

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2017-18		FY 2018-19	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	See Below	See Below	See Below	See Below
CASH FUNDS	See Below	See Below	See Below	See Below
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	See Below	See Below	See Below	See Below

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

LB 438 would increase the cigarette tax from the current rate of \$0.64 per pack of twenty, to \$2.14 per pack of twenty. The bill also increases the tax on tobacco products other than snuff from the current rate of 20% of the wholesale purchase price, to 65%.

The bill amends Section 71-801 to create the Behavioral Health Provider Rate Stabilization Fund, the purpose of the Fund is to support reimbursement of behavioral health service provider rates within, but not limited to, the following programs:

- Children’s Health Insurance Program;
- Medical Assistance Act;
- Nebraska Behavioral Health Services Act;
- Nebraska Community Aging Services Act.

TECHNICAL NOTE: The language of LB 438 provides that the above Fund is to utilize money credited to the Fund pursuant to Section 77-2602. However, the bill does not amend Section 77-2602 to provide for such a transfer.

Section 71-7611, referring to the Nebraska Health Care Cash Fund, is amended to provide for a distribution of funds to various entities and programs.

TECHNICAL NOTE: The new language of LB 438 amending Section 71-7611, states, in part, “the State Treasurer shall place **such tax** in the Nebraska Health Care Cash Fund . . .” (emphasis added). There is nothing in this amended section specifying what tax is being referred to and there is no tax levied by this section of statute. In addition, in several instances, the distributions are vague or to a non-existent program.

Section 77-2602 is amended to increase the cigarette tax to \$2.14 per pack of twenty cigarettes. The bill also increases the amount of cigarette tax revenue that is to be credited to the General Fund to the equivalent of \$1.24 of the tax, an increase of \$0.75.

The bill also provides for an increase of \$60,000,000, in the amount of cigarette tax transferred to the Nebraska Health Care Cash Fund; increasing the amount of transfer from \$1,250,000 to \$61,250,000.

TECHNICAL NOTE: The bill provides for the increase in the amount of money transferred to the Health Care Cash Fund beginning July 1, 2016 and every fiscal year thereafter. This language seems to require a transfer in FY2016-17, however, the bill’s operative date is July 1, 2017. It is not possible to make a transfer in arrears. The first fiscal year in which a transfer could be made in this amount is FY2017-18.

Section 77-4008 is amended to increase the tax on tobacco products other than snuff from 20% of the purchase price paid by the first owner, to 65%.

The bill contains the emergency clause and has an operative date of July 1, 2017.

FISCAL IMPACT: Because of some of the technical difficulties noted above the fiscal impact detailed below applies to only the proposed increase in the cigarette tax and tobacco products tax and does not include the Behavioral Health Provider Rate Stabilization Fund distributions or a cash fund transfer in FY2016-17. In the tables below, where there is disagreement, the LFO and Revenue estimates will be shown side-by-side with the resultant fiscal impact being the average of the two. The primary reason for the difference in the estimates is a difference in the basic assumptions regarding cigarette consumption.

Table 1: Fiscal impact associated with the proposed cigarette tax and tobacco products tax changes:

Fiscal Year:	LFO General Fund:	DoR General Fund	General Fund Impact:	Nebraska Health Care Cash Fund:	Tobacco Products Administration Cash Fund:
2017-18:	\$53,840,000	\$ 34,460,000	\$44,150,000	\$ 60,000,000	\$ 5,362,500
2018-19:	\$48,772,000	\$ 34,367,000	\$41,569,500	\$ 60,000,000	\$ 6,143,000
2019-20:	\$43,704,000	\$ 30,911,000	\$37,307,500	\$ 60,000,000	\$ 6,450,000
2020-21:	\$36,946,000	\$ 27,418,000	\$32,182,000	\$ 60,000,000	\$ 6,773,000

Table 2: Fiscal impact associated with sales tax collection on higher-priced cigarette products:

Fiscal Year:	LFO General Fund:	DoR General Fund:	General Fund Impact:	LFO Highway Improvement Fund:	DoR Highway Improvement Fund:	Highway Improvement Fund Impact:
2017-18:	\$6,512,000	\$5,134,000	\$5,823,000	\$279,000	\$222,000	\$250,500
2018-19:	\$6,902,000	\$5,446,000	\$6,174,000	\$295,750	\$220,000	\$257,875
2019-20:	\$6,681,000	\$5,280,000	\$5,980,500	\$286,000	\$214,000	\$250,000
2020-21:	\$6,447,000	\$5,112,000	\$5,779,500	\$279,000	\$207,000	\$243,000

Table 2(continued): Fiscal impact associated with sales tax collection on higher-priced cigarette products:

Fiscal Year:	LFO Highway Allocation Fund: (Local)	DoR Highway Allocation Fund: (Local)	Highway Allocation Fund Impact: (Local)	LFO Total:	DoR Total:	Total Impact:
2017-18:	\$43,000	\$33,000	\$38,000	\$6,834,000	\$5,356,000	\$6,095,000
2018-19:	\$47,000	\$39,000	\$43,000	\$7,244,750	\$5,705,000	\$6,474,875
2019-20:	\$45,000	\$38,000	\$41,500	\$7,012,000	\$5,532,000	\$6,272,000
2020-21:	\$43,000	\$37,000	\$40,000	\$6,769,000	\$5,356,000	\$6,062,500

Table 3: Total Fiscal Impact:

Fiscal Year:	General Funds:	State Cash Funds:	Local Cash Fund:	Total:
2017-18:	\$49,973,000	\$65,613,000	\$38,000	\$115,624,000
2018-19:	\$47,743,500	\$66,400,875	\$43,000	\$114,187,375
2019-20:	\$43,288,000	\$66,700,000	\$41,500	\$110,029,500
2020-21:	\$37,961,500	\$67,016,000	\$40,000	\$105,017,500

The Department of Revenue estimates that the cost to implement LB 438 will be minimal.

We agree with the Department of Revenue's estimate of cost.

The University of Nebraska has indicated both revenue to the University and expenditures by the University as a result of the provisions of LB 438, specifically the distribution of funds detailed by the new language in Section 71-7611. We disagree with the University's estimate of revenue and expenditure because, as noted in the Technical Note above, the bill fails to specify the tax that is to be distributed and there is no tax levied by this section of statute, therefore, no distribution of funds is possible. As a result, there is no fiscal impact to the University.

The Department of Health and Human Services has indicated both revenue to the Department and expenditures by the Department as a result of the provisions of LB 438, specifically the distribution of funds detailed by the new language in Section 71-7611. We disagree with the Department's estimate of revenue and expenditure because, as noted in the Technical Note above, the bill fails to specify the tax that is to be distributed and there is no tax levied by this section of statute, therefore, no distribution of funds is possible. As a result, there is no fiscal impact to the Department.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 438	AM:	AGENCY/POLT. SUB: Department of Revenue
REVIEWED BY: Lyn Heaton	DATE: 3/14/2017	PHONE: (402) 471-4181
COMMENTS: No basis upon which to disagree with the Dept. of Revenue's analysis.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 438	AM:	AGENCY/POLT. SUB: University of Nebraska
REVIEWED BY: Lyn Heaton	DATE: 3/13/2017	PHONE: (402) 471-4181
COMMENTS: The dollar amounts for each of the spending line-items identified in the University of Nebraska fiscal note appear to be correctly stated compared to section 3, subsection 5 of the bill. It is unclear whether the items relating to the University of Nebraska will be appropriated directly to the University or will pass-through the Department of Health and Human Services first, as is currently done with biomedical research funding provided via the Health Care Cash Fund.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 438	AM:	AGENCY/POLT. SUB: Department of Health and Human Services
REVIEWED BY: Lyn Heaton	DATE: 3/13/2017	PHONE: (402) 471-4181
COMMENTS: The dollar amounts for each of the spending line-items identified in the HHS fiscal note appear to be correctly stated compared to section 3, subsection 5 of the bill.		

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

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

Prepared by: (3) Pat Weber

Date Prepared:(4) 1-17-17

Phone: (5) 471-6351

	FY 2017-2018		FY 2018-2019	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS	42,905,000	42,905,000	42,905,000	42,905,000
FEDERAL FUNDS	8,799,664		8,859,852	
OTHER FUNDS				
TOTAL FUNDS	51,704,664	42,905,000	51,764,852	42,905,000

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

Explanation of Estimate:

LB 438 would create the Behavioral Health Provider Rate Stabilization Fund, increase cigarette and other tobacco taxes, and designate distributions from the Health Care Cash Fund. For the purpose of this fiscal note, the Department assumes all designations not specifically assigned to another entity would flow through DHHS.

Aid to Local Public Health Departments	6,000,000
Aid to Seven Community Health Centers	5,000,000
Tobacco Prevention and Control Program	2,400,000
Nebraska Area Health Education Centers	1,000,000
Biomedical Research	10,000,000
Behavioral Health Provider Rate Stabilization	8,000,000
Cardiac Monitors	1,005,000
Emergency Medical Services Workforce Development	750,000
Local firefighter training	500,000
Colon Cancer Screening Aid	500,000
Every Woman Matters Aid	500,000
Nebraska paid-family-medical-leave program	5,000,000
CFS Early Intervention Home Visitation	1,100,000
Early Childhood Programs	1,150,000
DHHS Designations	42,905,000

The Behavioral Health Provider Rate Stabilization funding is intended to leverage federal funding under Medicaid. The \$8 million could result in federal financial participation of approximately \$8.8 million.

MAJOR OBJECTS OF EXPENDITURE

PERSONAL SERVICES:	NUMBER OF POSITIONS		2017-2018 EXPENDITURES	2018-2019 EXPENDITURES
	POSITION TITLE	17-18		
Benefits.....				
Operating.....				

Travel.....		
Capital Outlay.....		
Aid.....	51,704,664	51,764,852
Capital Improvements.....		
TOTAL.....	51,704,664	51,764,852

State Agency Estimate

State Agency Name: Department of Revenue		Date Due LFA: 3/15/2017				
Approved by: Tony Fulton		Phone: 471-5896				
Date Prepared: 3/13/2017						
	FY 2017-2018		FY 2018-2019		FY 2019-2020	
	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>
General Funds		\$39,594,000		\$39,813,000		\$36,191,000
Cash Funds		\$65,584,000		\$66,363,000		\$66,664,000
Federal Funds						
Other Funds		\$33,000		\$39,000		\$38,000
Total Funds		\$105,212,000		\$106,215,000		\$102,893,000

LB 438 increases the tax on packages of cigarettes containing 20 or fewer cigarettes to \$2.14 per package. Beginning July 1, 2017, the amount of the cigarette tax that will go to the General Fund will increase to \$1.24.

LB 438 increases the tax on tobacco products other than snuff to 65% of the purchase price.

LB 438 will also increase the amount of tax proceeds generated pursuant to section 77-2602 that is distributed to the Nebraska Health Care Cash Fund to \$61,250,000.

In a separate section, LB 438 amends section 71-7611 to state that each year, beginning July 1, 2017, the money from “such tax” shall be placed in the Nebraska Health Care Cash Fund. It is not clear which tax this is because no tax is levied in section 71-7611. However, LB 438 provides that the money from “such tax” that is placed in the Nebraska Health Care Cash Fund shall be distributed in specific amounts for various public health purposes.

LB 438 creates the Behavioral Health Provider Rate Stabilization Fund. The fund shall consist of money credited to the fund pursuant to section 77-2602. The fund is to be used to support reimbursement of behavioral health services providers and to leverage federal funds for behavioral health services.

The Department estimates the following revenue impact associated with the cigarette tax and tobacco products tax changes in LB 438:

Fiscal Year	General Fund	Nebraska Health Care Cash Fund	Tobacco Products Administration Cash Fund
FY 2017-18	\$34,460,000	\$60,000,000	\$5,362,500
FY 2018-19	\$34,367,000	\$60,000,000	\$6,143,000
FY 2019-20	\$30,911,000	\$60,000,000	\$6,450,000
FY 2020-21	\$27,418,000	\$60,000,000	\$6,773,000

The Department estimates the following revenue impact associated with sales tax collections on higher-priced cigarette products:

Fiscal Year	General Fund	State Highway Capital Improvement Fund	Highway Allocation Fund	Total
FY 2017-18	\$5,134,000	\$222,000	\$33,000	\$5,356,000
FY 2018-19	\$5,446,000	\$220,000	\$39,000	\$5,705,000
FY 2019-20	\$5,280,000	\$214,000	\$38,000	\$5,532,000
FY 2020-21	\$5,112,000	\$207,000	\$37,000	\$5,356,000

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2017

LB⁽¹⁾ 438 All Sources

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ University of Nebraska

Prepared by: ⁽³⁾ Michael Justus Date Prepared: ⁽⁴⁾ January 26, 2017 Phone: ⁽⁵⁾ 402-472-2191

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2017-18		FY 2018-19	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS				
CASH FUNDS	\$17,300,000	\$17,350,000	\$17,300,000	\$17,300,000
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	<u>\$17,300,000</u>	<u>\$17,350,000</u>	<u>\$17,300,000</u>	<u>\$17,300,000</u>

Explanation of Estimate:

The bill provides for an increase in the cigarette tax with certain distributions to the University. The total includes an estimated \$7.3 million awarded to the UNMC and UN-L from the Nebraska Tobacco Settlement Biomedical Research Development Funding. In addition, if LB 438 is fully funded, it will fund the area health education centers (\$1 million), the College of Public Health for program development and outreach (\$4 million), the Behavioral Health Education Center for workforce training (\$2 million), the Simulation in Motion-Nebraska Program for training of Nebraska Emergency Medical Simulation personnel and Critical Access Hospital Emergency Department staff (\$1 million), and Munroe-Meyer Institute to establish a Joint Neurobehavioral Clinical and Research Program (\$2 million).

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

POSITION TITLE	NUMBER OF POSITIONS		2017-18	2018-19
	17-18	18-19	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Various	112	112	4,341,473	4,341,473
	(79.77 FTE)	(79.77 FTE)		
Benefits.....			1,027,473	1,027,473
Operating (included contracted services).			11,417,636	11,417,636
Travel.....			223,000	223,000
Capital outlay.....			20,000	20,000
Aid.....			270,735	270,735
Capital improvements.....				
TOTAL.....			\$17,300,000	17,300,000