

PREPARED BY: Mikayla Findlay
 DATE PREPARED: January 18, 2023
 PHONE: 402-471-0062

LB 810

Revision: 00

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	

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

This bill creates the Medical Ethics and Diversity Act. The Department of Health and Human Services (DHHS) would be subject to increased legal liability under the act. DHHS indicates that the bill conflicts with other provisions in state statute, particularly the Uniform Credentialing Act which requires complaints default to be confidential and outlines specific procedures for making complaint records public. The Medical Ethics and Diversity Act would require DHHS to provide complaints to practitioners within 14 days or pay the provider \$500 for each day beyond the 14 days following receipt if the complaint is not provided. The bill would also create conflict between state statute and federal requirements such as anti-discrimination laws. The total fiscal impact to DHHS is indeterminable.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE				
LB:	810	AM:	AGENCY/POLT. SUB: Nebraska Attorney General	
REVIEWED BY:	Ann Linneman	DATE:	1-25-2023	PHONE: (402) 471-4180
COMMENTS: Concur with the Nebraska Attorney General's assessment of no fiscal impact.				

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE				
LB:	810	AM:	AGENCY/POLT. SUB: Nebraska Department of Health & Human Services	
REVIEWED BY:	Ann Linneman	DATE:	2-3-2023	PHONE: (402) 471-4180
COMMENTS: The Nebraska Department of Health and Human Services' analysis and estimate of indeterminable fiscal impact to the department appears reasonable.				

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

2023

LB⁽¹⁾ 810

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Attorney General

Prepared by: ⁽³⁾ Josh Shasserre Date Prepared: ⁽⁴⁾ 1-24-2023 Phone: ⁽⁵⁾ 402-471-2687

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	_____	_____	_____	_____
TOTAL FUNDS	=====	=====	=====	=====

Explanation of Estimate:

No Fiscal Impact.

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.....	_____	_____	_____	_____

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 1-20-2023

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

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

Explanation of Estimate:

LB810 proposes to create the Medical Ethics and Diversity Act for the purpose of protecting medical practitioners, health care institutions, and health care payers from discrimination, punishment, or retaliation because of any instance of conscientious medical objection. The bill sets out penalties should those protections be violated.

This bill conflicts with current statute in several ways. Among those is the current requirement in Neb. Rev. Stat. 38-1,105 that requires all complaints under the Uniform Credentialing Act (UCA) to be confidential and includes the process that is used for making those complaint records public.

The implementation of this bill would require the Department of Health and Human Services (DHHS) to provide such complaints to practitioners against whom they have been received within 14 days of receipt. Violation of this provision would require the DHHS to pay the provider \$500 for each day the complaint is not provided after the initial 14-day window.

LB 810 would open the DHHS to increased legal liability resulting in unknown potential cost.

Among the adverse actions prohibited is the refusal to award a grant, contract, or other program. This would preclude the Department from considering a health care entity’s policies which may violate federal anti-discrimination law or other federal grant requirements when deciding whether to award funds or contract with the entity. Federal requirements are incorporated into individual funding streams and are generally incorporated under 2 CFR 200 Subpart D 200.301.

Potential modes of civil action taken against the Department include the following:

Sec. 6 (1) A civil action for damages or injunctive relief, or both, may be brought by any medical practitioner, health care institution, or health care payer for any violation of the Medical Ethics and Diversity Act. Any additional burden or expense on another medical practitioner, health care institution, or health care payer arising from the exercise of the right of conscience shall not be a defense to any violation of the act.

Sec. 6 (2) allows “any party aggrieved by any violation of the act” to commence a civil action, and upon the finding of a violation to recover damages. A minimum recovery of \$5,000 along with costs of the action and attorney’s fees is authorized. It is unclear how expansive this provision is. As Sec. 6 (1) already identifies practitioners, medical institutions, and health care payers as potential parties for civil action, it would appear as though “any party aggrieved” is intended to provide maximal standing for civil action.

Total fiscal impact is currently indeterminable.

MAJOR OBJECTS OF EXPENDITURE

PERSONAL SERVICES:

POSITION TITLE	NUMBER OF POSITIONS		2023-2024	2024-2025
	23-24	24-25	EXPENDITURES	EXPENDITURES
Benefits.....				
Operating.....				
Travel.....				
Capital Outlay.....				
Aid.....				
Capital Improvements.....				
TOTAL				