

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2017-18		FY 2018-19	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	\$71,722	\$27,665,000	\$177,942	\$71,587,000
CASH FUNDS		\$1,120,000		\$2,898,000
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$71,722	\$28,785,000	\$177,942	\$74,485,000

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

LB 563 amends the Nebraska Revenue Act of 1967 regarding sales and use taxes.

Section 77-2701.16 is amended to impose sales and use tax on the following services:

- Storage and moving services;
- Personal care services, including hair care, hair removal, massage, nail care, skin care, tanning, tattoos, other body modifications, and other beauty and personal care services;
- Local taxi, limousine, or other luxury vehicle services and any other ground transportation services provided by motor vehicle;
- Dry cleaning and other laundry services, including any coin-operated machines used for dry cleaning or other laundry services;
- Lawn care and gardening services;
- Weight loss services;
- Internment of human remains;
- Bail bonding services;
- Wedding planning services;
- Shoeshine services;
- Social escort services;
- Personal instruction services;
- Telefloral deliveries to other states; **(1)**
- Parking services and docking fees;
- Investment advice;
- Interior design services;
- Custom meat slaughtering, cutting, and wrapping;
- Hunting or fishing guide services;
- Swimming pool cleaning and maintenance services;
- Debt counseling services;
- Tax return preparation services.

The following sections are outright repealed, removing the sales tax exemption for those items:

- 77-2704.07 Newspapers;
- 77-2704.14 Coin-operated laundering and cleaning machines;
- 77-2704.38 State lottery tickets. **(2)**

- (1)** Technical Note: Telefloral deliveries to other states are already taxable under Reg-1-052.01 and were not included in the calculation of fiscal impact.
- (2)** Technical Note: Removing the sales tax exemption for state lottery ticket purchases could raise constitutional issues regarding the distribution of proceeds to beneficiaries and violate provisions of the Multi-state lottery compact. In addition, the Department of Revenue indicates that repeal of the statutory exemption for lottery tickets would not necessarily impose a sales tax on lottery tickets, which represent intangible rights and do not constitute tangible personal property or taxable services. Lottery tickets were not included in the Department’s calculation of fiscal impact.

The bill has an operative date of January 1, 2018.

The Department of Revenue estimates the following fiscal impact of LB 563:

Fiscal Year:	General Fund:	Highway Cash Fund:	Highway Allocation Fund: (Local)
2017-18:	\$ 27,665,000	\$ 1,120,000	\$ 198,000
2018-19:	\$ 71,586,000	\$ 2,898,000	\$ 511,000
2019-20:	\$ 76,095,000	\$ 3,080,000	\$ 544,000
2020-21:	\$ 80,670,000	\$ 3,265,000	\$ 576,000

The Department of Revenue estimates they will require 1.0 FTE Revenue Tax Specialist to make changes to tax forms, instructions, information guides, regulations, website information, and other areas and administration in subsequent years. They will also require 2.0 FTE Auditors and 0.5 FTE Attorney III. PSL for FY2017-18 is \$50,167 and \$126,273 for FY2018-19.

We have no basis to disagree with the Department of Revenue’s estimate of fiscal impact and cost.

The Coordinating Commission for Postsecondary Education estimates a loss of Cash Fund revenue of \$1,500,000 in FY2017-18 and \$3,000,000 in FY2018-19, if the sales tax exemption for lottery tickets is removed. (Please see technical note (2) above)

IMPACT TO POLITICAL SUBDIVISIONS:

The fiscal impact to the Highway Allocation Fund is as follows:

FY2017-18:	\$ 198,000
FY2018-19:	\$ 511,000
FY2019-20:	\$ 544,000
FY2020-21:	\$ 576,000

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 563	AM:	AGENCY/POLT. SUB: Coord. Comm. for Postsecondary Education	
REVIEWED BY: Lyn Heaton		DATE: 2/21/2017	PHONE: (402) 471-4181
COMMENTS: Assuming that the sales tax can be applied to lottery ticket sales in a way as is assumed by the Commission in their fiscal note, the requirement in 9-812 (2) that no less than 22% of the dollar amount of annual lottery sales must be distributed to the various “beneficiary funds”, including the Nebraska Opportunity Grant Fund and the Community College Gap Assistance Program Fund, may limit the reduction in revenue to an amount that is less than estimated in the Commission’s fiscal note and, consequently, have a smaller negative impact on the amount of financial aid that can be awarded.			

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 563	AM:	AGENCY/POLT. SUB: NE Environmental Trust	
REVIEWED BY: Lyn Heaton		DATE: 2/21/2017	PHONE: (402) 471-4181
COMMENTS: Assuming that the sales tax can be applied to lottery ticket sales in a way as is assumed by the Environmental Trust in their fiscal note, the requirement in 9-812 (2) that no less than 22% of the dollar amount of annual lottery sales must be distributed to the various “beneficiary funds”, including the Nebraska Environmental Trust Cash Fund, may limit the reduction in revenue to an amount that is less than estimated in the Trust’s fiscal note and, consequently, have a smaller negative impact on the amount of grants that can be awarded.			

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2017

LB⁽¹⁾ 563

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Coordinating Commission for Postsecondary Education

Prepared by: ⁽³⁾ Gary Timm Date Prepared: ⁽⁴⁾ 2/2/17 Phone: ⁽⁵⁾ 402-471-0020

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2017-18</u>		<u>FY 2018-19</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	<u>-\$1,500,000</u>	_____	<u>-\$3,000,000</u>
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	<u>0</u>	<u>-\$1,500,000</u>	<u>0</u>	<u>-\$3,000,000</u>

Explanation of Estimate:

LB 563 Sec. 5 repeals Neb. Rev. Stat. §77-2704.38 which provides a state sales tax exemption for lottery ticket sales. Currently, on-line, multi-state games require tickets to be sold at face value, which would require the sales tax amount to be deducted from the price of the ticket. Based on the implementation of LB 563, non-multi-state lottery tickets could either be treated in the same manner as the multi-state games with the cost kept at an even dollar amount, or state sales tax could be collected on the face value of the ticket, with a \$1 ticket costing \$1.06. Our estimates do not take into account the effect of an odd dollar amount on sales. To arrive at our estimated revenue loss, it was assumed ticket prices for all lottery tickets would remain in even dollar increments and any sales tax collections would be deducted from the value of the ticket.

The Commission administers the Nebraska Opportunity Grant (NOG) program which provides scholarships to students from low-income families to attend college. A combination of General funds and lottery proceeds fund the NOG program. During the 2015-16 fiscal year, the Nebraska Opportunity Grant received \$10.5 million in lottery proceeds and provided an average scholarship of \$1,225 to 13,740 recipients. It is estimated NOG funding from the lottery would decrease \$2.6 million and would result in 2,130 fewer students receiving a NOG scholarship. With an operative date of January 1, 2018, FY2017-18 revenue was reduced by half of the FY2018-19 estimate.

The Commission also administers the Community College Gap Assistance Program that provides funding to community colleges to offer financial aid to low-income community college students taking non-credit courses that could lead to jobs in high-need fields. Because these students are taking non-credit courses, they are not eligible for Pell grants or other financial aid. During the 2015-16 fiscal year, the Gap Assistance Program received \$1.5 million in lottery proceeds. It is estimated Gap Assistance Program funding from the lottery would decrease \$400,000. With an operative date of January 1, 2018, FY2017-18 revenue was reduced by half of the FY2018-19 estimate.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2017-18</u>	<u>2018-19</u>
	<u>17-18</u>	<u>18-19</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____

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2017

LB⁽¹⁾ 563

FISCAL NOTE

State Agency OR Political Subdivision Name: (2) Nebraska Environmental Trust c/o NGPC

Prepared by: (3) Patrick H. Cole Date Prepared: (4) 2/9/17 Phone: (5) (402) 471-5523
Mark Brohman

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2017-18</u>		<u>FY 2018-19</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	*	_____	*
CASH FUNDS	_____	(4,400,000)	_____	(4,400,000)
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	=====	=====	=====	=====

Explanation of Estimate:

LB 563 would propose, in part, to remove the sales tax exemption on lottery ticket sales. Proceeds from lottery sales are distributed in part to four beneficiary programs (Gamblers Assistance Fund, Nebraska Education Fund, Nebraska Environmental Trust Fund and the Nebraska State Fair) in addition to covering its operating expenses and prizes. Since the Nebraska Environmental Trust is administratively placed under the Nebraska Game and Parks Commission, only the impact associated with the Trust will be addressed here, however, similar proportional impacts would be expected to the other beneficiaries.

The Nebraska Department of Revenues 2016 Nebraska Tax Expenditure Report estimated the 'lost sales taxes' from the exemption status at \$9.9 million dollars. Officials from the Commission on Problem Gambling, using FY16 sales and expense figures estimate that the taxes could be between \$9.9 million (at 5.5% state rate only) to \$12.6 million at average 7% rate (state and local) (details on next pages). For purposes of this analysis the \$9.9 figure will be used.

There are 44 state lotteries in the US, none of which adds sales tax to the sales of lottery tickets. It is presumed that should this bill pass, the sales tax would be deducted from the beneficiaries share of the proceeds, and not be additive to the sales themselves.

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BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2017-18</u>	<u>2018-19</u>
	<u>17-18</u>	<u>18-19</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	=====	=====	=====	=====

The distribution formula for the beneficiaries' portion (after prizes paid, operating expenses covered and an initial \$500,000 to the Compulsive Gamblers Assistance Fund) has the Environmental Trust Fund and Nebraska Education Fund each receiving 44.5% (plus 10% to State Fair and additional 1% to Gamblers Assistance Fund). IF the taxes were entirely deducted from the beneficiaries portion, and in a similar proration the Environmental Trust Fund loss could be \$4.4 million (44.5% of \$9.9 million tax estimate). This would be 23.4% of the Trust's total FY16 share reducing the amount of grant awards accordingly.

The following calculations are from the Commission on Problem Gambling

IMPACT OF 7% SALES TAX ON STATE LOTTERY TICKETS

FYE 2016 results of Lottery operations:

Reported ticket sales year end June 30, 2016:	180,322,444
Prizes paid:	104,524,366
Other operating expenses:	30,919,740
Net operating income:	44,878,338
Cash paid to beneficiary funds:	42,782,923
Cash paid to beneficiaries as percentage of net operations:	95.33%

Projected 7% sales tax on total lottery ticket sales:	12,622,571
Projected net operating income after sales tax:	32,255,767
Beneficiary distributions at 95.33% of net:	30,749,423

Impact on Beneficiary Funds:

Gamblers Assistance Fund: 500,000 + 1% of remainder

Gamblers Assistance Fund distribution FYE 2016	922,830
Projected distribution after subtracting sales tax	802,494
Projected reduction of fund distribution	120,336

Education Programs: 44.5% of remainder after subtraction of first 500,000

Education distributions FYE 2016	18,815,900
Projected distribution after subtracting sales tax	13,460,993
Projected reduction of fund distribution	5,354,907

Environmental Trust: 44.5% of remainder after subtraction of first 500,000

Environmental Trust distributions FYE 2016	18,815,901
Projected distribution after subtracting sales tax	13,460,993
Projected reduction of fund distribution	5,354,908

State Fair: 10% of remainder after subtraction of first 500,000

State Fair distributions FYE 2016	4,228,292
Projected distribution after subtracting sales tax	3,024,942
Projected reduction of fund distribution	1,203,350

IMPACT OF 5.5% SALES TAX ON STATE LOTTERY TICKETS

FYE 2016 results of Lottery operations:

Reported ticket sales year end June 30, 2016:	180,322,444
Prizes paid:	104,524,366
Other operating expenses:	30,919,740
Net operating income:	44,878,338
Cash paid to beneficiary funds:	42,782,923
Cash paid to beneficiaries as percentage of net operations:	95.33%

Projected 5.5% sales tax on total lottery ticket sales:	9,917,734
Projected net operating income after sales tax:	34,960,604
Beneficiary distributions at 95.33% of net:	33,327,944

Impact on Beneficiary Funds:

Gamblers Assistance Fund: 500,000 + 1% of remainder

Gamblers Assistance Fund distribution FYE 2016	922,830
Projected distribution after subtracting sales tax	828,279
Projected reduction of fund distribution	94,551

Education Programs: 44.5% of remainder after subtraction of first 500,000

Education distributions FYE 2016	18,815,900
Projected distribution after subtracting sales tax	14,608,435
Projected reduction of fund distribution	4,207,465

Environmental Trust: 44.5% of remainder after subtraction of first 500,000

Environmental Trust distributions FYE 2016	18,815,901
Projected distribution after subtracting sales tax	14,608,435
Projected reduction of fund distribution	4,207,466

State Fair: 10% of remainder after subtraction of first 500,000

State Fair distributions FYE 2016	4,228,292
Projected distribution after subtracting sales tax	3,282,794
Projected reduction of fund distribution	945,498

State Agency Estimate

State Agency Name: Department of Revenue		Date Due LFA: 2/17/2017				
Approved by: Tony Fulton		Date Prepared: 2/16/2017				
		Phone: 471-5896				
	FY 2017-2018		FY 2018-2019		FY 2019-2020	
	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>
General Funds	\$71,722	\$27,665,000	\$177,942	\$71,587,000	\$272,355	\$76,095,000
Cash Funds		\$1,120,000		\$2,898,000		\$3,080,000
Federal Funds						
Other Funds		198,000		\$511,000		\$544,000
Total Funds	\$71,722	\$28,983,000	\$177,942	\$74,996,000	\$272,355	\$79,719,000

LB 563 would amend Neb. Rev. Stat §§ 77-382 & 77-2701.16 (the definition of gross receipts) to expand the sales tax base to include the following services: Motor vehicle repair labor; Storage and moving services; Personal care services including hair care and removal, massage, nail care, skin care, tanning, and tattooing; Taxi, limousine, other luxury vehicle services, and other ground transportation; Dry cleaning and other laundry services; Lawn care and gardening; Weight loss services; Interment of human remains; Bail bonding; Wedding planning; Escort services; Shoeshine services; Personal instruction; Parking and docking fees; Telefloral deliveries to other states; Investment advice, debt counselling, and tax preparation; Interior design; Custom meat slaughtering, cutting, and wrapping; Hunting or fishing guide services; and Swimming pool cleaning or maintenance.

LB 563 would also repeal outright three sections of statute that provide sales tax exemptions for newspapers, coin operated laundries, and state lottery tickets.

Repeal of the statutory exemption for lottery tickets would not necessarily impose a sales tax on lottery tickets, which represent intangible rights and do not constitute tangible personal property or taxable services. Also, telefloral deliveries to other states are already taxable in Nebraska under Reg-1-052.01. For these reasons, lottery tickets and telefloral deliveries to other states are not included in the following calculations.

The Department estimates LB 563 will have the following impact.

Fiscal Year	General Fund	Highway Cash Fund	Highway Allocation Fund
FY17-18	\$ 27,665,000	\$ 1,120,000	\$ 198,000
FY18-19	\$ 71,587,000	\$ 2,898,000	\$ 511,000
FY19-20	\$ 76,095,000	\$ 3,080,000	\$ 544,000
FY20-21	\$ 80,670,000	\$ 3,265,000	\$ 576,000

The bill will require the addition of one full time Revenue Tax Specialist to make changes to tax forms, instructions, information guides, regulations, website information and other areas and to continue the effective administration of these changes in the years following. Additionally, two full time Auditors would be needed in order to keep the same audit coverage as well as one Attorney III.

The bill would be operative January 1, 2018.

Major Objects of Expenditure

Class Code	Classification Title	17-18	18-19	19-20	17-18	18-19	19-20
		FTE	FTE	FTE	Expenditures	Expenditures	Expenditures
A21212	Auditor	0	1.0	2.0	\$0	\$41,559	\$84,364
A29621	Revenue Tax Specialist	1.0	1.0	1.0	\$50,167	\$50,794	\$51,556
G31113	Attorney III	0	0.5	0.5	\$0	\$33,920	\$34,429
	Benefits.....				\$16,555	\$41,670	\$56,216
	Operating Costs.....						
	Travel.....						
	Capital Outlay.....				\$5,000	\$10,000	\$5,000
	Aid.....						
	Capital Improvements.....						
	Total.....				\$71,722	\$177,942	\$231,565