

Revised to correct language

FISCAL NOTE
 LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2021-22		FY 2022-23	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS	\$155,900	\$8,867,000	\$204,000	\$24,945,000
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$155,900	\$8,867,000	\$204,000	\$24,945,000

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

LB 545 adopts the Games of Skill Act. The act:

- Defines terms, including games of skill, which includes fantasy sport, sports betting, or poker;
- Requires operators to register with the Department of Revenue and pay an initial registration fee of \$10,000 and an annual renewal fee of \$5,000;
- Requires operators to submit certain evidence to the department;
- Requires the department to publish a list of registered operators and adopt and promulgates rules and regulations;
- Provides for a civil penalty for knowing violations of the act.

Furthermore, LB 545 sets an excise tax rate of 25% on the gross receipts from operating games of skill. This revenue, along with any funds collected by registration fees, are to be credited to the Games of Skill Property Tax Reduction Fund. Such funds are distributed to each school district as calculated within the Act as follows:

- The balance of the fund is divided by the statewide adjusted valuation to create a “games of skill school property tax reduction factor”;
- The adjusted valuation of a school district is then multiplied by this reduction factor to arrive at the aid received from the Games of Skill Property Tax Reduction Fund;

The levy limit of each school district is to be decreased by the amount equal to the games of skill school property tax reduction factor. The aid provided by LB 545 will have no impact on the calculation of state aid for school districts.

The bill is operative January 1, 2022.

Revenue:

The Department of Revenue estimates 9 operators will register in the first year, with an additional 3 new casino operators registering in each following calendar year until there are 15 total in Nebraska. Based on the data available, this estimate seems reasonable.

DOR estimates the excise tax will grow as follows:

- FY 22: \$8,867,000
- FY 23: \$24,945,000
- FY 24: \$33,342,000
- FY 25: \$38,310,000

With the assumptions and arguments provided, there is no basis to disagree with these estimates.

Expenditures:

The department estimates operating expenditures for a 1.0 FTE Revenue Tax Specialist beginning in July 2021. Furthermore, a 1.0 FTE Revenue Agent and 1.0 FTE Revenue Investigator would be needed at the beginning of 2022. The operating expenditures to fund these three employees along with any travel and capital costs would be subtracted from the funds credited to the Game of Skill School Property Tax Reduction Fund. As such, credit to the Fund would be reduced to \$8,711,100 in FY22 and \$24,741,000 in FY23.

CONTINUED

The Department of Education estimates no fiscal impact to itself or to school districts to implement LB 545.

There is no basis to disagree with these estimates.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 545	AM:	AGENCY/POLT. SUB: Nebraska Department of Revenue
REVIEWED BY: Claire Oglesby	DATE: 1/28/2021	PHONE: (402) 471-4174
COMMENTS: No disagreement with Department of Revenue's estimate of the Fiscal Impact to the Agency from LB 545.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 545	AM:	AGENCY/POLT. SUB: Department of Education
REVIEWED BY: Claire Oglesby	DATE: 1/27/21	PHONE: (402) 471-4174
COMMENTS: Department of Education's statement appears reasonable based on the assumptions provided.		

State Agency Estimate

State Agency Name: Department of Revenue		Date Due LFO:				
Approved by: Tony Fulton		Date Prepared: 1/27/2021				
		Phone: 471-5896				
	FY 2021-2022		FY 2022-2023		FY 2023-2024	
	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>
General Funds						
Cash Funds	\$155,900	\$8,867,000	\$204,000	\$24,945,000	\$208,500	\$33,342,000
Federal Funds						
Other Funds						
Total Funds	\$155,900	\$8,867,000	\$204,000	\$24,945,000	\$208,500	\$33,342,000

LB 545 amends several statutes and creates the Games of Skill Act (Act) and the Games of Skill Property Tax Reduction Fund. It defines sports betting, fantasy sports, and some games of poker as games of skill (not games of chance). The bill amends Neb. Rev. Stat. § 9-1,101 to add the Games of Skill Act as one of the acts the Charitable Gaming Division administers and enforces. LB 545 also clarifies provisions of the Nebraska Racetrack Gaming and the Mechanical Amusement Device Tax Act.

“Operator” refers to someone who offers an opportunity to participate in a game of skill, collects an entry fee, administers the game, and awards the prize. Operators must be authorized to conduct business in Nebraska and register with the Department of Revenue (Department). A successful application requires fingerprinting and criminal history check, and paying a fee. The initial registration fee is \$10,000. Annual renewal fees are \$5,000. The Department will remit all fees, “after payment of all reasonable and necessary operating expenses and prizes,” to the State Treasurer for credit to the Games of Skill School Property Tax Reduction Fund.

The Department must approve registrations for those who meet the criteria. A decision by the Department will be made within 30 days after receipt of the completed application or background check report, whichever is later. If the registration is denied, a written justification by the Department is required. The Department will maintain and publish a list of all registered operators on the Department’s website. Pending applications are not public records for purposes of public record statutes.

The Department must adopt regulations. Topics will at least include, preventing practices detrimental to public interest and safeguarding the integrity of the games; establishing a scope of review for registrations; and establishing criteria for failing criminal background check. The Department is not allowed to adopt regulations: governing play of an individual game; regulating the statistical components of a game; or limiting any digital platform to be used by an operator.

The Operator will submit proof that they have established and implemented or have the ability to implement commercially reasonable procedures for a game of skill that: prevent certain people from participating (e.g. those with potential insider information); prevent information leaking; prohibit people like coaches, players, and referees from participating in certain games; verify that people participating are at least 19 years old; provide gamblers assistance information; provide player history and account details; allow people to self-restrict themselves from participating; segregate operational and participant funds and maintain adequate reserves. Youth,

Major Objects of Expenditure

Class Code	Classification Title	21-22	22-23	23-24	21-22	22-23	23-24
		FTE	FTE	FTE	Expenditures	Expenditures	Expenditures
X62730	Revenue Investigator	0.5	1.0	1.0	\$25,300	\$51,800	\$53,000
X29222	Revenue Agent	0.5	1.0	1.0	\$18,800	\$38,500	\$39,400
A29621	Revenue Tax Specialist	1.0	1.0	1.0	\$54,100	\$55,300	\$56,600
Benefits.....					\$32,400	\$48,100	\$49,200
Operating Costs.....							
Travel.....					\$10,300	\$10,300	\$10,300
Capital Outlay.....					\$15,000		
Capital Improvements.....							
Total.....					\$155,900	\$204,000	\$208,500

high school, and college sporting events are not allowed. Operators must also contract with a CPA to conduct an annual independent financial audit submit it to the Department.

LB 545 imposes a 25% excise tax on the “gross receipts” for each game of skill conducted pursuant to the Act, remittable to the State Treasurer for credit to the Games of Skill Property Tax Reduction Fund. The bill also imposes a new 25% excise tax on the gross receipts of cash devices, also deposited in the Games of Skill Property Tax Reduction Fund.

Violations of the Act are subject to “payment of a civil penalty of not more than \$1,000 for each violation, not to exceed \$5,000 for violations arising out of the same transaction.” Recovery is by way of a civil action brought by the Department and all money collected is remitted to the State Treasurer.

The Games of Skill Property Tax Reduction Fund is to be distributed to each school district in proportion to the adjusted valuation of each district. Mechanically, balance in the Fund on each October 1 (prior to the certification of state aid under TEEOSA) is divided by the statewide adjusted valuation to arrive at the games of skill school property tax reduction factor. In addition, the levy limit on schools and multiple school systems is reduced from \$1.05 per \$100 of valuation to \$1.05 minus the reduction factor calculated for each year. LB 545 states that this factor is not to be part of the calculation of either formula needs or resources.

This Act becomes effective January 1, 2022.

To estimate the tax revenue generated by this bill, DOR utilized public data published by the Iowa Racing and Gaming Commission. DOR assumes initial registration of 6 casino-type operators, in alignment with the current number of racetracks in the State, and 3 skill machine operators based on the number of distributors currently in operation. Based on population comparison with Iowa, which hosts 19 casino operations, it is assumed that the maximum capacity of casino skill game operators in Nebraska is 12. DOR expects all 9 existing operators to renew their registrations and an additional 3 new casino operators in both calendar year (CY) 2023 and 2024. The estimated saturation of all types of skill game operators is 15 by 2025. Based on these assumptions, revenue from operator registration (initial registration fee of \$10,000 and annual renewal fee of \$5,000), is as follows:

	CY 2022	CY 2023	CY 2024	CY 2025
New Operators	9	3	3	0
Existing Operators	0	9	12	15
Total Registration Fees	\$90,000	\$75,000	\$90,000	\$75,000

For the purpose of estimating the fiscal impact of an implementable excise tax, DOR defines gross receipts as operator yield after paying out winners. Based on data published by the Iowa Racing and Gaming Commission, the average yield of operators of sports wagering and table games is approximately \$11 million. Furthermore, the Department of Revenue currently oversees three major skill game distributors, and has issued approximately 3,700 decals on 3,200 devices (some devices have multiple bill acceptor stations, each requiring a decal) in the first year. Assuming an estimated 3% annual growth, and that each seat at a machine yields \$100 wagered a day with an 80% prize rate and 5% operating cost. Based on these assumptions, the estimates increase to the Games of Skill Property Tax Reduction Fund is as follows:

FY 21-22	\$ 8,867,000
FY 22-23	\$24,945,000
FY 23-24	\$33,342,000
FY 24-25	\$38,310,000

Due to the expansion of duties, DOR estimates the need for a minimum of 1.0 FTE Revenue Investigator with use of a vehicle, 1.0 FTE Revenue Agent functioning as a Gaming Inspector with use of a vehicle, and 1.0 FTE Tax Specialist, all but the Tax Specialist starting at the beginning of 2022. DOR would require the Tax Specialist to begin in July 2021. Added personnel costs would be considered operating expenses and thus reduce funds available to transfer to the Games of Skill School Property Tax Reduction Fund.

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2021

LB⁽¹⁾ 545

FISCAL NOTE

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

Prepared by: ⁽³⁾ Bryce Wilson/Janice Eret Date Prepared: ⁽⁴⁾ 1/20/21 Phone: ⁽⁵⁾ 402-471-4320

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2021-22</u>		<u>FY 2022-23</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:

This bill establishes a “Games of Skills Act” which would permit registered operators to offer games of skill that only includes fantasy team sports, sports betting or poker through their business operation. Operators must be authorized to conduct business in Nebraska, pass a national criminal history check and pay a registration fee of \$10,000 to the Department of Revenue Charitable Gaming Division. After the initial registration fee, the operator pays an annual renewal fee of \$5,000. All registration fees and renewal fees are collected by the State Treasurer and deposited into the “Games of Skill School Property Tax Reduction Fund” which would be invested by the state investment officer.

Beginning school fiscal years 2023/24, school districts will receive “Games of Skill School Property Tax Reduction Aid” from the “Games of Skill School Property Tax Reduction Fund” using a factor calculated by the Department. The “Games of Skill Property Tax Reduction Factor” is calculated by dividing the October 1 balance of the “Games of Skill School Property Tax Reduction Fund” by the statewide adjusted valuation. To determine each school district’s “Games of Skill School Property Tax Reduction Aid,” the adjusted valuation of the school district is multiplied by the “Games of Skill School Property Tax Reduction Factor.” This aid would not be included in the calculation of formula needs or formula resources in the state aid calculation.

Beginning with the 2023/24 school year, each school district would have a levy limit equal to the \$1.05 levy limit less the amount of the “Games of Skill School Property Tax Reduction Aid” determined by the Department.

There is no fiscal impact to the Department or to School Districts but this bill could shift some of a school districts funding from property taxes to revenue generated from the game of skills registration revenue.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2021-22</u>	<u>2022-23</u>
	<u>21-22</u>	<u>22-23</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____

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

_____	_____
_____	_____
_____	_____
_____	_____