

As amended by AM157

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)

	FY 2025-26		FY 2026-27	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS	\$465,237	\$12,500	\$320,054	\$8,750
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$465,237	\$12,500	\$320,054	\$8,750

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

LB 609 would adopt the Controllable Electronic Record Fraud Prevention Act (Act); to require certain notice to purchasers of gift certificates or gift cards; to define terms; to provide for forfeiture of convictions for certain offenses involving theft by deception, forgery, and identity theft; and to provide for forfeiture of violations of controllable electronic records.

The Act defines terms relating to blockchain analytics, controllable electronic records, kiosks, operators, transactions and wallets. The Act further requires that all kiosk operators maintain a license pursuant to the Nebraska Money Transmitters Act and submit a report containing the information as outlined in LB 609 to the Nebraska Department of Banking and Finance (NDBF) on a quarterly basis. The bill further requires that warnings and disclosures shall be made available and include a statement, written prominently and in bold type and provided separately from the other disclosures, warning customers about the potential for criminals to exploit controllable electronic record kiosks to commit illicit activity and the criminal penalties for initiating a dishonest scheme.

Section 6 of the bill requires each controllable electronic record kiosk operator shall designate and employ a compliance officer on a full-time basis to coordinate and monitor compliance with the Controllable Electronic Record Fraud Prevention Act and perform other duties as described in the bill.

These controllable electronic record kiosk operators are not currently subject to regulation under the Nebraska Money Transmitters Act, which is under the NDBF. The NDBF estimates that there are currently 140 cryptocurrency kiosks located in Nebraska but the actual number is unknown. For the purposes of this fiscal note, NDBF only estimates that there are ten operators. An original license fee under the Act is \$1,000 and an annual year-end renewal fee is \$250. This will result in an increase in revenue for FY 2025-26 of \$12,500. It is estimated there would be five new licensees for the next fiscal year and that all existing licenses would be renewed for a total of \$8,750.

Furthermore, the NDBF is currently unable to collect the necessary information and conduct timely audits without additional examination and administrative staff. The additional information required by LB 609 would require Nebraska to develop a separate reporting process which would require additional operating expenses in FY 2025-26 to hire a consultant/developer to create a database to manage the information obtained from the controllable electronic record addresses. That one-time expense in FY 2025-26 is estimated at \$150,000.

Additionally, the NDBF would need additional staff to meet the requirements of LB 609. To accomplish these duties, NDBF estimates the need for an additional three FTEs including 1 Senior Examiner, 1 Administrative Programs Officer II and 1 Administrative Programs Officer I. The personnel cost, including benefits and operating costs, are estimated to be \$465,237 in FY 2025-26 and \$320,054 in FY 2026-27.

Section 12 defines gift certificates or gift cards and provides for notice about the potential fraud to the purchaser. This section further provides that if the Attorney General has cause to believe this section has been violated, the Attorney General may provide a written citation to the violator. The Attorney General can absorb any administrative costs that may occur from monitoring any potential violations.

LB 609 also provides additional criminal provisions, including forfeiture as provided in sections 28-1601 to 28-1603 for violations of forgery, theft by deception and other covered offenses, as defined by the bill.

AM 157 strikes sections 13,14,15,16, 17, 18, 19, 20, 21 and 22 and inserts a new section. The stricken sections regard sentencing courts to order forfeiture as provided in sections 28-1601 to 28-1603 and also strikes sections that are outside the prevue of the Controllable Electronic Record Fraud Prevention Act.

The new section in the amendment adds controllable electronic records as defined in section 8-3003 as property. The amendment further defines the Act to include holding third parties acting on behalf of a controllable electronic record kiosk operator as liable; defines the time for an existing customer with the controllable electronic record kiosk operator from thirty days to fourteen days under the Act; adds additional reporting requirements to NDBF; increases the daily limits for transactions; and adds language for the Attorney General's Consumer Protection office to release model notice language as outlined in the amendment.

There is no additional fiscal impact on LB 609 due to AM157.

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2025

LB⁽¹⁾ 609

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Attorney General

Prepared by: ⁽³⁾ Bebe Strnad Date Prepared: ⁽⁴⁾ 1-27-25 Phone: ⁽⁵⁾ 402-471-2687

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2025-26		FY 2026-27	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS				

Explanation of Estimate:

No Fiscal Impact

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

POSITION TITLE	NUMBER OF POSITIONS		2025-26	2026-27
	25-26	26-27	EXPENDITURES	EXPENDITURES
Benefits.....				
Operating.....				
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
TOTAL.....				

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2025

LB⁽¹⁾ 609

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Nebraska Department of Banking and Finance

Prepared by: ⁽³⁾ Shauna Paolini Date Prepared: ⁽⁴⁾ 01.29.2025 Phone: ⁽⁵⁾ 402-471-4954

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2025-26</u>		<u>FY 2026-27</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS				
CASH FUNDS	<u>465,237</u>	<u>12,500</u>	<u>320,054</u>	<u>\$8,750</u>
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	<u>465,237</u>	<u>12,500</u>	<u>320,054</u>	<u>\$8,750</u>

Explanation of Estimate:

LB 609 would adopt the Controllable Electronic Record Fraud Prevention Act, which will require that operators of cryptocurrency kiosks/ATMs be licensed under the Nebraska Money Transmitters Act (Act), which is under the jurisdiction of the Nebraska Department of Banking and Finance (NDBF). These operators are not currently subject to regulation. An Internet search indicates there are approximately 140 cryptocurrency kiosks located in Nebraska, but the number of operators of those kiosks is unknown. For purposes of this fiscal note, we estimate that there are 10 operators. An original license fee under the Act is \$1,000 and an annual year-end renewal fee is \$250. This will result in an increase in revenue for FY 2025-26 of \$12,500. It is estimated there would be 5 new licensees for the next fiscal year and that all existing licenses would be renewed for a total of \$8,750 (5 x \$1,000 + 15 x \$250).

The kiosk operators are required to register each kiosk with NDBF and obtain the prior approval of the NDBF for the kiosk. The operators are required to submit quarterly reports to NDBF for each kiosk that include any associated controllable electronic record address.

LB 609 would have significant impact on the operations of the NDBF Consumer Financial Services division. NDBF would need to develop a kiosk registration process. The major expenses are due to the fact that NDBF does not receive data from money transmitter licensees on a quarterly basis that includes any associated controllable electronic record address. If this bill would pass as written, we would need to collect this data on a quarterly basis from each of our licensees outside of the Money Services Businesses (MSB) call report filed in the Nationwide Multi-State Licensing System and Registry (NMLS). NMLS is an online licensing system created by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, that NDBF uses for processing license applications and the filing of reports and processing of fees.

Due to limitations of our current licensing system, we would be unable to collect the necessary information and conduct necessary timely audits of our licensees' information without additional examination and administrative staff. The additional information required by LB 609 would require Nebraska to develop a separate reporting process, which would require additional operating expenses in FY 2025 to hire a consultant/developer to create a database to manage the information obtained from the controllable electronic record addresses. That expense is estimated at \$150,000.

NDBF is unable to meet these requirements with existing resources. To accomplish these duties, NDBF estimates the need for an additional 3 FTEs including 1 Senior Examiner, 1 Administrative Programs Officer II, and 1 Administrative Programs Officer I.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2025-26</u>	<u>2026-27</u>
	<u>25-26</u>	<u>26-27</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Senior Examiner	1	1	85,000	87,125
Administrative Programs Officer II	1	1	50,538	51,801
Administrative Programs Officer I	1	1	43,732	44,825
Benefits.....			124,156	124,492
Operating.....			161,811	11,811
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
TOTAL.....			465,237	320,054