

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	\$149,334		\$209,363	
CASH FUNDS	\$109,291		\$112,669	
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$258,625		\$322,032	

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

This bill adopts the Prescription Drug Affordability Act (Act) to be implemented by the Division of Public Health (DPH) of the Department of Health and Human Services (DHHS). Section 2 describes why the Act and necessary and Section 3 offers definitions for the purpose of the Act. The Act creates and assign responsibilities to the Nebraska Prescription Drug Affordability Review Board (Review Board) within DPH which consists of 5 members, appointed by the Governor and confirmed by the Legislature, all with advanced degrees and experience or expertise in health care economics or clinical medicine. The board’s objective is to protect Nebraska consumers from excessive prescription drug costs.

The impact to DHHS totals to \$149,334 in FY25 and \$209,363 in FY26 and includes the cost of operating the new Review Board and new Advisory Council, promulgating new rules and regulations, and two new FTEs to support the work assigned to these entities.

DHHS notes neither Medicaid or the vendor contracted to operate the new Nebraska Prescription Drug Affordability Review Board are permitted to share confidential rebate information and if Nebraska is found to be out of compliance with this provision the state CMS may recoup the federal match on impacted perceptions, estimated to be approximately \$250 million annually.

The Department of Insurance would be required to compile information from multiple insurance carriers and pharmacy benefit managers and provide it to the DHHS Division of Public Health. The agency would need 0.5 FTE Market Conduct Examiner to perform this duty. The bill also requires the agency to impose fines for violations of limits imposed by the Review Board. This provision would necessitate 0.5 FTE Attorney to conduct hearings in order to comply with due process for imposition of the fines. The Attorney would also be responsible for reviewing information and processing public records requests. The Department of Insurance indicates that if the amount of work exceeds what is anticipated the agency may need 1.0 FTE Attorney. The total cost to the Department of Insurance is \$109,291 in FY25 and \$112,669 in FY26 which would be paid for out of agency cash funds.

The University of Nebraska System indicates that future action of the Review Board may result in necessary changes to the University’s health insurance plan and prescription drug pricing. The bill has no immediate fiscal impact to the University.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE				
LB:	833	AM:	AGENCY/POLT. SUB: Nebraska Department of Insurance	
REVIEWED BY:	Ann Linneman	DATE:	1-24-2024	PHONE: (402) 471-4180
COMMENTS: The Nebraska Department of Insurance’s assessment of fiscal impact seems reasonable given the assumptions used.				

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE				
LB:	833	AM:	AGENCY/POLT. SUB: Nebraska Department of Health & Human Services	
REVIEWED BY:	Ann Linneman	DATE:	2-20-2024	PHONE: (402) 471-4180
COMMENTS: Concur with the Nebraska Department of Health & Human Services’ assessment of fiscal impact.				

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

2024

LB⁽¹⁾ 833

FISCAL NOTE

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

Prepared by: ⁽³⁾ Jordan Blades Date Prepared: ⁽⁴⁾ 1/11/2024 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>109,291</u>	_____	<u>112,669</u>	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	<u>109,291</u>	_____	<u>112,669</u>	_____

Explanation of Estimate:

LB 833 creates a Prescription Drug Affordability Review Board in the Division of Public Health of the Department of Health and Human Services.

LB 833 requires that insurers carriers and pharmacy benefit managers (PBM's) report information on various factors related to drug costs, which must then be posted to the Department of Insurance's website and compiled into a report in a manner prescribed by the Board.

Instead of requiring the Division of Public Health to require carriers and PBM's to report information to the Division in a specified format complaint with the requirements of the Board, LB833 requires the Department to receive and compile this information from numerous carriers and PBM's. This will require a 0.5 FTE market conduct examiner, to compile and publish the information and report information to the Board in the manner prescribed.

LB 833 also requires that the Department review information claimed to be confidential by insurance carriers and PBM's and redact specific items that the carrier or PBM demonstrates to be confidential or proprietary.

Additionally, LB 833 requires that drug manufacturers who intend to withdraw a drug, which has had an upper limit established by the board, to give notice of withdrawal at least 180 days prior. LB 833 grants the Department authority to impose a fine not to exceed \$500,000 for violating this requirement. The Department cannot impose this penalty without due process and must hold a hearing to do so.

The Department will require a 0.5 FTE Attorney to conduct hearings against carriers and PBM's who violate the requirement for advanced reporting of a withdrawal, to review information deemed confidential by carriers and PBM's and to handle anticipated public records requests due to the extreme commercial value of the information being submitted to the Department for reporting. If the number of public records requests exceed the amount anticipated, the Department may need a full FTE attorney.

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	0.5	0.5	24,938	25,686
Attorney III	0.5	0.5	47,037	48,449
Benefits.....			34,814	35,858
Operating.....			2,502	2,676
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
TOTAL.....			109,291	112,669

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

	<u>FY 2024-2025</u>		<u>FY 2025-2026</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	\$149,334	\$0	\$209,363	\$0
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$149,334	\$0	\$209,363	\$0

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

Explanation of Estimate:

LB 833 adopts the Prescription Drug Affordability Act. The Act creates the Nebraska Prescription Drug Affordability Review Board to review prescription drug costs and protect residents from excessive costs of prescription drugs. The Act also creates the Nebraska Prescription Drug Affordability Advisory Council to provide input to the review board from stakeholder representatives appointed to the council.

The development and implementation of LB 833 would impact the Department of Health and Human Services (DHHS) in several key areas.

- 1) The estimated cost associated with the Nebraska Prescription Drug Affordability Review Board and conducting (8) eight meetings per fiscal year is:

	<u>FY24-25</u>	<u>FY25-26</u>
a) For a (5) member board; meeting space & supplies per meeting @ \$1,435 beginning January 2025	\$5,740	\$11,480
b) Data Collection Services Contract Cost for (1) report per year*	\$20,000	\$20,000
c) For Ad Hoc Work group costs estimated reimbursement For (4) members @ 125 each for (2) sessions per year	<u>\$500</u>	<u>\$ 1,000</u>
Subtotal Meeting Costs	\$26,240	\$32,480

*DHHS would utilize a vendor at a cost of \$20,000 per report to meet the reporting requirements of this bill. However, neither the vendor nor Medicaid is permitted under federal law to share confidential rebate information. If Nebraska is found to be out of compliance with federal guidelines, CMS may recoup the federal match on impacted prescription medications, which is approximately \$250 million per year.

- 2) The cost incurred by DHHS to promulgate rules and regulations as required to implement and fulfill LB 833 and actions taken by the Nebraska Prescription Drug Affordability Review Board is being deferred from a formal request at this time and is estimated as follows:

Title	Hour(s)	Hourly Cost	Absorbed Cost
Director	4	\$ 77	\$ 309
Deputy Director	4	\$ 56	\$ 223
Administrator I	4	\$ 31	\$ 126
Program Specialist	8	\$ 23	\$ 186
Program Analyst	16	\$ 23	\$ 363
Attorney III	30	\$ 35	\$ 1,035
Total Costs			\$ 2,242

3) The cost associated with developing and maintaining a website for the board is estimated as follows:

One (1) IT Business Analyst 40 hours to coordinate and develop the website and 80 hours per year to update and maintain the website. These costs will be absorbed by the department.

	<u>FY24 -25</u>	<u>FY25-26</u>
V07081 – IT Business System Analyst 80 hours @ \$26.44	\$5,427	\$3,799
Benefits and Operations overhead is included in total.		

4) The estimated cost associated with the Nebraska Prescription Drug Affordability Advisory Council and conducting (4) four meetings per fiscal year is:

	<u>FY24-25</u>	<u>FY25-26</u>
For a (14) member council; meeting space & supplies per meeting @ \$3,793 beginning January 2025	\$7,586	\$15,172

5) Based on the comprehensive duties assigned to these groups, and required DHHS personnel involvement with coordination and tracking, we estimate that DHHS would require 1.0 FTE DHHS Program Coordinator and 1.0 FTE Pharmacy Technician.

	<u>FY24-25</u>	<u>FY25-26</u>
V73260 - (1.0) FTE DHHS Program Coordinator @ \$26.32 per hour	\$70,216	\$ 98,303
I74711 – (1.0) FTE Pharmacy Technician @ \$16.97 per hour	\$45,292	\$ 63,408
Benefits and Operations overhead is included in totals	\$115,508	\$161,711

MAJOR OBJECTS OF EXPENDITURE

PERSONAL SERVICES:	NUMBER OF POSITIONS		2024-2025	2025-2026
	24-25	25-26	EXPENDITURES	EXPENDITURES
V73260 DHHS Program Coordinator	.75	1.0	\$41,051	\$57,472
I74711 Pharmacy Technician	.75	1.0	\$26,479	\$37,071
Benefits.....			\$23,636	\$33,090
Operating.....			\$58,168	\$81,730
Travel.....				
Capital Outlay.....				
Aid.....				
Capital Improvements.....				
TOTAL.....			\$149,334	\$209,363

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2024

LB ⁽¹⁾ 0833 Adopt the Prescription Drug Affordability Act

FISCAL NOTE

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

Prepared by:⁽³⁾ Chris Kabourek Date Prepared:⁽⁴⁾ 01/11/2024 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.

LB 833 requires additional reporting from the University pharmacy benefit manager on prescription drug utilization and costs. Depending on future action of the Nebraska Prescription Drug Affordability Review Board, changes could be required to the University health insurance plan and prescription drug pricing. The impact of the changes would not be known until the board takes action, such as establishing upper payment limits.

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.....				