

As amended by AM157-Revised

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	\$232,777	\$12,500	\$185,061	\$8,750
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$232,777	\$12,500	\$185,061	\$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.

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; 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.

AM 157 reduces the expenses for the Department of Banking and Finance Consumer Financial Services Division. AM 157 reduces the expenses that will be needed to hire a consultant/developer create a database to manage the information obtained from the controllable electronic record addresses. That one-time expense in FY 2025-26 would be reduced from \$150,000 to \$100,000 and identifies ongoing software costs of \$50,000 used to trace cryptocurrencies.

AM 157 also reduces the number of personnel needed to meet the requirements of the Act. The amendment reduces the need for the additional Administrative Programs Officer II and 1 Administrative Programs Officer I. NDBF would have the continued need for the Senior Examiner. The personnel cost, including benefits and operating costs, are estimated to be \$128,276 in FY 2025-26 and \$130,560 in FY 2026-27.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 609	AM: 157	AGENCY/POLT. SUB: Nebraska Department of Banking & Finance	
REVIEWED BY:	Jacob Leaver	DATE: 2/18/2025	PHONE: (402) 471-4173
COMMENTS: Concur with the Department of Banking and Finance's estimated fiscal impact as a result of LB 609 AM 157.			

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2025

LB⁽¹⁾ 609 AM157

FISCAL NOTE

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

Prepared by: ⁽³⁾ Shauna Paolini Date Prepared: ⁽⁴⁾ _____ 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>232,777</u>	<u>12,500</u>	<u>185,061</u>	<u>8,750</u>
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

Explanation of Estimate:

AM 157: NDBF is unable to meet these requirements with existing resources. To accomplish these duties, NDBF estimates the need for an additional **1 FTE** for 1 Senior Examiner.

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 an impact on the operations of the NDBF Consumer Financial Services division. NDBF would need to develop a kiosk registration process. AM 157 reduces the expenses that will be needed to hire a consultant/developer to create a database to manage the information obtained from the controllable electronic record addresses from \$150,000 to \$100,000 and identifies software used to continue to trace crypto transactions at \$50,000 the following year. The amendment also reduced the number of estimated new examiners from 2 to 1 and removed the need for an Administrative Technician position.

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
Benefits.....			43,276	43,435
Operating.....			104,501	54,501
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
TOTAL.....			232,777	185,061