

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

| <b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES</b> (See narrative for political subdivision estimates) |                     |                |                     |                |
|---|---------------------|----------------|---------------------|----------------|
|   | <b>FY 2013-14</b>   |                | <b>FY 2014-15</b>   |                |
|   | <b>EXPENDITURES</b> | <b>REVENUE</b> | <b>EXPENDITURES</b> | <b>REVENUE</b> |
| GENERAL FUNDS   |                     | See Below      |                     | See Below      |
| CASH FUNDS  |                     | See Below      |                     | See Below      |
| FEDERAL FUNDS   |                     |                |                     |                |
| OTHER FUNDS   |                     |                |                     |                |
| 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 439 amends Nebraska Revised Statutes to increase the cigarette tax and the tobacco tax, create funds and distribute revenue.

The bill increases the cigarette tax from the current level of \$0.64 per pack to \$1.36 per pack and increases the tax on tobacco products other than snuff from 20% of the wholesale price to 31%.

The bill amends Section 77-2602 to increase the amount of the cigarette tax that is to go to the General Fund from the equivalent of \$0.49 to \$0.59 each fiscal year; however, the amount to the General Fund is to be reduced in order to maintain or increase the amount distributed to the various cash funds.

Changes in the distribution of tax revenue to the various funds are as follows:

1. Subsection (2) is amended to specify that \$0.05 of the amount placed in the General Fund is to be used to fund the tax credit provided in the Volunteer Emergency Responders Incentive Act (LB 440 – 2013) if that Act becomes law.
2. Subsection (3)(b) is amended to increase the amount of tax placed in the Health and Human Services Cash Fund from the current \$0.03 to \$0.06 each fiscal year. The current “hold harmless” provision that the amount distributed shall not be less than the amount distributed in FY1997-98 is retained; that amount is \$3,927,116
3. A new Subsection (3)(h) places the equivalent of \$0.30 but not less than \$28,000,000 each fiscal year in the Health Care and Human Service Provider Rate Stabilization Fund, which is created by the bill and whose purpose is to support the reimbursement of service providers. The bill also states that any money in the fund is to be used to leverage federal funds for provider rate reimbursement to the greatest extent possible.
4. A new Subsection (3)(i) places the equivalent of \$0.055 but not less than \$5,000,000 each fiscal year in the Tobacco Prevention and Control Cash Fund.
5. A new Subsection (3)(j) places the equivalent of \$0.235 but not less than \$23,500,000 each fiscal year in the Nebraska Health Care Cash Fund.

The following current distributions remain in statute and are not changed by LB 439:

- (3)(a) Nebraska Outdoor Recreation Development Cash Fund: \$0.01 equivalent, but not less than \$1,309,039
- (3)(c) Building Renewal Allocation Fund: \$0.07 equivalent, but not less than \$9,163,271
- (3)(e) City of the Primary Class Development Fund: \$1,000,000
- (3)(f) City of the Metropolitan Class Development fund: \$1,500,000
- (3)(g) Nebraska Public Safety Communications System Cash Fund: \$2,570,000 (beginning FY2016-17 this amount changes to \$5,070,000)

Section 81-638 (2) is amended to increase the amount appropriated each year from the Health and Human Service Cash Fund for cancer research from the current equivalent of \$0.02 to \$0.055.

Section 77-4008 is amended to increase the tobacco products (other than snuff) tax from 20% of the wholesale price to 31%. Proceeds from this tax are credited to the Tobacco Products Administration Cash Fund.

The bill has an operative date of July 1, 2013 and contains the emergency clause.

**FISCAL IMPACT:**

We estimate the following total fiscal impact as a result of LB 439:

| Fiscal Year: | Total General Fund: | Total Cash Funds: | Total:        |
|--------------|---------------------|-------------------|---------------|
| 2013-14:     | \$ 508,961          | \$ 58,477,517     | \$ 58,986,478 |
| 2014-15:     | (\$ 2,082,993)      | \$ 58,266,353     | \$ 56,183,360 |
| 2015-16:     | (\$ 4,849,516)      | \$ 58,106,498     | \$ 53,256,982 |
| 2016-17:     | (\$ 7,523,629)      | \$ 57,951,969     | \$ 50,428,340 |

**NOTE:** The Legislative Fiscal Office and the Department of Revenue estimates of fiscal impact are sufficiently different that, for clarity's sake, they will be presented side-by-side in the following tables. The primary reason for the differences in the estimates of fiscal impact is a difference in the basic assumptions regarding cigarette consumption.

Table 1: Sales Tax Impact

| Fiscal Year: | LFO:<br>Sales Tax from<br>Cigarettes: | Revenue:<br>Sales Tax from<br>Cigarettes: | LFO:<br>Sales Tax from<br>Tobacco Products: | Revenue:<br>Sales Tax from<br>Tobacco Products: |
|--------------|---------------------------------------|---|---|---|
| 2013-14:     | \$ 3,700,000                          | \$ 3,316,000                              | \$ 18,000                                   | \$ 18,000                                       |
| 2014-15:     | \$ 3,589,000                          | \$ 3,218,000                              | \$ 17,000                                   | \$ 17,000                                       |
| 2015-16:     | \$ 3,480,000                          | \$ 3,126,000                              | \$ 17,000                                   | \$ 17,000                                       |
| 2016-17:     | \$ 3,376,000                          | \$ 3,058,000                              | \$ 16,000                                   | \$ 16,000                                       |

Table 1 (continued):

| Fiscal Year: | LFO:<br>Total Increase<br>in Sales Tax: | Revenue:<br>Total Increase<br>in Sales Tax: | LFO:<br>Impact to<br>General Fund: | Revenue:<br>Impact to<br>General Fund: | LFO:<br>Highway Capital<br>Improvement<br>Fund: | Revenue:<br>Highway Capital<br>Improvement<br>Fund: |
|--------------|---|---|------------------------------------|--|---|---|
| 2013-14:     | \$ 3,718,000                            | \$ 3,334,000                                | \$ 3,549,000                       | \$ 3,182,000                           | \$ 143,650                                      | \$ 129,000  |
| 2014-15:     | \$ 3,606,000                            | \$ 3,235,000                                | \$ 3,442,091                       | \$ 3,088,000                           | \$ 139,323                                      | \$ 125,000  |
| 2015-16:     | \$ 3,497,000                            | \$ 3,143,000                                | \$ 3,338,045                       | \$ 3,000,000                           | \$ 135,112                                      | \$ 121,000  |
| 2016-17:     | \$ 3,392,000                            | \$ 3,074,000                                | \$ 3,237,818                       | \$ 2,934,000                           | \$ 131,054                                      | \$ 119,000  |

Table 1 (continued):

| Fiscal Year: | LFO:<br>Highway Allocation<br>Fund: | Revenue:<br>Highway Allocation<br>Fund: |
|--------------|-------------------------------------|---|
| 2013-14:     | \$ 25,350                           | \$ 23,000                               |
| 2014-15:     | \$ 24,586                           | \$ 22,000                               |
| 2015-16:     | \$ 23,843                           | \$ 21,000                               |
| 2016-17:     | \$ 23,128                           | \$ 21,000                               |

Table 2: Excise Tax Impact to Cash Funds

| Fiscal Year: | LFO:<br>Health & Human<br>Services Fund: | Revenue:<br>Health & Human<br>Services Fund: | LFO:<br>Health Care &<br>Human Service<br>Provider Rate<br>Stabilization Fund: | Revenue:<br>Health Care &<br>Human Service<br>Provider Rate<br>Stabilization Fund: | LFO:<br>Tobacco<br>Prevention &<br>Control Cash<br>Fund: | Revenue:<br>Tobacco<br>Prevention &<br>Control Cash<br>Fund: |
|--------------|--|--|--|--|--|--|
| 2013-14:     | \$ 1,622,884                             | \$ 1,324,000                                 | \$ 28,000,000  | \$ 28,000,000  | \$ 5,087,500   | \$ 5,000,000   |
| 2014-15:     | \$ 1,456,384                             | \$ 1,182,000                                 | \$ 28,000,000  | \$ 28,000,000  | \$ 5,000,000   | \$ 5,000,000   |
| 2015-16:     | \$ 1,292,884                             | \$ 1,051,000                                 | \$ 28,000,000  | \$ 28,000,000  | \$ 5,000,000   | \$ 5,000,000   |
| 2016-17:     | \$ 1,136,884                             | \$ 919,000                                   | \$ 28,000,000  | \$ 28,000,000  | \$ 5,000,000   | \$ 5,000,000   |

Table 2 (continued):

| Fiscal Year: | LFO:<br>Nebraska Health<br>Care Cash Fund: | Revenue:<br>Nebraska Health<br>Care Cash Fund: | LFO:<br>Tobacco Products<br>Administration<br>Fund: | Revenue:<br>Tobacco Products<br>Administration<br>Fund: | LFO:<br>Total: | Revenue:<br>Total: |
|--------------|--|--|---|---|----------------|--------------------|
| 2013-14:     | \$ 23,500,000                              | \$ 23,500,000                                  | \$ 324,000  | \$ 324,000  | \$ 58,534,384  | \$ 58,148,000      |
| 2014-15:     | \$ 23,500,000                              | \$ 23,500,000                                  | \$ 315,000  | \$ 315,000  | \$ 58,271,384  | \$ 57,988,000      |
| 2015-16:     | \$ 23,500,000                              | \$ 23,500,000                                  | \$ 306,000  | \$ 306,000  | \$ 58,098,884  | \$ 57,857,000      |
| 2016-17:     | \$ 23,500,000                              | \$ 23,500,000                                  | \$ 299,000  | \$ 299,000  | \$ 57,935,884  | \$ 57,718,000      |

Table 3: Excise Tax Impact to General Fund:

| Fiscal Year: | LFO:<br>General Fund: | Revenue:<br>General Fund: |
|--------------|-----------------------|---------------------------|
| 2013-14:     | \$ 7,250,923          | (\$ 12,964,000)           |
| 2014-15:     | \$ 4,026,923          | (\$ 14,723,000)           |
| 2015-16:     | \$ 320,923            | (\$ 16,358,000)           |
| 2016-17:     | (\$ 3,215,077)        | (\$ 18,004,000)           |

Table 4: Revenue Impact Associated with General Funds and Cash Funds:

| Fiscal Year: | LFO:<br>Total General<br>Fund: | Revenue:<br>Total General<br>Fund: | LFO:<br>All Cash Funds | Revenue:<br>All Cash Funds: | LFO:<br>Total Impact: | Revenue:<br>Total Impact: |
|--------------|--------------------------------|------------------------------------|------------------------|-----------------------------|-----------------------|---------------------------|
| 2013-14:     | \$ 10,799,923                  | (\$ 9,782,000)                     | \$ 58,678,034          | \$ 58,277,000               | \$ 69,477,957         | \$ 48,495,000             |
| 2014-15:     | \$ 7,469,014                   | (\$ 11,635,000)                    | \$ 58,410,707          | \$ 58,122,000               | \$ 65,879,721         | \$ 46,487,000             |
| 2015-16:     | \$ 3,658,968                   | (\$ 13,358,000)                    | \$ 58,233,996          | \$ 57,979,000               | \$ 61,892,964         | \$ 44,621,000             |
| 2016-17:     | \$ 22,741                      | (\$ 15,070,000)                    | \$ 58,066,938          | \$ 57,837,000               | \$ 58,089,679         | \$ 42,767,000             |

IMPACT TO POLITICAL SUBDIVISIONS:

We estimate the following fiscal impact to the Highway Allocation Fund:

|            |           |
|------------|-----------|
| FY2013-14: | \$ 24,175 |
| FY2014-15: | \$ 23,293 |
| FY2015-16: | \$ 22,421 |
| FY2016-17: | \$ 22,064 |

| ADMINISTRATIVE SERVICES-STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES   |                |  |
|--|----------------|--|
| LB: 439  | AM:            | AGENCY/POLT. SUB: Dept. of Health and Human Services |
| REVIEWED BY: Lyn Heaton  | DATE: 3/8/2013 | PHONE: <a href="tel:402.471.4181">402.471.4181</a>   |
| COMMENTS: It is anticipated that the bill will result in increased revenue for funds administered by the Dept. of Health and Human Services. The bill does not establish any specific new duties and responsibilities for DHHS relative to the new revenue. Consequently, it is assumed appropriation of the increased or new revenue for specific purposes will follow the traditional budget request process and will ultimately be decided by the Legislature upon the recommendation of the Appropriations Committee in either the 2014 session mid-biennium adjustments or the 2015-2017 biennial budget. |                |  |

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

State Agency or Political Subdivision Name:(2) Department of Health and Human Services

Prepared by: (3) Willard Bouwens

Date Prepared:(4) 3-6-13

Phone: (5) 471-8072

|                      | <b>FY 2013-2014</b> |         | <b>FY 2014-2015</b> |         |
|----------------------|---------------------|---------|---------------------|---------|
|                      | EXPENDITURES        | REVENUE | EXPENDITURES        | REVENUE |
| <b>GENERAL FUNDS</b> |                     |         |                     |         |
| <b>CASH FUNDS</b>    |                     |         |                     |         |
| <b>FEDERAL FUNDS</b> |                     |         |                     |         |
| <b>OTHER FUNDS</b>   |                     |         |                     |         |
| <b>TOTAL FUNDS</b>   | \$0                 | \$0     | \$0                 | \$0     |

Return by date specified or 72 hours prior to public hearing, whichever is earlier.

**Explanation of Estimate:**

LB 439 changes the provisions relating to taxation of cigarettes and to the distribution of the proceeds. If the Department of Health and Human Services receives appropriations from these funds, the Department will spend the funds in accordance with the Appropriation.

**MAJOR OBJECTS OF EXPENDITURE**

| PERSONAL SERVICES:        | NUMBER OF POSITIONS |       | 2013-2014<br>EXPENDITURES | 2014-2015<br>EXPENDITURES |
|---------------------------|---------------------|-------|---------------------------|---------------------------|
|                           | 13-14               | 14-15 |                           |                           |
| Benefits.....             |                     |       |                           |                           |
| Operating.....            |                     |       |                           |                           |
| Travel.....               |                     |       |                           |                           |
| Capital Outlay.....       |                     |       |                           |                           |
| Aid.....                  |                     |       |                           |                           |
| Capital Improvements..... |                     |       |                           |                           |
| <b>TOTAL.....</b>         |                     |       | \$0                       | \$0                       |

**State Agency Estimate**

|  |                     |                       |                     |                |                     |                |
|--|---------------------|-----------------------|---------------------|----------------|---------------------|----------------|
| State Agency Name: Department of Revenue |                     | Date Due LFA: 1/30/13 |                     |                |                     |                |
| Approved by: Douglas Ewald               |                     | Date Prepared: 3/1/13 |                     |                |                     |                |
|  |                     | Phone: 471-5896       |                     |                |                     |                |
|  | <b>FY 2013-2014</b> |                       | <b>FY 2014-2015</b> |                | <b>FY 2015-2016</b> |                |
|  | <u>Expenditures</u> | <u>Revenue</u>        | <u>Expenditures</u> | <u>Revenue</u> | <u>Expenditures</u> | <u>Revenue</u> |
| General Funds                            |                     | (\$9,782,000)         |                     | (\$11,635,000) |                     | (\$13,358,000) |
| Cash Funds                               |                     | \$58,277,000          |                     | \$58,122,000   |                     | \$57,979,000   |
| Federal Funds                            |                     |                       |                     |                |                     |                |
| Other Funds                              |                     | \$23,000              |                     | \$22,000       |                     | \$21,000       |
| Total Funds                              |                     | \$48,518,000          |                     | \$46,509,000   |                     | \$44,642,000   |

LB 439 would increase the cigarette tax from 64 cents per pack to \$1.36 and increase the tax on other tobacco products, other than snuff, from 20% to 31% of the wholesale price.

The 72 cent increase in cigarette tax revenue would be distributed as follows:

1. Ten cents to the General Fund. Five cents of the ten cents is to be used for the Volunteer Emergency Responders Incentive Act if it becomes law this legislative session or next;
2. Three cents to the Health and Human Services Cash Fund. Neb. Rev. Stat. § 81-638 would also be amended to increase the amount appropriated from the Health and Human Services Cash Fund for grants and contracts for research cancer and smoking diseases by 3½ cents. The amount to the University of Nebraska Medical Center for cancer research would remain the same;
3. Thirty cents, but not less than \$28 million for the newly-created Health Care and Human Service Provider Rate Stabilization Fund. This fund would be established by section 8 of the bill and is to maintain provider reimbursement rates regardless of how health care reform is ultimately financed;
4. Five and one-half cents, but not less than \$5 million to the Tobacco Prevention and Control Cash Fund. This fund is used for smoking cessation programs; and
5. Twenty-three and one half cents, but not less than \$23.5 million to the Nebraska Health Care Cash Fund.

If the proceeds from the earmarked portion of the last three items are less than the minimum allocation required under LB 439, the difference would reduce the total allocation of cigarette tax revenues to the General Fund.

The bill would be operative July 1, 2013. It carries the emergency clause.

The Department estimates, based on current and forecasted cigarette pack sales, cigarette tax revenues would not generate enough revenue to cover the hold-harmless cash fund transfers created by this bill on a cents-per-pack basis, resulting in a reduction to the General Fund above the ten cent increase authorized under LB 439. In addition, no revenue would be available for appropriation to the Volunteer Emergency Responders Incentive Act from this ten cent increase.

The Department estimates the following revenue impact associated with sales tax collections on higher-priced cigarette and tobacco products:

| Fiscal Year | Sales Tax from Cigarettes | Sales Tax from Tobacco Products | Total Increase in Sales Tax | General Fund | State Highway Capital Improvement Fund | Highway Allocation Fund |
|-------------|---------------------------|---------------------------------|-----------------------------|--------------|--|-------------------------|
| 2013-14     | \$3,316,000               | \$18,000                        | \$3,334,000                 | \$3,182,000  | \$129,000                              | \$23,000                |
| 2014-15     | \$3,218,000               | \$17,000                        | \$3,235,000                 | \$3,088,000  | \$125,000                              | \$22,000                |
| 2015-16     | \$3,126,000               | \$17,000                        | \$3,143,000                 | \$3,000,000  | \$121,000                              | \$21,000                |
| 2016-17     | \$3,058,000               | \$16,000                        | \$3,074,000                 | \$2,934,000  | \$119,000                              | \$21,000                |

The Department estimates the following revenue impact associated with cigarette tax and tobacco products tax changes in LB 439:

| Fiscal Year | General Fund   | Health and Human Services Cash Fund | Health Care and Human Service Provider Rate Stabilization Fund | Tobacco Prevention and Control Cash Fund | Nebraska Health Care Cash Fund | Tobacco Products Administration Cash Fund | Total        |
|-------------|----------------|-------------------------------------|--|--|--------------------------------|---|--------------|
| 2013-14     | (\$12,964,000) | \$1,324,000                         | \$28,000,000   | \$5,000,000                              | \$23,500,000                   | \$324,000                                 | \$45,184,000 |
| 2014-15     | (\$14,723,000) | \$1,182,000                         | \$28,000,000   | \$5,000,000                              | \$23,500,000                   | \$315,000                                 | \$43,274,000 |
| 2015-16     | (\$16,358,000) | \$1,051,000                         | \$28,000,000   | \$5,000,000                              | \$23,500,000                   | \$306,000                                 | \$41,499,000 |
| 2016-17     | (\$18,004,000) | \$ 919,000                          | \$28,000,000   | \$5,000,000                              | \$23,500,000                   | \$299,000                                 | \$39,714,000 |

The Department estimates the following revenue impact associated with General Fund and cash funds:

| Fiscal Year | General Fund   | All Cash Funds | Other Funds | Total Impact |
|-------------|----------------|----------------|-------------|--------------|
| 2013-14     | (\$ 9,782,000) | \$58,277,000   | \$23,000    | \$48,518,000 |
| 2014-15     | (\$11,635,000) | \$58,122,000   | \$22,000    | \$46,509,000 |
| 2015-16     | (\$13,358,000) | \$57,979,000   | \$21,000    | \$44,642,000 |
| 2016-17     | (\$15,070,000) | \$57,837,000   | \$21,000    | \$42,788,000 |

It is estimated that Departmental cost to implement the bill is minimal.

**Major Objects of Expenditure**

| Class Code | Classification Title      | 13-14 | 14-15 | 15-16 | 13-14        | 14-15        | 15-16        |
|------------|---------------------------|-------|-------|-------|--------------|--------------|--------------|
|            |                           | FTE   | FTE   | FTE   | Expenditures | Expenditures | Expenditures |
|            | Benefits.....             |       |       |       |              |              |              |
|            | Operating Costs.....      |       |       |       |              |              |              |
|            | Travel.....               |       |       |       |              |              |              |
|            | Capital Outlay.....       |       |       |       |              |              |              |
|            | Aid.....                  |       |       |       |              |              |              |
|            | Capital Improvements..... |       |       |       |              |              |              |
|            | <b>Total.....</b>         |       |       |       |              |              |              |