

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

| <b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)</b> |                     |                  |                     |                  |
|---|---------------------|------------------|---------------------|------------------|
|   | <b>FY 2020-21</b>   |                  | <b>FY 2021-22</b>   |                  |
|   | <b>EXPENDITURES</b> | <b>REVENUE</b>   | <b>EXPENDITURES</b> | <b>REVENUE</b>   |
| GENERAL FUNDS   | \$139,496           | \$130,000        | \$127,696           | \$127,696        |
| CASH FUNDS  |                     |                  |                     | \$2,304          |
| FEDERAL FUNDS   |                     |                  |                     |                  |
| OTHER FUNDS   |                     |                  |                     |                  |
| <b>TOTAL FUNDS</b>  | <b>\$139,496</b>    | <b>\$130,000</b> | <b>\$127,696</b>    | <b>\$130,000</b> |

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

LB 990 adopts the Games of Skill Act. The act:

- Defines terms, including games of skill, which includes fantasy sport, sports betting, or poker;
- Requires operators to register with the Department of Revenue and pay an initial registration fee and an annual renewal fee;
- Requires operators to submit certain evidence to the department;
- Requires the department to publish a list of registered operators and adopt and promulgates rules and regulations;
- Provides for a civil penalty for knowing violations of the act.

All registration and renewal fees collected, after payment of reasonable and necessary expenses and prizes, must be used for games of skill school property tax reduction aid as calculated under the act.

The bill is operative January 1, 2021.

**Revenue:**

The Department of Revenue estimates 13 operators will register annually for total revenue of \$130,000 each fiscal year. Based on the data available, this estimate seems reasonable.

**Expenditures:**

The department estimates operating expenditures for 3.0 FTE, including travel. We disagree that 1.0 FTE Revenue Tax Specialist is necessary for purposes of LB 990, but agree that 1.0 Revenue Agent and 1.0 Revenue Investigator are necessary to implement the bill, including travel expenses. As a result, we estimate the total expenditures for the department to be \$139,496 in FY 20-21 and \$127,696 in FY 21-22.

With the revised estimate of expenditures for administrating the bill, in FY 21-22, \$2,304 will be credited to the Games of Skill School Property Tax Reduction Fund. A similar amount could be credited in subsequent years, depending upon any change in the number of operators and any increases in administrative expenses. Distribution from the fund begins in FY 22-23. The Department of Education estimates no fiscal impact to the department or to school districts.

**State Agency Estimate**

|  |                     |                |                     |                 |                     |                |  |
|--|---------------------|----------------|---------------------|-----------------|---------------------|----------------|--|
| State Agency Name: Department of Revenue |                     |                |                     | Date Due LFA:   |                     |                |  |
| Approved by: Tony Fulton                 |                     |                |                     | Date Prepared:  |                     |                |  |
|  |                     |                |                     | Phone: 471-5896 |                     |                |  |
|  | <b>FY 2020-2021</b> |                | <b>FY 2021-2022</b> |                 | <b>FY 2022-2023</b> |                |  |
|  | <u>Expenditures</u> | <u>Revenue</u> | <u>Expenditures</u> | <u>Revenue</u>  | <u>Expenditures</u> | <u>Revenue</u> |  |
| General Funds                            | \$217,496           | \$130,000      | \$199,696           | \$130,000       | \$203,996           | \$130,000      |  |
| Cash Funds                               |                     |                |                     |                 |                     |                |  |
| Federal Funds                            |                     |                |                     |                 |                     |                |  |
| Other Funds                              |                     |                |                     |                 |                     |                |  |
| Total Funds                              | \$217,496           | \$130,000      | \$199,696           | \$130,000       | \$203,996           | \$130,000      |  |

LB 990 amends several statutes and creates the Games of Skill Act (Act) and the Games of Skill Property Tax Reduction Fund. It defines sports betting, fantasy sports, and some games of poker as games of skill (and not games of chance).

The “Department”, which refers to the Charitable Gaming Division of the Department of Revenue in the bill, administers and enforces the Games of Skill Act. “Operator” refers to someone who offers an opportunity to participate in a game of skill, collects an entry fee, administers the game, and awards the prize. Operators must be authorized to conduct business in Nebraska and register with the Department. Application requires fingerprinting and criminal history check, and paying a fee. Initial registration fee is \$10,000. Annual renewal fees are 6% of their gross revenue from the previous 12 months, not to exceed \$10,000. The Department will remit all fees, “after payment of all reasonable and necessary operating expenses and prizes,” to the State Treasurer for credit to the Games of Skill School Property Tax Reduction Fund.

The Department must approve registrations for those who meet the criteria. Decision by the Department will be made within 30 days after receipt of the completed application or background check report, whichever is later. If the registration is denied, then a written justification by the Department is required. The Department will maintain and publish a list of all registered operators on the Department’s website. Pending applications are not public records for purposes of public record statutes.

The Department must adopt regulations. Topics will at least include, preventing practices detrimental to public interest and safeguarding the integrity of the games; establishing a scope of review for registrations; and establishing criteria for failing criminal background check. The Department is not allowed to adopt regulations: governing play of an individual game; regulating the statistical components of a game; or limiting any digital platform to be used by an operator.

The Operator must submit proof they established and implemented, or have the ability to implement commercially reasonable procedures for a game of skill to: prohibit certain people from participating (e.g. individuals with potential insider information); prevent information leaking; prohibit people like coaches, players, and referees from participating in certain games; verify people participating are at least 19 years old; provide gamblers assistance information; provide player history and account details; allow people to self-restrict themselves from participating; segregate operational and participant funds; and maintain adequate reserves. Youth, high school, and college sporting events are not allowed. Operators must also contract with a CPA to conduct an annual independent financial audit submit it to the Department.

Violations of the Act are subject to “payment of a civil penalty of not more than \$1,000 for each violation, not to exceed \$5,000 for violations arising out of the same transaction.” Recovery is by way of a civil action brought by the Department and all money is remitted to the State Treasurer.

This Act becomes effective January 1, 2021.

DOR estimates that there will be 13 Operators within the state of Nebraska. These 13 will be registered in 2021 and will reach the \$10,000 annual renewal fee limit each year thereafter. With the annual fee amounting to \$130,000 which is less than the need for personnel costs to implement this bill, it is estimated there will be no funds available to credit the Games of Skill School Property Tax Reduction Fund.

DOR estimates the addition of 1.0 FTE Revenue Investigator with the need of a vehicle, 1.0 FTE Revenue Agent functioning as a Gaming Inspector, who would also need a vehicle, and 1.0 Tax Specialist to implement this bill.

**Major Objects of Expenditure**

| <u>Class Code</u> | <u>Classification Title</u> | <u>20-21<br/>FTE</u> | <u>21-22<br/>FTE</u> | <u>22-23<br/>FTE</u> | <u>20-21<br/>Expenditures</u> | <u>21-22<br/>Expenditures</u> | <u>22-23<br/>Expenditures</u> |
|-------------------|-----------------------------|----------------------|----------------------|----------------------|-------------------------------|-------------------------------|-------------------------------|
| X62730            | Revenue Investigator        | 1.0                  | 1.0                  | 1.0                  | \$51,400                      | \$50,600                      | \$51,800                      |
| X29222            | Revenue Agent               | 1.0                  | 1.0                  | 1.0                  | \$38,200                      | \$37,700                      | \$38,500                      |
| A29621            | Revenue Tax Specialist      | 1.0                  | 1.0                  | 1.0                  | \$54,900                      | \$54,100                      | \$55,300                      |
|                   |                             |                      |                      |                      |                               |                               |                               |
|                   | Benefits.....               |                      |                      |                      | \$47,700                      | \$47,000                      | \$48,100                      |
|                   | Operating Costs.....        |                      |                      |                      |                               |                               |                               |
|                   | Travel.....                 |                      |                      |                      | \$10,296                      | \$10,296                      | \$10,296                      |
|                   | Capital Outlay.....         |                      |                      |                      | \$15,000                      |                               |                               |
|                   | Capital Improvements.....   |                      |                      |                      |                               |                               |                               |
|                   | <b>Total.....</b>           |                      |                      |                      | \$217,496                     | \$199,696                     | \$203,996                     |

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

**2020**

**LB<sup>(1)</sup> 990**

**FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> Dept. of Education

Prepared by: <sup>(3)</sup> Bryce Wilson/Janice Eret Date Prepared: <sup>(4)</sup> 1/21/20 Phone: <sup>(5)</sup> 402-471-4320

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

|                    | <u>FY 2020-21</u>   |                | <u>FY 2021-22</u>   |                |
|--------------------|---------------------|----------------|---------------------|----------------|
|                    | <u>EXPENDITURES</u> | <u>REVENUE</u> | <u>EXPENDITURES</u> | <u>REVENUE</u> |
| GENERAL FUNDS      | _____               | _____          | _____               | _____          |
| CASH FUNDS         | _____               | _____          | _____               | _____          |
| FEDERAL FUNDS      | _____               | _____          | _____               | _____          |
| OTHER FUNDS        | _____               | _____          | _____               | _____          |
| <b>TOTAL FUNDS</b> | <b>=====</b>        | <b>=====</b>   | <b>=====</b>        | <b>=====</b>   |

**Explanation of Estimate:**

This bill establishes a “Games of Skills Act” which would permit registered operators to offer games of skill that only includes fantasy team sports, sports betting or poker through their business operation. Operators must be authorized to conduct business in Nebraska, pass a national criminal history check and pay a registration fee of \$10,000 to the Department of Revenue Charitable Gaming Division. After the initial registration fee, the operator pays an annual renewal fee of 6% of their gross revenue for the preceding 12 months not to exceed \$10,000. All registration fees and renewal fees are collected by the State Treasurer and deposited into the “Games of Skill School Property Tax Reduction Fund” which would be invested by the state investment officer.

Beginning school fiscal years 2022/23, school districts will receive “Games of Skill School Property Tax Reduction Aid” from the “Games of Skill School Property Tax Reduction Fund” using a factor calculated by the Department of Revenue. The “Games of Skill Property Tax Reduction Factor” is calculated by dividing the October 1 balance of the “Games of Skill School Property Tax Reduction Fund” by the statewide adjusted valuation. To determine each school district’s “Games of Skill School Property Tax Reduction Aid,” the adjusted valuation of the school district is multiplied by the “Games of Skill School Property Tax Reduction Factor.” This aid would not be included in the calculation of formula needs or formula resources in the state aid calculation.

Beginning with the 2022/23 school year, each school district would have a levy limit equal to the \$1.05 levy limit less the amount of the “Games of Skill School Property Tax Reduction Aid” determined by the Department of Revenue.

No fiscal impact to the Department of Education or School Districts.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

| <u>POSITION TITLE</u> | <u>NUMBER OF POSITIONS</u> |              | <u>2020-21</u>      | <u>2021-22</u>      |
|-----------------------|----------------------------|--------------|---------------------|---------------------|
|                       | <u>20-21</u>               | <u>21-22</u> | <u>EXPENDITURES</u> | <u>EXPENDITURES</u> |
| _____                 | _____                      | _____        | _____               | _____               |
| _____                 | _____                      | _____        | _____               | _____               |
| Benefits.....         | _____                      | _____        | _____               | _____               |
| Operating.....        | _____                      | _____        | _____               | _____               |
| Travel.....           | _____                      | _____        | _____               | _____               |
| Capital outlay.....   | _____                      | _____        | _____               | _____               |

Aid.....  
Capital improvements.....  
TOTAL.....

|       |       |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |