

Revised on 4/9/14 based on amendments adopted through 4/9/14.

**FISCAL NOTE**  
**LEGISLATIVE FISCAL ANALYST ESTIMATE**

| <b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES</b> (See narrative for political subdivision estimates) |                     |                    |                     |                     |
|---|---------------------|--------------------|---------------------|---------------------|
|   | <b>FY 2014-15</b>   |                    | <b>FY 2015-16</b>   |                     |
|   | <b>EXPENDITURES</b> | <b>REVENUE</b>     | <b>EXPENDITURES</b> | <b>REVENUE</b>      |
| GENERAL FUNDS   | \$42,746            |                    | \$42,746            |                     |
| CASH FUNDS  |                     |                    |                     |                     |
| FEDERAL FUNDS   | \$2,742,746         | \$2,742,746        | \$13,542,746        | \$13,542,746        |
| OTHER FUNDS   |                     |                    |                     |                     |
| <b>TOTAL FUNDS</b>  | <b>\$2,785,492</b>  | <b>\$2,742,746</b> | <b>\$13,585,492</b> | <b>\$13,542,746</b> |

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

LB 276 requires the Department of Health and Human Services (HHS) to submit a state plan amendment to the federal Centers for Medicare and Medicaid Services to provide that occupational therapy, physical therapy, speech and other services for individuals with speech, hearing or language disorders, early and periodic screening, diagnosis, and treatment services for children, medical transportation, mental health, nursing, personal care, rehabilitation, and vision-related services provided by school districts are direct reimbursable services when provided as part of an individualized education program or individualized family service plan. The plan amendment is to be submitted on or before October 1, 2014.

On or before, October 1, 2015, HHS and the State Department of Education (NDE) are to jointly revise the statewide billing system to streamline and simplify the claims process, update reimbursement rates and incorporate the new services to be reimbursed pursuant to the bill. Thereafter, the rates are to be reviewed at least once every five years. HHS is to retain federal Medicaid funds to administer the billing system. The department is to retain the lesser of: the actual cost to implement and administer the billing system and early intervention coordination services or (1) for FY2014-15, \$242,000, (2) for FY2015-16 \$300,000, or (3) for FY2016-17 and each fiscal year thereafter, the prior year amount increased by 5%.

School districts retain 11.54% of federal Medicaid funds received for the billed services. The administrative funds are considered to be special grant funds for purposes of state aid (TEEOSA). The remaining federal funds (88.46%) received by school districts for billed services for school-age children are considered to be accountable receipts in the calculation of state aid.

The bill also provides for a direct general fund appropriation to HHS for the Early Intervention Act in lieu of a transfer of general funds from funds appropriated for special education aid beginning in FY2016-17. The base used to calculate special education aid is also decreased to reflect the elimination of the transfer. In addition, the definition of excess costs for special education purposes is changed to exclude the amount of federal Medicaid funds received for services pursuant to the bill.

**Current Law:** School districts currently are required to submit claims for Medicaid reimbursement for physical therapy, occupational therapy and speech therapy services. School districts received a little over \$2.8 million of Medicaid reimbursement for these services in FY2012-13. Schools do not currently submit Medicaid claims for the other services enumerated in the bill.

Current law also provides for NDE and HHS to certify the amount of federal Medicaid funds paid to schools for special education services for children five years of age and older. An amount equal to the amount of federal Medicaid funds received by school districts for these services, which would have been appropriated as special education aid, is then reduced from the general funds appropriated to NDE to reimburse school districts for special education services. In other words, the federal funds are used in lieu of general funds for special education services. The freed up general funds are then appropriated to HHS to provide services coordination for infants and toddlers with disabilities and their families through the Early Intervention Act. School districts are allowed to keep 11.54% of the federal funds reimbursed for administrative expenses related to claiming the funds.

HHS Appropriation for Early Intervention Services: LB 276 continues to assure funding is provided to the Early Intervention Act, but in an alternative manner. Instead of reducing the special education aid appropriation and using the transferred general funds for the act, the bill provides a direct general fund appropriation to HHS for early intervention services. Beginning in FY2016-17, the general fund appropriation for HHS is equal to the lesser of: the aggregate amount of federal funds included as an accountable receipt by school districts from the billable Medicaid services for the next year certified by the budget administrator or the amount transferred in the previous fiscal year increased by 5%. Using projected state aid information for FY2014-15 and assuming three months of increased Medicaid revenue pursuant to the bill, HHS would be appropriated \$3.2 million of general funds for the Early Intervention Act in FY2016-17. This funding is in addition to other state and federal funds currently allocated for the act.

Fiscal Impact for HHS: HHS currently has one FTE assigned in part to the Medicaid in Public Schools Program. The department indicates the need for an additional FTE to: submit the state Medicaid plan amendment; revise rules; clarify definitions for new school providers; develop rates for new services and, assist schools with licensing and claims submittal. Estimated expenses for the additional Program Specialist are \$85,493 (\$42,746 G, \$42,746 F) in FY14, FY15 and each year thereafter.

Federal Medicaid Increases/TEEOSA Impact: Beginning in FY2014-15, there should be an increase in the amount of federal funds received by school districts for the new services billed to Medicaid, assuming the plan amendment is approved by CMS. The amount depends upon when the plan amendment is adopted, the services currently provided by school districts and the claims submitted. This fiscal note assumes revenue will be received for three months of FY15.

The federal match rate is 53.27% in FY15 and 52.11% in FY16 for Medicaid and 67.29% for CHIP in FY15 and 66.47% in FY16. The amount of increased federal revenue is unknown. Utilizing Nebraska's Medicaid match rates and data from Iowa (which currently bills for these services), it is estimated that schools may have increased federal Medicaid revenue of \$13 to \$16.2 million. It is assumed the increase in revenue will be incremental as schools adjust to billing for the additional services in the bill.

LB 276 provides for 88.46% of the increased revenue for schools from services billed for school-age children to be included as an accountable receipt (local resource) for state aid purposes. An increase in accountable receipts decreases state aid, two years after the increase occurs, so state aid will decrease for equalized districts beginning in FY2016-17, assuming the new services are billed to Medicaid for 3 months of FY2014-15.

The decrease in aid for FY2016-17 is projected to be about \$1,417,000 for equalized school districts assuming services are billed for three months and \$10.8 million of additional services are claimed. The decrease in state aid for FY2017-18 is projected to be \$7.7 million for equalized districts, assuming \$13.5 million of additional services are billed to Medicaid by school districts in FY2015-16. Assuming \$16.2 million of additional services are billed to Medicaid in FY2016-17, decreased state aid will be about \$9.2 million.

School districts not eligible for equalization aid will have increased funding in the amount of the total additional federal Medicaid funds received from billing for services for preschool and school-age children and administration as allowed in the bill. School districts receiving equalization aid will have a net increase in revenue of the amount of the administrative portion (11.54%) received for billed services and revenue for services for preschool children.

Impact on Special Education General Fund Reimbursement: The bill reestablishes the base for special education aid to be net of the amount that equalized school districts receive for Medicaid services billed in FY2016-17. This change is made because the transfer of general funds to HHS from the special education aid appropriation to fund the Early Intervention Act will no longer occur. A decrease in the amount of general funds appropriated for special education aid means the state would be in violation of federal maintenance of effort requirements to receive federal IDEA funds. Assuming the state will not put federal funding in jeopardy, an estimated additional \$10.3 million of general funds will have to be appropriated for special education aid in FY2016-17 and thereafter to maintain effort.

Redefinition of Excess Cost for Special Education Purposes: The bill excludes the amount of Medicaid funds received by school districts for services billed pursuant to the bill from the definition of excess cost for special education purposes beginning in FY2015-16. A decrease in excess costs increases the percentage of special education costs reimbursed by the state. In FY12, the state reimbursed schools 54% of allowable excess costs of special education programs. The change could increase the percentage of special education excess costs reimbursed to schools by 4%, if a projected \$16.2 million of Medicaid funds are received.

In summary, the following chart shows the estimated fiscal impact of the bill for the state as it phases in over the next four fiscal years. School districts billing for Medicaid services will receive additional federal funds for administration and possibly preschool services and nonequalized districts will have increased federal funding for administration and preschool and school-age services billed.

LB276(02), CONTINUED

|                                       | FY 2014-15       | FY 2015-16        | FY2016-17         | FY2017-18         | FY2018-19         |
|---------------------------------------|------------------|-------------------|-------------------|-------------------|-------------------|
| Early Intervention Act:               |                  |                   |                   |                   |                   |
| Services - General Funds              |                  |                   | 3,200,000         | 3,360,000         | 3,528,000         |
| Admin. - General Funds                | 42,746           | 42,746            | 42,746            | 42,746            | 42,746            |
| Admin. - Federal Medicaid Funds       | <u>42,746</u>    | <u>42,746</u>     | <u>42,746</u>     | <u>42,746</u>     | <u>42,746</u>     |
| Total                                 | 42,746           | 85,492            | 3,285,492         | 3,445,492         | 3,613,492         |
| Special Education Reimbursement:      |                  |                   |                   |                   |                   |
| Special Education Base Reduction      |                  |                   | -10,300,000       | -10,300,000       | -10,300,000       |
| Special Education MOE Increase        |                  | -                 | <u>10,300,000</u> | <u>10,300,000</u> | <u>10,300,000</u> |
| Net Special Education Change          |                  |                   | 0                 | 0                 | 0                 |
| TEEOSA - State Aid:                   |                  |                   |                   |                   |                   |
| General Funds                         |                  |                   | -1,417,000        | -7,684,000        | -9,250,000        |
| Services/Admin. - Fed. Medicaid Funds | 2,700,000        | 13,500,000        | 16,200,000        | 16,200,000        | 16,200,000        |
| General Funds                         | 42,746           | 42,746            | 1,825,746         | -4,281,254        | -5,679,254        |
| Federal Funds                         | <u>2,742,746</u> | <u>13,542,746</u> | <u>16,242,746</u> | <u>16,242,746</u> | <u>16,242,746</u> |
| Total                                 | \$2,785,492      | \$13,585,492      | \$18,068,492      | \$11,961,492      | \$10,563,492      |

**ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION**

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

Prepared by: (3) Steve Shively

Date Prepared:(4) 3-31-14

Phone: (5) 471-0676

|                      | <b>FY 2014-2015</b> |         | <b>FY 2015-2016</b> |         |
|----------------------|---------------------|---------|---------------------|---------|
|                      | EXPENDITURES        | REVENUE | EXPENDITURES        | REVENUE |
| <b>GENERAL FUNDS</b> | \$42,746            |         | \$42,746            |         |
| <b>CASH FUNDS</b>    |                     |         |                     |         |
| <b>FEDERAL FUNDS</b> | \$42,747            |         | \$42,747            |         |
| <b>OTHER FUNDS</b>   |                     |         |                     |         |
| <b>TOTAL FUNDS</b>   | \$85,493            |         | \$85,493            |         |

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

**Explanation of Estimate:**

LB 276 AM2554 adds school districts and educational service units as providers of certain Medicaid services that can be directly reimbursed by Medicaid when the services are provided to a Medicaid eligible child. This fiscal note assumes that the additional Medicaid services will be provided through the Medicaid in Public Schools (MIPS) program.

Per Section 4 of LB 276 AM2554, DHHS would need to submit a SPA by 10-1-14. This would require 1 FTE Program Specialist to revise rules and regulations, clarify definitions for the new services to be provided, develop rates for the new services, establish Medicaid enrollment requirements for new school providers, and assist new school providers with licensing and claims submittal. Program 033 expenditures are estimated at \$85,493 (\$42,746 GF, \$42,747 FF) for SFY15, and \$85,493 (\$42,746 GF, \$42,747 FF) for SFY16.

**MAJOR OBJECTS OF EXPENDITURE**

**PERSONAL SERVICES:**

| POSITION TITLE            | NUMBER OF POSITIONS |       | 2014-2015       | 2015-2016       |
|---------------------------|---------------------|-------|-----------------|-----------------|
|                           | 14-15               | 15-16 | EXPENDITURES    | EXPENDITURES    |
| Program Specialist        | 1                   | 1     | \$43,316        | \$43,316        |
| Benefits.....             |                     |       | \$15,161        | \$15,161        |
| Operating.....            |                     |       | \$27,016        | \$27,016        |
| Travel.....               |                     |       |                 |                 |
| Capital Outlay.....       |                     |       |                 |                 |
| Aid.....                  |                     |       |                 |                 |
| Capital Improvements..... |                     |       |                 |                 |
| <b>TOTAL.....</b>         |                     |       | <b>\$85,493</b> | <b>\$85,493</b> |

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2014

LB<sup>(1)</sup> 276 (Amendment 2554) FISCAL NOTE

State Agency OR Political Subdivision Name: <sup>(2)</sup> NE Department of Education

Prepared by: <sup>(3)</sup> Sherman/Prochazka Date Prepared: <sup>(4)</sup> 3/26/2014 Phone: <sup>(5)</sup> 402-471-2471

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

|                    | <u>FY 2014-15</u>   |                | <u>FY 2015-16</u>     |                |
|--------------------|---------------------|----------------|-----------------------|----------------|
|                    | <u>EXPENDITURES</u> | <u>REVENUE</u> | <u>EXPENDITURES</u>   | <u>REVENUE</u> |
| GENERAL FUNDS      | _____               | _____          | \$3,000,000           | _____          |
| CASH FUNDS         | _____               | _____          | _____                 | _____          |
| FEDERAL FUNDS      | _____               | _____          | _____                 | ** Increase    |
| OTHER FUNDS        | _____               | _____          | * Unable to Determine | _____          |
| <b>TOTAL FUNDS</b> | <u>_____</u>        | <u>_____</u>   | <u>\$3,000,000</u>    | <u>_____</u>   |

**Explanation of Estimate:**

**State Agency:**

Expenditures: For fiscal year 2015-16 the base special education and support services appropriation is defined as the previous fiscal year appropriation net the decrease required pursuant to section 43-2515. Additional funds will be needed for the State of Nebraska to comply with federal Individuals with Disabilities Education Act (IDEA) maintenance of state financial support (SFS – State Maintenance of Effort). An estimated additional \$3 million would be required to comply with SFS requirements. Actual general fund increase would be determined from Early Intervention activity in fiscal year 2014-15.

**Political Subdivisions:**

\* Expenditures: Increased administration/accounting costs for school districts due to expanding MIPS services cannot be determined.

\*\* Revenue: Assume revenue increase for school districts. Amount will be dependent on DHHS Medicaid State Plan amendment approval, established rates for each eligible service, and eligible services provided by school districts.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

| <u>POSITION TITLE</u>     | <u>NUMBER OF POSITIONS</u> |              | <u>2014-15</u>      | <u>2015-16</u>      |
|---------------------------|----------------------------|--------------|---------------------|---------------------|
|                           | <u>14-15</u>               | <u>15-16</u> | <u>EXPENDITURES</u> | <u>EXPENDITURES</u> |
| _____                     | _____                      | _____        | _____               | _____               |
| _____                     | _____                      | _____        | _____               | _____               |
| Benefits.....             | _____                      | _____        | _____               | _____               |
| Operating.....            | _____                      | _____        | _____               | _____               |
| Travel.....               | _____                      | _____        | _____               | _____               |
| Capital outlay.....       | _____                      | _____        | _____               | _____               |
| Aid.....                  | _____                      | _____        | _____               | \$3,000,000         |
| Capital improvements..... | _____                      | _____        | _____               | _____               |
| <b>TOTAL.....</b>         | _____                      | _____        | _____               | \$3,000,000         |