

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

| <b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES</b> (See narrative for political subdivision estimates) |                     |                  |                     |                  |
|---|---------------------|------------------|---------------------|------------------|
|   | <b>FY 2017-18</b>   |                  | <b>FY 2018-19</b>   |                  |
|   | <b>EXPENDITURES</b> | <b>REVENUE</b>   | <b>EXPENDITURES</b> | <b>REVENUE</b>   |
| GENERAL FUNDS   | \$397,325           | See Below        | \$280,791           | See Below        |
| CASH FUNDS  |                     |                  |                     |                  |
| FEDERAL FUNDS   |                     |                  |                     |                  |
| OTHER FUNDS   |                     |                  |                     |                  |
| <b>TOTAL FUNDS</b>  | <b>\$397,325</b>    | <b>See Below</b> | <b>\$280,791</b>    | <b>See Below</b> |

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

LB 564 creates the Nebraska Main Street Fairness Act.

LB 564 provides that a remote seller, as defined by the bill, shall be subject to the Nebraska Revenue Act of 1967, the Local Option Revenue Act, and Nebraska Revised Statutes Sections 13-319 and 13-2813 and shall remit the sales tax due under those acts and sections if they meet either of the following conditions:

- A) Their gross revenue from the sale of tangible personal property, products delivered electronically, and services delivered into Nebraska exceeds \$25,000 in the current or previous calendar year;
- B) Their sales transactions equaled or exceeded 200 separate transactions in the current or previous calendar year.

A remote seller is defined as any person who sells tangible personal property, products delivered electronically, or services for delivery into Nebraska and who does not have a physical presence in this state.

The bill further provides that nothing in the bill relieves a purchaser from Nebraska of their obligation to remit use tax on any applicable transaction in which the remote seller does not collect and remit an offsetting sales tax.

In addition, if a remote seller refuses to collect and remit the sales tax due in accordance with the Act, they shall:

- A) Notify Nebraska purchasers that sales or use tax is due on the purchase and that they are required to file a sales or use tax return. Failure of the remote seller to do so subjects them to a \$5 penalty for each failure;
- B) Send notification to all Nebraska purchasers by January 31 of each year showing the total amount paid by the purchaser for Nebraska purchases in the previous calendar year, sent by first class mail and not included with any other shipments. Failure to comply subjects the remote seller to a penalty of \$10 for each such failure.
- C) File an annual statement for each purchaser with the Department of Revenue showing the amount paid for Nebraska purchases by such purchasers during the preceding calendar year or portion thereof, by March 1 of each year. Failure to do so shall subject the remote seller to a penalty of \$10 for each purchaser that should be included in the report.

Delivered electronically means obtained by the purchaser by means other than tangible storage media.

Tangible personal property means personal property which may be seen, weighed, measured, felt, or touched or which is in any other manner perceptible to the senses. Tangible personal property includes electricity, water, gas, steam, and prewritten computer software.

Service has the same meaning as found in Section 77-2701.16.

The Department of Revenue is given rule and regulation authority to carry out the provisions of LB 564.

The bill contains the emergency clause.

The Department of Revenue indicates, assuming federal law allow the State to require remote sellers to collect and remit sales tax that the State would collect additional sales tax revenue of between \$30 to \$40 million annually.

The Department of Revenue estimates a cost of \$47,500 paid to the Office of the CIO for mainframe development and web development. In addition, the Department will need to hire IT contractors to implement an IT application to track and match data at an additional cost of \$47,500. The Department will also need 1.0 FTE for each of the following positions: Attorney III, Revenue Auditor III, Revenue Agent, Revenue Operations Clerk II, and Office Clerk III to implement the provisions of LB 564. PSL costs for each year of the biennium will be \$277,326 for FY2017-18 and \$306,150 for FY2018-19.

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

**State Agency Estimate**

|  |                     |                          |                     |                |                     |                |
|--|---------------------|--------------------------|---------------------|----------------|---------------------|----------------|
| State Agency Name: Department of Revenue |                     | Date Due LFA: 1/25/2017  |                     |                |                     |                |
| Approved by: Tony Fulton                 |                     | Date Prepared: 1/25/2017 |                     |                |                     |                |
|  |                     | Phone: 471-5896          |                     |                |                     |                |
|  | <b>FY 2017-2018</b> |                          | <b>FY 2018-2019</b> |                | <b>FY 2019-2020</b> |                |
|  | <u>Expenditures</u> | <u>Revenue</u>           | <u>Expenditures</u> | <u>Revenue</u> | <u>Expenditures</u> | <u>Revenue</u> |
| General Funds                            | \$ 397,325          | See Below                | \$ 280,791          | See Below      | \$ 285,003          | See Below      |
| Cash Funds                               |                     |                          |                     |                |                     |                |
| Federal Funds                            |                     |                          |                     |                |                     |                |
| Other Funds                              |                     |                          |                     |                |                     |                |
| Total Funds                              | \$ 397,325          | See Below                | \$ 280,791          | See Below      | \$ 285,003          | See Below      |

LB 564 would adopt the Nebraska Main Street Fairness Act (Act). The Act combines expanded nexus for sales tax purposes as adopted in South Dakota with expanded information reporting as adopted in Colorado.

Section 3 provides that a remote seller is subject to the same procedures and requirements and must remit state and local sales taxes to Nebraska the same as a retailer with physical presence does if the remote seller meets either of two criteria in the preceding or current calendar year:

- 1) The gross receipts from sales of tangible personal property, taxable services, and products delivered electronically exceed \$25,000, or
- 2) The number of these sales transactions exceeds 200.

The remote seller is not liable to the purchaser for tax that was over collected if this section is deemed unlawful. Purchasers are still liable for use tax if the sales tax is not collected.

Section 4 provides that remote sellers that are subject to the collection requirement in section 2 but refuse to collect tax must:

- 1) Notify Nebraska purchasers that use tax is due and may be remitted either on a sales tax return or on the Form 1040N;
- 2) Notify Nebraska purchasers by January 31 via first-class mail of the total amounts purchased during the prior year; and
- 3) Send the Department the same information for each Nebraska purchaser on or before March 1. If the seller makes over \$25,000 in sales in Nebraska, the Department may require that this filing be made electronically. There is a penalty of \$10 for each required statement that is not provided.

Assuming that federal law allows the State to require remote sellers to collect and remit sales tax on purchases made by Nebraska residents, the State is projected to collect an additional \$30 - \$40 million of sales tax annually.

LB 564 would require a one-time programming charge of \$47,500 paid to the OCIO for mainframe development and web development. The Department would need to hire IT contractors to implement an IT application to track and match the data. The OCIO also estimates that the cost of hiring these outside contractors would be an additional \$47,500 to implement the application.

The Department will also need an Attorney III, Revenue Auditor III, Revenue Agent, Revenue Operations Clerk II, and an Office Clerk III to implement the bill.

**Major Objects of Expenditure**

| <u>Class Code</u>         | <u>Classification Title</u> | <u>17-18</u> | <u>18-19</u> | <u>19-20</u> | <u>17-18</u>        | <u>18-19</u>        | <u>19-20</u>        |
|---------------------------|-----------------------------|--------------|--------------|--------------|---------------------|---------------------|---------------------|
|                           |                             | <u>FTE</u>   | <u>FTE</u>   | <u>FTE</u>   | <u>Expenditures</u> | <u>Expenditures</u> | <u>Expenditures</u> |
| G31113                    | Attorney III                | 1.0          | 1.0          | 1.0          | \$ 67,003           | \$ 67,840           | \$ 68,858           |
| A21253                    | Revenue Auditor III         | 1.0          | 1.0          | 1.0          | \$ 50,991           | \$ 51,628           | \$ 52,402           |
| X29222                    | Revenue Agent               | 1.0          | 1.0          | 1.0          | \$ 34,943           | \$ 35,379           | \$ 35,910           |
| S29112                    | Revenue Operations Clerk II | 1.0          | 1.0          | 1.0          | \$ 30,533           | \$ 30,915           | \$ 31,378           |
| S01113                    | Office Clerk III            | 1.0          | 1.0          | 1.0          | \$ 25,046           | \$ 25,359           | \$ 25,739           |
| Benefits.....             |                             |              |              |              | \$ 68,810           | \$ 69,670           | \$ 70,715           |
| Operating Costs.....      |                             |              |              |              | \$ 95,000           |                     |                     |
| Travel.....               |                             |              |              |              |                     |                     |                     |
| Capital Outlay.....       |                             |              |              |              | \$ 25,000           |                     |                     |
| Aid.....                  |                             |              |              |              |                     |                     |                     |
| Capital Improvements..... |                             |              |              |              |                     |                     |                     |
| <b>Total.....</b>         |                             |              |              |              | <b>\$ 397,325</b>   | <b>\$ 280,791</b>   | <b>\$ 285,003</b>   |