

**FISCAL NOTE**  
**LEGISLATIVE FISCAL ANALYST ESTIMATE**

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES</b> (See narrative for political subdivision estimates)				
	<b>FY 2016-17</b>		<b>FY 2017-18</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS		See Below		See Below
CASH FUNDS	See Below		See Below	
FEDERAL FUNDS				
OTHER FUNDS	See Below	See Below	See Below	See Below
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 1045 defines terms relating to certain contractors.

The bill defines “qualified marketplace contractor” (QMC) to mean any person or organization, including but not limited to, a natural person, a corporation, a limited liability company, a partnership, a sole proprietor, or another entity, that enters into an agreement with a “qualified marketplace platform” to provide services to individuals or entities seeking such services.

“Qualified marketplace platform” (QMP) means an organization, including but not limited to, a corporation, a limited liability company, a partnership, a sole proprietor, or another entity, that operates a digital application or digital platform that facilitates the provision of services by qualified marketplace contractors to individuals or entities seeking such services.

The bill provides that a QMC shall be treated as an independent contractor for all purposes if the following requirements are met:

- Remuneration for the services performed by the QMC is directly related to the performance of services or other output rather than to the number of hours worked;
- Services performed by the QMC are governed by a written contract executed between such contractor and a QMP; and
- The written contract includes but it not limited to the following:
  - The QMC shall be engaged as an independent contractor, not as an employee, and shall be treated as such for all purposes, including federal, state, and local taxation, withholding, unemployment benefits, and workers’ compensation;
  - The QMC shall be paid based on the performance of services or other output and shall not be treated as an employee with respect to such services for federal, state, or local tax purposes;
  - The QMC shall be permitted to work any hours or schedules they choose, provided that if the QMC elects to work specified hours or schedules, the contract may require them to perform work during the selected hours or schedules;
  - The QMC shall be free to engage in outside employment and to perform services through other QMPs;
  - The QMC shall bear their own expenses; and
  - The contract and the association created thereby may be terminated without cause by either party at any time upon reasonable notice given to the other party.

The bill contains the severability clause.

The Department of Labor has indicated that it is currently indeterminable as to which industries and workers will be affected by LB 1045. However, should this definition expand the applicability of the independent contractor designation, there will be a fiscal impact to the Department and the Unemployment Trust Fund.

We disagree somewhat with the Department of Labor’s analysis, in that while the bill could be intended for certain situations, such as for Uber and Lyft drivers, it would have no fiscal impact as those drivers are already considered independent contractors under the Employment Security Law. However, it appears that the bill could be applied to other situations and if so, the Department would have oversight and enforcement responsibility. If that were to occur we do not believe the Department would incur additional expense to enforce. We do agree with the Department that there could be impact to the Unemployment Trust Fund but we are unable to estimate that impact.

The Department of Revenue has indicated a possible increase in General Fund revenue as a result of LB 1045.

We disagree with the Department of Revenue and believe the bill will be General Fund revenue neutral.

ADMINISTRATIVE SERVICES-STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES		
LB: 1045	AM:	AGENCY/POLT. SUB: Dept. of Revenue
REVIEWED BY: Lyn Heaton	DATE: 2/19/2016	PHONE: 471-4181
COMMENTS: Concur. Minimal or no fiscal impact on the operations of the Department of Revenue.		



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

**2016**

**LB<sup>(1)</sup> 1045**

**FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> Nebraska Department of Labor

Prepared by: <sup>(3)</sup> Kim Schreiner Date Prepared: <sup>(4)</sup> 2/18/2016 Phone: <sup>(5)</sup> 402-471-2492

**ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION**

	<u>FY 2016-17</u>		<u>FY 2017-18</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: Based upon the introduced bill, it is currently indeterminable which industries and workers will be affected by this legislation. Should LB 1045 expand the independent contractor designation to a significant number of covered workers and industries, there would be a fiscal impact to the Agency and the Unemployment Trust Fund.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2016-17</u>	<u>2017-18</u>
	<u>16-17</u>	<u>17-18</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____