

Revised to include provisions adopted in AM 2549 AM 3043 AM 3044 and AM 3045

FISCAL NOTE
 LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2024-25		FY 2025-26	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS				

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

The bill as amended includes provisions of the following bills that concern the Department of Health and Human Services (DHHS):

- [LB 1215](#) as amended with [AM 2447](#) changes the renewal requirements for certain nursing licenses to eliminate the provision of paper-based mailed notifications which would result in minor savings. Other provisions of this bill as amended have minimal fiscal impact.
- [LB 1181](#) as amended with [AM 2144](#) requires updates to Professional and Occupational Licensing procedures related to controlled substance inventory requirements including requirement that a pharmacist intern be at least 18 years of age. DHHS would be able to recover the minimal increased administrative costs via fees. No additional funding or spending authority would be needed to implement the changes.
- [LB 1171](#) as amended with [AM 2412](#) adds an exception to pharmacy verification requirements and has an emergency clause. No fiscal impact.
- [LB 1009](#) allows a person who has failed the third barber examination to take it again and harmonizes statutes pertaining to the Barber Act. No fiscal impact
- [LB 1173](#) defines abstract of death, modifies the death certificate form for U.S. veterans, and provides for free searches of abstracts of death by the U.S. Department of Veterans Affairs, the Military Department, or other lawful organizations representing veterans. DHHS will absorb the minimal expenses to update forms and make system changes.
- [LB 1138](#) exempts prescribers who issue fewer than 50 prescriptions a year from using electronic prescription technology. DHHS will absorb the minimal expenses to update website references and communicate changes.
- [LB 896](#) removes the requirement that when a telehealth patient gives verbal consent, then a signed statement must be collected within 10 days. No fiscal impact.
- [LB 823](#) adopts the Physician Assistant (PA) Licensure Compact. Minimal fiscal impact.
- [LB 1106](#) requires increasing the minimum number of lactation consultations for every mother covered by Medicaid from five to ten and increase reimbursement for the service by 145%. DHHS estimates no cost to increase the number of consultation and approximately \$54,058 in FY25 and \$55,139 to increase the rate. The agency indicates they can absorb this increase.
- [LB 1373](#) adopts the Dietitian Licensure Compact. Minimal fiscal impact.

In total, the bill has minimal fiscal impact and expenses can be absorbed by DHHS.

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 3-28-2024

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	<u>FY 2024-2025</u>		<u>FY 2025-2026</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 1215, as amended by AM2459, and AM2459 as amended by AM3043, AM3044 and AM3045 contains several components that are being addressed here by Amendment number.

LB 1215, as amended by the original AM2459 per section as follows:

LB 1215, Section 1, revises statutes regarding controlled substance inventories. The Department of Health and Human Services (DHHS) would need to revise internal procedures regarding controlled substance inventory requirements and submission of forms. Labor costs saved by moving to a biennial submission of controlled substance inventories would most likely be offset by the additional amount of time needed by Pharmacy Inspectors to confirm that information submitted meets 21 C.F.R. 1304.11.

LB 1215, Sec. 2, allows a pharmacist to add or make changes to a controlled substance prescription after consultation with the prescribing practitioner.

LB 1215, Sec. 3, changes the renewal requirements for Licensed Practical Nursing (LPN); Registered Nursing (RN); and Advanced Practicing Registered Nursing (APRN) credentials which must include evidence that the licensee has registered with the electronic database utilized by DHHS. The database provides DHHS with a means to make electronic renewal notifications to credential holders. Once all nursing credential holders have registered, the current paper-based renewal notification by mail would be made obsolete. The estimated cost savings to move away from paper license renewal notification is based upon the cost of each postcard printed at \$.05 each and US First Class Postage for a postcard at \$.53 each. As of July 1, 2023, there were approximately 43,000 licensed nurses in Nebraska.

	<u>FY24-25</u>	<u>FY25-26</u>
LPN Credential Renewals occur next on October 31, 2025		
Cost savings of 5,800 postcards @ .58 each	\$0	(\$3,364)
RN and APRN Credential Renewals occur next on October 31, 2024		
Cost savings of 37,200 postcards @ .58 each	<u>(\$21,576)</u>	<u>\$0</u>
Total for Section 3	(\$21,576)	(\$3,364)

LB 1215, Sec. 4, allows a prescriber who issues less than fifty (50) prescriptions a year to be exempt from controlled substance prescription requirements as described in Nebraska § 38-1,146. DHHS would incur a

minimal fiscal impact to update website references to the statute and communicate the change to staff and Board of Pharmacy members.

LB 1215, Sec. 5, reorganizes the Pharmacy Practice Act to include Section 6.

LB 1215, Sec. 6, creates a requirement for the Board of Pharmacy to authorize Pharmacy Self-Inspection forms for submission to DHHS, annually. DHHS staff would establish and implement a process for the annual review and approval of the Pharmacy Self-Inspection form by the Board of Pharmacy.

LB 1215, Sec. 7, adds conditions whereby real-time audiovisual communication can be used for Pharmacists to verify functions performed by Pharmacy Technicians.

LB 1215, Sec. 8, adds age requirement of 18 years old to be credentialed as a Pharmacist Intern.

LB 1215, Sec. 9, changes conditions for becoming a credentialed Pharmacy Technician when there is a history of non-alcohol or drug-related misdemeanors.

DHHS staff would make the necessary updates to the Professional and Occupational applications forms, DHHS public website and the License Information System to reflect changes stated in LB 1215, Sec. 1 through Sec. 9. The estimated costs incurred by DHHS Professional and Occupational Licensing staff to implement and execute LB 1215, Sec. 1 through Sec. 9 would be offset as part of the variable credentialing costs per the Uniform Credentialing Act, Nebraska § 38-151 through 38-156 administrative costs and fees.

LB 1215, Sec. 10, and Sec. 22 through 24, revises statutes for the labeling of legend drugs when not dispensed for a specific patient. The Prescription Drug Monitoring Program (PDMP) staff would update their respective public website regarding labeling changes. Personnel costs associated with the update would be absorbed by existing PDMP staff.

LB 1215, Sec. 11, 19, and 21 creates a new State certified document, entitled, Abstract of Death, which would provide proof of a death prior to the issuance of a formal Death Certificate. LB 1215 adds the Abstract of Death to the list of documents that can be used to accompany an application for termination of Child Support. LB 1215 also authorizes DHHS to collect an issuance fee to provide an Abstract of Death and incorporates the new document into other relevant Vital Statistics statutes.

It is estimated that the cost to implement this section, would require 1.0 FTE Program Analyst approximately 5.0 hours to assist with the development and testing of the new form and 1.0 FTE Senior Applications Developer approximately 40 hours to make the necessary changes to the Vital Records registration system. The department will absorb any associated costs to implement this Section.

LB 1215, Sec. 12 through 17, have no fiscal impact to DHHS.

LB 1215, Sec. 18, removes the fee associated with a Health Care Facility License applicant's request for an informal conference with a Peer Review Organization (PRO) representative to resolve disputes. Since fees are assessed based on actual incurred expenses for these conferences, cost savings would be offset by the loss of revenue. DHHS estimates on average the total fees collected and spent for these conferences is \$25,000 annually.

LB 1215, Sec. 20 removes the requirement for veteran service dates to be provided to issue a certificate of death. There is no fiscal impact to DHHS.

LB 1215, Sec. 25 through Sec. 28, amends the Tuberculosis Detection and Prevention Act to allow alternate locations for tuberculosis treatment as approved by the Governor. LB 1215 also updates language to allow DHHS to create new rules and regulations regarding the treatment of Tuberculosis and strikes language enforcing regulations from 2004. DHHS regulations currently align with the Centers for Disease Control and Prevention practices. There is no fiscal impact to DHHS to implement and execute LB 1215, Sec. 25 through Sec. 28.

LB 1215, Sec. 29, removes the requirement for a signed consent to be submitted by a patient receiving initial telehealth services from a provider and can instead be given by verbal consent if written information has been provided to the patient beforehand. There is no fiscal impact to DHHS from LB 1215, Sec. 29.

AM2459, as amended by AM3043, adopts the Physician Assistant Licensure Compact, changes provisions relating to criminal background checks and makes minor re-wording changes. As of July 1, 2023, Nebraska had 1,823 licensed Physician Assistants. DHHS would be responsible for issuing multi-state licenses for Nebraska home state Physician Assistants only when requested by applicant. DHHS would be responsible for keeping track of out of state Physician Assistants practicing in Nebraska under compact privileges issued in another member state.

Additional work includes updates to rules and regulations, modifications to the licensure software system; creating data sets for information exchanges; application form changes; DHHS website information changes and providing a delegate employee to serve on the Physician Assistant Licensure Compact Commission.

All costs associated with implementing and administering multi-state licenses for Physician Assistants and participating in the Physician Assistant Licensure Compact Commission will be recovered under the Uniform Credentialing Act Sections 38-151 through 38-156 administrative costs and fees. Additional costs incurred to provide criminal background checks would also be passed along to the applicants.

AM2459, as amended by AM3044, adopts the Dietitian Licensure Compact and changes provisions relating to criminal background checks. As of July 1, 2023, Nebraska had 793 licensed Medical Nutrition Therapists. DHHS would be responsible for issuing multi-state licenses for Nebraska home state Medical Nutrition Therapists only when requested by applicant. DHHS would be responsible for keeping track of out of state Medical Nutrition Therapists practicing in Nebraska under compact privileges issued in another member state.

Licensing rules and regulations are currently being updated to implement the 2023 revisions to the Medical Nutrition Therapy Act. The Board of Medical Nutrition Therapy and Division are currently drafting regulations that align with the changes under Nebraska Revised Statute (Neb. Rev. Stat.) §§ 38-1801 to 38-1822. The regulation drafting specifically focuses on the requirements for three new license types – licensed dietitian nutritionist, licensed nutritionist, and a temporary license to practice medical nutrition therapy. These changes will align with the language of AM3044.

DHHS would need to make minor changes to rules and regulations; make modifications to the licensure software system; create data sets for information exchanges; application form changes; DHHS website information changes and provide a delegate employee to serve on the Dietitian Licensure Compact Commission.

All costs associated with implementing and administering multi-state licenses for Dietitians and participating in the Dietitian Licensure Compact Commission will be recovered under the Uniform Credentialing Act Sections 38-151 through 38-156 administrative costs and fees. Additional costs incurred to provide criminal background checks would be passed along to the applicants.

AM2459, as amended by AM3045, requires Medicaid coverage for electric personal use breast pumps for every eligible pregnant woman or child under the Medical Assistance Program. It specifies coverage beginning at 36 weeks gestation or until the child's birth, whichever is earlier for the breast pumps. The bill outlines the breast pump's required capabilities, including support for milk supply, double and single-side pumping, and a suction power range. This impacts DHHS's coverage under Medicaid and CHIP programs, which currently include hospital-grade breast pumps on a rental basis, by introducing personal use breast pumps as a covered benefit.

In the state fiscal year 2023 (SFY23), Managed Care Organizations (MCOs) provided approximately 4,985 breast pumps, 3,885 as a value add, and 1,100 paid through the program. There is a 10% anticipated increase for the current coverage claims if the personal use of breast pumps becomes a covered benefit. This increase brings the estimated breast pumps supplied in SFY25 and SFY26 to 5,095 and 5,138, respectively.

The current average hospital-grade breast pump rental cost is \$295 per member. The average cost for the MCO for a qualifying personal breast pump is \$125 per member, resulting in a cost reduction of \$205,700 due to the lower MCO rate versus rental cost. Adding another 3,885 members that gain coverage under this bill, the

total expense for SFY25 and SFY26 would increase by \$279,925 (\$115,320 in GF, \$164,605 FF) and \$281,760 (\$115,807 in GF and \$165,952 in FF), respectively. This cost would be absorbed by the department.

Additionally, this bill would require DHHS to provide coverage for a minimum of ten lactation consultation visits for every mother covered under the medical assistance program, Medicaid, or child who is covered if their mother is not covered, by no later than January 1, 2025. The bill states legislative intent to appropriate an unspecified amount of General Funds to implement this provision. The unspecified appropriation must be a 145% rate increase over the current lactation consultant rate paid by Medicaid.

DHHS indicates that Medicaid currently covers up to five lactation consultation visits. Based on SFY23 data, 91% of members who utilized lactation consultations only received one or two sessions despite additional consultations being available. Due to this data, DHHS does not anticipate fiscal impact of increasing the number of consultations to ten.

The increase in the provider rate for lactation consultants to 145% of the current rate is estimated to be \$54,058 total funds in FY25. The estimate of \$55,139 total funds for FY26 includes a 2% increase. DHHS indicates these costs can be absorbed within the agency's current appropriation.

MAJOR OBJECTS OF EXPENDITURE				
PERSONAL SERVICES:				
POSITION TITLE	NUMBER OF POSITIONS		2024-2025	2025-2026
	24-25	25-26	EXPENDITURES	EXPENDITURES
Benefits.....				
Operating.....				
Travel.....				
Capital Outlay.....				
Aid.....				
Capital Improvements.....				
TOTAL.....			\$0	\$0