

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2024-25		FY 2025-26	
	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.

LB 1232 would prohibit Pharmacy Benefit Managers (PBM) from reimbursing any pharmacist or pharmacy for any drug at a rate lower than the cost required to dispense the drug.

The State of Nebraska and the University System contract with a vendor for pharmacy benefits for employee coverage. The vendor contracts with a PBM to manage prescriptions and costs. However, the rates that pharmacies pay for prescription drugs and whether pharmacies have been reimbursed below acquisition costs for prescription drugs are unknown.

Both the State of Nebraska and the University System would be required to renegotiate a new contract for pharmacy benefits plans with the passage of the bill. It is probable that the cost of the new contracts would require increased premiums but the costs are indeterminable. The University System indicated that that a new contract would have to be negotiated but did not foresee a fiscal impact. The State of Nebraska anticipates that while the increases in premium costs are unknown, they would have a significant fiscal impact.

The proposal to disallow the reimbursement of drugs lower than the cost required to dispense the drugs also creates complexities for Medicaid plans and Managed Care Organizations (MCOs). This would lead to Medicaid paying each pharmacy their individual operational cost. The fiscal impact is difficult to quantify as these costs are unknown. The Department of Health and Human Services estimates a \$5,000,000 cost annually in state funds for the increased pharmacy benefit payments for Medicaid, CHIP, and Medicaid Expansion.

The Department of Insurance (DOI) is responsible for enforcement of the requirements of the PBM Act. To enforce this provision, the Department would need additional staff to review complaints and document the pharmacy’s actual cost to dispense drugs and compare to the PBM’s reimbursement rate.

The DOI would need to employ a FTE Market Conduct Examiner to fulfill this obligation. The cost for the additional staff would be \$83,843 in FY 2024-25 and \$86,457 in FY 2025-26.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 1232	AM:	AGENCY/POLT. SUB: Department of Health and Human Services (DHHS)	
REVIEWED BY: Ryan Walton	DATE: 2/23/2024	PHONE: (402) 471-4174	
COMMENTS: The DHHS’ assessment of fiscal impact from LB 1232 appears reasonable.			

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 1232	AM:	AGENCY/POLT. SUB: Department of Insurance	
REVIEWED BY: Ryan Walton	DATE: 2/22/2024	PHONE: (402) 471-4174	
COMMENTS: The Department of Insurance’s assessment of fiscal impact from LB 1232 appears reasonable.			

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 1232	AM: 1391	AGENCY/POLT. SUB: University of Nebraska Systems	
REVIEWED BY: Ryan Walton		DATE: 1/26/2024	PHONE: (402) 471-4174
COMMENTS: The University of Nebraska Systems assessment of no fiscal impact from LB 1232 appears reasonable.			

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 1232	AM:	AGENCY/POLT. SUB: Department of Administrative Services (DAS)	
REVIEWED BY: Ryan Walton		DATE: 1/26/2024	PHONE: (402) 471-4174
COMMENTS: The DAS assessment of indeterminate fiscal impact from LB 1232 appears reasonable.			

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

2024

LB⁽¹⁾ 1232

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⁾ 1/18/2024 Phone: ⁽⁵⁾ 402/480-9728

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2024-25</u>		<u>FY 2025-26</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:

LB 1232 proposes to prohibit a pharmacy benefit manager to not reimburse any pharmacist or pharmacy for any drug at a rate lower than the cost required to dispense the drug.

LB 1232 would cause the current health and pharmacy contract to be renegotiated due to the unknown cost as a pharmacy may request reimbursement of the cost to purchase and to dispense drugs without verification of best and lowest cost being reported.

The State of Nebraska contracts with a vendor for health and pharmacy coverage. The vendor contracts with a Pharmacy Benefits Manager (PBM) to manage prescriptions and costs. Neither the vendor nor the PBM have information on what rate a pharmacy pays for a prescription drug. Neither the vendor nor the PBM know if a pharmacy has been reimbursed below acquisition cost. Currently the vendor for the State of Nebraska health plans allows a pharmacy to submit an appeal if the Maximum Allowable Cost (MAC) reimbursement or the list pricing is below the pharmacy's acquisition cost. With this appeal process, the PBM will review the MAC list pricing to confirm whether the MAC list price is appropriate or should be adjusted for the pharmacy. This appeal process protects the State of Nebraska health plans from reimbursing pharmacies at an unreasonably high acquisition cost.

Passage of LB 1232 would result in an unknown increase in costs to the state due to the renegotiation of the current contract to reimburse for an unknown cost to a pharmacy which has determined the price of prescriptions as their rates of acquisition and their cost of dispensation. This circumvents the vendor's ability to lower pharmacy costs.

The State's health plans are self-insured. Increased costs will require premium increases. The state of Nebraska covers 79% of the cost of health and pharmacy premiums for state employees.

LB 1232, as written, has an unknown but relevant fiscal impact to the State of Nebraska health plans.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2024-25</u>	<u>2025-26</u>
	<u>24-25</u>	<u>25-26</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 2-22-2024

Phone: (5) 471-6719

FY 2024-2025

FY 2025-2026

	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	See Below		See Below	

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

Explanation of Estimate:

LB1232 changes requirements for the Pharmacy Benefit Manager (PBM) Licensure and Regulation Act by prohibiting a pharmacy benefit manager from reimbursing a pharmacist or pharmacy for any drug lower than the cost to dispense that drug.

Federal law allows Medicaid plans and Managed Care Organizations (MCOs) multiple options to utilize in determining reimbursement to pharmacies for medications dispensed to Medicaid recipients. Each pharmacy negotiates drug-specific reimbursement rates with a PBM and uses maximum allowable cost (MAC) and national average drug acquisition cost (NADAC) methodology for pricing calculation.

The bill proposal for not reimbursing drugs lower than the cost required to dispense the drugs has operational complexities. Pharmacies often receive discounts or rebates on subsequent months or quarter invoices based upon the previous month or quarter dispensed volume, which are not reflected in their cost submitted for reimbursement. This bill would require a mechanism for each pharmacy to submit their acquisition cost for each medication to the PBM, which is unclear if it applies only to medication cost or the entire cost to dispense. This would lead to Medicaid paying each pharmacy their individual operational cost.

A similar bill (LB778) was introduced in the 2023 session. The program aid cost related to pharmacy is very difficult to quantify due to individual pharmacies contracting with drug wholesalers for the purchase of medications. Drug wholesalers set the acquisition price for individual pharmacies. The department's best estimate is \$5 million per state fiscal year in total funds. The majority of the costs would be increased for MCO pharmacy payments. These would be Medicaid, CHIP, and Medicaid Expansion expenditures and eligible for applicable FMAP rates.

MAJOR OBJECTS OF EXPENDITURE

PERSONAL SERVICES:	NUMBER OF POSITIONS		2024-2025	2025-2026
	24-25	25-26	EXPENDITURES	EXPENDITURES
Benefits.....				
Operating.....				
Travel.....				
Capital Outlay.....				
Aid.....				
Capital Improvements.....				
TOTAL.....				

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2024

LB⁽¹⁾ 1232

FISCAL NOTE

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

Prepared by: ⁽³⁾ Jordan Blades Date Prepared: ⁽⁴⁾ 2/14/2024 Phone: ⁽⁵⁾ 402-471-4638

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2024-25</u>		<u>FY 2025-26</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS				
CASH FUNDS	83,843		86,457	
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	83,843		86,457	

Explanation of Estimate:

LB 1232 would amend the Pharmacy Benefit Manager Licensure and Regulation Act (PBM Act) to prohibit Pharmacy Benefit Manager's (PBM's) from reimbursing any pharmacy or pharmacist for a drug at a rate lower than the cost required to dispense the drug.

The Department of Insurance is responsible for enforcement of the requirements of the PBM Act. In order to enforce this provision in the event of a complaint, the Department would need to document the pharmacy's actual cost to dispense, which is not limited to cost to acquire the drug. This will then be compared to the PBM's reimbursement rate.

The Department would need to hire a full time Market Conduct Examiner to review complaints arising from LB 1232.

Administrative actions to enforce the Act must be handled by an attorney within the Department. If the number of administrative actions exceeds the Department's current estimate, additional staff may be needed in the future.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2024-25</u>	<u>2025-26</u>
	<u>24-25</u>	<u>25-26</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Market Conduct Examiner II	1	1	49,875	51,371
Benefits.....			31,466	32,410
Operating.....			2,502	2,676
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
TOTAL.....			83,843	86,457

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2024

LB ⁽¹⁾ 1232 Prohibit certain actions under the Pharmacy Benefit Manager Licensure and Regulation Act **FISCAL NOTE**

State Agency OR Political Subdivision Name:⁽²⁾ University of Nebraska System

Prepared by:⁽³⁾ Chris Kabourek Date Prepared:⁽⁴⁾ 01/24/2024 Phone:⁽⁵⁾ (402) 472-7102

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2024 - 25		FY 2025 - 26	
	<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:

No Fiscal Impact.

If LB 1232 were to pass and become law we would work with our pharmacy benefits manager (PBM) to make sure we comply with the law.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2024 - 25 EXPENDITURES</u>	<u>2025 - 26 EXPENDITURES</u>
	<u>24 - 25</u>	<u>25 - 26</u>		
	<u>0</u>	<u>0</u>		
	<u>0</u>	<u>0</u>		
Benefits.....				
Operating.....				
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
TOTAL.....				