PREPARED BY: DATE PREPARED: PHONE: Keisha Patent January 29, 2019 402-471-0059

LB 18

Revision: 00

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							
CASH FUNDS							
FEDERAL FUNDS							
OTHER FUNDS							
TOTAL FUNDS							

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

LB 18 adopts the Remote Seller Sales Tax Collection Act. The act requires remote sellers to remit sales tax pursuant to the Nebraska Revenue Act of 1967 if the remote seller has (1) a gross revenue from sales in Nebraska in excess of \$100,000; or (2) sold property in the state in 200 or more separate transactions. Nothing in the act affects the obligation of any purchaser to remit use tax on a transaction on which the seller does not collect and remit sales tax.

The bill requires the Tax Commissioner to annually certify the amount of revenue collected under the act, and proceeds collected, other than the amount attributable to motorboats, ATV's, UTV's, and motor vehicles, are credited to the Property Tax Credit Cash Fund.

The act does not apply retroactively. The bill has an operative date of October 1, 2019.

The Department of Revenue estimates there is no fiscal impact from LB 18 because following the *South Dakota v. Wayfair* U.S. Supreme Court case, all sales tax revenue was collected from sales by remote sellers and included in the October 2018 forecast. The Legislative Fiscal Office agrees that revenue from sales tax collected by remote sellers was accounted for in the forecast, and therefore provisions requiring remote sellers to collect sales tax does not result in additional revenue in the upcoming biennium.

The Department also states there is no method to precisely track or calculate all revenue attributable to internet sellers, and it is impossible to precisely determine the total amount attributable to internet sales for certification and credit to a cash fund. We agree that it would be extremely difficult to isolate sales attributable to remote sellers.

However, previous estimates of the increase in sales tax revenue attributable to direct sales by remote sellers after the *Wayfair* ruling were approximately \$17.5 million for FY 19-20 and \$20 million for FY 20-21 and, for marketplace providers who voluntarily remit, an additional \$8.75 million in FY 19-20 and \$10 million in FY 20-21. In addition, estimates of sales tax revenue attributable to direct sales by Amazon.com were \$32.9 million in FY 19-20 and \$34.6 million in FY 20-21.

LB 18 provides that sales tax revenue from remote sellers is credited to the Property Tax Credit Fund after October 1, 2019. Assuming "remote sellers" in the bill includes Amazon.com and retailers who have been collecting and remitting sales tax after the *Wayfair* ruling, this provision could result in a revenue loss of approximately \$39.5 million in FY 19-20 and \$64.6 million in FY 20-21, less any amount attributable to motorboats, ATV's, UTV's, and motor vehicles. The revenue loss would largely come from the General Fund, with a portion from the State Highway Capital Improvement Fund and the Highway Allocation Fund.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE						
LB: 18	AM:	AGENCY/POLT. SUB: Department of Rever	nue			
REVIEWED BY:	Lee Will	DATE: 1/29/2019	PHONE: (402) 471-4175			
COMMENTS: Concur with Department of Revenue's assessment of fiscal impact.						

LB 18 Fiscal Note 2019

State Agency Estimate							
State Agency Name: Department of	Revenue				Date Due LFA:	1/28/19	
Approved by: Tony Fulton		Date Prepared:	1/25/19		Phone: 471-5896		
FY 2019-2020		FY 2020-2021		FY 2021-2022			
	Expenditures	Revenue	Expenditures	Revenue	Expenditures	Revenue	
General Funds		See Below		See Below		See Below	
Cash Funds							
Federal Funds							
Other Funds							
Total Funds		See Below		See Below		See Below	

LB 18 would adopt the Remote Seller Sales Tax Collection Act (Act). The Act provides that a remote seller will have an obligation to collect and remit sales tax to the Department of Revenue if they have annual gross sales into Nebraska in excess of \$100,000 or 200 transactions. The collection requirement will not apply retroactively.

LB 18 also requires the Department of Revenue (Department) to determine the amount of sales tax collected pursuant to LB 18 on an annual basis and certify the amount that is not attributable to sales of motor vehicles, ATVs UTVs and motorboats to the State Treasurer. The State Treasurer would credit the amount to the Property Tax Credit Cash Fund.

LB 18 has an operative date of October 1, 2019.

Fiscal Impact

The additional revenue attributable to the *Wayfair* case is already included in the October NEFAB forecast. Therefore, LB 18 will not bring in any additional money that was not accounted for in the General Fund revenues forecast. The Department has no method to precisely track or calculate all revenue attributable to internet sellers or sellers specifically motivated to begin collecting due to this proposal or the guidance provided by the Department after the *Wayfair* case. While the Department does know the totals remitted by retailers remitting taxes in Nebraska, and some retailers sell only over the Internet, many also make taxable sales both over the Internet and in retail stores. Also the Department cannot be certain based on name alone, who is selling over the Internet, making it impossible to precisely determine the total amount attributable to Internet sales.

It is estimated that there will be minimal costs to the Department to implement LB 18.

Major Objects of Expenditure							
Class Code	Classification Title	19-20 <u>FTE</u>	20-21 <u>FTE</u>	21-22 <u>FTE</u>	19-20 Expenditures	20-21 Expenditures	21-22 Expenditures
Benefits							
Operating Costs							
Travel							
	3						

LB ⁽¹⁾ 18					FISCAL NOTE			
State Agency OR Political Subdivision Nar	me: (2) Nebras	Nebraska Department of Transportation						
Prepared by: (3) Becky Fleming	Date I	Prepared: (4)	1/28/2019	Phone: (5)	402-479-4692			
ESTIMATE F	PROVIDED BY S	TATE AGENC	Y OR POLITICAL	SUBDIVIS	ION			
<u>EXPENDIT</u>	<u>FY 2019-20</u> URES R	REVENUE	<u>EXPENDITU</u>	<u>FY 2020-</u> RES	-21 <u>REVENUE</u>			
GENERAL FUNDS	<u></u>							
CASH FUNDS								
FEDERAL FUNDS								
OTHER FUNDS								
TOTAL FUNDS								
LB 18 adopts the Remote Seller Sa Distribution Fund statute. Remote this state and does not have a phys basis the amount of state sales and funds to the Property Tax Credit Ca The passing of this bill could result	seller is defined sical presence in d use tax revenu ash Fund.	l in the bill as 'n this state". ⁻ ue collected a	"any person who The Dept. of Revo nd remitted by the	sells prope enue shall e remote se	erty for delivery into certify on an annua ellers and credit the			
BREAH Personal Services:	KDOWN BY MA.	OR OBJECTS	OF EXPENDITUE	<u>RE</u>				
POSITION TITLE	NUMBER OF 	POSITIONS 20-21	2019-20 EXPENDITU	RES	2020-21 EXPENDITURES			
Benefits								
Operating								
Travel								
Capital outlay								
Aid Capital improvements								
TOTAL								