

Revised based on new information

FISCAL NOTE
 LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES *				
	FY 2010-11		FY 2011-12	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	See below		See below	

*Does not include any impact on political subdivisions. See narrative for political subdivision estimates.

This bill requires the Department of Health and Human Services (HHS) to implement a separate program under the Children’s Health Insurance Program (CHIP) for unborn children of mothers who are ineligible for coverage under Medicaid. Within 30 days after the effective date of this act, the department is required to submit a state plan amendment for approval by the Centers of Medicare and Medicaid (CMS) to provide for the separate program delineated in this bill. The benefits provided under the separate program are as follows: 1) professional fees for labor and delivery, including live birth, fetal death, miscarriage, and ectopic pregnancy; 2) pharmaceuticals and prescription vitamins; 3) outpatient hospital care; 4) radiology, ultrasound, and other necessary imaging; 5) necessary laboratory testing; 6) hospital costs related to labor and delivery; 7) services related to conditions that could complicate the pregnancy, including those for diagnosis or treatment of illness or medical conditions that threaten the carrying of the unborn child to full term or the safe delivery of the unborn child; and 8) other pregnancy-related services approved by the department. Services not covered under the separate programs include dentistry, optometry, and other medical issues separate to the mother and unrelated to pregnancy. The income limit for eligibility is set at 185% of the federal poverty level (FPL). The bill states that the legislature finds that unborn children do not have immigration status and therefore are not within the scope of section 4-108.

Per a directive of the CMS, HHS is required to stop coverage of unborn children under the Medicaid Program. Title XIX – Medicaid does not allow coverage of the unborn. Although the Medicaid Program does not have an eligibility category for unborn children, most of the cases that were classified as unborn cases have been by switched by HHS to coverage for pregnant women. Those women who no longer qualify for coverage are primarily undocumented or U. S. citizens with sanctions. Federal law does allow prenatal care to be covered for unborn children, as Nebraska had done under Medicaid, under Title XXI -- the Children’s Health Insurance Program (CHIP).

The state has the option to establish a separate state program under the targeted low-income child health option for the unborn under CHIP. Under this program:

The unborn child is covered if not otherwise eligible for Medicaid. A targeted low-income child must not be found or potentially found to be eligible for Medicaid under policies of the State Plan.

The state is permitted to provide health care services to promote healthy pregnancies, regardless of the mother’s eligibility status.

States may set the income limits for the separate targeted children’s health program at a different level than the income limit set under the CHIP Medicaid expansion program that Nebraska offers to children in families with incomes below 200% of FPL. The income level in the separate program must be at least 185% of the federal poverty level (FPL) and cannot exceed 200% of FPL.

The state determines the benefit package. Since it is the unborn child who is covered, there must be a connection between the benefits provided and the health of the unborn child.

The implementation date of the separate state children's health program is assumed to be April 1, 2010. If the implementation date is different, the projections will change.

Dental services are excluded in section 4 of the bill. CMS recently communicated to HHS that dental must be a covered service. Due to the clarification by CMS, costs for dental services have been included in the calculations in this fiscal note and the committee amendment removes this restriction.

Medicaid services have been provided; it is estimated, for 20 to 30 years to the unborn children of undocumented women and to U. S. citizens with sanctions, such as non-compliance with child support, and the women who do not otherwise qualify for Medicaid. Under the CHIP unborn coverage, the unborn children will continue to be covered. Fewer services will be covered, however. Postpartum services will not be covered under LB 1110, but were provided previously. The total cost of continuing medical services to unborn children no longer eligible under Medicaid in the CHIP is \$3,482,167 (\$961,426 GF and \$2,520,741 FF) in FY 10 and \$14,209,672 (\$4,081,018 GF and \$10,128,654 FF) in FY 11 and \$14,495,087 (\$4,216,621 GF and \$10,278,466 FF) in FY 12.

The funds for services to unborn children contained in the original appropriation for the last quarter of FY 10 and all of FY 11 are: \$4,852,522 (\$1,527,574 GF and \$3,324,948 FF) and \$15,002,848 (\$5,338,013 GF and \$9,664,835 FF). This funding will be eliminated from the Medicaid appropriation in the committee amendment to LB 935, the deficit bill.

Unborn children of legal non-residents who are in the United States for less than five years will also be covered under the separate children's health program for the unborn. Nebraska provides medical assistance to legal non-residents in the country for less than five years with 100% general funds. After a legal non-resident has been in the country for five years, the federal Medicaid match is available for their costs. Since this population has not qualified for the federal Medicaid Program during the first five years in this country, their unborn children qualify under the separate health program created in this bill. The estimated total cost of covering this population under CHIP for one quarter in FY 10 is \$393,344 (\$108,602 GF and \$284,742 FF). For a full year in FY 11, the cost is \$1,603,244 (\$466,384 GF and \$1,136,860 FF). In FY 12, the cost would be \$1,633,620 (\$475,220 GF and \$1,158,400 FF). Savings to the general fund are equal to the federal fund match of \$284,742 in FY 10, \$1,136,860 in FY 11 and \$1,158,400 in FY 12. LB 1106 with the committee amendment would cover this same population under Medicaid. A resolution between the two bills is needed. Coverage can only be provided under CHIP or Medicaid and the savings can only be counted once.

As stated previously, under federal law, coverage under CHIP can only be provided to an individual who does not qualify for Medicaid. Section 4 of the bill includes hospital delivery costs as part of the benefit package. However, undocumented women would be covered under a Medicaid provision that requires emergency services to be covered for them; therefore, the hospital delivery costs for undocumented women will remain in Medicaid. Since these costs remain in the Medicaid Program, they are not included in the calculations for this bill. Delivery costs for the unborn children of legal non-residents and U. S. citizens would be covered under CHIP, according to the department. The committee amendment clarifies this.

The Medicaid Program is an entitlement program. States provide the state match (in Nebraska it is generally around 40%; it has been lower under the American Reinvestment and Recovery Act -- ARRA) and the federal government pays the balance. The funding is not capped. The Children's Health Insurance Program (CHIP) also is a state/federal matching program, but the amount of federal funds is capped. With the passage of CHIPRA in 2009, Nebraska's allotment increased by approximately \$19.4 million. States also may request increases in their allotment under certain conditions. In federal fiscal year 2010 and federal fiscal year 2012 states are able to request additional federal allotment for either expanded eligibility or expanded benefits. Nebraska requested \$6.2 million for the expansion of eligibility from 185% to 200% of the federal poverty level which was contained in LB 603 which passed in the 2009 session. According to federal law, the Centers for Medicare and Medicaid must increase a state's allotment when the state has an approved expansion plan and has met the deadline for submission of the additional allotment. Nebraska met these requirements. The state's request is pending. If LB 1110 is passed, a request can be made to increase Nebraska's allotment in FFY 12.

States may carryover unspent funds from one year to another. The carryover allotment must be spent within two years or it will be redistributed to states which are exceeding their allotment. At the beginning for FFY 10, Nebraska had carryover funding totaling \$6.1 million for aid (another \$1.3 million is set aside for administration). Also, with the reauthorization of the CHIP, a federal contingency fund has been created and funded. States exceeding their allotment after receiving redistributed funds may request additional allotments through this fund if certain conditions of program growth are met.

LB 1110 (3) Continued

The CHIP match rate is lower than the Medicaid match rate, so the costs to the state to provide services under CHIP is lower, as long as there is an adequate amount of federal allotment. Projections done by the Legislative Fiscal Office and the Nebraska Department of Health and Human Services conclude that Nebraska will not run short of allotment prior to September 30, 2011 with the passage of LB 1110.

There will be one-time computer costs. These costs are estimated to be \$50,000 (\$12,500 GF and \$37,500 FF) in FY 10. The department's fiscal note states the need for 4 FTE in FY 11 and FY 12. However, the unborn children and the services provided are the same as those that have been covered by Medicaid up until March 1, 2010. HHS regulations clearly state that covered services for pregnant women include prenatal care and pregnancy-related services which are also the same services covered under LB 1110. The department requests the following positions: 1.0 program specialist, .5 physician and 2.0 payments reviewer and 1.0 program analyst. These costs are shown in the chart below.

The chart below summarizes the fiscal impact of LB 1110:

LB 1110	FY 10			FY 11			FY 12		
	GF	FF	Total	GF	FF	Total	GF	FF	Total
Program 033 Staff/operating	12,500	37,500	50,000	113,660	277,059	390,719	104,632	255,047	359,679
Unborn children of:									
Legal non-residents (5%)	108,602	284,742	393,344	460,452	1,142,792	1,603,244	475,220	1,158,400	1,633,620
Citizens (32%)	515,084	1,350,487	1,865,571	2,186,417	5,426,455	7,612,872	2,259,295	5,507,273	7,766,568
Undocumented (63%)	446,342	1,170,254	1,616,596	1,894,601	4,702,199	6,596,800	1,957,326	4,771,193	6,728,519
Program 344 Total	1,070,029	2,805,482	3,875,511	4,541,469	11,271,447	15,812,916	4,691,841	11,436,866	16,128,707
Program 348 Total	(393,344)	-	(393,344)	(1,603,244)	-	(1,603,244)	(1,633,620)	-	(1,633,620)
LB 1110 A-bill	689,185	2,842,982	3,532,167	3,051,886	11,548,505	14,600,391	3,162,853	11,691,913	14,854,766

Funds included in original Medicaid appropriation for unborn services	(1,527,574)	(3,324,948)	(4,852,522)	(5,338,013)	(9,664,835)	(15,002,848)	(6,361,042)	(8,944,641)	(15,305,683)
Difference between current and new program	(838,389)	(481,966)	(1,320,355)	(2,286,127)	1,883,670	(402,457)	(3,198,189)	2,747,272	(450,917)