

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2018-19		FY 2019-20	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	See Below		See Below	

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

This bill creates the Healthy Kids Act. The bill requires sellers of residential property to perform a lead dust wipe assessment prior to the sale or for rental properties, prior to a rental agreement being entered into. The lead dust wipe assessment is not required for properties that the Department of Health and Human Services has issued a lead-free certification. The Department is required to develop a safe housing registry and adopt and promulgate rules and regulations necessary to carry out the Act. The operative date is January 1, 2019.

The fiscal impact cannot be determined. It is unclear if lead-free certification would be an independent assessment conducted by the Department or if the properties entered into the safe housing registry from the sellers and landlords would be considered meeting this requirement. The bill does not define what constitutes a lead-free certification, nor does it allow for fees to be collected by the Department for performing an independent assessment.

The cost of the registry would be \$100,000 in FY 2019 and \$15,000 in maintenance costs in FY 2020. If the Department is to conduct the assessments, the cost is estimated to be \$9.3 million in FY 2019 and \$18.6 in FY 20. The Department would contract out the costs. The estimate is \$550 per property that would be evaluated. A program manager and environmental health analyst would be needed. The costs would be \$80,297 for a partial year in FY 2019 and \$146,593 in FY 2020. All cost would be from the General Fund.

The Real Estate Commission would need to change the disclosure form. These costs can be handled within existing agency resources.

The Department of Administrative Services states that the provisions of the bill increases the State's liability as it relates to lead-based paint in residential properties. This could lead to additional claims against the State.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 1060	AM:	AGENCY/POLT. SUB: Real Estate Commission
REVIEWED BY: Elton Larson	DATE: 1/23/18	PHONE: (402) 471-4173
COMMENTS: No basis to disagree with Commission estimate of no fiscal impact.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 1060	AM:	AGENCY/POLT. SUB: Department of Administrative Services (DAS)
REVIEWED BY: Elton Larson	DATE: 2/5/2018	PHONE: (402) 471-4173
COMMENTS: No basis to disagree with DAS analysis indicating the possibility of a future fiscal impact.		

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 1-19-18

Phone: (5) 471-6719

	<u>FY 2018-2019</u>		<u>FY 2019-2020</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	\$9,491,062		\$18,855,972	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$9,491,062	\$0	\$18,855,972	\$0

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

Explanation of Estimate:

LB 1060 would adopt the *Healthy Kids Act*, which would impose requirements on landlords and sellers of dwelling units constructed prior to 1978. These parties shall cause to be performed a lead dust wipe assessment of any property within a period of 90 days preceding lease or sale. Landlords and sellers would be exempted from this requirement for properties for which the Department has issued a lead-free certification.

LB 1060 would require the Department to develop and promulgate rules and regulations, which would include standards and procedures for lead dust wipe assessments and lead-free certifications. Lead-free certification is defined in Sec. 2 (6) to mean, “a certification issued by the department that confirms that a premises or residential real property contains no lead-based paint hazards or that any such hazards have been permanently eliminated.” In this sense, certification would not truly indicate lead-free status but lead-based paint hazard free status. The inconsistency between the plain language meaning of “lead-free” and the definition provided in LB 1060 may open the state to increased legal liability. An increase in claims would result in an impact to the costs the Department of Administrative Services Risk Management Division assesses against DHHS.

The Department would need to procure an appropriate record management system to support the required safe housing registry. LB 1060 requires this registry be available on a publicly accessible website. The Department does not currently maintain an appropriate system and would likely issue a request for proposal and receive bids to procure one. This is estimated at \$100,000 in initial costs with an ongoing annual maintenance cost of 15%.

Lead dust wipe assessment costs would be borne by individuals intending to sell or rent residential real property within the state. The Department was provided an estimate of \$550 (+/- \$100) per single family home for a lead risk assessment performed by a private entity.

A seller or landlord is exempt from the testing requirements for any property which the Department has issued a lead-free certification. LB 1060 does not provide the Department authority to charge a fee for lead-free certification.

According to the 2012-2016 American Community Survey, Nebraska housing stock consists of approximately 815,006 units, of which 741,581 are occupied. Statewide, 66 percent of this housing stock is owner-occupied, with the remaining 34 percent renter-occupied. 64.2 percent of housing units within Nebraska consist of structures built in 1979 or earlier (ACS housing data are summarized in ten year segments). Nearly 22 percent of units were constructed in 1939 or earlier. As a result, approximately 500,000 housing units would be subject to the testing requirements in LB 1060. There is significant geographic variation in the age of housing structures. While only 36.56 percent of housing units in Sarpy County were constructed prior to 1980, there are 30 counties with greater than 80 percent of housing stock constructed prior to this date. With 89.44 percent of

housing structures built prior to 1980, Deuel County in LD 47 has the highest share of housing stock that would be subject to the testing requirements of LB 1060.

LB 1060 would become operative January 1, 2019. At that time, the Department would be responsible for lead-free certification statewide. Based on nationwide sales of existing homes in 2017, Nebraska's share of owner-occupied housing, and assuming 64.2 percent of sales involve houses built in 1979 or earlier, the Department estimates 23,139 sales would be subject to the provisions of LB 1060 in 2019. This is equivalent to 4.72 percent of Nebraska owner-occupied housing. While lead assessments performed by a private firm would subject a seller to expense, sellers would face no such expense when seeking a lead-free certification from the Department. For this reason, the Department expects to receive requests for certification for the vast majority of these properties. It is unclear whether the testing or certification provisions of LB 1060 for landlords only applies prior to the execution of an initial rental agreement or if renewal agreements would trigger sections 4-6. For the purposes of estimation, the Department assumes 4.72 percent of renter-occupied housing stock would also be subject to LB 1060 in 2019, or about 11,920 units. A total of 35,059 units are expected to be subject to LB 1060 during calendar 2019, with sellers or landlords seeking Department certification. This number should decline in following years as properties enter the registry.

Accounting for seasonal variation in residential real estate sales and adjusting for the state fiscal year, certification may be sought on an estimated 16,910 properties in FY19 (as only sales January-June would be subject to an operative bill) and 33,927 properties in FY20. A competitively bid contract for certification assessment is more appropriate than adding FTEs due to the shrinking pool of properties subject to registry entry. With an estimated average cost of \$550 per property, this results in \$9,300,500 and \$18,659,850 in contractual costs in FY19 and FY20, respectively.

The Department would require 1.0 FTE DHHS Program Manager I and 1.0 FTE Environmental Health Analyst to fulfill requirements of LB 1060, including regulation development and promulgation, complaint or dispute resolution, and contract monitoring activities. Inclusive of wages, benefits, and indirect costs, these FTEs would cost \$90,561 in FY19 and \$181,122 in FY20.

MAJOR OBJECTS OF EXPENDITURE				
PERSONAL SERVICES:				
POSITION TITLE	NUMBER OF POSITIONS		2018-2019	2019-2020
	18-19	19-20	EXPENDITURES	EXPENDITURES
DHHS Program Manager I	0.5	1.0	\$27,737	\$55,474
Environmental Health Analyst	0.5	1.0	\$23,155	\$46,309
Benefits.....			\$17,405	\$34,810
Operating.....			\$9,422,765	\$18,719,379
Travel.....				
Capital Outlay.....				
Aid.....				
Capital Improvements.....				
TOTAL.....			\$9,491,062	\$18,855,972

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2018

LB⁽¹⁾ 1060

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Nebraska Real Estate Commission

Prepared by: ⁽³⁾ Greg Lemon Date Prepared: ⁽⁴⁾ 1/21/2018 Phone: ⁽⁵⁾ 402 471-2004

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2018-19</u>		<u>FY 2019-20</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:

LB1060 would require a new question regarding lead based paint on the Seller Property Condition Disclosure Statement, which is used in most residential real property sales with certain exceptions,. The Seller Disclosure Statement is developed by the Commission and must be adopted and amended through the rule and regulation process. Though there would be some staff time needed as well as publication of notice costs for a rule hearing, these costs should be fairly minimal and able to be absorbed within existing resources.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2018-19</u>	<u>2019-20</u>
	<u>18-19</u>	<u>19-20</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____

