PREPARED BY: DATE PREPARED: PHONE: John Wiemer January 30, 2024 402-471-0051

LB 1310

Revision: 00

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)							
	FY 2024-25 FY 2025-26						
	EXPENDITURES REVENUE EXPENDITURES						
GENERAL FUNDS	\$469,949	\$73,424,000	\$143,990	\$83,589,000			
CASH FUNDS		(\$4,469,000)		(\$4,148,000)			
FEDERAL FUNDS							
OTHER FUNDS							
TOTAL FUNDS	\$469,949	\$68,955,000	\$143,990	\$79,441,000			

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

LB 1310 would establish the Advertising Services Tax Act. Under the bill, a tax would be imposed for those doing business in Nebraska whose combined gross advertising revenue is greater than \$1 billion. The rate of the tax would be 7.5% on the assessable base. The Tax Commissioner could adopt and promulgate rules and regulations necessary to implement, administer, and enforce the Act.

The bill removes the sales and use tax exemption of cash devices.

Under this bill, section 77-2704.38 is also outright repealed. This would eliminate the sales and use tax exemption on lottery tickets purchased pursuant to the State Lottery Act.

This bill would become operative on July 1, 2024 and contains the emergency clause.

The Department of Revenue (DOR) estimates the following increase to General Fund revenues as a result of this bill:

Fiscal Year	General Fund Revenue	Highway Allocation Fund (Cities and Counties)	State Highway Trust Fund	Local (1.5%)
FY2024-25	\$73,424,000	\$393,000	\$1,412,000	\$15,746,000
FY2025-26	\$83,589,000	\$445,000	\$1,791,000	\$19,640,000
FY2026-27	\$88,124,000	\$515,000	\$1,917,000	\$20,602,000

There is estimated to be a revenue increase to the Highway Trust Fund and the Highway Allocation Fund, which is distributed to cities and counties. The DOR also estimates increases in tax revenue to local governments based upon a 1.5% sales and use tax rate.

Additionally, the DOR notes that per agreements with member lotteries for each of the national games, sales tax would need to be included in the price to those games so as not to go over the mandated price-point. The DOR estimates this would result in the following reduction to lottery beneficiary funds:

Fiscal Year	Nebraska Environment Trust Fund	Various Education Funds	Nebraska State Fair Board	Compulsive Gamblers Assistance Fund
FY2024-25	(\$2,617,000)	(\$2,617,000)	(\$588,000)	(\$59,000)
FY2025-26	(\$2,643,000)	(\$2,643,000)	(\$594,000)	(\$59,000)
FY2026-27	(\$2,670,000)	(\$2,670,000)	(\$600,000)	(\$60,000)

The DOR estimates a need for a one-time programming charge to be paid to the Office of the Chief Information Office (OCIO) of \$328,449 with ongoing maintenance costs in future years of \$65,690. DOR also estimates a need for 1 FTE Application

Developer/Senior in FY25 to help with the development of the new tax program and 0.5 FTE of this position in future years in addition to 0.5 FTE Revenue Operations Clerk II to implement this bill.

There is no basis to disagree with these estimates. However, the DOR does not assume any salary or benefits increases for FY25-26 and FY-26-27 for the additional personnel needed pursuant to this bill's provisions. While the actual salary and health insurance increases for FY25-26 and thereafter are not yet determined, it is important to note that any additional personnel in FY24-25 will have ongoing rising costs associated with salary and health insurance increases, which are normally addressed in the biennial budget process for all bargaining and non-bargaining employees.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE					
LB: 1310	AM:	AGENCY/POLT. SUB: Departr	ment of Revenue		
REVIEWED BY:	Neil Sullivan	DATE: 1/30/2024	PHONE: (402) 471-4179		
COMMENTS: The Department of Revenue assessment of fiscal impact from LB 1310 appears reasonable.					

LB 1310 Fiscal Note 2024

State Agency Estimate						
State Agency Name: Department o	f Revenue				Date Due LFO:	
Approved by: James R. Kamm Date Prepared: 01/30/2024 Phone: 471-5896						
	FY 2024	<u>-2025</u>	FY 2025	-2026	FY 2026	<u>5-2027</u>
	Expenditures	Revenue	Expenditures	Revenue	<u>Expenditures</u>	Revenue
General Funds	\$469,949	\$73,424,000	\$143,990	\$83,589,000	\$143,990	\$88,124,000
Cash Funds		(\$4,469,000)		(\$4,148,000)		(\$4,083,000)
Federal Funds						
Other Funds		\$16,139,000		\$20,085,000		\$21,117,000
Total Funds	\$469,949	\$85,094,000	\$143,990	\$99,526,000	\$143,990	\$105,158,000

LB 1310 Adopts the Advertising Service Tax Act and eliminates certain sales and use tax exemptions. The tax is imposed on taxpayers that are doing business in Nebraska and whose combined gross advertising revenue exceeds \$1 billion.

The tax rate is 7.5% of a person's assessable base for the reporting period. The accessible base is defined as the portion of gross advertising revenue that is derived from sales to customers in Nebraska which are delivered or provided to a location within Nebraska according to the sourcing rules in § 77-2734.14 (2) and (3). A digital advertising service is considered to have been provided in Nebraska if it is received on a user's device having an IP address located within Nebraska.

The Tax Commissioner has the authority to adopt and promulgate rules and regulations.

LB 1310 also repeals the sales and use tax exemption from the sales of Nebraska Lottery. Per the agreements with the member lotteries for each of the national games, the Lottery is prohibited from charging more than the agreed upon price points for the game, which is \$2 for Powerball and Mega Millions. The Lottery cannot charge over the \$2 price point for the new sales tax. The sales tax would need to be included in the price point for the ticket and the sales tax would need to be deducted from the net share of sales (after payment of prizes and operating expenses) dedicated to the beneficiary funds.

LB 1310 also excludes cash devices from the mechanical amusement devices defined in § 77-3001 that are exempt from the application of sales tax imposed under the Nebraska Revenue Act of 1967. This exclusion effectively imposes a sales and use tax on the gross wager amount on the mechanical amusement devices.

Major Objects of Expenditure								
24-25 25-26 26-27 24-25 25-26 26-27								
Class Code	Classification Title	FTE	FTE	FTE	<u>Expenditures</u>	Expenditures	Expenditures	
S29112	Revenue Op Clerk II	0.5	0.5	0.5	\$18,900	\$18,900	\$18,900	
A07012	Information Technology Applications Developer/Senior	1.0	0.5	0.5	\$80,000	\$40,000	\$40,000	
Benefits					\$32,600	\$19,400	\$19,400	
Operating Costs					\$328,449	\$65,690	\$65,690	
Travel								
Capital Outlay			\$10,000					
	Capital Improvements							
Total					\$469,949	\$143,990	\$143,990	

The estimated fiscal impact to the General Fund revenue and various cash funds would be as follows:

Fiscal Year	General Fund Revenue	Highway Allocation Fund (Cities and Counties)	State Highway Trust Fund	Local (1.5%)
FY2024-25	\$73,424,000	\$393,000	\$1,412,000	\$15,746,000
FY2025-26	\$83,589,000	\$445,000	\$1,791,000	\$19,640,000
FY2026-27	\$88,124,000	\$515,000	\$1,917,000	\$20,602,000

Fiscal Year	Nebraska Environment Trust Fund	Various Education Funds	Nebraska State Fair Board	Compulsive Gamblers Assistance Fund
FY2024-25	(\$2,617,000)	(\$2,617,000)	(\$588,000)	(\$59,000)
FY2025-26	(\$2,643,000)	(\$2,643,000)	(\$594,000)	(\$59,000)
FY2026-27	(\$2,670,000)	(\$2,670,000)	(\$600,000)	(\$60,000)

LB 1310 will require a one-time programming charge of \$328,449 paid to the OCIO for develop a new filing and payment system for the new taxation of advertising services. The maintenance for the new system will be at \$65,690 as ongoing costs. DOR will also need to hire 1 FTE at the Application Developer/Senior to help with the development of a new tax program within GPS system and reduce to 0.5 FTE after the first year. The Department of Revenue will also need 0.5 FTE of Revenue Operation Clerk II for additional entry/error correction on the new tax program.

Please complete A	LL (5) blanks in the first thre	e lines.			2024
LB ⁽¹⁾ 1310				F	ISCAL NOTE
State Agency OR I	Political Subdivision Name: (2)	Nebraska Departn	nent of Transporta	ation (ND0	OT)
Prepared by: (3)	Jenessa Boynton	Date Prepared: (4)	01/26/2024	Phone: (5)	402-479-4691
	ESTIMATE PROVII	DED BY STATE AGEN	CY OR POLITICAL	<u>SUBDIVISI</u>	ON
	FY	<u>2024-25</u>		FY 2025	- <u>26</u>
	EXPENDITURES		EXPENDITU	RES	REVENUE
GENERAL FUN	DS				
CASH FUNDS		1,412,000			1,791,000
FEDERAL FUNI	DS				
OTHER FUNDS		393,000			445,000
TOTAL FUNDS		1,805,000			2,236,000
Explanation of Es	timate:				
person or a grou	reate the Advertising Ser ip of persons subject to th n Nebraska and whose c	ne Internal Revenue (Code who are part o	of the same	e unitary group
	es to remove cash device er the Nebraska Revenue		exemption under me	chanical a	musement devices

LB1310 also repeals §77-2704.38 which provides a sales and use tax exemption on lottery tickets purchased pursuant to the State Lottery Act.

Revenue to Build Nebraska Act Funds					
FY2024-25 FY2025-26 FY2026-27					
Highway Trust Fund	\$1,412,000	\$1,791,000	\$1,917,000		
Highway Allocation Fund (cities and counties) \$393,000 \$445,000 \$515,000					

This estimate of increased tax revenue is from the Nebraska Department of Revenue. The increase in the sales tax base will result in more available funding to the Highway Trust Fund for NDOT and the Highway Allocation Fund for cities and counties.

BREAKDO	OWN BY MAJO	OR OBJECTS OF	EXPENDITURE	
Personal Services:				
		POSITIONS	2024-25	2025-26
POSITION TITLE	<u>24-25</u>	<u>25-26</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
		-		-
Benefits			<u></u>	
Operating				
Travel				
Capital outlay				
Aid				
Capital improvements				
TOTAL				<u> </u>