

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2023-24		FY 2024-25	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	\$3,131,642		\$3,137,484	
CASH FUNDS				
FEDERAL FUNDS	\$13,363,325		\$13,346,765	
OTHER FUNDS				
TOTAL FUNDS	\$16,494,967		\$16,484,249	

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

This bill requires the Department of Health and Human Services (DHHS) to pay the recipients of any payments, aid or assistance the current child support collected pursuant to the assignment or adopt a child support pass-through policy. The bill also requires DHHS to disregard all child support income for purposes of calculating a recipient’s eligibility for assistance through the TANF, Low-Income Home Energy Assistance Program (LIHEAP), Supplemental Nutrition Assistance Program (SNAP), and Child Care Subsidy (CC) Programs. Lastly, the bill requires DHHS disregard adopt a child support in determining income eligibility. A comprehensive review of all state’s pass-through and disregard policies was published in May 2020 by the National Conference of State Legislatures and is accessible [here](#). As of 2020, 26 of the 52 states and territories (including DC and Guam) pass-through and disregard (for the purpose of income eligibility calculations) at least a portion of child support.

Child Support Pass-Through

Currently, families eligible for Aid to Dependent Children (ADC), Nebraska’s direct assistance Temporary Assistance for Needy Families (TANF) program, are required to assign their rights to child support to the state in order to receive TANF benefits. DHHS retains child support payments collected on behalf of TANF families to offset the cost of welfare payments. FY22 offsets related to TANF and Foster Care totaled \$4,630,547 and this amount would represent a state general fund cost. Of the \$4.6 million total in FY22, \$2.9 million is attributable to IV-E qualifying recipients and \$1.7 million is attributable to non-IV-E recipients.

DHHS may still be required to return the federal share of offsets as detailed in Sec 457 [42 U.S.C. 657] (6) Distribution of Collected Child Support. The social security act allows states to disregard a portion of child support when the option is selected to pass through payment to the individual for purposes of calculating the share due to the federal government. The amount disregarded is defined as \$100 per month for a single child family and \$200 per month for family with 2 children or more. Any collections of child support above these disregarded amounts would have a portion due to the federal government split at the FMAP. Even if the state elects to pass-through the entire child support payments, the state would be responsible for reimbursing the federal government which would be a state general fund cost.

The bill specifies that DHHS is to pass-through current child support. Using this description, the fiscal impact of the pass-through is \$587,432 state share of collections that would no longer be used to offset state costs. Based on the disregard for all, rather than current collections, DHHS estimates that the state would be required to pay the federal government \$540,465 bringing the total general fund cost to \$1,127,897. This calculation is used for the purposes of this fiscal note because LB233 specifically uses the word “current.”

DHHS explains that if bill did not specify “current child support collected” and included arrearage or past due child support that the fiscal impact will be significantly larger. The state share of collections that would no longer be used to offset state costs of \$4,630,547. The total federal share of collections is \$4,107,745. The department used a calculation of individuals receiving benefits and child support with a weighted average of TANF payments throughout the year to estimate the federal disregard. Using this calculation, the department estimates the amount due to the federal government at \$2,684,403 bringing the total general fund cost to \$7,314,950.

Child Support Income Disregard

The bill required DHHS to disregard all child support and adopt a child support for purposes of calculating eligibility for assistance through the TANF, Low-Income Home Energy Assistance Program (LIHEAP), Supplemental Nutrition Assistance Program (SNAP), and Child Care Subsidy (CC) Programs. The fiscal impact to assistance programs to disregard child support income is estimated as follows:

- ADC and Employment First: \$1,951,021 more needed annually
 - This program is 90% federally funded so \$1,755,919 is federal funds and \$195,102 is general funds
- Child Care Subsidies: \$10,643,614 more needed annually
 - Currently there is sufficient federal funding by means of the Child Care and Development Block Grant and the TANF program however any future shortfall in these federal fund sources would necessitate general funding
 - One additional FTE at the Program Specialist level would be needed for the increase in work
 - The cost of salary, benefits, and increase operations cost would be \$56,005 in FY24 and \$78,410 in FY25
- LIHEAP: an additional approx. 1,888 households would result in across the board decrease payments to all households
 - This program's funding is fully expended each year – any increase in eligibility results in decreased aid per recipient
- SNAP: the bill would render NE SNAP out of federal compliance, risking the \$17 million in annual administrative funding
 - SNAP assistance is 100% federally funded however the state and federal partners split the administrative costs 50/50

System Updates and Child Support Enforcement Funding Considerations

Updates to the Child Support Program, specifically extensive changes to the CHARTS system, amount to a total of \$4,305,600 which DHHS indicates can be spread over three years for a total of \$1,435,200 with 66% federal contribution and 34% state obligation. Additionally, during this three-year period of updates, the state will be newly required to pay \$340,000 toward child support enforcement as a matching amount toward the regular child support grant because the state will be ineligible for federal incentive dollars. Updates to Nebraska's eligibility system, NFOCUS would amount to \$33,120 which would qualify for 50/50 federal match.

DHHS indicates the Federal Office of Child Support Enforcement would need to approve a state plan amendment to change from the Personal Responsibility and Work Opportunity Act (PRWORA) distribution to the Deficit Reduction Act (DRA) distribution. Under DRA, DHHS would incur a new, permanent state general fund cost of \$908,107.

Summary of Fiscal Impact

The following shows a breakdown by fund type for each component of the fiscal impact in FY24 and FY25 for the bill which specifies the pass-through of "current child support":

	Fiscal Year 2024		Fiscal Year 2025	
	General Fund	Federal Fund	General Fund	Federal Fund
Pass through	\$1,127,897		\$1,127,897	
ADC aid	\$195,102	\$1,755,919	\$195,102	\$1,755,919
CC aid		\$10,643,614		\$10,643,614
CC personnel	\$56,008		\$78,410	
Enforcement	\$340,000		\$340,000	
CHARTS update	\$487,968	\$947,232	\$487,968	\$947,232
PRWORA to DRA	\$908,107		\$908,107	
NFOCUS	\$16,560	\$16,560		
Total	\$3,131,642	\$13,363,325	\$3,137,484	\$13,346,765

The following shows a breakdown if the bill considers all child-support, not just current, for informational purposes only:

	Fiscal Year 2024		Fiscal Year 2025	
	General Fund	Federal Fund	General Fund	Federal Fund
Pass through	\$7,314,950		\$7,314,950	
ADC aid	\$195,102	\$1,755,919	\$195,102	\$1,755,919
CC aid		\$10,643,614		\$10,643,614
CC personnel	\$56,008		\$78,410	
Enforcement	\$340,000		\$340,000	
CHARTS update	\$487,968	\$947,232	\$487,968	\$947,232
PRWORA to DRA	\$908,107		\$908,107	
NFOCUS	\$16,560	\$16,560		
Total	\$9,318,695	\$13,363,325	\$9,324,537	\$13,346,765

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB:	233	AM:	AGENCY/POLT. SUB: Nebraska Department of Health & Human Services
REVIEWED BY:	Ann Linneman	DATE:	3-1-2023 PHONE: (402) 471-4180
COMMENTS: The Nebraska Department of Health and Human Services' analysis and estimate of fiscal impact to the department appears reasonable.			

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

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

Prepared by: (3) John Meals

Date Prepared 3-1-2023

Phone: (5) 471-6719

	<u>FY 2023-2024</u>		<u>FY 2024-2025</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	\$3,131,642		\$3,137,484	
CASH FUNDS				
FEDERAL FUNDS	\$13,363,325		\$13,346,765	
OTHER FUNDS				
TOTAL FUNDS	\$16,494,967		\$16,484,249	

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

Explanation of Estimate:

LB 233 would require the Department of Health and Human Services (DHHS) to pay the recipient of any payments, aid, or assistance the current child support collected pursuant to the assignment of Temporary Assistance for Needy Families (TANF) or Foster Care. The current child support collected would not be considered income for calculating an individual’s eligibility for assistance through the TANF, Low-Income Home Energy Assistance Program (LIHEAP), Supplemental Nutrition Assistance Program (SNAP), and Child Care Subsidy (CC) Programs. This would create an increase in the use of state general funds to pay the federal government.

The department currently uses the assignment of child support to offset state general funds when the individual receives both child support and economic aid. This bill would prohibit this practice, thus reducing the amount of general funds available to the department. FY22 offsets related to TANF and Foster Care totaled \$4,630,547 and this amount would represent a state general fund cost.

The department may still be required to return the federal share of offsets as detailed in Sec 457 [42 U.S.C. 657] (6) Distribution of Collected Child Support. The social security act allows states to disregard a portion of child support when the option is selected to pass through payment to the individual for purposes of calculating the share due to the federal government. The amount disregarded is defined as \$100 per month for a single child family and \$200 per month for family with 2 children or more. Any collections above these disregarded amounts would have a portion due to the federal government split at the FMAP. Even if the state elects to pass all payments through to the family, the federal government would still have to be made whole and this additional payment would be a state general fund cost.

LB233 uses the word “current” in section 2. (5) to define the amount the state is required to pay the recipient. Child support defines current as amounts paid within 30 days of the due date while any amount due past day 30 is considered in “arrearage.”

If the intention of the LB233 is to only require the department to pay the “current” amount, the fiscal impact is \$587,432 state share of collections that would no longer be used to offset state costs. The total federal share of current collections is \$831,485. The department does not have clear data to calculate the amount of federal disregard related specifically to current collections. The estimated disregard related to all collections is approximately 35%. Using that same estimate, the department would be required to pay the federal government \$540,465 bringing the total general fund cost to \$1,127,897. This calculation is used for the purposes of this fiscal note because LB233 specifically uses the word “current.”

If the intention of the LB233 is to only require the department to pay all collections, including arrearage, to the family, the fiscal impact will be significantly larger. The state share of collections that would no longer be used to offset state costs is \$4,630,547. The total federal share of collections is \$4,107,745. The department used a calculation of individuals receiving benefits and child support with a weighted average of TANF payments

throughout the year to estimate the federal disregard. Using this calculation, the department estimates the amount due to the federal government at \$2,684,403 bringing the total general fund cost to \$7,314,950.

There will be an increase in Aid to Dependent Children (ADC) applications and eligible recipients if their child support income is not assigned to the state, paid to families, and excluded when determining their ADC eligibility. An increase in ADC recipients, will also increase the number of individuals referred to participate in the Employment First Program, resulting in increased costs awarded to Employment First Coordinator to provide the service. In FFY2022, 349 ADC households have been closed or denied due to excessive child support income. If there is an increase of 349 ADC cases with an average monthly payment of \$465.86, the total increase to the ADC program would be \$1,951,021. The program is 90% federally funded and 10% state funded. With this increase, \$1,755,919 would be paid using federal funds and the remaining \$195,102 would be paid using state general funds.

Child Care (CC) will be impacted as the bill would make additional households eligible for child care subsidy who may have been previously over income due to child support income included in the budget. In FFY22, 782 CC households have been closed or denied due to excessive child support income. If there is an increase of 782 CC cases with an average monthly payment of \$1,134.23, the total increase to the CC program would be \$10,643,614. Funds provided to the State of Nebraska according to the Child Care and Development Block Grant Act of 1990, 42 U.S.C. 9857 et seq., the Temporary Assistance for Needy Families (TANF) program established in 42 U.S.C 601 et seq., and state general funds would be used to pay the costs of additional childcare recipients. For the purposes of this fiscal note, this amount will be listed as 100% federal funds. \$10.6M is a significant amount that may not be permanently sustainable within the Child Care Block grant and TANF grant. Any future shortfall would be covered by state general funds and a corresponding state general fund appropriation would be needed.

LB 233 is one of several legislative bills that intends to spend from the TANF grant. Should any or all of these bills become law, the TANF grant balance may not be permanently sustainable. State general funds would then be required to cover the balance or services would be reduced.

With the addition of more eligible families and childcare subsidy providers, DHHS would need 1 Program Specialist position to conduct quality assurance of the newly enrolled childcare providers and new families utilizing childcare subsidy.

Low-Income Home Energy Assistance Program (LIHEAP) will be impacted as the bill would increase the number of households eligible for LIHEAP. In FFY22, 1,888 LIHEAP households have been closed or denied due to excessive child support income. LIHEAP is a block grant that DHHS expends all funds each year. With additional eligible households, the total payment to each household payment would decrease to allow DHHS to stay within the LIHEAP budget.

For FFY2022, over 19,000 heating assistance payments were authorized as a result of the mass eligibility determination. If SNAP and LIHEAP have different income eligibility requirements, the mass eligibility determination process will require significant updates to determine whether it can still be processed. If the mass eligibility determination cannot be done, cases with child support income will need to be manually processed by Eligibility Staff.

If the SNAP program were to follow state statute that is described in LB 233, the state would be out of compliance with the federal law. This could put the entire SNAP program at risk, including the potential for the SNAP administration grant to be partially or fully rescinded. The amount of the federal SNAP admin grant is over \$17M per year. At a minimum, Nebraska would be under federal review and a corrective action plan based on LB 233.

The Child Support Program is impacted by LB 233. The Department's child support system (CHARTS) will need to be updated to rewrite and change financial processing. The following estimated additional hours will be required to make CHARTS system updates:

4 IT Business Analyst (BA): 5,980 hours, 4 Technical Analyst Expert (TA): 5,980 hours, 4 BA estimates \$80 per hour for 5,980 hours, or \$1,913,600, 4 TA estimates \$100 per hour for 5,980 hours, or \$2,392,000.

The total estimated cost for CHARTS tasks relating to LB233 is \$4,305,600 over a three-year period, \$1,435,200 each year. The costs would be split 66% federal funds and 34% state general funds. During the timeframe that the IT changes are occurring, DHHS will not be eligible to receive Federal Incentive Dollars. This will be a loss of Federal Incentive Funding of \$1,000,000 each year. These funds are used for operations of the Child Support Unit. Should the incentive funds be eliminated, the expenses that are typically paid for with the incentive funds would be paid out the regular child support grant which requires a 34% state general fund match. This would increase state general fund costs by approximately \$340,000 per year.

Federal Office of Child Support Enforcement would need to approve the state plan amendment to change from the Personal Responsibility and Work Opportunity Act (PRWORA) distribution to the Deficit Reduction Act (DRA) distribution. Under DRA, DHHS will now be subject to the federal share of reimbursement for certain child support collections. The amount that DHHS will now pay to the federal government is based on the current FMAP rate. Of the retained funds for FFY 2022, \$908,107 will now need to be paid to the federal government to reimburse the federal share that DHHS currently does not need to pay. This would be a permanent state general funds cost.

The Department's eligibility system (N-FOCUS) will need to be updated to exclude child support income. The following estimated additional hours will be required to make N-FOCUS system updates: IT Business Analyst (BA) 144 hours, Technical Analyst Expert (TA) 200 hours, Technical Analyst Batch (TA) 16 hours, BA estimates \$80 per hour for 144 hours, or \$11,520, TA Expert estimates \$100 per hour for 200 hours, or \$20,000, TA Batch estimates \$100 per hour for 16 hours, or \$1,600. The total IS&T estimate for tasks relating to LB233 is \$33,120.

MAJOR OBJECTS OF EXPENDITURE				
PERSONAL SERVICES:				
POSITION TITLE	NUMBER OF POSITIONS		2023-2024	2024-2025
	23-24	24-25	EXPENDITURES	EXPENDITURES
K73210 - DHHS Program Specialist	0.75	1.00	\$34,637	\$48,491
Benefits.....			\$12,123	\$16,972
Operating.....			\$2,725,675	\$2,696,254
Travel.....				
Capital Outlay.....				
Aid.....			\$13,722,532	\$13,722,532
Capital Improvements.....				
TOTAL.....			\$16,494,967	\$16,484,249