

As amended by AM 1187 & AM 1261

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2025-26		FY 2026-27	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS	\$500,000	\$500,000	\$500,000	\$500,000
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$500,000	\$500,000	\$500,000	\$500,000

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

LB 77 adopts the Ensuring Transparency in Prior Authorizations Act. The Act would create new requirements for insurers and utilization review entities regarding prior authorization.

LB 77 as amended by AM's 1187 and 1261 would create several new requirements for insurers and utilization review entities regarding prior authorization. Under LB 77, the Department of Insurance would be responsible for enforcing these requirements. Additionally, LB 77 would require the department to create two uniform prior authorization request forms, one for prescription drugs, devices, and durable medical equipment, and one for all other procedures.

The Department anticipates an increase in complaints related to prior authorization requests resulting from LB 77. The costs related to the creation of the forms and any additional complaints received would be absorbed by current staff. Section 12 of LB 77 as amended by AM 1187 gives the department the authority to audit a utilization review entity's automated utilization management system along with the authority to contract with a third party to perform these audits. These audits may be performed at any time, any audit performed pursuant to LB77 would take place within the context of a market conduct examination. Under the Insurers Examination Act, the cost for the examination shall be reimbursed by the company being examined. The Department does not have the expertise necessary to audit these AI models and would need to contract with a third-party auditor with the necessary expertise. Due to the complexity of the models being reviewed the cost for these contracts would be very expensive. The Department has estimated the cost of maintaining these contracts to be \$500,000 annually. This is a rough estimate; the actual cost of the contract may be higher or lower than estimated. In any case, the amount would be reimbursed by the insurer being examined.

Additionally, AM 1187, which contains the provisions of LB 253, would mandate that health carriers provide coverage for biomarker testing. However, the effective date for the coverage mandate is January 1st, 2028, which is beyond the current biennium and the "out-years" biennium. The fiscal impact will be significant but would begin in FY2028-29. The fiscal note for LB 253 indicated a General Fund impact of \$1.1 million in the first year of implementation.

The Department of Health and Human Services (DHHS) notes that within Medicaid biomarker testing is currently offered in a limited capacity by the state's Managed Care Organizations (MCOs). MCOs provide most of the state's Medicaid services contractually via DHHS capitation payments also referred to as per member per month (PMPM). Expanding coverage for biomarker testing in line with the bill will increase Medicaid expenditures. Currently, the cost to Medicaid for a full fiscal year is \$502,655. DHHS assumes a blended fund mix 58.05% federal funds in SFY26 and 57.63% federal funds in SFY27. Federal fund participation is higher for both the CHIP population (70.26% in FFY25 and 68.05% in FFY26) and the Medicaid Expansion population (90% federal funds) compared to the regular Medicaid population (57.52% in FFY25 and 54.36% in FFY26). Actual expenditure increases will depend on utilization and cost and fund mix depends on which populations utilize the testing. It is anticipated that premium costs will increase after the effective date of January 1, 2028.

The Affordable Care Act (ACA) requires the defrayal of all costs of new state required benefits for ACA individual and small group plans. This is done either through reimbursement by the state to the issuer of a Qualified Health Plan (QHP), or the enrollee. Pursuant to the ACA, the insurer quantifies the cost attributable to the new required benefit and that cost is submitted to the state for reimbursement.

However, after surveying several QHP issuers to create a cost estimate for the benefits required to be defrayed under this bill, currently the estimates from QHP issuers for increased premium costs to their plans totaled approximately \$1,890,000 annually. These defrayal costs would be charged by each individual QHP insurer. Depending upon the relevant population of insureds that have coverage under that insurer costs could potentially exceed the estimate provided depending upon actual utilization by all eligible enrollees in the plans. Future increased premium costs would also increase the estimates. Under current Nebraska law, these defrayal costs would be paid under the state claims process after the effective date of January 1, 2028.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 77	AM: 1261	AGENCY/POLT. SUB: Department of Insurance
REVIEWED BY: Ryan Walton	DATE: 5/12/2025	PHONE: (402) 471-4174
COMMENTS: The Department of Insurance's assessment of fiscal impact from LB 77, as amended by AM 1261, appears reasonable.		

Please complete ALL (5) blanks in the first three lines.

2025

LB⁽¹⁾ 77 AM 1187 & AM 1261

FISCAL NOTE

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

Prepared by: ⁽³⁾ Jordan Blades Date Prepared: ⁽⁴⁾ 5/8/25 Phone: ⁽⁵⁾ 402-471-4638

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2025-26</u>		<u>FY 2026-27</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS				
CASH FUNDS	<u>\$500,000</u>	<u>\$500,000</u>	<u>\$500,000</u>	<u>\$500,000</u>
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	<u>\$500,000</u>	<u>\$500,000</u>	<u>\$500,000</u>	<u>\$500,000</u>

Explanation of Estimate:

LB 77 as amended by AM's 1187 and 1261 would create several new requirements for insurers and utilization review entities regarding prior authorization. Under LB 77 The Department of Insurance would be responsible for enforcing these requirements. Additionally, LB 77 would require the department to create two uniform prior authorization request forms, one for prescription drugs, devices, and durable medical equipment, and one for all other procedures. The Department anticipates an increase in complaints related to prior authorization requests resulting from LB 77. The costs related to the creation of the forms and any additional complaints received would be absorbed by current staff.

Section 12 of LB 77 as amended by AM 1187 gives the department the authority to audit a utilization review entity's automated utilization management system along with the authority to contract with a third party to perform these audits. These audits may be performed at any time, any audit performed pursuant to LB77 would take place within the context of a market conduct examination. Under the Insurers Examination Act, the cost for the examination shall be reimbursed by the company being examined. The Department does not have the expertise necessary to audit these AI models and would need to contract with a third party auditor with the necessary expertise. Due to the complexity of the models being reviewed the cost for these contracts would be very expensive. The Department has estimated the cost of maintaining these contracts to be \$500,000 annually. This is a rough estimate; the actual cost of the contract may be higher or lower than estimated. In any case, the amount would be reimbursed by the insurer being examined.

Additionally, AM 1187 would mandate that health carriers provide coverage for biomarker testing.

The Affordable Care Act (ACA) requires the defrayal of all costs of new state required benefits for ACA individual and small group plans. This is done either through reimbursement by the state to the issuer of a Qualified Health Plan (QHP), or the enrollee. Pursuant to the ACA, the insurer quantifies the cost attributable to the new required benefit and that cost is submitted to the state for reimbursement. Under current Nebraska law, these defrayal costs would be paid under the state claims process.

The benefits mandated by AM 1187 constitute a new state required benefit pursuant to the ACA and the costs resulting from these benefits would need to be defrayed.

The impact of this cost is not illustrated in this fiscal note as the effective date for the coverage mandate is January 1st, 2028. However, after surveying several QHP issuers to create a cost estimate for the benefits required to be defrayed under this bill. The estimates from QHP issuers for increased premium costs to their plans totaled approximately \$1,890,000 annually. These defrayal costs would be charged by each individual QHP insurer. Depending upon the relevant population of insureds that have coverage under that insurer. The

costs could potentially exceed the estimate provided depending upon actual utilization by all eligible enrollees in the plans. In any instance, the amount spent, pursuant to the ACA, must be reimbursed by the state.

<u>BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE</u>				
Personal Services:				
<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2025-26</u>	<u>2026-27</u>
	<u>25-26</u>	<u>26-27</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Benefits.....				
Operating.....				
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
TOTAL.....				

LB⁽¹⁾ 253

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾

Department of Administrative Services (DAS) – Employee Wellness & Benefits

Prepared by: ⁽³⁾ Jennifer Norris

Date Prepared: ⁽⁴⁾ 01/14/2025

Phone: ⁽⁵⁾ 402-471-4443

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2025-26		FY 2026-27	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
REVOLVING FUNDS				
TOTAL FUNDS				

Explanation of Estimate:

LB 253 provides for biomarker testing coverage.

The State’s current employee health plans already standardly provide this coverage.

LB 253 has no fiscal impact to the Department of Administrative Services.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

POSITION TITLE	NUMBER OF POSITIONS		2025-26	2026-27
	25-26	26-27	EXPENDITURES	EXPENDITURES
Benefits.....				
Operating.....				
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
TOTAL.....				