taxpayers with federal adjusted gross income in excess of \$500,000 equal to 2.5% of liability if federal AGI is \$500,000 to \$1 million, and 5% of liability if federal AGI is over \$1 million;
6. Increase the sales tax by ½ cent commencing October 1, 2018;
7. Extend the sales tax base to include more than 15 currently untaxed services;
8. Repeal sales tax exemptions for veterinary services, trade-ins of motor vehicles, all-terrain vehicles, and utility-type vehicles, prepared food served in schools, various admissions, soft drinks, candy, and bottled water, newspapers, coin-operated laundries, prepaid calling services, contractor labor, fine art and property purchased by museums, purchases by historic auto museums, and purchases and admissions to zoos and aquariums;
9. Provide that sellers who lack physical presence must collect sales tax beginning July 1, 2018;
10. Restore the alternative minimum tax;
11. Sunset the adjustment decreasing adjusted gross income for non-Nebraska source income earned through a pass-through entity after 2018;
12. Sunset the Job Creation and Mainstreet Revitalization Act (Historic Tax Credits) after 2018;
13. Restore the 20% of income tax rebate to local school districts;
14. Provide that all new sales and income tax revenue created by this bill be deposited into the Property Tax Credit Cash Fund, including revenue from repealing the trade-in allowance for sales of motor vehicles;
15. Terminate numerous TEEOSA temporary adjustments for 2018-19; and
16. Call for a study of school finance to be conducted by the Department of Education, including an intent to appropriate \$200,000 to the Department of Education to carry out the study.

The estimated fiscal impact for LB 1084 would be as follows:

	Amount in Thousands			
	FY18-19	FY19-20	FY20-21	FY21-22
End Personal Property Tax Exemption Program	\$ -	\$ 16,000	\$ 17,000	\$ 17,000
Sunset New Markets Job Growth Investment Tax Credit	\$ -	\$ -	\$ 2,300	\$ 2,700
Sunset the Job Creation and Mainstreet Revitalization Act	\$ -	\$ 10,000	\$ 10,000	\$ 10,000
Increase cigarette tax by \$1.00	\$ 47,940	\$ 68,477	\$ 65,565	\$ 62,760
Increase sales tax rate, extend the sales tax base to certain services, and repeal selected sales tax exemption	\$259,145	\$402,172	\$420,456	\$438,199
Change in income tax provisions (surcharges, restore AMT, sunset adjustment decreasing AGI for non-Nebraska source income)	\$ 36,005	\$ 86,649	\$ 91,188	\$ 95,968
Total Increase to Property Tax Credit Fund	\$343,090	\$583,298	\$606,509	\$626,627

LB 1084 includes a provision to restore the 20% of income tax rebate to local school districts which will have effect on TEEOSA, which will have a corresponding impact on General Fund expenditures.

LB 1084 will require a one-time programming charge of \$298,429 for mainframe changes and development costs for the NebFile online filing system. The Department will also require one Auditor III, one Tax Specialist Senior, two Tax Specialists for the first two fiscal years (decreasing to one Tax Specialist thereafter), and one Revenue Operations Clerk II to administer LB 1084. That brings the total cost for FY18-19 to \$644,729; for FY19-20 to \$328,600; and for FY20-21 to \$263,700.

Major Objects of Expenditure

<u>Class Code</u>	<u>Classification Title</u>	<u>18-19 FTE</u>	<u>19-20 FTE</u>	<u>20-21 FTE</u>	<u>18-19 Expenditures</u>	<u>19-20 Expenditures</u>	<u>20-21 Expenditures</u>
A29622	Revenue Tax Specialist Senior	1	1	1	\$ 58,400	\$ 59,700	\$ 60,600
A21253	Revenue Auditor III	1	1	1	\$ 51,400	\$ 52,500	\$ 53,300
S29112	Revenue Operations Clerk II	1	1	1	\$ 30,800	\$31,500	\$31,900
A29621	Revenue Tax Specialist	2	2	1	\$ 101,000	\$103,400	\$52,500
Benefits.....					\$79,700	\$81,500	\$65,400
Operating Costs.....					\$298,429		
Travel.....							
Capital Outlay.....					\$25,000		
Capital Improvements.....							
Total.....					\$644,729	\$328,600	\$263,700

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2018

LB⁽¹⁾ 1084

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Dept of Education

Prepared by: ⁽³⁾ Bryce Wilson Date Prepared: ⁽⁴⁾ 1/24/17 Phone: ⁽⁵⁾ 402-471-4320

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2018-19		FY 2019-20	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	<u>\$144,600,000</u>	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	<u>\$144,600,000</u>	_____	_____	_____

Explanation of Estimate:

LB 1084 restores the cuts made by LB 409 to 2018/19 TEEOSA and increases the income tax rebate from 2.23% to 20%. LB 1084 also creates the Property Tax Request Limitation Act which limits the amount of property taxes a district can request.

LB 1084 tasks the Department of Education with leading a review of school funding in Nebraska with a preliminary report being due on Dec 31, 2018 and final report on Dec 1, 2019.

Additionally LB 1084 enacts several tax changes in an effort to raise revenue for the State including eliminating personal property tax exemptions, increasing sales tax and changing income tax rates. Revenue raised by the new sources is to be used to fund the increase in TEEOSA as a result of this bill with any remaining money going to the property tax credit fund.

LB 1084 would result in an increase in TEEOSA of around \$144.4 million. All 244 school districts would receive additional TEEOSA state aid as a result of this bill. Additionally, the Nebraska Department of Education is allocated \$200,000 to complete the study of school funding in the State.

This bill would also enacts several tax changes that would result in additional revenue for the state but NDE cannot determine those amounts at this time.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2018-19 EXPENDITURES</u>	<u>2019-20 EXPENDITURES</u>
	<u>18-19</u>	<u>19-20</u>		
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	<u>\$150,000</u>	_____
Travel.....	_____	_____	<u>\$50,000</u>	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	<u>\$144,400,000</u>	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	<u>\$144,600,000</u>	_____