

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				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	See below	See below	See below	See below

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

LB 351 relates to the Nebraska Hospital-Medical Liability Act (NHMA). The bill proposes increasing the minimum amount of proof of financial responsibility of medical malpractice liability for all healthcare providers and eliminates limits on medical malpractice liability, effective January 1, 2024.

The bill proposes a loss limit increase from \$500,000 to \$10,000,000 for a healthcare provider or such provider’s employer; increase aggregate limits for professional liability insurance from \$1,000,000 to \$20,000,000 for physicians and nurse anesthetists; increase the amount of aggregate liability from \$3,000,000 to \$30,000,000 for hospitals and their employees; and would remove the cap on the amount recoverable for those individuals whom experience catastrophic injury or death and file a claim.

Department of Administrative Services:

The Department of Administrative Services (DAS) makes the assumption that the increase in cost incurred by providers would be passed along to healthcare insurance consumers thus increasing the cost of the State of Nebraska’s medical plan premiums. The medical plan premiums are paid by the state at 79% and the remaining 21% are paid by state employees. Due to that the cost to the healthcare providers as proposed by this bill cannot be determined until such time the healthcare contracts are renegotiated, there is an indeterminate fiscal impact.

The allocation by fund type is based on a four-year average of health insurance premium expenditures is as follows:

Fund Type	Percentage by Fund Type
General Fund	50%
Cash Fund	25%
Federal Fund	20%
Revolving Fund	5%
Total	100%

University of Nebraska Systems:

The University of Nebraska System has consulted with the broker who assists the University with health insurance contracts. The broker indicated that the proposed limits as outlined in the bill would require involvement of actuarial staff and it is anticipated there would be significant increases of health insurance premiums; however, these costs are indeterminable.

The allocation by fund type of health insurance premium expenditures is as follows:

Fund Type	Percentage by Fund Type
General Fund	39%
Cash Fund	23%
Federal Fund	5%
Revolving Fund	33%
Total	100%

University of Nebraska System (UNMC):

The University of Nebraska Medical Center (UNMC) is currently contributing at the 50% maximum rate as established by the Excess Liability Fund. It is anticipated that the University of Nebraska Medical Center's premium rate would increase, however, the amount is indeterminable.

Department of Insurance (DOI):

The Excess Liability Fund (Fund) would be obligated to pay all claims or settlements over the amount of private insurance with the removal of the medical malpractice cap. The payment of claims from the Fund is capped at \$30 million in a calendar year with payment of claims to be made in the order received. Unsatisfied claims carry forward to subsequent years and must be paid monthly until the claim is satisfied.

The Department of Insurance also anticipates an increase in premiums which would result in an increase of surcharge revenue paid to the Excess Liability Fund. Using estimations provided by insurers, DOI anticipates premium increases at 200% at a minimum, which at the current 50% maximum surcharge of the premium paid by the health care provider would result in increased revenue to the Excess Liability of \$22,610,000 in the first calendar year, one-half of which is included for FY 2023-24. After FY 2023-24, LB 351 would have an indeterminate effect on the Excess Liability Fund's revenue as the surcharge rate is set to cover anticipated costs, not to maintain a cash balance in the Fund.

The Department of Insurance anticipates an indeterminate increase in expenditures due to potential increases in the claim payments under LB 351.

There is no basis to disagree with these estimates.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 351	AM:	AGENCY/POLT. SUB: Department of Administrative Services (DAS)	
REVIEWED BY: Ryan Walton		DATE: 2/1/2023	PHONE: (402) 471-4174
COMMENTS: No basis to disagree with the Department of Administrative Services assessment of indeterminate fiscal impact from LB 351.			

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 351	AM:	AGENCY/POLT. SUB: University of Nebraska System	
REVIEWED BY: Ryan Walton		DATE: 1/23/2023	PHONE: (402) 471-4174
COMMENTS: No basis to disagree with the University of Nebraska System assessment of fiscal impact to the agency from LB 351.			

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

2023

LB⁽¹⁾ 351

FISCAL NOTE

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

Prepared by: ⁽³⁾ Jordan Blades Date Prepared: ⁽⁴⁾ 2/21/2023 Phone: ⁽⁵⁾ 402-471-1432

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2023-24</u>		<u>FY 2024-25</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	<u>Indeterminate</u>	<u>\$11,305,000</u>	<u>Indeterminate</u>	<u>Indeterminate</u>
TOTAL FUNDS	<u>Indeterminate</u>	<u>\$11,305,000</u>	<u>Indeterminate</u>	<u>Indeterminate</u>

Explanation of Estimate:

LB 351 would increase the minimum amount of proof of financial responsibility that health care providers are required to obtain in order to qualify for coverage under the Excess Liability Fund from \$500,000 per occurrence to \$10,000,000 per occurrence effective January 1, 2024. The bill increases the aggregate liability amount to \$20 million for physicians or certified registered nurse anesthetists and \$30 million for hospitals.

This bill also eliminates the \$2.25 million medical malpractice liability cap under the Nebraska Hospital-Medical Liability Act. The Excess Liability Fund would be obligated to pay all claims or settlements over the amount of private insurance coverage noted above. The payment of claims from the Fund is capped at \$30 million in a calendar year with payment of claims to be made in the order received. Unsatisfied claims carry forward to subsequent years and must be paid monthly until the claim is satisfied.

The Department of Insurance contacted insurers for an estimation of the increased in premium for medical malpractice policies meeting the minimum amount of coverage under LB 351. Premium increases were estimated at 200% at a minimum, which at the current 50% maximum surcharge of the premium paid by the health care provider would result in increased revenue to the Excess Liability of \$22,610,000 in the first calendar year, one-half of which is included for FY 2023-24. This estimate assumes no change in the purchasing behavior of qualified health care providers. After the first year, LB 351 would have an indeterminate effect on the Excess Liability Fund's revenue as the surcharge rate is set to cover anticipated costs, not to maintain a cash balance in the Fund.

The Department anticipates an indeterminate increase in expenditures due to potential increases in the claim payments under LB 351.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2023-24</u>	<u>2024-25</u>
	<u>23-24</u>	<u>24-25</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____

Capital improvements.....

TOTAL.....

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

2023

LB⁽¹⁾ 351

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⁾ Phone: ⁽⁵⁾ 402/480-9728

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2023-24</u>		<u>FY 2024-25</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
REVOLVING FUNDS	_____	_____	_____	_____
TOTAL FUNDS	=====	=====	=====	=====

Explanation of Estimate:

LB351 proposes to increase and eliminate limits on medical malpractice liability, to change provisions relating to proof of financial responsibility and the Excess Liability Fund.

It is unknown what the exact financial impact will be to providers; however, it is anticipated that the cost of insurance to such medical providers will increase, and these cost increases would be passed along and increase the cost of services being provided as a result of these changes. Any increases in service costs would impact the amount of claims paid by State’s Health Plans, requiring potential increases in premiums.

The medical plans for the State of Nebraska are self-insured. The medical plan premiums are paid by the State of Nebraska (79%) and employees (21%).

The table below summarizes the estimated impact by fund type of any premium increase. The allocation by fund type is based on a four (4) year [2019 -2022] average of health insurance premium expenditures.

Fund Type	Percentage by Fund Type
General Fund	50%
Cash Fund	25%
Federal Fund	20%
Revolving Fund	5%
Total	100%

Any impact to a covered provider in a Dental or Vision Plan could result in increased costs and increased premiums. The Vision and Dental plan premiums are wholly paid by State of Nebraska employees.

The State of Nebraska – Employee Wellness & Benefits does not purchase malpractice liability insurance.

There is an unknown fiscal impact for LB 351 as introduced.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

POSITION TITLE	NUMBER OF POSITIONS		2023-24	2024-25
	<u>23-24</u>	<u>24-25</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....				
Operating.....				
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
TOTAL.....				

LB ⁽¹⁾ 0351 Increase and eliminate limits on medical malpractice liability and change provisions relating to proof of financial responsibility and the Excess Liability Fund **FISCAL NOTE**

State Agency OR Political Subdivision Name:⁽²⁾ University of Nebraska System
 Prepared by:⁽³⁾ Chris Kabourek Date Prepared:⁽⁴⁾ 01/20/2023 Phone:⁽⁵⁾ (402) 472-7102

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2023 - 24		FY 2024 - 25	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
CASH FUNDS	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
FEDERAL FUNDS	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
OTHER FUNDS	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
TOTAL FUNDS	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>

Explanation of Estimate:

LB351, if passed, would increase and eliminate limits on medical malpractice liability and change provisions relating to proof of financial responsibility and the Excess Liability Fund. This legislation would increase required liability insurance amounts from \$500K to \$10M/occurrence, increase the aggregate liability limit from \$1M to \$30M, and would remove the limit of total amount recoverable for those who experience catastrophic injury or death and file a claim.

In consultation with the broker who assists the University with house officer professional liability insurance, they have indicated that the proposed limits outlined in LB351 become very complicated and would need to involve actuarial staff, reinsurance, and potentially significant minimum premiums and potentially additional insurers if our current insurer is unwilling/unable to provide the entire limits outlined in LB351. The complexity with the higher limits is not something that they are readily able to provide, therefore we are unable to provide amounts for a fiscal note.

Based on research with the University's insurance broker, the increased premiums required to meet limits in LB351 would be exponential to the current premiums paid by the University.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2023 - 24 EXPENDITURES</u>	<u>2024 - 25 EXPENDITURES</u>
	<u>23 - 24</u>	<u>24 - 25</u>		
	<u>0</u>	<u>0</u>		
	<u>0</u>	<u>0</u>		
Benefits.....				
Operating.....				
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
TOTAL.....				