

**FISCAL NOTE**  
 LEGISLATIVE FISCAL ANALYST ESTIMATE

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)</b>				
	<b>FY 2019-20</b>		<b>FY 2020-21</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS		\$63,000		\$65,000
CASH FUNDS		(\$72,000)		(\$75,000)
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>		<b>(\$9,000)</b>		<b>(\$10,000)</b>

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

LB 397 amends criminal provisions related to the sale, licensure, and manufacture of cigarettes and alternative nicotine products to replace the term “vapor products” with the term “electronic nicotine delivery system,” which is defined.

The bill also allows a tobacco product manufacturer that elects to place funds into a qualified escrow fund to make an irrevocable assignment of its interest to benefit the state. The assignment is effective upon delivery to the Attorney General and the financial institution where the escrow account is maintained. Funds assigned can be withdrawn upon request by the State Treasurer and approval by the Attorney General.

LB 397 changes bond provisions for nonparticipating manufacturers subject to certification requirements of the greater of (1) \$100,000; (2) the greatest required escrow amount due for any of the preceding 20 calendar quarters; or (3) the greatest required escrow amount due for any of the preceding 5 calendar years, if the Attorney General deems the nonparticipating manufacturer poses an elevated risk for noncompliance. The bond must be posted annually and evidence of such presented to the Attorney General and Tax Commissioner.

Cigarettes are redefined to include any rolled tobacco likely to be sold as a cigarette if it weighs under a certain amount, even if it contains other ingredients or is labeled as something other than a cigarette.

**Revenue:**

Because of the change in definition of cigarette, the Department of Revenue estimates a reduction in revenue to the Tobacco Products Administration Cash Fund and a resulting increase in the General Fund and Cash Funds where cigarette tax revenue is directed.

However, according to section 77-2602(h) and (i), the Nebraska Public Safety Communication System Cash Fund and the Nebraska Health Care Cash Fund receive a set dollar amount of cigarette tax revenue, rather than a number of cents, so it does not appear that there will be additional revenue to these two funds. The Building Renewal Allocation Fund, Department of Health and Human Services Finance and Support Cash Fund, and the Nebraska Outdoor Recreation Development Cash Fund will each receive additional revenue.

We estimate revenue as follows:

	Tobacco Products Administration Cash Fund	General Fund	Building Renewal Allocation Fund	DHHS Finance and Support Cash Fund	NE Outdoor Recreation Development Cash Fund
FY 19-20	(\$85,000)	\$63,000	\$8,000	\$4,000	\$1,000
FY 20-21	(\$88,000)	\$65,000	\$8,000	\$4,000	\$1,000
FY 21-22	(\$90,000)	\$67,000	\$8,000	\$4,000	\$1,000
FY 22-23	(\$93,000)	\$69,000	\$8,000	\$4,000	\$1,000

**Expenditures:**

The Department of Revenue estimates minimal cost to implement the bill. The Attorney General’s office and the State Treasurer estimate no additional cost. There is no basis to disagree with these estimates.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
<b>LB: 397</b>	<b>AM:</b>	AGENCY/POLT. SUB: <b>Nebraska Department of Revenue (016)</b>
REVIEWED BY: Joe Wilcox	DATE: 02/27/2019	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the Nebraska Department of Revenue estimate of potential General Fund and Cash Fund revenue impact to the State from LB 397.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
<b>LB: 397</b>	<b>AM:</b>	AGENCY/POLT. SUB: <b>Nebraska Attorney General (011)</b>
REVIEWED BY: Joe Wilcox	DATE: 01/23/2019	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the Nebraska Attorney General estimate of No Fiscal Impact to the Agency from LB 397.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
<b>LB: 397</b>	<b>AM:</b>	AGENCY/POLT. SUB: <b>Nebraska State Treasurer (012)</b>
REVIEWED BY: Joe Wilcox	DATE: 01/22/2019	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the Nebraska State Treasurer estimate of No Fiscal Impact to the Agency from LB 397.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
<b>LB: 397</b>	<b>AM:</b>	AGENCY/POLT. SUB: <b>Lancaster County Treasurer</b>
REVIEWED BY: Joe Wilcox	DATE: 01/25/2019	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the Lancaster County Treasurer estimate of No Fiscal Impact to the County from LB 397.		

**State Agency Estimate**

State Agency Name: Department of Revenue		Date Due LFA: 2/27/19				
Approved by: Tony Fulton		Date Prepared: 2/19/19				
		Phone: 471-5896				
	<b>FY 2019-2020</b>		<b>FY 2020-2021</b>		<b>FY 2021-2022</b>	
	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>
General Funds	Minimal	See Below		See Below		See Below
Cash Funds		See Below		See Below		See Below
Federal Funds						
Other Funds						
Total Funds	Minimal	See Below		See Below		See Below

LB 397 changes provisions relating to tobacco and other nicotine products and tobacco manufacturers. Sections 1 through 11 replace the phrase “vapor products” with the phrase “electronic nicotine delivery systems” (ENDS) in Neb. Rev. Stat. §§ 28-1418 through 28-1429.03 and defines the term. The bill imposes a requirement that sellers of ENDS obtain a local license consistent with the requirement for other tobacco products.

Section 12 allows a tobacco product manufacturer that elects to place funds into an escrow fund under Neb. Rev. Stat. § 69-2703 to assign their interest in the escrow fund to Nebraska. Funds assigned to Nebraska shall be available upon request by the State Treasurer.

Section 16 establishes a bond amount for nonparticipating manufacturers of at least \$100,000 and provides rules for determining exact amount of bond.

Section 21 harmonizes definition of cigarette in cigarette tax statutes with the definition in Neb. Rev. Stat. § 69-2702.

The bill amends the definition of a cigarette in a manner that would include little cigars, which are currently defined as other tobacco products, to the extent they are likely to be offered to or purchased by consumers as a cigarette. This change will result in a decrease in tobacco products tax collections and an increase in cigarette tax collections. It is estimated that this will have the following impact on the Tobacco Products Administration Cash Fund and the General Fund:

	Tobacco Products Administration Cash Fund	General Fund
FY 2019-2020	(\$85,000)	\$58,000
FY 2020-2021	(\$88,000)	\$60,000
FY 2021-2022	(\$90,000)	\$62,000
FY 2022-2023	(\$93,000)	\$64,000

There will also be a positive impact of about \$8,000 per fiscal year to the Building Renewal Allocation Fund, about \$4,000 per fiscal year to the Department of Health and Human Services Finance and Support Cash Fund, about \$1,000 per fiscal year to the Nebraska Outdoor Recreation Development Cash Fund, about \$4,000 per fiscal year to the Nebraska Public Safety Communication System Cash Fund, and about \$1,000 per fiscal year to the Nebraska Health Care Cash Fund.

It is estimated that there will be minimal costs to the Department to implement this bill.



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2019

LB<sup>(1)</sup> 397

FISCAL NOTE

State Agency OR Political Subdivision Name: <sup>(2)</sup> Attorney General

Prepared by: <sup>(3)</sup> Dave Bydalek Date Prepared: <sup>(4)</sup> 1-23-19 Phone: <sup>(5)</sup> 402-471-2687

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:

No Fiscal Impact.

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.....	_____	_____	_____	_____

DTB

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2019

LB<sup>(1)</sup> 397

FISCAL NOTE

State Agency OR Political Subdivision Name: <sup>(2)</sup> State Treasurer

Prepared by: <sup>(3)</sup> Jason Walters Date Prepared: <sup>(4)</sup> January 18, 2019 Phone: <sup>(5)</sup> 402-471-2793

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

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

Explanation of Estimate:  
No fiscal impact to the State Treasurer's Office

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

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

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

**2019**

**LB<sup>(1)</sup> 397**

**FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> Lancaster County Treasurer

Prepared by: <sup>(3)</sup> Rachel M Garver, Treasurer Date Prepared: <sup>(4)</sup> 1-25-19 Phone: <sup>(5)</sup> (402)441-7425

**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	_____	_____	_____	_____
<b>TOTAL FUNDS</b>	<b>=====</b>	<b>=====</b>	<b>=====</b>	<b>=====</b>

Explanation of Estimate: As currently drafted, LB 387 will have No Fiscal Impact on our office.

**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.....	_____	_____	_____	_____
<b>TOTAL.....</b>	<b>_____</b>	<b>_____</b>	<b>_____</b>	<b>_____</b>