

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	See below	See below

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

LB 990 makes several amendments to the Pharmacy Benefit Manager Licensure and Regulation Act (Act). The bill expands the types of plans subject to the Act to include Medicaid, self-insured governmental (such as those offered to the State of Nebraska and University System employees) and self-funded Employee Retirement Income Security Act (ERISA). The bill also removes restrictions on the methods of dispensing prescription drugs and establishes reasonable terms between pharmacies and the PBM as defined in the bill.

Department of Insurance:

The Department of Insurance anticipates that the number of complaints requiring investigation would increase due to the expansion of the type of plans and the number of Nebraskans that would be covered by the Act.

The additional investigations will require an additional 1.5 FTE Market Conduct Examiners and a .5 FTE Attorney to address the complaints and address any enforcement actions. The personal and operations cost are \$193,134 in FY2024-25 and \$199,126 in FY 2025-26.

Department of Administrative Services:

Nebraska State employees are covered by a self-insured plan. The fiscal impact is difficult to determine as it would be required that a new contract would need to be negotiated for the State employee’s healthcare plans and the extent of the potential utilization under the expansion is unknown.

The State applies available pharmacy rebates back into the State Employees Insurance Fund (Fund) as revenue that increases the Fund’s balance and savings reduce the claims paid. This trust Fund’s balance is used to pay for claims in order to delay any potential increases in healthcare plan costs through plan changes. The Department of Administrative Services anticipates that the bill would affect the ability of the plan to negotiate lower prices with pharmacies for specialty drugs. It is anticipated that the total savings would be diminished by 1%, resulting in a loss of revenues of \$1,039,800 in the State Employees Insurance Fund. DAS is not requesting appropriation for the loss in the savings from the Fund.

The bill would require a new contract for the State employees’ healthcare plans to reflect the reduction of savings and/or increase in claims. It is anticipated this would result in an increase in the premium costs for the State of Nebraska healthcare plans. The State of Nebraska pays 79% of the premium costs for healthcare plans and employees pay the remaining 21%. The State’s estimated fiscal impact of increased premium costs is \$821,442. Following is a breakdown of the total cost by funding types:

Department of Administrative Services:

Fund Type	Estimated Expenditures FY 2024-25	Estimated Expenditures FY 2025-26
General Fund	\$417,804	\$417,804
Cash Fund	\$206,017	\$206,017
Federal Fund	\$158,559	\$158,559
Revolving Fund	\$39,062	\$39,062
Total	\$821,442	\$821,442

Nebraska University Systems:

The Nebraska University Systems healthcare plans are also self-insured with the University paying for 79% of the premium costs for health care plans and employees pay the remaining 21%. The proposed expansion of the Act would require a new contract for the healthcare plans. The bill would change the existing discount guarantees provided by the University's Pharmacy Benefit Manager; however, the University anticipates that it would be able to manage any offsets of loss in savings and increase in premiums through plan changes in the new healthcare contract.

There is no basis to disagree with these estimates.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 990	AM:	AGENCY/POLT. SUB: Department of Health and Human Services (DHHS)
REVIEWED BY: Ryan Walton	DATE: 2/20/2024	PHONE: (402) 471-4174
COMMENTS: The DHHS' assessment of no fiscal impact from LB 990 appears reasonable.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 990	AM:	AGENCY/POLT. SUB: University of Nebraska Systems
REVIEWED BY: Ryan Walton	DATE: 1/17/2024	PHONE: (402) 471-4174
COMMENTS: The University of Nebraska System's assessment of fiscal impact from LB 990 appears reasonable.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 990	AM:	AGENCY/POLT. SUB: Nebraska Association of County Officials (NACO)
REVIEWED BY: Ryan Walton	DATE: 1/24/2024	PHONE: (402) 471-4174
COMMENTS: The Department of Insurance's assessment of no fiscal impact from LB 990 appears reasonable.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 990	AM:	AGENCY/POLT. SUB: Department of Administrative Services (DAS)
REVIEWED BY: Ryan Walton	DATE: 1/17/2024	PHONE: (402) 471-4174
COMMENTS: The DAS assessment of fiscal impact from LB 990 appears reasonable.		

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

2024

LB⁽¹⁾ 990

FISCAL NOTE

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

Prepared by: ⁽³⁾ Jordan Blades Date Prepared: ⁽⁴⁾ 1/10/2024 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	<u>193,134</u>	_____	<u>199,126</u>	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	<u>193,134</u>	_____	<u>199,126</u>	_____

Explanation of Estimate:

LB 990 amends the Pharmacy Benefit Manager (PBM) Licensure and Regulation Act (the Act) to expand the types of plans subject to the Act, prohibits PBM’s from restricting the delivery of drugs by retail community pharmacies and limits terms for a specialty pharmacy to participate in a PBM’s specialty pharmacy network. The Act became effective January 1, 2023. Absent a specific operative date, the changes from this bill will be effective three months after adjournment.

The bill amends the definition of “Health benefit plan” to include Medicaid, and governmental plans, such as those offered by the State of Nebraska and University of Nebraska, and self-funded ERISA plans. As self-insured plans are regulated by federal law and not the Department of Insurance, an estimate of the total number of self-insured plans is not available. An estimated 400,000 Nebraskans are enrolled in Medicaid and in 2021, approximately 55.3% of Nebraskans were covered by employer sponsored plans of which 73% are self-insured.

Any new and revised PBM Applications resulting from LB 990 would be reviewed by the Department’s legal division. With the increased number of Nebraskans in plans covered by the Act, and the expanded scope of the Act, the Department estimates the number of complaints requiring investigation will increase. This will result in the need for 1.5 FTE market conduct examiners, and a 0.5 FTE attorney. Increased investigations may increase the number of enforcement actions by the Department, but the number of enforcement actions is indeterminable.

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	1.5	1.5	74,813	77,057
Attorney III	0.5	0.5	47,037	48,449
Benefits.....			66,280	68,268
Operating.....			5,004	5,352
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
TOTAL.....			193,134	199,126

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2024

LB⁽¹⁾ 990

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⁾ 1/9/2024 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	<u>See Below</u>	<u>See Below</u>	<u>See Below</u>	<u>See Below</u>

Explanation of Estimate:

LB 990 amends sections of the Pharmacy Benefit Manager (PBM) Licensure and Regulation Act. The bill would extend the definition of a health benefit plan to self-funded plans. The bill would also prohibit a PBM from restricting a retail community pharmacy from mailing or delivering prescriptions or from requiring a retail community pharmacy to enter into a mail order contract to mail or deliver prescriptions. The bill would also require a PBM to allow a pharmacy into its specialty network if the pharmacy is accredited.

The fiscal impact is difficult to determine. The State of Nebraska is self-insured for medical plans. The proposed changes would require a new contract. The plan's ability to negotiate lower prices for specialty drugs with pharmacies based on the prospect of increased patient volume would be lost. For the benefit year of 2022-2023 the plan had an estimated total savings, including discounts, rebates, and specialty programs, of around \$103 Million with an additional savings through the Manufacturers' Coupon Program of approximately \$980,000.

The State's third-party administrator estimates the passage of this bill would impact the plans by an estimated loss of 1% of total savings, resulting in estimated increased costs of \$1,039,800 ($\$103,000,000 + \$980,000 = \$103,980,000 \times 1\% = \$1,039,800$).

The State's health plans utilize trust funds; thus, no additional appropriation is being requested.

The State applies available rebates back into the State Employees Insurance Fund as revenue that increases the fund's balance, and savings reduce claims paid. The fund's existing balance is used for current claims, to delay possible increases in premiums and increases in copays and deductibles through plan changes.

As the State's current medical plans are self-insured, a reduction of savings/increase in claims would result in an increase in premium costs. The State pays 79% of the premium and the employee pays 21%. The changes proposed in LB 990 would impact the State's and the employee's premium costs.

The State's estimated impact is \$821,442 in FY24-25 and FY25-26. ($\$1,039,800$ in estimated increased costs $\times 79\% = \$821,442$).

The table below summarizes the estimated impact by fund type of any premium increases. The allocation by fund type is based on an average for Benefit expenditures over a four-year period (2020-2023).

Fund Type	Expenditures – FY24-25	Expenditures – FY25-26
General Fund	\$417,804	\$417,804
Cash Fund	\$206,017	\$206,017
Federal Fund	\$158,559	\$158,559
Revolving Fund	\$39,062	\$39,062
Total	\$821,442	\$821,442

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 2-20-2024

Phone: (5) 471-6719

	FY 2024-2025		FY 2025-2026	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$0	\$0	\$0	\$0

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

Explanation of Estimate:

There is no fiscal impact to the Department of Health and Human Services.

MAJOR OBJECTS OF EXPENDITURE

PERSONAL SERVICES:	POSITION TITLE	NUMBER OF POSITIONS		2024-2025	2025-2026
		24-25	25-26	EXPENDITURES	EXPENDITURES
Benefits.....					
Operating.....					
Travel.....					
Capital Outlay.....					
Aid.....					
Capital Improvements.....					
TOTAL.....				\$0	\$0

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2024

LB ⁽¹⁾ 0990 Change provisions of 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⁾ 01/12/2024 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 the bill were to pass it could require changes to the University's existing discount guarantees provided by the University's pharmacy benefit manager. However, the University would be able to implement plan design changes that would offset any changes to the discount guarantees.

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.....				