

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	\$150,031		\$44,800	(\$462,000)
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$150,031		\$44,800	(\$462,000)

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

As amended on General File, LB 470 amends provisions related to educational savings plan trust accounts (NEST accounts) and creates a personal property tax exemption. LB 470 includes provisions of LB 444 and 545.

NEST Accounts: The bill removes the restriction that a contribution must be made by a participant to receive a reduction in adjusted gross income, or for corporations and fiduciaries, federal taxable income, for contributions to a NEST account. The bill also allows a reduction in adjusted gross income, or for corporations and fiduciaries, federal taxable income, for contributions made by an employer of a participant to a participant’s NEST account, not to exceed \$5,000 per married filing separate return or \$10,000 for any other return.

The bill clarifies that government programs administered by any state agency providing benefits based on financial need, except as provided for in federal law, must not take into account contributions made to a participant’s account by a participant’s employer in determining the income of the participant.

The provisions related to NEST accounts are operative January 1, 2020.

The Department of Revenue estimates revenue to the General Fund from the provisions related to NEST accounts as follows:

FY 19-20	\$0
FY 20-21	(\$1,446,000)
FY 21-22	(\$1,549,000)

Because the bill provides for persons other than the participant to contribute to a NEST account and deduct such amounts from income, we estimate the provisions of LB 470 will result in an increase of 25% of tax filers reducing adjusted gross income, or federal taxable income, due to contributions to NEST accounts. However, we estimate these additional tax filers will contribute a lower average annual contribution than the average annual contribution of current participants. Adjusting for an estimated average annual contribution of \$1,500 the first year and an incremental increase the second year, we estimate the revenue to the General Fund as follows:

FY 19-20	\$0
FY 20-21	(\$462,000)
FY 21-22	(\$473,000)

Property Tax Exemption: The bill redefines “tangible personal property” to include a dwelling complex and relating amenities located on a United States Department of Defense military installation if certain conditions are met. LB 470 also redefines “real property” to exclude such dwelling complexes.

Dwelling complexes meeting the requirements are exempt from personal property tax upon application to the county assessor but are required to make in lieu of tax payments. The amount of the exemption is reduced by the percentage of the unoccupied units in the complex as of January 1 of each year. LB 470 provides for processes to (1) adjust the percentage of the exemption and (2) determine the value of the property for purposes of determine the in lieu of tax payments by the county board of equalization. The bill also provides for appeals to the Tax Equalization and Review Commission.

Owners of any dwelling complex receiving the exemption must make payments in lieu of taxes as follows:

- 100% of the real property taxes that would have been paid if the dwelling complex would have been treated as real property to the local school district where the complex is located;
- 5% of the real property taxes that would have been paid to political subdivisions other than the local school district if the dwelling complex would have been treated as real property to the county where the complex is located to be allocated to the county general fund, which the county board can vote to waive; and
- 95% of the real property taxes that would have been paid to political subdivisions other than the local school district if the dwelling complex would have been treated as real property to an infrastructure maintenance trust fund to be used exclusively for the costs of capital repairs, replacements, maintenance, and improvement of the complex.

Owners must file a certificate of compliance with infrastructure maintenance trust fund requirements by January 31 each year with the Department of Revenue. Upon failure to comply, the department must notify the Attorney General, who can audit the fund at the cost of the owner.

The provisions relating to the exemption are operative three months after adjournment.

The personal property tax exemption could result in a loss of property tax revenue to political subdivisions, other than schools, where the dwelling complexes are located because of the reduction in valuation for purposes of property tax.

Additionally, there would be an increase in state General Fund expenditures pursuant to TEEOSA to equalized districts due to the loss of valuation. Assuming the valuation loss is approximately \$60 million per year beginning with the 2020 tax year valuation, the total expenditure would be \$600,000 in FY 21-22. Thereafter, we assume the payments in lieu of tax offset the yield from the local effort rate.

Administration:

The State Treasurer estimates the agency can implement the bill with existing staff. The Department of Revenue estimates a one-time charge of \$102,831 to OCIO for programming costs and expenditures of \$47,200 in FY 19-20 and \$44,800 for 1.0 FTE Revenue Operations Clerk II to implement the bill.

There is no basis to disagree with the estimates of costs from either agency.

State Agency Estimate

State Agency Name: Department of Revenue				Date Due LFA:			
Approved by: Tony Fulton				Date Prepared:			
				Phone: 471-5896			
	FY 2019-2020		FY 2020-2021		FY 2021-2022		
	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	
General Funds	\$150,031	\$0	\$44,800	(\$1,446,000)	\$44,100	(\$1,549,000)	
Cash Funds							
Federal Funds							
Other Funds							
Total Funds	\$150,031	\$0	\$44,800	(\$1,446,000)	\$44,100	(\$1,549,000)	

AM 1461 strikes and replaces AM 896. LB 470 as amended by AM 1461 incorporates several aspects from different legislative bills. By striking references to participants, it allows for anyone to contribute to NEST 529 accounts, and redefines real property dwelling complex located on a United States Department of Defense military installation as tangible personal property. The bill as amended is operative January 1, 2020. The changes are detailed below.

Income Tax:

LB 470 as amended removes the requirement that a taxpayer must be a participant in a NEST 529 account to take an income tax deduction for amounts contributed to an account. The act specifically allows federal adjusted gross income to be reduced by the amount of contributions made by an employer of a participant to the participant's NEST 529 account to the extent not deducted for federal income tax purposes. The reduction for employer contributions cannot exceed \$5,000 per married filing separate return or \$10,000 for any other return. These are the same limits as are applicable to a participant or a nonparticipant contribution.

The bill also provides that no government program administered by the state that provides benefits to individuals based on financial need will consider employer contributions to a participant's account in determining the income of such participant.

The Department determined the increase in contributions to NEST 529 utilizing data from the National Center for Education Statistics and from the ABLE program that currently allows a deduction for nonparticipant contributors.

Property Tax:

AM 1461 amends Neb. Rev. Stat. § 77-103 to exclude from the definition of real property dwelling complexes and any related amenities located on a United States Department of Defense military installation in the State of Nebraska if (a) the owner of the land is the United States government, (b) the complex is developed pursuant to a federal military housing privatization initiative, and (c) the complex is provided primarily for use by United States military personnel and their families.

It also amends Neb. Rev. Stat. §§ 77-105 and 77-202 to define the dwelling complexes and any related amenities as tangible personal property and exempting them from property taxes. The amount exempted will be reduced by the percentage of units that are not occupied by military personnel and their families or that are unoccupied.

Section 4 of the amendment provides for payments in-lieu of taxes to the county treasurer, to be made by the owner of an exempt dwelling complex. Payments in-lieu of taxes are made to local school districts equal to 100% of what would have been paid to local school districts had the dwelling complex not been exempt, and to county general funds equal to 5% of all real property taxes, other than taxes payable to school districts, that would have been paid had the dwelling complex not been exempt. AM 1461 also provides for a payment of an amount equal to 95% of all real property taxes, other than taxes payable to school districts, which would have been paid had the dwelling complex not been exempt, to be paid into a restricted infrastructure maintenance trust fund held by a financial institution. The restricted infrastructure maintenance trust fund must be used for the payment of cost of capital repairs, replacements, maintenance, and improvements of the dwelling complex and real property on which it is located.

While previously LB 444 showed a cost to the state (the exemption was included as part of the Homestead Exemption, which is reimbursed by the state), the redefinition of the real property as tangible personal property eliminates the direct cost to the state. There would, however be a reduction in taxable value available to local governments. While the lost school district revenue would be 100% replaced by the in lieu of tax payments, those payments are not included in accountable receipts by AM 1461, so there would be an unknown increase in TEEOSA funding. Other local governments would have a reduction in taxable valuation.

The total reduction to the General Fund from the income tax provisions of LB 470 as amended by AM 1461 is as follows:

FY 2019-2020 \$ 0
 FY 2020-2021 \$ 1,446,000
 FY 2021-2022 \$ 1,549,000

AM 1461 would require a one-time programming charge of \$102,831 paid to the OCIO to add a line to the 1040N Schedule I, NebFile, 1120N, 1041N, and MeF inquiry. The Department would require 1.0 FTE Revenue Operations Clerk II to implement this bill as amended.

Major Objects of Expenditure							
Class Code	Classification Title	19-20 FTE	20-21 FTE	21-22 FTE	19-20 Expenditures	20-21 Expenditures	21-22 Expenditures
S29112	Revenue Operations Clerk II	1.0	1.0	1.0	\$31,700	\$33,700	\$33,200
Benefits.....					\$10,500	\$11,100	\$10,900
Operating Costs.....					\$102,831		
Travel.....							
Capital Outlay.....					\$5,000		
Capital Improvements.....							
Total.....					\$150,031	\$44,800	\$44,100

Please complete ALL (5) blanks in the first three lines.

2019

LB⁽¹⁾ 470, AM896 & AM1461

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ State Treasurer

Prepared by: ⁽³⁾ Tyson Larson Date Prepared: ⁽⁴⁾ 4/30/19 Phone: ⁽⁵⁾ (402) 471-1234

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2019-20</u>		<u>FY 2020-21</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	=====	=====	=====	=====

Explanation of Estimate:

No Fiscal Impact to the State Treasurer's office. The Treasurer's office does not expect to have any fiscal impact with the implementation of LB470 as amended by AM896 & AM1461. Any extra work that LB470 may incur will easily be able to be absorbed by current staff.

As amended LB470 has 4 major provisions:

- 1) Not charging income tax on contributions received from others. We have never received any information from the Department of Revenue that they are currently charging income tax on contributions. Since we are codifying current practice, there is no fiscal impact on this portion.
- 2) Individuals cannot lose state aid benefits because of contributions into a 529. We have never received any information from the Department of Health & Human Services that they are currently charging income tax on contributions. Again, this is codifying current practice. Since we are codifying current practice, there is no fiscal impact on this portion.
- 3) Allows anyone to claim a tax deduction for contributing to a 529 even if they aren't the account owner. Currently anyone can open an account, contribute, and claim the tax benefits. LB470 streamlines the process and eliminates the number of accounts that need to be opened for each beneficiary. It is reasonable to believe that there will be the same amount of contributions into a 529 account, but those contributions will just be made more efficiently for the account beneficiary and there should not be a fiscal impact associated with this provision.
- 4) With AM1461, a version of Senator McDonnell's LB444 was amended into LB470. This provision has no cost to the State Treasurer's office and appears that it should not impact the State's General Fund.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2019-20</u>	<u>2020-21</u>
	<u>19-20</u>	<u>20-21</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____

Aid.....
Capital improvements.....
TOTAL.....

_____	_____
_____	_____
_____	_____
_____	_____