

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

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)</b>				
	<b>FY 2021-22</b>		<b>FY 2022-23</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS	\$4,424,000	\$37,939,000	\$1,592,000	\$40,143,000
CASH FUNDS	\$53,576,000	\$53,739,000	\$56,408,000	\$56,598,000
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>	<b>\$58,000,000</b>	<b>\$91,678,000</b>	<b>\$58,073,900</b>	<b>\$96,741,000</b>

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

LB 459 seeks to make the following changes to the taxation of cigarettes and tobacco products:

- Increases the cigarette tax from \$0.64 to \$2.14;
- Increases the general fund allocation for cigarette tax from \$0.49 to \$0.865;
- Increases the appropriation from cigarette tax revenue to the Health Care Cash Fund from \$1.25 million to \$1.125 plus the original \$1.25 million; and
- Imposes a tobacco tax on electronic nicotine delivery systems and allocates the revenue collected to the Health Care Cash Fund.

Additionally, LB 459 requires the following appropriations to be made from the Health Care Cash Fund, using this new revenue:

- Beginning in FY21-22, an additional \$2 million is appropriated to the Tobacco Prevention and Control Program;
- Beginning in FY21-22, \$26 million is appropriated to the Department of Health and Human Services for the purposes of paying for maternal health care projects enacted by the Legislature; and
- For FY21-22 and FY22-23, \$30 million is appropriated to the Department of Labor for the purposes of paying administrative costs of any paid family and medical leave programs enacted by the Legislature.

LB 459 would become operative July 1, 2021.

**Revenue:**

The Department of Revenue estimates the following change to cigarette and tobacco tax revenue as a result of LB 459:

<b>Fiscal Year</b>	<b>General Fund</b>	<b>Nebraska Health Care Cash Fund</b>
<b>2021-22</b>	\$33,505,000	\$53,576,000
<b>2022-23</b>	\$35,452,000	\$56,408,000
<b>2023-24</b>	\$34,310,000	\$55,232,000
<b>2024-25</b>	\$33,211,000	\$54,121,270

Additionally, the Sales and Use Tax revenue collected on the sale of higher-priced cigarettes is estimated as follows:

Fiscal Year	General Fund	State Highway Capital Improvement Fund (Dept of Transportation)	Highway Allocation Fund (Cities and Counties)
2021-22	\$4,434,000	\$163,000	\$29,000
2022-23	\$4,691,000	\$190,000	\$34,000
2023-24	\$4,540,000	\$184,000	\$32,000
2024-2025	\$4,395,000	\$178,000	\$31,000

The estimates provided by the Department of Revenue appear reasonable based on the data available.

**Expenditures:**

The appropriations required by LB 459 total \$58,000,000 for FY21-22 and FY22-23. It is estimated that there will not be enough revenue allocated to the Health Care Cash Fund to cover these appropriations. As such, a General Fund expenditure is expected to be needed to make up the difference in these two fiscal years, totaling \$4,424,000 in FY21-22 and \$1,592,000 in FY22-23. In the years following FY22-23, no General Fund expenditure will be needed to cover a deficit, as the appropriation of \$30 million to the Department of Labor will no longer be made.

The Department of Revenue estimates the need for a 1.0 FTE Revenue Investigator beginning in FY22-23 to implement LB 459. There is no basis to disagree with this estimate.

The Department of Health and Human Services estimates no cost to implement LB 459. There is no basis to disagree with this estimate.

The Department of Labor estimates no cost to implement LB 459. There is no basis to disagree with this estimate.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE

LB: 459	AM:	AGENCY/POLT. SUB: Department of Health and Human Services	
REVIEWED BY: Lee Will	DATE: 02/26/2021	PHONE: (402) 471-4175	
COMMENTS: Concur with the Department of Health and Human Services assessment of fiscal impact.			

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE

LB: 459	AM:	AGENCY/POLT. SUB: Department of Labor	
REVIEWED BY: Lee Will	DATE: 02/26/2021	PHONE: (402) 471-4175	
COMMENTS: Concur with the department's assessment of fiscal impact related to the \$30 million appropriation from the Health Care Cash Fund to the Department of Labor for FY 2021-22 and FY 2022-23.			



Fiscal Year	Net Tax Revenue From \$1.5 Increase on Cigarette	Net Tax Revenue From Imposing Tax on ENDS
FY2021-22	\$82,892,000	\$10,000,000
FY2022-23	\$87,708,000	\$10,300,000
FY2023-24	\$84,883,000	\$10,609,000
FY2024-25	\$82,164,000	\$10,927,270

LB 459 increases the allocation of cigarette tax to the General Fund to \$0.865, and credit \$1.125 of such tax plus an additional \$1.25 million to the Nebraska Health Care Cash Fund. LB 459 also credit all tobacco tax from ENDS to the Nebraska Health Care Cash Fund. The Department estimates that the distribution for General Fund and Nebraska Health Care Cash Fund under LB 459 will be as below:

Fiscal Year	General Fund	Nebraska Health Care Cash Fund
FY2021-22	\$33,505,000	\$53,576,000
FY2022-23	\$35,452,000	\$56,408,000
FY2023-24	\$34,310,000	\$55,232,000
FY2024-25	\$33,211,000	\$54,121,270

From the additional revenue credited to the Nebraska Health Care Cash Fund there are annual appropriations beginning with fiscal year 2021-2022 of \$2 million to the Tobacco Prevention and Control Program and \$26 million to the Department of Health and Human Services, and an appropriation of \$30 million to the Department of Labor each of fiscal years 2021-2022 and 2022-2023. However, the increase in revenue due to the increase in the cigarette rate and new tax from ENDS will not be enough to distribute to the entire listed funds in LB 459 for the first two fiscal year 2021-2022 and 2022-2023, hence the Department assumes any shortage of Nebraska Health Care Cash Fund will come out from the General Fund. With these assumptions, The Department estimates the following revenue impact associated with the cigarette tax increase, new excise tax on ENDS, and other funds distribution under LB 459:

Fiscal Year	General Fund	Nebraska Health Care Cash Fund	Tobacco Prevention and Control Program	Department of Health and Human Services	Department of Labor
FY2021-22	\$29,081,000	\$0	\$2,000,000	\$26,000,000	\$30,000,000
FY2022-23	\$33,860,000	\$0	\$2,000,000	\$26,000,000	\$30,000,000
FY2023-24	\$34,310,000	\$27,232,000	\$2,000,000	\$26,000,000	\$0
FY2024-25	\$33,211,000	\$26,121,270	\$2,000,000	\$26,000,000	\$0

The Department estimates the following revenue impact associated with sales tax collecti ons on higher-priced cigarettes:

Fiscal Year	General Fund	State Highway Capital Improvement Fund	Highway Allocation Fund	Total
FY2021-22	\$4,434,000	\$163,000	\$29,000	\$4,626,000
FY2022-23	\$4,691,000	\$190,000	\$34,000	\$4,915,000
FY2023-24	\$4,540,000	\$184,000	\$32,000	\$4,756,000
FY2024-25	\$4,395,000	\$178,000	\$31,000	\$4,604,000

The Department estimates the following net revenue impact associated with the General Fund and cash funds resulting from LB 459:

Fiscal Year	General Fund	Cash Funds	Other Funds	Total
FY2021-22	\$33,515,000	\$163,000	\$29,000	\$33,707,000
FY2022-23	\$38,551,000	\$190,000	\$34,000	\$38,775,000
FY2023-24	\$38,850,000	\$27,416,000	\$32,000	\$66,298,000
FY2024-25	\$37,606,000	\$26,299,270	\$31,000	\$63,936,270

The Department will require a 1.0 FTE Revenue Investigator in the second and subsequent years to implement this bill.

The operative date for this bill is July 1, 2021.

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

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

Prepared by: (3) Mike Michalski

Date Prepared 2-16-2021

Phone: (5) 471-6719

	<u>FY 2021-2022</u>		<u>FY 2022-2023</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
<b>GENERAL FUNDS</b>				
<b>CASH FUNDS</b>				
<b>FEDERAL FUNDS</b>				
<b>OTHER FUNDS</b>				
<b>TOTAL FUNDS</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

**Explanation of Estimate:**

LB 459 intends that \$2,000,000 from the Health Care Cash Fund be transferred to Program 030 – Tobacco Prevention and Control Program and that \$26,000,000 from the Health Care Cash Fund be used to fund any future maternal health care programs created by the Legislature. LB 459 proposes to obtain the additional revenue from an increase in cigarette taxes, with funds to be transferred to the Health Care Cash Fund by the State Treasurer.

**MAJOR OBJECTS OF EXPENDITURE**

**PERSONAL SERVICES:**

POSITION TITLE	NUMBER OF POSITIONS		2021-2022 EXPENDITURES	2022-2023 EXPENDITURES
	21-22	22-23		
Benefits.....				
Operating.....				
Travel.....				
Capital Outlay.....				
Aid.....			\$0	\$0
Capital Improvements.....				
<b>TOTAL.....</b>			<b>\$0</b>	<b>\$0</b>

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

**2021**

**LB<sup>(1)</sup> 459**

**FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> Nebraska Department of Labor

Prepared by: <sup>(3)</sup> Katie Thurber Date Prepared: <sup>(4)</sup> 2-22-2021 Phone: <sup>(5)</sup> 402-471-9912

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

	<u>FY 2021-22</u>		<u>FY 2022-23</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>	=====	=====	=====	=====

Explanation of Estimate: LB 459 adjusts taxes that go to the Nebraska Health Care Cash Fund. The bill further intends to appropriate \$30 million from the Nebraska Health Care Cash Fund to the Nebraska Department of Labor in each of FY 21-22 and 22-23. The increased funds are for the administration of any paid family and medical leave program that may be enacted by the Legislature.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2021-22</u>	<u>2022-23</u>
	<u>21-22</u>	<u>22-23</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
<b>TOTAL.....</b>	_____	_____	_____	_____