

FISCAL NOTE
 LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES *				
	FY 2008-09		FY 2009-10	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	0	0	?	+ 16,969,426
CASH FUNDS	0	0	- 16,969,426	- 16,969,426
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	0	0	0	0

*Does not include any impact on political subdivisions. See narrative for political subdivision estimates.

LB1109 would change existing provisions governing distribution of Nebraska cigarette tax receipts for 2009-10 and future fiscal years.

A state tax on cigarettes is imposed at 64¢ for each package containing 20 cigarettes. If a package contains more than 20 cigarettes, each cigarette over 20 is taxed at one-twentieth of 64¢. The equivalent of 49¢, net of a number of adjustments, is allocated annually to the General Fund. In sum, the various adjustments result in significantly less than the equivalent of 49¢ of the tax credited to the General Fund. LB1109 would provide that, beginning 2009-10, all revenue from the tax is to be credited to the General Fund (see Sec. 3 of the bill). However, subdivisions (3)(f) and (3)(g) of Sec. 77-2602 (again see Sec. 3 of the bill) are not amended by LB1109. These provisions would apparently continue to direct that \$1,000,000 of cigarette tax receipts be credited to the City of the Primary Class Development Fund each fiscal year through 2015-16 and that \$1,500,000 of cigarette tax receipts be credited to the City of the Metropolitan Class Development Fund each year through 2015-16 as well. While these provisions appear contradictory, it is assumed for purposes of this fiscal note that the intent of the bill is to provide that, beginning 2009-10, all cigarette tax receipts are to be credited to the General Fund with the exception of amounts to be annually credited to the City of the Primary Class Development Fund and the City of the Metropolitan Class Development Fund through 2015-16.

Under current law, the equivalent of 1¢ of cigarette tax receipts is allocated to the Nebraska Outdoor Recreation Development Fund, which is administered by the Game and Parks Commission. The fund is utilized to support development, operation and maintenance of areas of the state park system. No expiration is assigned to this earmark which was enacted in 1978 by LB 109 and became effective beginning July 1, 1980. If the equivalent of 1¢ of cigarette tax receipts for any year is less than the amount credited to the fund for FY1997-98, the FY1997-98 amount is credited to the fund with the deficiency amount deducted from amounts that otherwise would be credited to the General Fund. This "hold harmless" provision is currently applicable and will apparently remain so for the foreseeable future. As such, \$1,309,039 is credited to the fund annually under current law. Under provisions of LB1109, these cigarette tax receipts would no longer be credited to the Nebraska Outdoor Recreation Development (Cash) Fund beginning with 2009-10. The related amount would be credited to the General Fund.

Under current law, the equivalent of 3¢ of cigarette tax receipts is allocated to the Department of Health and Human Services Cash Fund to support cancer research. Of the 3¢ earmark, Sec. 81-638 authorizes 1¢ to be allocated for (a) the University of Nebraska Eppley Institute for Research in Cancer and Allied Diseases, (b) expenses incurred in administration of the funds, (c) grants and contracts for research of cancer and smoking diseases, and (d) establishment and maintenance of a cancer registry as prescribed in sections 81-642 to 81-650. Annual allocations to the Eppley Institute historically have been \$500,000. Recipients of grants are limited to the University of Nebraska and other Nebraska postsecondary institutions with colleges of medicine (Creighton University is the only other qualifying institution). Allocations for maintenance of the cancer registry are limited to \$200,000 annually. The remaining 2¢ of this 3¢ earmark is, according to Sec. 81-638, to be used exclusively for grants and contracts for research on cancer and smoking diseases. Recipients of grants and contracts are limited to the University of Nebraska and other Nebraska postsecondary institutions with colleges of medicine (Creighton University is currently the only other such qualifying institution). Not more than one-half of these funds may be distributed to the University of Nebraska. No expiration is assigned to this earmark which was enacted in 1982 by LB 753 and became effective July 1, 1983. The original earmark was the equivalent of 1¢; however, the amount was increased to 3¢ (effective July 1, 1993) by LB 595 which was enacted in 1993. If the equivalent of 3¢ of cigarette tax receipts for any year is less than the amount credited to the fund for FY1997-98, the FY1997-98 amount is credited to the fund with the deficiency amount deducted from amounts that otherwise would be credited to the General Fund. This "hold harmless" provision is currently applicable and will apparently remain so for the foreseeable future. As such, \$3,927,116 is credited to the fund annually under current law. Under provisions of LB1109, these cigarette tax receipts would no longer be credited to the Department of Health and Human Services Cash Fund beginning with 2009-10. The related amount would be credited to the General Fund.

Under current law, the equivalent of 7¢ of cigarette tax receipts is credited to the Building Renewal Allocation Fund administered by the Task Force for Building Renewal within the Department of Administrative Services. Use of the Building Renewal Allocation Fund is generally limited to allocation of amounts appropriated by the Legislature to the Task Force for Building Renewal for deferred maintenance and repair of state buildings. Sec. 81-180 also authorizes amounts to be expended from the fund to meet costs of administering the Deferred Building Renewal Act. This earmark was originally enacted in 1996 by LB 1190 and became effective July 1, 1997. Beginning with FY1997-98 and continuing through FY2000-01, the equivalent of 7¢ of the tax was annually allocated to the fund. Beginning July 1, 2001, the earmark was originally scheduled to increase to the equivalent of 9¢ of the tax. However, LB1349 [2000] diverted the additional 2¢ to the Information Technology Infrastructure Fund. Subsequently, LB 657 [2001] reduced the earmark to the equivalent of 5¢ of the tax. For FY2001-02 and July through September of FY2002-03, the earmark decreased to the equivalent of 5¢ of the tax. As the result of LB1085 [2002], the earmark returned to the equivalent of 7¢ beginning October 1, 2002 and was scheduled to revert to the equivalent of 5¢ on October 1, 2004. However, LB759 [2003] extended the earmark at the 7¢ level indefinitely. If the equivalent of 7¢ of cigarette tax receipts for any year is less than the amount credited to the fund for FY1997-98, the FY1997-98 amount is credited to the fund with the deficiency amount deducted from amounts that otherwise would be credited to the General Fund. This "hold harmless" provision is currently applicable and will apparently remain so for the foreseeable future. As such, \$9,163,271 is credited to the fund annually under current law. Under provisions of LB1109, these cigarette tax receipts would no longer be credited to the Building Renewal Allocation (Cash) Fund beginning with 2009-10. The related amount would be credited to the General Fund.

Under current law, the equivalent of 2¢ of the tax, but not less than \$2,050,000, is to be credited to the Nebraska Public Safety Communication Cash Fund for FY2008-09. For FY2009-10 through FY2015-16, \$2,570,000 of the tax is to be annually credited to the fund. For FY2016-17 and fiscal years thereafter, \$5,070,000 of the tax is to be annually credited to the fund. If necessary, the State Treasurer is to reduce the distribution of tax proceeds to the General Fund to the extent required to fulfill the distribution of specified amounts to the Nebraska Public Safety Communication Cash Fund. This earmark was enacted in 2007 by LB322. Under provisions of LB1109, these cigarette tax receipts would no longer be credited to the Nebraska Public Safety Communication Cash Fund beginning with 2009-10. The related amount would be credited to the General Fund.

See table at following page for a summary of the estimated impacts of LB1109.

The following table reflects distribution of cigarette tax receipts under current law and as proposed under provisions of LB 1109.

Distribution of Cigarette Tax Receipts

	Actual	Est.*	Est.*	Est.*	Est.*
CURRENT LAW	<u>2006-07</u>	<u>2007-08</u>	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>
General Fund	46,334,023	46,334,023	46,340,586	46,340,586	46,340,586
Nebraska Outdoor Recreation Development Fund	1,309,039	1,309,039	1,309,039	1,309,039	1,309,039
Department of Health & Human Services Cash Fund	3,927,116	3,927,116	3,927,116	3,927,116	3,927,116
Building Renewal Allocation Fund	9,163,271	9,163,271	9,163,271	9,163,271	9,163,271
Municipal Infrastructure Redevelopment Fund	520,000	520,000	520,000	0	0
Information Technology Infrastructure Fund	2,056,563	2,056,563	0	0	0
City of the Primary Class Development Fund	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
City of the Metropolitan Class Development Fund	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000
Nebraska Public Safety Communication Cash Fund	0	0	2,050,000	2,570,000	2,570,000
Nebraska Capital Construction Fund	0	0	0	0	0
TOTAL	65,810,012	65,810,012	65,810,012	65,810,012	65,810,012
	Actual	Est.*	Est.*	Est.*	Est.*
LB 1109	<u>2006-07</u>	<u>2007-08</u>	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>
General Fund	46,334,023	46,334,023	46,340,586	63,310,012	63,310,012
Nebraska Outdoor Recreation Development Fund	1,309,039	1,309,039	1,309,039	0	0
Department of Health & Human Services Cash Fund	3,927,116	3,927,116	3,927,116	0	0
Building Renewal Allocation Fund	9,163,271	9,163,271	9,163,271	0	0
Municipal Infrastructure Redevelopment Fund	520,000	520,000	520,000	0	0
Information Technology Infrastructure Fund	2,056,563	2,056,563	0	0	0
City of the Primary Class Development Fund	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
City of the Metropolitan Class Development Fund	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000
Nebraska Public Safety Communication Cash Fund	0	0	2,050,000	0	0
Nebraska Capital Construction Fund	0	0	0	0	0
TOTAL	65,810,012	65,810,012	65,810,012	65,810,012	65,810,012
	Actual	Est.*	Est.*	Est.*	Est.*
Difference: LB 1109 vs. Current Law	<u>2006-07</u>	<u>2007-08</u>	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>
General Fund	0	0	0	+16,969,426	+16,969,426
Nebraska Outdoor Recreation Development Fund	0	0	0	-1,309,039	-1,309,039
Department of Health & Human Services Cash Fund	0	0	0	-3,927,116	-3,927,116
Building Renewal Allocation Fund	0	0	0	-9,163,271	-9,163,271
Municipal Infrastructure Redevelopment Fund	0	0	0	0	0
Information Technology Infrastructure Fund	0	0	0	0	0
City of the Primary Class Development Fund	0	0	0	0	0
City of the Metropolitan Class Development Fund	0	0	0	0	0
Nebraska Public Safety Communication Cash Fund	0	0	0	-2,570,000	-2,570,000
Nebraska Capital Construction Fund	0	0	0	0	0
TOTAL	0	0	0	0	0

In summary, LB1109 would, beginning with 2009-10, result in an annual increase in General Fund revenue of \$16,969,426 with its use at the discretion of the Legislature. Revenue which, in total, amounts to \$16,969,426 and is scheduled to accrue to four cash funds (Nebraska Outdoor Recreation Development Fund, Department of Health & Human Services Cash Fund, Building Renewal Allocation Fund, and Nebraska Public Safety Communication Cash Fund) under current law would be eliminated beginning with 2009-10. With elimination of the revenue source, related cash fund expenditures for purposes currently authorized by statute would decrease correspondingly.

* Assumes constant cigarette tax revenue at constant tax rate.