

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		See below		See below
CASH FUNDS		See below		See below
FEDERAL FUNDS				
OTHER FUNDS		See below		See below
TOTAL FUNDS		See below		See below

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

LB 291 amends sales tax provisions of the Nebraska Revenue Act of 1967.

The bill changes the definition of “engaged in business in this state” to include facilitating sales to residents of the state and deems retailers who operate or use a multivendor marketplace platform to facilitate sales between a seller and purchaser to be engaged in business in this state if (1) the retailer made or facilitated total sales exceeding \$100,000 in the previous or current calendar year; or (2) the retailer made or facilitated sales in 200 or more separate transactions. LB 291 changes the definition of “gross receipts” to include sales of tangible property made over a multivendor marketplace platform acting as the intermediary by facilitating sales between a seller and purchaser.

The bill requires retailers who exceed the sales threshold to obtain a permit and begin collecting sales tax on the first day of the second month after the threshold is exceeded. Retailers who make sales using a multivendor marketplace platform are relieved of their obligation to collect and remit sales tax if collected and remitted by the multivendor marketplace platform.

The bill contains the emergency clause, and the operative date is April 1, 2019.

The Department of Revenue estimates there is no fiscal impact from LB 291 because following the *South Dakota v. Wayfair* U.S. Supreme Court case, all sales tax revenue from sales by remote sellers and multivendor marketplace platforms was 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 October 2018 forecast, but only revenue from marketplace platforms who would collect and remit voluntarily was included. In the forecast, this revenue was estimated to be approximately half of the total revenue from sales tax collected by marketplace platforms if collection was required by law. The total revenue from sales tax collection by marketplace platforms is estimated to be \$17.5 million in FY 19-20 and \$20 million in FY 20-21. As a result, we estimate the fiscal impact of LB 291 is \$8.75 million in FY 19-20 and \$10 million in FY 20-21 as the remaining half of marketplace platforms begin collecting and remitting sales tax as required by the bill’s provisions.

The sales tax collected under LB 291 would be distributed as follows:

Fiscal Year	General Fund	State Highway Capital Improvement Fund	Highway Allocation Fund	Total
2019-2020	\$8,356,250	\$334,688	\$59,062	\$8,750,000
2020-2021	\$9,550,000	\$382,500	\$67,500	\$10,000,000

The Department of Revenue estimates there will be minimal costs to implement this bill.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE

LB: 291 AM: AGENCY/POLT. SUB: Department of Revenue

REVIEWED BY: Lee Will DATE: 1/29/2019 PHONE: (402) 471-4175

COMMENTS: Concur with Department of Revenue's assessment of fiscal impact.

State Agency Estimate

State Agency Name: Department of Revenue Date Due LFA: 1/28/19
Approved by: Tony Fulton Date Prepared: 1/28/19 Phone: 471-5896

Table with columns for FY 2019-2020, FY 2020-2021, and FY 2021-2022, each split into Expenditures and Revenue. Rows include General Funds, Cash Funds, Federal Funds, Other Funds, and Total Funds.

LB 291 amends the definition of "engaged in business in this state" to apply to the full extent permitted under the Dormant Commerce Clause, including but not limited to a modernized list of activities demonstrating Nebraska nexus.

LB 291 requires retailers to obtain a permit and begin collecting and remitting sales tax after they first become engaged in business in Nebraska. LB 291 relieves retailers of the obligation to collect and remit sales tax on transactions completed through a multivendor platform when the sales tax was collected and remitted by the multivendor platform.

Fiscal Impact

The additional revenue attributable to the Wayfair case is already included in the October NEFAB forecast. Therefore, LB 291 will not bring in any additional money that was not accounted for in the General Fund revenues forecast.

It is estimated that there will be minimal costs to the Department to implement LB 291.

Major Objects of Expenditure

Table with columns for Class Code, Classification Title, and expenditure amounts for 19-20, 20-21, and 21-22. Rows include Benefits, Operating Costs, Travel, Capital Outlay, Capital Improvements, and Total.