

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2019-20		FY 2020-21	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	354,253		458,628	
CASH FUNDS	66,818	46,968	124,475	71,454
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	421,071	46,968	583,103	71,464

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. Properties built since 1978 are exempt. 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, 2020.

The department estimates that 522,613 housing units would be subjected to the regulatory provisions of this bill when sold or new rental agreements are entered into. It is estimated that annually 11,334 owner-occupied houses and 16,117 rental units would require the lead dust swipe assessments annually. Approximately 305 units would require abatement. Additional staff are needed to track and verify the lead-free certification, process new individual and business licenses, and review abatement plans. The FTE are three environmental health analysts, three industrial hygiene specialists and a program manager. Personnel and operating costs would be \$321,071 (254,253 GF and \$66,818 CF) in FY 20 and \$568,103 (443,628 GF and \$124,475 FF) in FY 21. The cost of the registry would be \$100,000 in FY 2020 and \$15,000 in maintenance costs in FY 2021. Revenue from licensing fees are estimated to be \$46,968 in FY 20 and \$71,454 in FY 21.

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

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 653 AM:	AGENCY/POLT. SUB: Department of Health and Human Services (DHHS)	
REVIEWED BY: Elton Larson	DATE: 3/12/2019	PHONE: (402) 471-4173
COMMENTS: No basis to disagree with DHHS estimate of fiscal impact to the agency.		

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 1-28-19

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	<u>FY 2019-2020</u>		<u>FY 2020-2021</u>	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	\$379,362	\$0	\$564,270	\$0
CASH FUNDS	\$66,818	\$46,968	\$124,475	\$71,454
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$446,180	\$46,968	\$688,745	\$71,454

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

Explanation of Estimate:

LB 653 adopts the Healthy Kids Act, which requires all landlords and sellers of dwelling units constructed prior to 1978 to have a lead dust wipe assessment performed within 90 days prior to the rental or sales transaction. LB 653 allows the Department of Health and Human Services (DHHS) to issue lead-free certifications on dwelling units that have been deemed to be free of any lead-based paint hazards by a licensed inspector. Any dwelling that has received a lead-free certification from the Department is exempt from these requirements.

LB 653 would require the DHHS to develop and promulgate new rules and regulations as well as make minor changes to existing rules and regulations, which include the development of standards and procedures for conducting a lead dust wipe assessment and issuing a lead-free certification. Per Section 2.(6), LB 653 defines lead-free certification as “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.” This estimate is based upon certification being termed “lead-based paint safe” on structural interior surfaces only. Lead-based paint chips could exist on the exterior surfaces or in the soil surrounding a dwelling unit. However, a lead dust wipe assessment is only performed on interior surfaces. The State may face increased legal liability as a result of providing “lead-free” certification on the basis of a lead dust wipe assessment and cannot guarantee that a housing unit that contains lead-based paint, but is not exhibiting a hazard, such as peeling paint, would not peel or be disturbed at a later date.

This estimate is also based on LB 653’s requirement that DHHS must maintain a database for records of certifications issued and make records of certifications publicly available through a website. The Department does not currently maintain an appropriate system to accommodate this requirement and would need to procure an appropriate system. This is estimated at \$100,000 in initial contract costs with an ongoing annual maintenance cost of 15%.

This estimate is based upon the seller or landlord being responsible for the cost of a lead dust wipe assessment. A seller or landlord is exempt from the testing requirements for any property which DHHS has issued a lead-based paint safe certification.

This estimate is based upon DHHS issuing lead-based paint safe certifications from test results and/or inspection reports as submitted by the licensed inspector, and does not include any costs for the Department to verify the results of every test in order to issue lead-based paint safe certifications. However, during the annual business inspections, the Department samples some projects of licensed entities for result verification. LB 653 does not provide the Department authority to charge a fee for issuing lead-based paint safe certifications.

Current rules and regulations require DHHS to make on-site business inspections at least once per year for every licensed firm engaged in lead activities. Also, a licensed firm must submit a copy of lead abatement project plans for Departmental review and approval prior to beginning any lead abatement project affecting

over 100 square feet. It is expected that the demand for certified lead inspectors will rise significantly should LB 653 be enacted, along with additional certified inspection firms and lead abatement projects.

Summary of Housing Statistics per 2013-2017 American Community Survey through American Factfinder:

2017 Total Housing Stock per American Factfinder		824,176
<u>Occupied</u>		748,405
Owner Occupied	494,189	66.0%
Renter Occupied	254,216	34.0%
Housing Units built prior to 1979 That would be subject to LB 653 (includes rentals and unoccupied units)	522,613	63.4%
<u>Unoccupied</u>	75,771	9.19%

Based upon the above data, 63.4 percent of housing units within Nebraska consist of structures built in 1979 or earlier (ACS housing data are summarized in ten year segments). Nearly 21.4 percent of units were constructed in 1939 or earlier. As a result, approximately 522,613 housing units would be subject to the testing requirements in LB 653. There is significant geographic variation in the age of housing structures. While only 33.0 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 653. The vast majority of current Nebraska-licensed lead service businesses are concentrated in the eastern portion of the state (see: <http://dhhs.ne.gov/publichealth/Documents/LeadBusinessEntitiesAndConsultants.pdf>).

Estimated number of housing units likely to contain lead-based paint:

According to the Environmental Protection Agency (EPA), lead-based paint is likely to be present in certain percentages of pre-1979 housing units according to when built. Using those percentages and the Year Built data from the 2013-2017 American Community Survey through American Factfinder, the following number of housing units would most likely have lead-based paint present.

Built 1960 to 1979 =	225,882 x 24% =	54,212
Built 1940 to 1959 =	120,263 x 69% =	82,981
Built 1939 or earlier =	<u>176,468 x 87% =</u>	<u>153,527</u>
Totals	522,613 =	290,720 housing units

290,720 / 522,613 = 55.6% of pre 1979 built housing units likely to contain lead-based paint
 290,720 / 748,405 = 38.8% of all occupied housing units likely to contain lead-based paint

Estimated number of children under 6 years old likely to be living in housing that contains lead-based paint:

According to the 2017 American Community Survey, there were a total of 158,381 children under 6 years old living in Nebraska households. This equates to .2116 children per occupied household. After applying this factor to the total number of households likely to contain lead-based paint, it is estimated that approximately 61,500 Nebraska children are living in a lead-based paint containing housing unit. This estimate assumes no systematic relationship between the distribution of children and housing unit lead status.

Number of children under 6 years old	158,381
Divided by the number of occupied housing units	<u>/ 748,405</u>
Average no. of children per occupied housing unit	.2116
Housing units likely to contain lead-based paint	290,720
Average no. of children under 6 per occupied housing unit	<u>x .2116</u>

Estimated total number of children under 6 years old living in housing

Calculations for Single Family Housing Units:Estimated number of single family housing sales transactions per year subject to LB 653:

2017 Zillow.com Nebraska Home Sales for New And Existing Homes	25,976
2017 US Census Bureau Building Permit Data for New Residential Housing Units	8,919
Less unoccupied/unsold units @ 9.19%	<u>-820</u>
Total #Sales of New Housing Units	8,099
2017 Estimated number of Existing Single Family Housing Unit Sales 25,976 less new construction 8,099 sold	17,877
2017 Estimated Number of single family housing sales for homes that were built prior to 1979 @ 63.4%	<u>x 63.4%</u> <u>11,334</u>

Estimated number of single family housing owners that would seek lead-free certifications per year:

It is expected that a low number of single family homeowners would seek lead-free certification due to the ability of being able to share test results with prospective buyers during contract negotiations. An owner-seller of a single family house does not appear to have any incentive to seek certification under LB 653. The estimate does not account for lead-free certifications of non-rental single family homes.

Calculations for Rental Housing Units:Estimated number of rental transactions per year subject to LB 653:

2017 Transunion Smartmove Survey of Tenant Turnover Rate reported by 53% of landlords surveyed to be equal to or less than 10%	254,216
Estimated number of rental units turned over per year	<u>x 10%</u> 25,422
Estimated number of rental transactions for units that were built prior to 1979 @ 63.4%	<u>x 63.4%</u> <u>16,117</u>

Estimated number of landlords that would seek lead-free certifications per year:

It is expected the majority of landlords will seek certification to avoid repeated costs due to turnover. This estimate is based on 80% of applicable rental transactions per year to seek certification. This would result in 12,894 submissions per year.

16,117
<u>x 80%</u>
12,894

Total Estimated number of housing units subject to LB 653 per calendar year based on 2017 data:

Single Family Housing Units	11,334
Rental Units	<u>16,117</u>
Total Estimated Number of Lead Dust Wipe Assessments per year	<u>27,451</u>

Estimated Departmental Labor Hours:

Lead-free certifications - The estimate is based on each lead-free certification taking 1 hour of staff time to receive the submission, check submission for qualified tests results and completeness, enter information into the registry, issue and mail lead-free certification. Staff would also notify the applicant of results or need for additional information. It is expected that the requests for lead-free certification would slowly decline each year. This estimate is based on an additional 12,894 hours of new staff work per year.

Increased individual licensing and new business licensing – Currently, there are 74 licensed lead risk assessors, 10 abatement firms, and 24 lead consultant firms in Nebraska. Using the estimated number of annual assessments of 27,451, the average licensee would need to perform over 370 lead dust wipe assessments each year. The majority of these licensees are concurrently licensed to perform radon and asbestos testing and would not be dedicated to lead assessments alone. The number of licenses for radon measurement almost tripled when radon disclosure became mandatory during real estate transactions. The Department estimates the number of licensees and licensed businesses would at least double as a result of increased demand for lead dust wipe assessments. Each licensing application takes approximately 3 hours to receive, verify requirements have been met, administer the required examination, and issue the license. The Department estimates an additional 74 licensed lead risk assessors, 10 abatement firms and 24 lead consultant firms for a total of 108 licenses at 3 labor hours each resulting in 324 hours of new staff work per year.

Increased annual business compliance inspections – Currently, DHHS performs compliance inspections for each licensed lead-based business annually. These inspections include review of business records, lead testing records, and other items per applicable rules and regulations. As noted above, some of these businesses would overlap in the types of environmental inspections provided. Some of the compliance inspections could be performed at the same time as other business inspections for radon and asbestos records. However, due to the unknown nature of services that will be provided by new firms, the Department anticipates an additional 34 business inspections per year. The average inspection requires approximately 8 hours to complete, including travel. This estimate results in an additional 272 hours of new staff work per year.

Increased annual lead abatement projects – DHHS currently receives an average of 75 lead abatement project plan submissions each year, most of which are mandatory when HUD funding is involved in a purchase. The Department conducts an on-site project plan compliance inspection during abatement for at least 80% of projects. It is expected that the number of abatement projects will increase due to a buyer or landlord's choice to perform abatement based on test results, especially in households with young children. This estimate is based on the calculations below:

Number of housing units that would be tested per year	27,451
% of housing units that would likely contain lead-based paint.	<u>55.6%</u>
Number of housing units likely to contain lead-based paint.	15,263
Average number of children under 6 years old per housing unit	<u>x .2116</u>
Average number of children under 6 years old likely to move into a housing unit that would contain lead-based paint per year.	3,230
Estimated % of housing units that would test positive and be above recommended levels. – 20%	15,263
	<u>x 20%</u>
Total	3,053
Estimated number of households with above recommended levels of lead particles that would have children under 6 years old and that would choose to perform lead abatement – 10%	3,053
	<u>10%</u>
	305

Since some of these households may have more than one child under 6 years old, and only a portion of these households with children will have a lead test result indicating above normal limits, and due to the cost of lead abatement projects, it is estimated that the overall percentage of housing units likely to have lead abatement performed is low.

Each lead abatement project plan review takes an average of 2 labor hours depending upon the complexity of the project. The time required to conduct any subsequent on-site inspection will vary depending on the location of the project. Currently, the majority of projects are located in Omaha and take on average around 4 hours, but any on-site inspections located in the western part of the state would require overnight travel. The Department estimates approximately one third of on-site inspections would take place in greater Nebraska and take an average of 12 hours. The remainder are based on being completed in 4 hours each. This estimate results in 2,326 hours of new staff work per year.

Estimated number of lead abatement project plan reviews per year	305
Number of hours to review and approve lead abatement plans	<u>x 2.0</u>
Total number of hours per year for plan reviews	710
Estimated number of on-site lead abatement project inspections per year @ 80%	305
Total number of lead abatement project inspections	<u>x 80%</u> 244
Estimated number of on-site lead abatement project inspections Requiring overnight travel	<u>x 33%</u> 80
Number of hours to conduct inspection including travel time	<u>x 12.0</u>
Total number of hours for on-site inspections requiring overnight travel	960
Estimated number of remaining on site lead abatement project Inspections with work hours travel	244
	<u>-80</u> 164
Number of hours to conduct inspection including travel time	<u>x 4.0</u>
Total number of hours for on-site inspections with day travel	656
Estimated number of hours required to review project plans and inspect lead abatement projects in progress per year	2,326

LB 653 would become operative January 1, 2020. FY19-20 includes the implementation costs and expected work from January 1, 2020 to June 30, 2020. Additional personnel would need to be in place three (3) months prior to the effective date for training, set up and processing license applications submitted prior to the effective date. The estimate is based on four (4) FTEs of new specialists and analysts' salaries for 9 months of FY19-20 and for the one (1) FTE DHHS Program Manager's salary for 10 months of FY19-20. Two (2) additional FTEs would need to be in place by July 1, 2020, to accommodate the subsequent annual estimate of new work. Personnel costs per hour have been averaged for each fiscal year based on the following composite:

FY19-20

(2) Environmental Health Analysts @ 22.264 per hour for 9 months	\$44.528
(2) Health Industrial Hygiene Specialists @ 23.556 per hour for 9 months	\$47.112
(1) DHHS Program Manager @ 30.105 per hour for 10 months	<u>\$30.105</u>
	\$121.745
	Divided by <u>5 FTE</u>
Average hourly rate	\$24.349

FY20-21

(3) Environmental Health Analysts @ 22.264 per hour for 12 months	\$66.792
(3) Health Industrial Hygiene Specialists @ 23.556 per hour for 12 months	\$70.668
(1) DHHS Program Manager @ 30.105 per hour for 12 months	<u>\$30.105</u>
	\$167.565
	Divided by <u>7 FTE</u>
Average hourly rate	\$23.937

The estimated breakdown of expenditures and total labor costs per item are:

Summary of Expenditures

	<u>FY19-20</u>	<u>FY20-21</u>
a) Procurement, purchase, installation and training of new software for certification records:	\$100,000	\$15,000
b) Estimated cost of lead-based paint hazard safe certifications processed per year FY19-20 = 6 months 6,447 hours @ \$24.349 hr FY20-21 = 12 months 12,894 hours @ \$23.937 hr	\$156,978	\$308,644
c) Estimated cost of processing additional licensing and certification applications from new individuals and new businesses to perform lead dust wipe assessments. FY 19-20 @ 9 months = 243 hours @ \$24.349 hr FY 20-21 @ 12 months = 324 hours @ \$23.937 hr	\$5,917	\$7,756
d) Estimated cost of performing additional annual business inspections. FY19-20 = 6 months 136 hours @ \$24.349 hr FY20-21 = 12 months 272 hours @ \$23.937 hr	\$3,311	\$6,511
e) Estimated cost of reviewing and inspecting additional lead abatement project plan submissions FY19-20 = 6 months 1,163 hours @ \$24.349 hr FY20-21 = 12 months 2,326 hours @ \$23.937 hr	\$28,318	\$55,677
Total cost of benefits for personnel	\$66,547	\$129,515
Total cost of operations for personnel	<u>\$85,109</u>	<u>\$165,642</u>
Grand total expenditures	\$446,180	\$688,745

No revenue source was identified in LB 653 to cover certification costs. However, revenue has been calculated for the fees associated with licensing new individuals and businesses and performing lead abatement project plans reviews. The Department estimates the cost of approximately \$50 per certification. This fiscal note assumes that costs directly related to licensure will be financed by cash revenue, while costs associated with certification would be financed by general funds.

Revenue:

	<u>FY19-20</u>	<u>FY20-21</u>
Individual licensing every 3 years FY19-20 @ 9 months = 56 @ \$203 each FY20-21 remaining 18 of 74 @ \$203 each	\$11,368	\$3,654
Business licensing each year FY19-20 @ 9 months = 26 @ \$200 each FY 20-21 @ 12 months = 34 @ \$200 each	\$5,200	\$6,800
Lead abatement project plan reviews for over 100 SF 152 @ \$200 each 305 @ \$200 each	<u>\$30,400</u>	<u>\$61,000</u>
Grand total Revenue	\$46,968	\$71,454

MAJOR OBJECTS OF EXPENDITURE

PERSONAL SERVICES:

POSITION TITLE	NUMBER OF POSITIONS		2019-2020	2020-2021
	18-19	19-20	EXPENDITURES	EXPENDITURES
Environmental Health Analyst	1.50	3.00	\$71,146	\$150,910
Health Industrial Hygiene Specialist	1.50	3.00	\$75,275	\$159,667
DHHS Program Manager I	.83	1.00	\$48,103	\$68,011

Benefits.....			\$66,547	\$129,515
Operating.....			\$185,109	\$180,642
Travel.....				
Capital Outlay.....				
Aid.....				
Capital Improvements.....				
TOTAL.....			\$446,180	\$688,745
