

PREPARED BY: Keisha Patent, Sandy Sostad, and Tom Bergquist
 DATE PREPARED: February 25, 2019
 PHONE: 402-471-0059

LB 614

Revision: 00

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	\$238,856,225	\$90,511,000	\$249,212,893	\$205,268,000
CASH FUNDS		\$39,883,000		\$92,126,000
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$238,856,225	\$130,394,000	\$249,212,893	\$297,394,000

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

LB 614 amends numerous revenue and taxation provisions and changes calculation of state aid to schools and special education reimbursement rates.

Property Tax Changes: Beginning January 1, 2020, the bill eliminates the personal property tax exemption under the Personal Property Tax Relief Act. The elimination of the personal property tax exemption will result in a General Fund expenditure savings of \$14.8 million in FY 20-21.

Alcoholic Beverage Tax Changes: The bill increases the tax rates, beginning January 1, 2020, for alcohol and spirits from \$3.75 per gallon to \$8.02 per gallon.

Cigarette Tax Changes: Beginning January 1, 2020, the bill increases the cigarette tax rate from \$0.64 per pack to \$2.14 per package. The bill also directs \$1.50 of such tax to the Property Tax Credit Cash Fund.

Sales and Use Tax Changes: Beginning January 1, 2020, the bill imposes sales and use tax on candy, soft drinks, and bottled water.

Income Tax Changes: The bill amends provisions related to S corporations and limited liability companies, for tax years beginning on or after January 1, 2020, as follows:

- Eliminates the exclusion for income or loss from out-of-state sources for an S corporation or a limited liability company from adjusted gross income, or for a fiduciary, federal taxable income; and
- Requires Nebraska residents who are shareholders of an S corporation or members of an LLC to include the proportionate share of the corporation or LLC's income in their Nebraska taxable income, and includes fair compensation for services rendered to the company in Nebraska taxable income.

The bill amends provisions related to individual income tax, for tax years beginning on or after January 1, 2020, as follows:

- Disallows federal itemized deductions for purposes of individual income tax except for medical and dental expenses;
- Eliminates the special capital gains exclusion from the sale of stock acquired through employment of the corporation; and
- Increases the earned income credit to 15% of the federal credit.

The Department of Revenue estimates the following impact to the General Fund, the State highway Capital Improvement Fund, the Highway Allocation Fund, and the Property Tax Credit Cash Fund:

	Increase in General Fund Revenue	Decrease in General Fund Expenditure	State Highway Capital Improvement Fund	Highway Allocation Fund	Property Tax Credit Cash Fund
FY19-20	\$90,511,000	\$0	\$375,000	\$66,000	\$39,508,000
FY20-21	\$205,268,000	\$14,800,000	\$955,000	\$168,000	\$91,171,000
FY21-22	\$210,803,000	\$15,200,000	\$969,000	\$171,000	\$87,807,000
FY22-23	\$215,954,000	\$15,600,000	\$982,000	\$173,000	\$84,478,000

There is no basis to disagree with these estimates.

Allocated Income Taxes in the TEEOSA Formula: LB 614 changes the Tax Equity and Educational Opportunities Support Act (TEEOSA) beginning in FY 19-20. The amount of state aid for allocated income taxes in the formula is changed. Currently, allocated income taxes are distributed to schools based upon 2.23% of a district's income tax liability. The bill increases the allocation percentage to 20% of a district's income tax liability. The fiscal impact of the increase in allocated income taxes is estimated to be \$79,037,011 of general funds in FY 19-20 and \$83,770,237 in FY 20-21.

Reimbursement of Special Education: The bill changes provisions related to the amount of aid appropriated for special education programs and support services. The bill requires that General Funds be appropriated beginning in FY 19-20 and thereafter to fund at least 80% of the excess allowable costs for all special education programs and support services. The amount is based upon the excess allowable costs of programs and services in the preceding year.

The State Department of Education (NDE) estimated the fiscal impact of the bill based upon reported excess allowable costs for FY 17-18. The reported costs for special education programs were inflated by 5.45% each year and the reported costs for transportation services were inflated by 4.56% each year to arrive at estimated costs in FY 20-19 and FY 19-20. The inflationary increases represent the average increase in the most recent three years.

The calculations by NDE appear reasonable. The estimated amount of general funds needed to fund 80% of excess allowable costs in FY 19-20 is \$385,814,958 and in FY 20-21 is \$406,324,490. The current general fund appropriation for special education reimbursement is \$226,526,585, so the estimated fiscal impact of reimbursing 80% of excess allowable costs is \$159,288,373 in FY 19-20 and \$179,797,905 in FY 20-21.

It is important to note there is a maintenance of effort provision relative to special education funding, so the amount of general funds appropriated in any fiscal year must be maintained in the next fiscal year in order to continue to receive federal IDEA funds.

Special Education Aid Impact in the TEEOSA Formula: The increase in special education aid also increases the special receipts allowance in the TEEOSA formula and local resources beginning in FY 21-22, two years after the increase in state aid occurs. The impact will be a reduction in equalization aid in the formula due to increased local resources from special education aid. The estimated decrease in equalization aid due to increased special education aid will be \$100,968,569 in FY 21-22. The effect on the special receipts allowance is not calculated but is assumed to be small.

Supplemental State Aid: The bill provides for the payment of supplemental state aid to school districts beginning in FY 19-20. The amount of aid shall equal .0433% of the statewide average general fund operating expenditures. Each district will get a proportionate share based upon formula students. The aid is considered to be a local resource and is included as allowance for purposes of the calculation of school district needs in the formula. The inclusion of supplemental state aid will increase state aid by \$442,653 in FY20 and \$444,751 in FY 20-21.

In summary, the fiscal impact of the changes in aid and the TEEOSA formula is as follows:

	FY 2019-20	FY 2020-21	FY 2021-22
Supplemental State Aid	442,653	444,751	462,541
SPED Aid Increase	159,288,373	179,797,905	201,412,285
TEEOSA:			
Allocated Income Tax Increase	79,037,011	83,770,237	87,121,046
SPED Aid as Local Receipt			(100,968,569)
Total Fiscal Impact	\$238,768,037	\$264,012,893	\$188,027,303

Administration: DOR estimates the following administrative costs to implement the bill:

- A one-time programming charge of \$58,188 to OCIO for mainframe and web development costs; and
- Expenditures for 1.0 FTE Revenue Investigator in FY 20-21 and thereafter, for a total cost of \$73,900 in FY 20-21.

However, we disagree that a Revenue Investigator is necessary to carry out the provisions of the bill, and therefore, we estimate the department's administrative costs necessary for implementation are \$58,188 in FY 19-20.

In addition, NLCC estimates a one-time cost of \$30,000 to update their online reporting system. NDE estimates no additional costs. There could be some additional costs to Educational Service Units and school districts based upon the budget publication requirements in the bill.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 614	AM:	AGENCY/POLT. SUB: Department of Revenue	
REVIEWED BY: Lee Will		DATE: 2/27/2019	PHONE: (402) 471-4175
COMMENTS: The Department of Revenue's assessment of fiscal impact seems reasonable given the assumptions used.			

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 614	AM:	AGENCY/POLT. SUB: Department of Education	
REVIEWED BY: Lee Will		DATE: 2/1/2019	PHONE: (402) 471-4175
COMMENTS: The Department of Education's assessment of fiscal impact seems reasonable given the assumptions used.			

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 614	AM:	AGENCY/POLT. SUB: Liquor Control Commission	
REVIEWED BY: Lee Will		DATE: 2/26/2019	PHONE: (402) 471-4175
COMMENTS: The Liquor Control Commission's assessment of fiscal impact seems reasonable given the assumptions used.			

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 614	AM:	AGENCY/POLT. SUB: Coordinating Commission for Postsecondary Education	
REVIEWED BY: Lee Will		DATE: 1/29/2019	PHONE: (402) 471-4175
COMMENTS: Concur with the Coordinating Commission's assessment of no fiscal impact.			

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 614	AM:	AGENCY/POLT. SUB: Educational Service Unit Coordinating Council	
REVIEWED BY: Lee Will		DATE: 2/1/2019	PHONE: (402) 471-4175
COMMENTS: No basis to disagree with the ESU's assessment of fiscal impact.			

State Agency Estimate

State Agency Name: Department of Revenue		Date Due LFA: 2/26/19				
Approved by: Tony Fulton		Date Prepared: 2/25/19				
		Phone: 471-5896				
	FY 2019-2020		FY 2020-2021		FY 2021-2022	
	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>
General Funds	\$58,188	\$90,511,000	(\$14,726,100)	\$205,268,000	(\$15,132,200)	\$210,803,000
Cash Funds		\$39,883,000		\$92,126,000		\$88,776,000
Federal Funds						
Other Funds		\$66,000		\$168,000		\$171,000
Total Funds	\$58,188	\$130,460,000	(\$14,726,100)	\$297,562,000	(\$15,132,200)	\$299,750,000

LB 614 increases the tax rate on cigarettes and alcohol and spirits, eliminates several sales tax exemptions, increases the earned income tax credit, reduces the federal itemized deductions and eliminates the special capital gain election and non-Nebraska sourced income from a Subchapter S corporation or LLC. LB 614 also changes school funding and eliminates the Personal Property Tax Relief Act. The operative date of the tax provisions of this bill is January 1, 2020. The changes are summarized below.

Cigarette Tax:

LB 614 increases the tax on cigarettes sold in Nebraska by \$1.50 per pack and distributes the revenue attributable to the increase to the Property Tax Credit Cash Fund.

Alcohol Tax:

LB 614 would increase the rate of taxes on alcohol and spirits from \$3.75 per gallon to \$8.02 per gallon.

Income Tax:

LB 614 increases Nebraska Earned Income Tax Credit from ten percent to fifteen percent. The bill also eliminates the special capital gains election found in Neb. Rev. Stat. § 77-2715.09 and the adjustment decreasing federal adjusted gross income for non-Nebraska sourced income from a Subchapter S corporation or LLC found in Neb. Rev. Stat. § 77-2716(4), beginning with tax year 2020. Finally, LB 614 limits federal itemized deductions to medical and dental expenses for purposes of calculating Nebraska taxable income.

School Finance:

LB 614 would change school funding. The bill provide for supplemental state aid equal to 0.0433% of the statewide average general fund operating expenditures to be distributed proportionately based on formula students. It also call for a property tax relief allowance equal to the supplemental state aid to be included in calculation of formula need for each school district and for a school district’s local system resources to be reduced by amounts paid as property tax refunds. The bill also restores the income tax distribution to the local system equal to 20% of the resident income tax liability of residents of the local system.

Property Tax:

LB 614 also eliminates the Personal Property Tax Relief Act.

Sales Tax:

LB 614 renders candy, soft drinks, and bottled water subject to sales tax by removing them from definition of food and food ingredients.

It is estimated that LB 614 would have the following impact to the General Fund, Cash Fund, and Other Funds:

	Increase in General Fund Revenue	Decrease in General Fund Expenditure	State Highway Capital Improvement Fund (Cash Fund)	Highway Allocation Fund (Other Fund)	Property Tax Credit Cash Fund (Cash Fund)
FY19-20	\$ 90,511,000	\$ -	\$ 375,000	\$ 66,000	\$ 39,508,000
FY20-21	\$ 205,268,000	\$ 14,800,000	\$ 955,000	\$ 168,000	\$ 91,171,000
FY21-22	\$ 210,803,000	\$ 15,200,000	\$ 969,000	\$ 171,000	\$ 87,807,000
FY22-23	\$ 215,954,000	\$ 15,600,000	\$ 982,000	\$ 173,000	\$ 84,478,000

LB 614 would require a one-time programming charge of \$58,188 paid to the OCIO for mainframe and web development changes. The Department will need 1.0 FTE Revenue Investigator for the second and subsequent years to implement this bill.

Major Objects of Expenditure

Class Code	Classification Title	19-20	20-21	21-22	19-20	20-21	21-22
		FTE	FTE	FTE	Expenditures	Expenditures	Expenditures
X62730	Revenue Investigator		1.0	1.0	\$0	\$51,800	\$51,000
	Benefits.....				\$0	\$17,100	\$16,800
	Operating Costs.....				\$58,188		
	Travel.....						
	Capital Outlay.....				\$0	\$5,000	\$0
	Capital Improvements.....						
	Total.....				\$58,188	\$73,900	\$67,800

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2019

LB⁽¹⁾ 614

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Nebraska Department of Education

Prepared by: ⁽³⁾ Bryce Wilson Date Prepared: ⁽⁴⁾ 1/25/19 Phone: ⁽⁵⁾ 402-471-4320

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2019-20</u>		<u>FY 2020-21</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	=====	=====	=====	=====

Explanation of Estimate:

LB 614 increases the income tax rebate amount to 20%, creates a supplemental state aid, adds a property tax relief allowance and increases the SPED reimbursement to 80%. This bill also adds to the requirements for school boards when posting their proposed budget before having the hearing on the budget. New revenues are generated for the State by raising sales tax on certain items, eliminates sales tax exemptions, eliminating the personal property exemptions, and eliminates some income tax exemptions. There is also a funding source identified for the property tax credit fund.

The Allocated Income Tax Rebate Increase and Supplement State Aid will increase TEEOSA going to Non-Equalized districts. The property tax relief allowance will likely decrease aid slightly to the equalized districts as the additional allowance causes basic funding per formula student to decrease and any component that uses that amount.

No fiscal cost to NDE. Increasing the SPED reimbursement to 80% would result in an increase of \$159 million for 2019/20 and \$180 million for 2020/21. Some of the SPED increase would cause a decrease in TEEOSA for equalized districts. The Income Tax Rebate increase and Supplement State Aid Amounts would cause TEEOSA to increase by \$125 million with the property tax relief allowance offsetting a few million of that increase due to the decrease in basic funding. Total fiscal impact cannot be determined as several of the factors involved offset.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2019-20</u>	<u>2020-21</u>
	<u>19-20</u>	<u>20-21</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____

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

_____	_____
_____	_____
_____	_____
_____	_____

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2019

LB⁽¹⁾ 614

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Nebraska Liquor Control Commission

Prepared by: ⁽³⁾ LeAnna Prange Date Prepared: ⁽⁴⁾ 2/25/19 amended Phone: ⁽⁵⁾ 402-471-4892

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2019-20</u>		<u>FY 2020-21</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	<u>30,000</u>	<u>6,896,207</u>	<u>0</u>	<u>16,550,896</u>
CASH FUNDS	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
FEDERAL FUNDS	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
OTHER FUNDS	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
TOTAL FUNDS	<u>30,000</u>	<u>6,896,207</u>	<u>0</u>	<u>16,550,896</u>

Explanation of Estimate:

NLCC is proposing \$30,000 expenditure to amend all affected online reporting systems to the proposed excise tax rates. This is an estimate only.

The total gallons used in calculation is the total gallons reported for excise tax in 2018. Therefore, these are the gallons used in calculating the increase. It would be the determination of NLCC that total gallons may not remain consistent to 2018 due to 1) decrease in consumption and 2) a probable increase of non Nebraska taxed product being illegally imported into the State. That probable increase in illegal importation would result in additional resources expended by the Nebraska State Patrol and the NLCC to enforce all applicable laws. However, the additional resources required is impossible to quantify.

The Revenue increase is outlined in this table:

Based on 2018 reported gallons to NLCC					
	Beer	Spirits	Wine	Farm Wine	Total Revenue
Gallons	44,803,876	3,876,088	3,394,878	93,138	
Current rate	\$0.31	\$3.75	\$0.95	\$0.06	
Current Revenue	\$13,889,201.56	\$14,535,330.00	\$3,225,134.10	\$5,588.28	\$31,655,253.94
Proposed rate	\$0.31	\$8.02	\$0.95	\$0.06	
Difference of rate	\$0.00	\$4.27	\$0.00	\$0.00	
Increase of Revenue	\$0.00	\$16,550,895.76	\$0.00	\$0.00	\$16,550,895.76
TOTAL REVENUE if LB 614 passes (assuming consumption remains identical to 2018)					\$48,206,149.70

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2019-20</u>	<u>2020-21</u>
	<u>19-20</u>	<u>20-21</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Benefits.....			0	0
Operating.....			30,000	0
Travel.....			0	0
Capital outlay.....			0	0
Aid.....			0	0
Capital improvements.....			0	0
TOTAL.....			30,000	0

NLCC has 2 online reporting systems that collect spirit excise taxes. These online reporting systems will need to be revised to accommodate new spirit excise tax rates. NLCC has confirmed with the vendor who maintains these reporting systems and estimated the cost of required programming. Once programming change is complete, there would be no additional expenditure the following year.

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2019

LB⁽¹⁾ 614

FISCAL NOTE

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

Prepared by: ⁽³⁾ Gary Timm Date Prepared: ⁽⁴⁾ 1-24-19 Phone: ⁽⁵⁾ 402-471-0020

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2019-20</u>		<u>FY 2020-21</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Explanation of Estimate:

No fiscal impact.

LB 614 does not involve postsecondary education.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2019-20 EXPENDITURES</u>	<u>2020-21 EXPENDITURES</u>
	<u>19-20</u>	<u>20-21</u>		
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____

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2019

LB⁽¹⁾ 614

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Educational Service Unit Coordinating Council

Prepared by: ⁽³⁾ David M Ludwig Date Prepared: ⁽⁴⁾ 1-31-19 Phone: ⁽⁵⁾ 402/597-4915

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2019-20</u>		<u>FY 2020-21</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	=====	=====	=====	=====

Explanation of Estimate:

Within LB 614, the publication of a budget summary with the inclusion of the additional items/areas within the bill may increase the expenditures for each ESU. Due to the needs of each individual ESU, it is difficult to determine the possible increased costs.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2019-20</u>	<u>2020-21</u>
	<u>19-20</u>	<u>20-21</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____