

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

| <b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES</b> (See narrative for political subdivision estimates) |                   |         |                   |         |
|---|-------------------|---------|-------------------|---------|
|   | <b>FY 2016-17</b> |         | <b>FY 2017-18</b> |         |
|   | 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.

This bill transfers 5% of Medicaid fraud settlement funds to the Health Care Homes for Medically Underserved Fund. Those funds are to be used for distribution to the Federally Qualified Health Clinics (FQHC).

Deposits to the fund are variable. The following chart shows the deposits since FY 2011 and 5% of the amount:

|       | Settlement Funds | 5%      |
|-------|------------------|---------|
| FY 11 | 3,189,530        | 159,477 |
| FY12  | 4,520,100        | 226,005 |
| FY 13 | 7,063,208        | 353,160 |
| FY 14 | 3,655,595        | 182,780 |
| FY 15 | 393,988          | 19,699  |
| FY 16 | 369,281          | 18,464  |

Currently 25% of the Medicaid settlement funds are deposited in to the Health Care Homes of the Medically Underserved Fund. Use of the Medicaid Fraud Settlement Fund, except for the 25% transfer, is directed by the Legislature. Examples of past uses of the fund have been to offset General Fund costs of Medicaid and to fund medical student loans and loan repayments in the Rural Health Professional Incentive Fund.

|  |     |                       |                 |
|--|-----|-----------------------|-----------------|
| ADMINISTRATIVE SERVICES-STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES   |     |                       |                 |
| LB: 988  | AM: | AGENCY/POLT. SUB: HHS |                 |
| REVIEWED BY: Elton Larson  |     | DATE: 2/5/16          | PHONE: 471-4173 |
| COMMENTS: The distribution of <b>“federal Medicaid fraud settlement funds accruing to the state”</b> as referenced in LB988 appears to conflict with current Nebraska statutes relating to the distribution of funds recovered under the False Medicaid Claims Act as described in Sec 68-940 RRS that allows payment of Attorney General legal fees and other expenses, and provides that the State Treasurer shall distribute civil penalties in accordance with Article VII, section 5, of the Nebraska Constitution. |     |                       |                 |

**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:(4) 1-19-16

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|                      | <u>FY 2016-2017</u> |         | <u>FY 2017-2018</u> |         |
|----------------------|---------------------|---------|---------------------|---------|
|                      | EXPENDITURES        | REVENUE | EXPENDITURES        | REVENUE |
| <b>GENERAL FUNDS</b> |                     |         |                     |         |
| <b>CASH FUNDS</b>    |                     |         |                     |         |
| <b>FEDERAL FUNDS</b> |                     |         |                     |         |
| <b>OTHER FUNDS</b>   |                     |         |                     |         |
| <b>TOTAL FUNDS</b>   | \$0                 | \$0     | \$0                 | \$0     |

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

**Explanation of Estimate:**

LB 988 expands the allocation of Medicaid fraud settlement funds to add five percent of the fraud settlement funds accruing to Nebraska annually, to be deposited in the Health Care Homes for the Medically Underserved Fund for distribution to federally qualified health centers in Nebraska. Such funds shall be used for persons receiving services under the (1) Health Care for the Homeless Program, (2) Public Housing Primary Care Program, and (3) Migratory and Seasonal Workers Program; (330(h), 330(i) and 333(g), respectively, of the federal Public Health Service Act, 42 U.S.C. 254b, as such sections existed on January 1, 2016.

Amounts listed as part of Medicaid fraud settlements are identified by the Medicaid Fraud Control Unit (MFCU) in the Attorney General's office and fall in to several categories:

- Restitution – amounts to reimburse the state and federal loss for the actual claims
- Penalties – a fine levied that goes to the school fund as legislated
- Additional Damages – double and treble claims payments that goes to the Department of Health and Human Services (currently goes to the General Fund)
- Costs – investigation and attorney costs that goes to the MFCU to support their activities

The language of LB 988 does not specify which of the categories that the five percent is to be taken from, which does not allow for an estimate of fiscal impact. Additionally, because these settlements are not a reliable or consistent source of revenue it is not possible to estimate the amount of any potential deposits to the Health Care Homes for the Medically Underserved Fund. The Legislature would need to appropriate the funds once known.

**MAJOR OBJECTS OF EXPENDITURE**

| PERSONAL SERVICES: | POSITION TITLE | NUMBER OF POSITIONS |        | 2016-2017    | 2017-2018    |
|--------------------|----------------|---------------------|--------|--------------|--------------|
|                    |                | 16-17               | 17--18 | EXPENDITURES | EXPENDITURES |
| Benefits.....      |                |                     |        |              |              |
| Operating.....     |                |                     |        |              |              |
| Travel.....        |                |                     |        |              |              |

