

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2020-21		FY 2021-22	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	See Below		See Below	

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

This bill creates the Population Health Information Act. The purpose of the act is to designate an entity to provide the data infrastructure needed to assist in creating a healthier Nebraska and operating the electronic health records initiative. Duties are assigned to the designated health information exchange to aggregate clinical information, access and analyze health data, enable any health care provider or entity to access information and act as the primary collector and reporter of public health data. The Department of Health and Human Services would work collaboratively with the health information exchange to access federal funding.

There is no indication or intent that the provisions of this bill transfer ownership and control of public health data to the designated health information exchange as assumed in the Department of Health and Human Services fiscal note. The bill would codify in statute existing practices and protocols governing health data. The pursuit of federal funds should not require additional staff as the department already has many staff who assist in applications for current and new federal funding opportunities.

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

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

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Date Prepared 1-22-2020

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	<u>FY 2020-2021</u>		<u>FY 2021-2022</u>	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	\$10,500,000	\$0	\$10,500,000	\$0
CASH FUNDS				
FEDERAL FUNDS	(\$52,921,343)	\$0	(\$53,296,343)	\$0
OTHER FUNDS				
TOTAL FUNDS	(\$42,421,343)	\$0	(\$42,796,343)	\$0

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

Explanation of Estimate:

LB1058 proposes by statute to designate a statewide health information exchange (HIE) entity to provide the data infrastructure needed to operate the electronic health records initiative. LB 1058 mandates the HIE to conduct various duties related to the gathering, compilation, publishing and sharing health data. LB 1058 assigns duties, as identified in Section 3, Subsections 2, 3 and 4 to the HIE that are also being performed within DHHS. Currently, the HIE is the common hub used to collect public health data from reporting entities directly from the provider’s software systems, aggregate the health data and then transmit the data to DHHS. The compilation and analysis of health data are performed within DHHS. Not all data that can be considered public health data flows through the HIE due to grant source requirements to deploy certain technology for the collection of data or to report directly to the federal partner.

The following assumptions are being made for cost estimate purposes.

1. LB 1058 intends to allow the HIE to have control and access to public health data, provide data analysis services and provide reporting for government and the health care community’s purposes.
2. LB 1058 intends to supplement the current efforts regarding public health data performed within DHHS.
3. LB 1058 intends for HIE and DHHS to work collaboratively to acquire any relative external funding available to support implementation and operations.
4. LB 1058 intends for DHHS to remain the primary administrator of its current funding sources.
5. The definition of public health data applies only to the current public health data that flows through the HIE. All other public health data is in the control of DHHS only.

Should these assumptions be correct, additional administrative staff will be needed to assist the HIE with obtaining federal funding. DHHS is unable to determine how many individuals this would require as it depends on the scope of funding needed and number of grants and/or funding sources identified. For most or all of the grants identified below, states are the only eligible recipients, and the HIE would be categorically ineligible to receive federal funds directly.

Should these assumptions be incorrect and LB1058 intends for only the HIE to have control of the public health data, and/or intends for all public health data duties be transferred to the HIE, and/or the HIE to be the primary administrator of funding, then DHHS would need to assist the HIE with both applying for and managing federal funding, serving as the pass-through entity for funds, and directly submitting financial and/or statistical reporting as required by each of the federal partners or the State would risk loss of federal funding.

In general, federal grants related to public health data require DHHS to maintain control and access to health data. DHHS is liable for any misuse or improper release of public health data. DHHS would need to seek approval from federal partners before any changes occur regarding ownership and control of public health data. The interpretation of grant requirements and the request for changes would be subject to each federal partner’s determination. The potential loss of federal grant funding could be detrimental to the services it provides. Some of the major programs identified that are potentially at risk are:

Women, Infants and Children (WIC) program – The WIC program must be administered through a State Health Agency. WIC regulations restrict the use of applicant or participant data regardless of other Federal, State or local laws, except as permitted by the State Agency. Information can be shared for research purposes only if a contract exists between the researcher and the State Agency. WIC is federally funded by the Nutrition Services and Administration (NSA). The NSA grant to Nebraska for 2019 was \$29,104,773. DHHS applied for and received an additional \$8,709,233 in manufacturer rebates for infant formula purchases. As part of the NSA grant, DHHS provides breastfeeding support to families using \$300,000 of these federal funds. DHHS captures data about breastfeeding support as part of this program as well. This program funds employment for ten (10.0) FTEs and one (1) contractor.

Breast and Cervical Cancer Screening and the WISEWOMAN programs – Unique software is used not only to store data, but is integral with the administration of these program areas. Such functions include collection of screening data, reporting of data, reimbursement of services, determination of eligibility, and ensuring appropriate and timely follow up and treatment. All of these functions are conducted on a daily basis within the software system. These programs are funded by the Centers for Disease Control and Prevention (CDC) in the amount of approximately \$3,700,000 under grant programs to state agencies. These programs fund employment for fifteen (15.0) FTEs.

Epidemiology and Laboratory Capacity for Infectious Diseases (ELC) – this program includes laboratory testing, data tracking, investigation and surveillance of infectious diseases. Approximately \$2,963,000 is provided from the CDC as a grant that is awarded only to current recipients. This grant also stipulates that the DHHS Division of Public Health is to receive all information on reportable diseases. Facilities have a choice whether to utilize HIE or not to meet reporting requirements. If not, DHHS receives a paper report of the infectious disease. This program funds employment for (4.0) FTEs and thirty (30) contractors.

Immunization Program – per Nebraska § 71-539 thru § 71-544, the exchange of immunization information to various facilities and institutions are required in order to minimize the risk of outbreak of vaccine-preventable diseases. Federal Immunization funds are required to be used in part on activities related to the Immunization Information System. The activities include the use of data along with functionality assessments, objective assessments and annual reporting to the CDC. The federally funded portion of this program is approximately \$2,600,000. This program funds employment for nine (9.0) FTEs and two (2) contractors.

Prescription Drug Monitoring Program (PDMP) – Federal grants are used to support the PDMP. These grants require DHHS to maintain ownership of and approve the release of data. The PDMP also works in conjunction with the professional licensing unit from within DHHS. Currently, the PDMP is funded by federal grant awards of \$200,000 per year with one year remaining of a three year award from the Department of Justice, and \$2,563,404 per year currently in the first year of a three year award from the CDC. DHHS has been awarded, but not yet accepted a grant in the amount of \$375,000 per year for two years from the Department of Justice. All of these awards would be impacted. A change in data ownership and release of data would become a compliance issue for these grants. If the intent of LB 1058 is to transfer ownership and control of PDMP data to the HIE, funding of the PDMP would need to be replaced by other fund sources. In order for DHHS to meet Nebraska's statutory requirements for the PDMP, general funds would be necessary to provide system support and to maintain core staffing. This program funds employment for two (2.0) FTEs and two (2) contractors.

Newborn Metabolic Screening – per Nebraska § 71-519 and § 71-522, control of disease testing data and a central data registry is given to DHHS. This registry concerns inherited congenital infant or childhood-onset diseases in order to evaluate the quality of newborn screening among other statistical reports. In 2019, this program received grant funding in the approximate amounts of \$586,688 from Federal Title V Maternal and Child Health Services (MCH) Block Grant Funds, which may be affected. This program funds employment for four and one half (4.5) FTEs.

Cancer Registry – DHHS receives \$500,000 in federal funding from the CDC to participate in the National Program of Cancer Registries (NPCR) program. These funds are used to comply with CDC standards of reporting to the national registry and supplement the state funded Cancer Registry. These funds cannot be used to develop, design, license or enhance software that performs the same functions as tools provided by the CDC. All external contracts related to Cancer Prevention and Control contain language stipulating the

ownership of data is controlled by DHHS only. This program funds employment for three (3.0) FTEs and four (4) contractors.

Nebraska Childhood Lead Poisoning Prevention program (NeCLPPP) – this program tracks children and families identified as being poisoned by lead. Funds are used to assist and follow up on children and families with lead poisoning. This program receives \$402,343 in federal grant funding. This program funds employment for two (2.0) FTEs.

Parkinson's Registry –per the Parkinson's Disease Registry Act, Nebraska § 81-697 through § 81-6,110, DHHS is charged with maintaining the Parkinson's Disease Registry. Approximately \$400,000 of federal Health Information Technology (HIT) funds are used in operating the Parkinson's Disease Registry. Federal HIT funding primarily supports Medicaid. This program funds employment for two (2.0) FTEs.

Office of Vital Statistics – \$352,723 in provided in federal funding to participate in and report to the National Vital Statistics System. This program funds employment of three (3.0) FTEs.

Occupational Health and Safety - \$220,243 is provided in federal funding to track injuries, illnesses and hazards occurring on the job. DHHS uses the data received to compile and report on worker health. This program funds employment of one (1.0) FTE.

Pregnancy Risk Assessment Monitoring System (PRAMS) – The PRAMS program surveys and collects data on maternal behaviors and experiences before, during and right after pregnancy. Approximately \$172,500 is provided from a federal grant which specifies that it is intended for state public health agencies and requires the collection, storage and use of the data to be performed by the grant recipient. This program funds employment for three (3.0) FTEs.

Early Hearing Detection & Intervention (EHDI) – per Nebraska § 71-4734 thru § 71-4744, the Infant Hearing Act mandates DHHS to compile data and submit reports on hearing screening performed at birthing facilities in Nebraska. This program receives a CDC grant of \$150,000 and requires that DHHS track, report and provide technical assistance to reporting facilities. DHHS must also maintain the quality of the data and lead strategic actions for continuous program improvement through data analysis and evaluation. This program also receives \$250,000 in funding from Health Resources and Services Administration (HRSA) to support those identified through screening and provide early intervention assistance. This program delineates objectives based on the data collected through the EHDI program. Approximately \$62,500 of the federal grant funds are passed through to sub recipients annually. This program funds one (1.0) FTE and one and one half (1.5) contractors.

Crash Outcomes Data (CODES) - \$46,436 in federal funding is provided by the National Highway Traffic Safety Administration. This program links crash records to injury outcome records collected at the scene, by emergency medical services, and by hospital personnel after arrival. This program funds employment for one (1.0) FTE.

Office of Emergency Health Systems (EMS) Program Impacts - The primary system used for EMS reporting is the ImageTrend Elite system. This system is a patient care reporting system but can essentially serve as its own registry as well as feeding into many other registries such as the Trauma Registry, CODES, etc. EMS statutes and regulations per the Emergency Medical Services Act, specifically state that DHHS must provide for this system as well as adhere to the National Emergency Medical Services Information Systems (NEMSIS) data standards. Vendors are required to be certified by NEMSIS of which the current HIE appears to not have been. The Office of Emergency Health Systems employ experts in the NEMSIS data standards as well collaborative partners across the nation on EMS data. The program provides an avenue for a variety of customers to request data of the system. This program works in conjunction with other EMS training agencies, American Heart Associations, Nebraska EMS services, Helmsley Foundation, and more. This program funds employment of two (2.0) FTEs.

Trauma Registry – per the State Trauma System Act, Nebraska § 71-8201 thru § 71-8253, the trauma registry is utilized by the Trauma Board, designated facilities (trauma, pediatric trauma, burn centers and rehabilitation centers), and other partners/stakeholders. This registry is used heavily by the designated centers, health care providers, regional trauma centers, state trauma board and as needed in other reports. The trauma registry also adheres to National Trauma Data Bank standards. This program funds employment for two (2.0) FTEs.

The Office of Emergency Health Systems also has access to the stroke registry, American Heart Association's Get with the Guidelines, the Cardiac Arrest Registry to Enhance Survival or CARES registry, and the American College of Surgeons Trauma Quality Improvement Program (ACS TQIP). These registries are part of collaborative partnerships with the American Heart Association (AHA), Nebraska Trauma Advisory Boards, Nebraska Cardiac and STEMI advisory group established by the AHA. Access to these registries rely upon a \$25,000 grant to pay subscription fees. However, this grant would not likely be impacted by data control.

In summary, should LB 1058 intend to supplement current public health data work provided by DHHS, then additional staff would be needed to assist the HIE with access to federal funding. Depending upon the number of grants needed to implement LB 1058, the number of staff needed to accomplish this would fluctuate.

Should LB 1058 intend to change the ownership and control of public health data, it could have a damaging effect on federal funding of current programs. The programs identified above may not represent all programs that rely upon federal funding to operate. From just those identified above, the potential estimated risk of federal funding loss is a minimum of \$52,921,343 to \$53,296,343, a minimum of sixty-four and one-half (64.5) FTEs and forty and one-half (40.5) contractors. Should LB1058 be enacted, DHHS would need funding to meet all Nebraska Statutory requirements for those programs affected by this legislation. Approximately \$6,450,000 would be needed for FTE costs and \$4,050,000 at a minimum to maintain compliance.

MAJOR OBJECTS OF EXPENDITURE				
PERSONAL SERVICES:				
POSITION TITLE	NUMBER OF POSITIONS		2020-2021	2021-2022
	20-21	21-22	EXPENDITURES	EXPENDITURES
Benefits.....				
Operating.....			\$10,500,000	\$10,500,000
Travel.....				
Capital Outlay.....				
Aid.....			(\$53,181,343)	(\$53,296,343)
Capital Improvements.....				
TOTAL.....			(\$42,421,343)	(\$42,796,343)