

Revised due to adoption of amendments on General File

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2019-20		FY 2020-21	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS		See below		See below
CASH FUNDS		See below		See below
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS		See below		See below

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

LB 284 amends sales and use tax provisions of the Nebraska Revenue Act of 1967.

As amended, the bill changes the definition of “engaged in business in this state” to include facilitating sales to residents of the state and deems retailers who operate a web site or digital medium or use a multivendor marketplace platform to facilitate sales between a seller and purchaser to be engaged in business in this state if (1) the retailer made or facilitated total sales exceeding \$100,000 in the previous or current calendar year; or (2) the retailer made or facilitated sales in 200 or more separate transactions.

The bill changes the definition of “gross receipts” to include sales of tangible property made over a multivendor marketplace platform acting as the intermediary by facilitating sales between a seller and purchaser and that collects payment from the purchaser and transmits payment to the seller.

The bill requires retailers who exceed the sales threshold to obtain a permit and begin collecting sales tax on the first day of the second month after the threshold is exceeded. Retailers who make sales using a multivendor marketplace platform are relieved of their obligation to collect and remit sales tax if collected and remitted by the multivendor marketplace platform.

As amended, the bill contains a severability clause and the emergency clause. The operative date is April 1, 2019.

The Department of Revenue estimates there is no fiscal impact from LB 284 because following the *South Dakota v. Wayfair* U.S. Supreme Court case, all sales tax revenue from sales by remote sellers and multivendor marketplace platforms was included in the February 2019 forecast.

The Legislative Fiscal Office agrees that revenue from sales tax collected by remote sellers was accounted for in the February 2019 forecast, but only revenue from marketplace platforms who would collect and remit voluntarily was included. In the forecast, this revenue was estimated to be approximately half of the total revenue from sales tax collected by marketplace platforms if collection was required by law. The total revenue from sales tax collection by marketplace platforms is estimated to be \$17.5 million in FY 19-20 and \$20 million in FY 20-21. As a result, we estimate the fiscal impact of LB 284 is \$8.75 million in FY 19-20 and \$10 million in FY 20-21 as the remaining half of marketplace platforms begin collecting and remitting sales tax as required by the bill’s provisions.

With the emergency clause and an operative date of April 1, collection would begin in the current fiscal year. However, we estimate collection in the first month to be lower due to the short timeframe for notification.

The sales tax collected under LB 284 would be distributed as follows:

Fiscal Year	General Fund	State Highway Capital Improvement Fund	Highway Allocation Fund	Total
2018-2019	\$955,000	\$38,250	\$6,750	\$1,000,000
2019-2020	\$8,350,000	\$340,000	\$60,000	\$8,750,000
2020-2021	\$9,550,000	\$382,500	\$67,500	\$10,000,000

The Department of Revenue estimates there will be minimal costs to implement this bill.

State Agency Estimate

State Agency Name: Department of Revenue

Date Due LFA: 3/6/2019

Approved by: Tony Fulton

Date Prepared: 3/5/2019

Phone: 471-5896

Table with 3 main columns for fiscal years: FY 2019-2020, FY 2020-2021, and FY 2021-2022. Each column has sub-columns for Expenditures and Revenue. Rows include General Funds, Cash Funds, Federal Funds, Other Funds, and Total Funds.

LB 284 AM 540 AM 392 amends the definition of "engaged in business in this state" to apply to the full extent permitted under the Dormant Commerce Clause, including but not limited to a modernized list of activities demonstrating Nebraska nexus.

LB 284 AM 540 AM 392 requires retailers to obtain a permit and begin collecting and remitting sales tax after they first become engaged in business in Nebraska.

LB 284 AM 540 AM 392 severs any provision of LB 284 that is declared invalid or unconstitutional in order to retain validity of remaining portions.

Fiscal Impact

The additional revenue attributable to the Wayfair case is already included in the February 28, 2019 NEFAB forecast. Therefore, LB 284 AM 540 AM 392 will not bring in any additional money that was not accounted for in the General Fund revenues forecast.

It is estimated that there will be minimal costs to the Department to implement LB 284 AM 540 AM 392.

Major Objects of Expenditure

Table with 9 columns: Class Code, Classification Title, 19-20 FTE, 20-21 FTE, 21-22 FTE, 19-20 Expenditures, 20-21 Expenditures, 21-22 Expenditures. Rows include Benefits, Operating Costs, Travel, Capital Outlay, Capital Improvements, and Total.