

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2013-14		FY 2014-15	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	\$243,938	(\$ 5,404,000)	\$194,008	(\$ 8,198,000)
CASH FUNDS	\$12,819,000	\$12,819,000	\$19,466,000	\$19,466,000
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$13,062,938	\$ 7,415,000	\$19,660,008	\$11,268,000

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

LB 447 amends the Nebraska Revenue Act of 1967 to provide that all sales of soft drinks are subject to sales tax.

The bill amends Section 77-2704.24 to change the definition of food and food ingredients to say that soft drinks are neither food nor a food ingredient. The bill further amends this section as to what is a prepared food and includes the definition of soft drink.

NOTE #1: The definition of soft drink in LB 447 is in conflict with the definition used in the Streamlined Sales and Use Tax Agreement (Streamlined) to which Nebraska is a party. The Streamlined definition of soft drink is “non-alcoholic beverages that contain natural or artificial sweeteners . . . but do not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume.” The LB 447 definition of soft drink is similar to Streamlined but says “. . . 100% vegetable or fruit juice.” As noted by the Department of Revenue, the difference in definition could result in Nebraska being held out of compliance with the Streamlined Agreement and jeopardize current sales tax collections under Streamlined.

The bill amends Section 77-27,132 to require the Department of Revenue to transfer monthly the proceeds of the sales tax on all soft drinks, minus the quarter cent equivalent that is credited to the State Highway Capital Improvement Fund and the Highway Allocation Fund, to the Nebraska Healthy Kids Fund and the Evidence-Based Practice Grant Fund, which are both created by the bill. 67% of the proceeds would be credited to the Nebraska Healthy Kids Fund and 33% would be credited to the Evidence-Based Practice Grant Fund.

The Neb. Healthy Kids Fund is to be used as follows:

- a) \$500,000 to the University of Nebraska at Kearney Student Health Initiative Fund, which fund is created by the bill;
 - this money is to be used to develop and maintain a statewide data base for weight and fitness data on students in Nebraska public schools;
- b) 70% of the remaining funds are to be transferred to the Nebraska Department of Education Student Health Initiative Fund, which is created by the bill;
 - the first \$100,000 of this money is to be used by the Department to monitor compliance by school districts with the provisions of LB 447; define qualifications for district wellness coordinators; and assist school districts in the development and implementation of school wellness policies required by the bill;
 - \$10,000 shall be distributed to each school district;
 - the remainder of the money shall be distributed to school districts on a pro rata basis based on district membership;
- c) 30% of the remaining funds are to be transferred to the Department of Health and Human Services Child Health Initiative Fund, which is created by the bill, and administered by the Department;
 - \$40,000 of this money is to be allocated to each local public health department in the state;
 - the remainder of the money shall be allocated to local public health departments on a pro rata basis based on population served by that local department.

The Evidence-Based Practice Grant Fund is to be administered by the Department of Health and Human Services and used for grants to expand evidence-based practices for prevention and intervention services for at-risk children. Expenses for members of the Evidence-Based Practice Grant Fund Committee, which is created by LB 447, may also be paid from this fund.

The Evidence-Based Practice Grant Fund Committee is created to award grants from the Evidence-Based Practice Grant Fund and has eight members, who are specified in the bill.

The bill has an operative date of October 1, 2013.

NOTE #2: The Department of Health and Human Services has provided the following information regarding the possible impact of LB 447 on SNAP program eligibility: The U.S. Dept. of Agriculture Code of Regulations, Title 7, Volume 4 states in part “. . . a State shall not participate in the Food Stamp Program if State and local taxes or other taxes or fees, including but not limited to excise taxes, are collected within the State on purchases made with food stamp coupons. Purchases made with food stamp coupons for purposes of this provision shall refer to purchases of ‘eligible foods’ as defined in Sec. 271.2.” Since LB 447 would impose a sales tax on an item that can be purchased through the SNAP program, Nebraska could potentially be disqualified from participating in the federal SNAP program, impacting approximately 75,000 households in Nebraska who currently receive SNAP. For calendar year 2012, the SNAP issuances to Nebraska households totaled \$260,350,616. The state could lose that amount in direct Federal assistance.

FISCAL IMPACT:

The **Department of Revenue** notes that the sale of prepared food , includes the sale of soft drinks sold with a meal, and is already subject to sales tax (the revenue of which is credited to the General Fund), while the sale of prepackaged soft drinks such as by a grocery store, is not subject to sales tax. As a result they estimate the following revenue impact for the following funds:

Fiscal Year:	General Fund:	State Highway Capital Improvement Fund:	Highway Allocation Fund:	Nebraska Healthy Kids Fund:	Evidence – Based Practice Grant Fund:	Total:
2013-14:	(\$ 5,404,000)	\$ 288,000	\$ 51,000	\$ 8,396,000	\$ 4,135,000	\$ 7,466,000
2014-15:	(\$ 8,198,000)	\$ 438,000	\$ 77,000	\$ 12,735,000	\$ 6,273,000	\$ 11,325,000
2015-16:	(\$ 8,350,000)	\$ 446,000	\$ 79,000	\$ 12,972,000	\$ 6,389,000	\$ 11,536,000
2016-17:	(\$ 8,505,000)	\$ 454,000	\$ 80,000	\$ 13,213,000	\$ 6,508,000	\$ 11,750,000

The Department of Revenue estimates that the cost to implement the provisions of LB 447 will include mainframe programming charges paid to the Office of the CIO of \$46,900 to add a line to the Nebraska and Local Option Sales and Use Tax Return, Form 10, and \$3,030 to add a line to the NebFile for Business filing system.

We agree with the Department of Revenue’s estimate of fiscal impact and cost.

The **Department of Health and Human Services** indicates there are 18 local public health departments in Nebraska and if each received \$40,000 this would amount to \$720,000. They are unable to determine the allocation of the remaining amount that is to be distributed to the local public health departments on a pro rata basis.

The Department of Health and Human Services estimates they will require 1.0 FTE to administer the Department of Health and Human Services Health Initiative Fund and to provide appropriate training and technical assistance. They indicate a total cost of \$94,008 for FY2013-14 and FY2014-15, of which \$45,371 is PSL.

We agree with the Department of Health and Human Services estimate of cost.

The **Nebraska Department of Education** indicates they would require an additional 1.00 to 1.50 FTE for Program Specialists to fulfill the requirements placed on the Department by LB 447. The bill allocates \$100,000 to the Department as part of the Student Health Initiative fund which is to be used to define qualifications for school district wellness coordinators, assist school districts in the development of wellness policies and coordinated school health implementation, and monitor compliance of activities required of the school district by LB 447. The Department indicates that the \$100,000 received for these activities will fund the positions required but that an additional \$100,000 in General Funds will be necessary to provide the training for school districts on the development of wellness policies, coordinated school health, and evaluation of said policies and programs.

There are 253 school districts that would receive \$10,000 each for a total of \$2,530,000 from the Student Health Initiative Fund. We are unable at this time to determine the amount each school district would receive on a pro rata basis.

We have no basis to disagree with the Department of Education’s estimate of cost.

The **University of Nebraska at Kearney** will receive \$500,000 from the Nebraska Healthy Kids Fund to implement the requirements placed on UNK by LB 447. The money received will be used to hire 4.1 staff and faculty and 2.0 students per fiscal years for a total of \$308,000 per fiscal year for salary and benefits. \$121,000 per fiscal year will be used for operating expenses including the hiring of consultants used to assist in data analysis, interpretation for data reporting, and strategic implementation of state-wide professional development. The remainder of the \$500,000 will be used for travel, capital outlay, and workshops for school districts.

We have no basis to disagree with the University of Nebraska at Kearney’s estimate of expenditure.

As an example of how the funds would flow, based on FY2013-14:

\$8,396,000 would be sent to the Nebraska Healthy Kids Fund; from that amount \$5,877,200 would go to the Dept. of Education Student Health Initiative Fund, of which \$100,000 would go to the Dept. of Education to monitor school districts, \$2,530,000 would be distributed to school districts at \$10,000 per district; the remaining \$3,247,200 would be distributed to school districts on a pro rata basis.

\$2,518,800 would go also go the Dept. of Health and Human Services Child Health Initiative Fund; from that amount \$720,000 would go to local public health departments at \$40,000 per department; the remaining \$1,798,800 would be distributed to public health departments on a pro rata basis.

\$4,135,000 would go to the Evidence-Based Practice Grant Fund to be administered by the Dept. of Health and Human Services for grants and some expenses.

IMPACT TO POLITICAL SUBDIVISIONS:

The impact to the Highway Allocation Fund is as follows:

FY2013-14:	\$ 51,000
FY2014-15:	\$ 77,000
FY2015-16:	\$ 79,000
FY2016-17:	\$ 80,000

ADMINISTRATIVE SERVICES-STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES		
LB: 447	AM:	AGENCY/POLT. SUB: Dept. of Revenue
REVIEWED BY: Lyn Heaton	DATE: 2/12/2013	PHONE: 402.471.4181
COMMENTS: No basis upon which to disagree with the Dept. of Revenue's analysis. The Department's estimate of the operational cost to implement the bill appears reasonable.		

ADMINISTRATIVE SERVICES-STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES		
LB: 447	AM:	AGENCY/POLT. SUB: HHS
REVIEWED BY: Elton Larson	DATE: 3/12/2013	PHONE: 471-4173
COMMENTS: HHS analysis and estimate of fiscal impact to the agency appear reasonable.		

ADMINISTRATIVE SERVICES-STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES		
LB: 447	AM:	AGENCY/POLT. SUB: Dept. of Education
REVIEWED BY: Lyn Heaton	DATE: 3/8/2013	PHONE: 402.471.4181
COMMENTS: The Dept. of Education's assessment that an additional \$100,000 General Funds (generally for unspecified operating expenses) to implement the provisions of LB 447 are unsupported by the duties and responsibilities outlined in the bill. It is believed the \$100,000 allocation from the Student Health Initiative Fund provided in section 3 of the bill will be sufficient for the Department to monitor compliance certification letters submitted by districts, define qualifications of district wellness coordinators, and to assist districts in the development and implementation of school wellness policies. Technical Notes: The Dept. of Education's fiscal note indicates the allocation from the Student Health Initiative Fund would be "Other Funds". It is cash funds. Also, the Department's fiscal note indicates this allocation begins in FY 2013-14. The allocation would begin in FY 2014-15. Finally, the fiscal note makes no estimate of the amount that will be expended as state aid to school districts from the Student Health Initiative Fund.		

ADMINISTRATIVE SERVICES-STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES		
LB: 447	AM:	AGENCY/POLT. SUB: University of Nebraska System
REVIEWED BY: Lyn Heaton	DATE: 1/31/2013	PHONE: 402.471.4181
COMMENTS: No basis upon which to disagree with the University system's analysis.		

State Agency Estimate

State Agency Name: Department of Revenue		Date Due LFA: 1/30/13			
Approved by: Douglas Ewald		Date Prepared: 1/25/13			
		Phone: 471-5896			
FY 2013-2014		FY 2014-2015		FY 2015-2016	
<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>
General Funds	\$49,930	(\$5,404,000)	(\$8,198,000)		(\$8,350,000)
Cash Funds		\$12,819,000	\$19,446,000		\$19,807,000
Federal Funds					
Other Funds		\$51,000	\$77,000		\$79,000
Total Funds	\$49,930	\$7,466,000	\$11,325,000		\$11,536,000

LB 447 provides that all sales of soft drinks are subject to sales tax. The Department of Revenue would be required to transfer, on a monthly basis, the proceeds derived from the sale of all soft drinks, minus the 0.25% that is credited to the State Highway Capital Improvement Fund and the Highway Allocation Fund, to the Nebraska Healthy Kids Fund (67%) and the Evidence-Based Practice Grant Fund (33%). LB 447 also provides for the use of funds deposited in the Nebraska Healthy Kids Fund and the Evidence-Based Practice Grant Fund.

Soft drinks are defined as nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks as defined do not include beverages that contain primarily milk or milk products, soy, rice, or similar milk substitutes, or 100% vegetable or fruit juice.

The Streamlined Sales and Use Tax Agreement (Agreement) defines “soft drink” as “non-alcoholic beverages that contain natural or artificial sweeteners,” but “do[es] not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume.” The difference in definitions could result in Nebraska being held out of compliance with the Agreement and jeopardize current sales tax collections under the Agreement.

Today, the sale of prepared food, including the sale of soft drinks sold with a meal, is already subject to sales tax, while the sale of prepackaged soft drinks, by a grocery store or convenience store, for example, is not subject to sales tax. As a result, the bill would impact revenues for the following funds:

Fiscal Year	General Fund	State Highway Capital Improvement Fund	Highway Allocation Fund	Nebraska Healthy Kids Fund	Evidence-Based Practice Grant Fund	Total
2013-14	(\$5,404,000)	\$288,000	\$51,000	\$ 8,396,000	\$4,135,000	\$7,466,000
2014-15	(\$8,198,000)	\$438,000	\$77,000	\$12,735,000	\$6,273,000	\$11,325,000
2015-16	(\$8,350,000)	\$446,000	\$79,000	\$12,972,000	\$6,389,000	\$11,536,000
2016-17	(\$8,505,000)	\$454,000	\$80,000	\$13,213,000	\$6,508,000	\$11,750,000

The Department’s costs to implement the bill includes mainframe programming charges by the OCIO of \$46,900 to add a line to the Nebraska and Local Sales and Use Tax Return, Form 10, and \$3,030 to add a line to NebFile for Business.

The bill becomes operative October 1, 2013.

Please complete ALL (5) blanks in the first three lines.

2013

LB⁽¹⁾ 447 FISCAL NOTE

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

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

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2013-14</u>		<u>FY 2014-15</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS				
CASH FUNDS	\$500,000	500,000	\$500,000	500,000
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$500,000	500,000	\$500,000	500,000

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

Explanation of Estimate:

The Human Performance Laboratory at UNK has worked with a vendor to develop a web application to be used by school systems to enter student biometric data for the calculation of BMI percentiles and weight status associations. The web application provides individual and aggregate reports for school districts. The web application is currently used in Kearney, Nebraska and several small districts throughout the state. Technical enhancements and movement to larger servers is necessary for expansion to an estimated 250 school districts and 1200 schools to make the program accessible throughout the state. In addition, UNK will be responsible for providing state-wide professional development training to district wellness coordinators on obesity prevention and treatment school based strategies.

UNK will need outside consultants related to data analysis, interpretation for data reporting, and strategic implementation of state-wide professional development. UNK will need additional staffing to provide technical assistance, to plan, implement, and evaluate the training and for developing prevention and treatment programs.

MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2013-14</u>	<u>2014-15</u>
	<u>13-14</u>	<u>14-15</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Human Performance Lab Faculty	1.1FTE	1.1FTE	\$92,000	\$92,000
Human Performance Lab Staff	3.0FTE	3.0FTE	108,000	108,000
HPL Students (GA and UG)	2.0	2.0	37,000	37,000
Benefits.....			71,000	71,000
Operating (Website, Consultants, Office).			121,000	99,000
Travel.....			10,000	15,000
Capital outlay.....			4,000	
Aid...(Workshops for the School Districts)			57,000	78,000
Capital improvements.....				
TOTAL.....			\$500,000	\$500,000

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

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

Prepared by: (3) Willard Bouwens

Date Prepared:(4) 3-8-13

Phone: (5) 471-8072

	<u>FY 2013-2014</u>		<u>FY 2014-2015</u>	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	\$94,008		\$94,008	
CASH FUNDS	\$0	\$0	\$720,000	\$720,000
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$94,008	\$0	\$814,008	\$720,000

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

Explanation of Estimate:

LB447 would make soft drinks subject to sales tax by removing them from the tax-exempt food and food ingredient definition. Proceeds will be used to create the NE Healthy Kids Fund (67% of soda tax revenue) and the Evidence-based Practice Grant Fund (33% of soda tax revenue). The NE Healthy Kids Fund would support the following activities:

\$500,000 to the University of Nebraska at Kearney to develop and maintain a statewide data base for weight and fitness data on students in NE public schools; 70% of the remaining funds to the Department of Education, Student Health Initiative Fund to monitor compliance by school districts (\$100,000) and to distribute \$10,000 to each school district and additional funds on a pro rata formula based on school district student population to support district wellness coordinators and implement a school wellness program consistent with the Coordinated School Health Policy; 30% of the remaining funds would be administered by Department of Health and Human Services to allocate \$40,000 each to local public health departments and then on a pro rata population formula for community efforts relating to child health and obesity prevention.

The Evidence-based Practice Grant Fund would support grants for expanding prevention and intervention services for at-risk children and would be administered by Department of Health and Human Services via an eight-member grant fund committee. Members of the committee include the Department of Health and Human Services Directors of the Division of Children and Family Services, Division of Behavioral Health or their designee and the DHHS Chief Medical Officer or his/her designee.

Program 179 Operations:

It is estimated that 1 position would be necessary to administer the Department of Health and Human Services Child Health Initiative Fund to allocate funds to local public health departments and provide appropriate training and technical assistance.

Program 514 Aid:

There are eighteen Public Health Departments and if each received \$40,000 it totals \$720,000. Department of Health and Human Services is not able to determine the amount of 30 percent of the remaining funds.

Technical Note:

The US Department of Agriculture Code of Regulations, Title 7, Volume 4 state in part "...a State shall not participate in the Food Stamp Program if State and local taxes or other taxes or fees, including but not limited to excise taxes, are collected within the State on purchases made with food stamp coupons. Purchases made with food coupons for purposes of this provision shall refer to purchases of "eligible foods" as defined in Sec. 271.2." Since LB 447 proposes to impose a sales tax on an item that can be purchased through the SNAP program, Nebraska could potentially be disqualified from participating in the federal SNAP program, impacting approximately 75,000 households in Nebraska who currently receive SNAP. For calendar year 2012, the

SNAP issuances to Nebraska households totaled \$260,350,616. The State of Nebraska would lose \$260,350,616 in direct Federal assistance.

MAJOR OBJECTS OF EXPENDITURE

PERSONAL SERVICES:

POSITION TITLE	NUMBER OF POSITIONS		2013-2014	2014-2015
	13-14	14-15	EXPENDITURES	EXPENDITURES
Community Health Educator III	1.00	1.00	\$45,371	\$45,371

Benefits.....			\$18,148	\$18,148
Operating.....			\$30,489	\$30,489
Travel.....				
Capital Outlay.....				
Aid.....				\$720,000
Capital Improvements.....				
TOTAL.....			\$94,008	\$814,008

Please complete ALL (5) blanks in the first three lines.

2013

LB⁽¹⁾ 447 FISCAL NOTE

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

Prepared by: (3) Julane Hill Date Prepared: (4) 1-28-13 Phone: (5) 402-471-4352

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2013-2014</u>		<u>FY 2014-2015</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	\$100,000	0	\$100,000	0
CASH FUNDS	0	0	0	0
FEDERAL FUNDS	0	0	0	0
OTHER FUNDS	0	\$100,000	0	\$100,000
TOTAL FUNDS	\$100,000	\$100,000	\$100,000	\$100,000

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

Explanation of Estimate:

Fiscal Impact on NDE: \$100,000 would be transferred to NDE from the Student Health Initiative Fund to define qualifications for school district wellness coordinators, assist school districts in the development of school wellness policies and coordinated school health implementation, and monitor compliance of school districts in the following: hiring of district wellness coordinators, implementation of coordinated school health, development of school wellness policies inclusive of evaluation of student height and weight data submission and yearly report. NDE would need to hire an additional 1-1.5 FTEs, at a minimum, to address the requirements of the bill. This could be financed with the \$100,000. An additional \$100,000 would be needed for training school districts on development of school wellness policies and development of coordinated school health, and evaluation of said policies and programs.

Cost to Political Subdivisions: Each school district would receive \$10,000 and the remaining amount of the funds would be distributed on a pro rata basis based on number of students in grades K-12. Each district health department would receive \$40,000 and the remaining amount of the funds would be distributed on a pro rata basis based on the population served in that district.

MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2013-2014</u>	<u>2014-2015</u>
	<u>13-14</u>	<u>14-15</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Program Specialist	1-1.5	1-1.5	\$100,000	\$100,000
	FTE	FTE	0	0
Benefits.....			0	0
Operating.....			\$100,000	\$100,000
Travel.....			0	0
Capital outlay.....			0	0
Aid.....			0	0
Capital improvements.....			0	0
TOTAL.....			\$200,000	\$200,000