

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2021-22		FY 2022-23	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS		\$33,650,000		\$51,988,000
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS		\$33,650,000		\$51,988,000

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

LB 115 seeks to apply a sales and use tax to candy and soft drinks. LB 115 defines candy as a combination of chocolate, fruits, nuts, or other ingredients with natural or artificial sweeteners, excluding any items requiring refrigeration or including flour. Soft drinks are defined as non-alcoholic beverages containing natural or artificial sweeteners, no milk or milk-substitute products, and less than 50% vegetable or fruit juice by volume.

The sales and use tax collected from LB 115 will be credited to the Health Care Cash Fund, less any amount that is required to be credited to the State Highway Capital Improvement Fund and the Highway Allocation Fund. The Department of Health and Human Services has oversight over the Health Care Cash Fund, but expects no additional fiscal impact due to LB 115 not specifying how the Health Care Cash Fund should spend this new revenue. The expenditures of the Health Care Cash Fund are left to the direction of the Legislature.

The Department of Revenue estimates the following revenue gains for the Health Care Cash Fund, the State Highway Capital Improvement Fund, and the Highway Allocation Fund as a result of LB 115:

	Health Care Cash Fund	State Highway Capital Improvement Fund	Highway Allocation Fund
FY21-22	\$32,499,000	\$1,151,000	\$203,000
FY22-23	\$49,966,000	\$2,022,000	\$357,000
FY23-24	\$51,115,000	\$2,069,000	\$365,000
FY24-25	\$52,199,000	\$2,113,000	\$373,000

The estimates provided by the Department of Revenue appear reasonable, based on the available data on the sale of candy and soft drinks in Nebraska. The revenue provided by soft drinks will make up approximately 70% of the total, with candy providing the other 30%.

The Department of Revenue estimates no costs to implement LB 115. There is no basis to disagree with this estimate.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB:115	AM:	AGENCY/POLT. SUB: Department of Revenue	
REVIEWED BY: Lee Will	DATE: 02/22/2021	PHONE: (402) 471-4175	
COMMENTS: No basis to disagree with the Department of Revenue's assessment of increased revenue to the Health Care Cash Fund and other noted highway cash funds related to the imposition of sales and use tax on the sale of candy and soft drinks.			

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE

LB: 115 AM: AGENCY/POLT. SUB: Department of Health and Human Services

REVIEWED BY: Lee Will DATE: 01/19/2021 PHONE: (402) 471-4175

COMMENTS: Concur with the Department of Health and Human Services' assessment of fiscal impact.

State Agency Estimate

State Agency Name: Department of Revenue		Date Due LFO:				
Approved by: Tony Fulton		Date Prepared: 2/19/2021				
		Phone: 471-5896				
	FY 2021-2022		FY 2022-2023		FY 2023-2024	
	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>
General Funds	\$0	\$ 0	\$0	\$ 0	\$0	\$ 0
Cash Funds		\$33,650,000		\$51,988,000		\$53,184,000
Federal Funds						
Other Funds		\$203,000		\$357,000		\$365,000
Total Funds	\$0	\$33,853,000	\$0	\$52,345,000	\$0	\$53,549,000

LB 115 imposes sales and use taxes on the sale of candy and soft drinks by excluding these items from the definition of nontaxable food and food ingredients as defined in Neb. Rev. Stat. § 77-2704.24. The bill defines candy as a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy does not include any preparation containing flour, and requires no refrigeration. Soft drinks means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages containing milk or milk products, soy, rice or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume.

Under LB 115, the sales and use tax proceeds derived from sales of candy and soft drinks will be credited to the Nebraska Health Care Cash Fund, excluding the amounts required to be credited to the State Highway Capital Improvement Fund and the Highway Allocation Fund.

The Tax Commissioner is to determine the amount to be credited as opposed to tracking specific product sales for each retailers remitted sales taxes. If LB 115 becomes law, the Department of Revenue will use the estimated amount below for the certification amount to be credited to the Nebraska Health Care Cash Fund for FY21-22 through FY24-25. For each and every fiscal year after FY24-25, the Department will certify the amount to be credited to the Nebraska Health Care Cash Fund by growing the previous fiscal year amount by the growth rate of the total sales and use tax collections from the previous fiscal year, adjusted for rate and base changes.

LB 115 has an operative date of October 1, 2021. It is estimated that there will be minimal costs to DOR to implement LB 115. The estimated fiscal impact to various Cash Funds are as follows:

Fiscal Year	Nebraska Health Care Cash Fund	State Highway Capital Improvement Fund	Highway Allocation Fund
2021-2022	\$32,499,000	\$1,151,000	\$203,000
2022-2023	\$49,966,000	\$2,022,000	\$357,000
2023-2024	\$51,115,000	\$2,069,000	\$365,000
2024-2025	\$52,199,000	\$2,113,000	\$373,000

Major Objects of Expenditure

Class Code	Classification Title	21-22	22-23	23-24	21-22	22-23	23-24
		FTE	FTE	FTE	Expenditures	Expenditures	Expenditures
	Benefits.....						
	Operating Costs.....						
	Travel.....						
	Capital Outlay.....						
	Capital Improvements.....						
	Total.....						

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 1-15-2021

Phone: (5) 471-6719

	<u>FY 2021-2022</u>		<u>FY 2022-2023</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$0	\$0	\$0	\$0

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

Explanation of Estimate:

LB 115 applies the current sales tax rate to now include candy and soft drinks. Any revenue, as determined by the Tax Commissioner, resulting from this tax will be deposited into the Nebraska Health Care Cash Fund. The Department of Health and Human Services has oversight of the Health Care Cash Fund, but all revenues and expenditures are made at the direction of the Legislature. The bill does not direct how the revenue will be spent.

There is no fiscal impact to the Department of Health and Human Services.

MAJOR OBJECTS OF EXPENDITURE

PERSONAL SERVICES:	NUMBER OF POSITIONS		2021-2022	2022-2023
	POSITION TITLE	21-22	22-23	EXPENDITURES
Benefits.....				
Operating.....				
Travel.....				
Capital Outlay.....				
Aid.....				
Capital Improvements.....				
TOTAL.....			\$0	\$0

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2021

LB⁽¹⁾ 115

FISCAL NOTE

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

Prepared by: ⁽³⁾ Jenessa Boynton Date Prepared: ⁽⁴⁾ 2/18/2021 Phone: ⁽⁵⁾ 402-479-4691

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2021-22</u>		<u>FY 2022-23</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	<u>See Below</u>	<u>See Below</u>	<u>See Below</u>	<u>See Below</u>
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	=====	=====	=====	=====

Explanation of Estimate:

Section 77-2704.24 states "Sales and use taxes shall not be imposed on the gross receipts from the sale, lease, or rental of and the storage, use, or other consumption in this state of food or food ingredients except for prepared food and food sold through vending machines." Through LB 115, section 77-2704.24(2)(d) is amended to remove candy and soft drinks from the definition of food and food ingredients. The bill becomes operative on October 1, 2021.

The bill further provides that the sales and use tax proceeds derived from the sale of candy and soft drinks is to be credited to the Nebraska Health Care Cash Fund, excluding the amount of proceeds that is required to be credited to the State Highway Capital Improvement Fund and the Highway Allocation Fund.

Revenue to Build Nebraska Act Funds				
	FY2021/22	FY2022/23	FY2023/24	FY2024/25
State Highway Capital Improvement Fund	\$1,151,000	\$2,022,000	\$2,069,000	\$2,113,000
Highway Allocation Fund (cities and counties)	\$,203,000	\$357,000	\$365,000	\$373,000
Total	\$1,354,000	\$2,379,000	\$2,434,000	\$2,486,000

This estimate of increased tax revenue was obtained from the Nebraska Department of Revenue. The change in the sales tax base will increase revenues to the Build Nebraska Act funds resulting in additional available funding to the State Highway Capital Improvement Fund for NDOT and the Highway Allocation Fund for cities and counties.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2021-22</u>	<u>2022-23</u>
	<u>21-22</u>	<u>22-23</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____