

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)

| | FY 2025-26 | | FY 2026-27 | |
|---------------|--------------|---------|--------------|---------|
| | 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 amends provisions related to pharmacy dispensing fee paid under Medicaid. Beginning July 1, 2026, a tiered pharmacy dispensing fee schedule would be established. The highest tier would be composed of independent pharmacies (as established in LB 204 in 2024), all other pharmacies filling fewer than 30,000 prescriptions annually, and pharmacies that are the only enrolled Medicaid pharmacy within a 30-mile radius receiving a dispensing fee of \$10.38 per prescription. The second tier, composed of pharmacies filling between 30,000 to 69,999 prescriptions annually, would receive a dispensing fee of \$9.51 per prescription. The third tier, composed of pharmacies filling at least 70,000 prescriptions annually, would receive a dispensing fee of \$8.30 per prescription.

The Department of Health and Human Services, DHHS, citing data obtained from the National Provider Registry administered by federal HHS, indicates no MCO, Managed Care Organization, pharmacies fill more than 30,000 prescriptions per year per pharmacy. As such, DHHS assumes all prescriptions filled on behalf of Medicaid clients would be subject to the first tier dispensing fee of \$10.38. DHHS applied the count of dispensing fees paid to pharmacies in FY24 and analyzed the cost differential between the average dispensing fee paid of \$4.2668 and the new rate of \$10.38. The estimated aid expenditure is approximately \$10,451,707 million more than the \$7,273,212 expended on dispensing fees for non-independent pharmacies in FY24.

The assumption that no pharmacies that fill Medicaid clients' prescriptions fill more than 30,000 prescriptions per year seems unreasonable. Within Neb. Rev. Stat. § 68-9,111, "independent pharmacy" means any pharmacy as defined in § 71-425 that owns six or fewer pharmacies. It is unclear if the definition of pharmacy for the purposes of subsection 5 of the proposed legislation means pharmacy location or pharmacy group by ownership. There is also lack of clarity as to if refills count in the count of prescriptions. An alternative estimate of fiscal impact is presented below which assumes equal distribution of dispensing between the three tiers:

| | Count of dispensing fees | New Dispensing Fee | Amount expended on dispensing fee |
|--------|--------------------------|--------------------|-----------------------------------|
| Tier 1 | 568,201 | \$10.38 | \$5,897,926 |
| Tier 2 | 568,201 | \$9.51 | \$5,403,592 |
| Tier 3 | 568,201 | \$8.30 | \$4,716,068 |

The total of dispensing fee, assuming equal distribution by pharmacy size as defined by number of prescriptions dispensed annually, is \$16,017,586, which is a \$8,744,374 increase over FY24. This estimate does not account for the provision for rural pharmacies. There is no basis to disagree with the DHHS assumption of fund mix of 61.81% federal funds which is based on a blended Federal Medical Assistance Percentage and account for increased federal participation for Medicaid Expansion population. Using this fund mix and the alternative estimate of aid expenditure, the general fund impact would be \$3,339,477 and federal fund \$5,404,898 per year.

Additionally, the bill has administrative costs. The bill requires DHHS to complete a cost-of-dispensing survey to recommend dispensing fees to ensure fair and adequate reimbursement for such services to the Clerk of the Legislature no later than July 1 2026. The cost of this report would be incurred in FY25 to meet the deadline. The agency estimates the cost of the report to amount to \$100,000, 50% of which would be covered by federal funds as a Medicaid administration provision. Additional administrative costs include updates to MMIS which the agency can absorb within current appropriations.

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| ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE |
| LB: 138 AM: AGENCY/POLT. SUB: Nebraska Dept of Health & Human Services |
| REVIEWED BY: Ann Linneman DATE: 1-24-2025 PHONE: (402) 471-4180 |
| COMMENTS: Concur with the Nebraska Department of Health & Human Services assessment of fiscal impact. |

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 1-24-25

Phone: (5) 471-6719

| | FY 2025-2026 | | FY 2026-2027 | |
|----------------------|---------------------|---------|---------------------|---------|
| | EXPENDITURES | REVENUE | EXPENDITURES | REVENUE |
| GENERAL FUNDS | \$50,000 | | \$3,991,716 | |
| CASH FUNDS | | | | |
| FEDERAL FUNDS | \$50,000 | | \$6,459,991 | |
| OTHER FUNDS | | | | |
| TOTAL FUNDS | \$100,000 | \$0 | \$10,451,707 | \$0 |

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

Explanation of Estimate:

LB138 requires that the reimbursement of the dispensing fee for independent pharmacies equal \$10.38 per prescription effective July 1, 2026. LB204 with amendments from 2024 established this same rate for independent pharmacies. There is no additional fiscal impact for independent pharmacies as a result of LB138.

LB138 also defines a tiered dispensing fee schedule for all other pharmacies, including mail order pharmacies to be effective July 1, 2026. This tiered schedule includes an exception for any pharmacy, which is not a mail order pharmacy, which is the only enrolled pharmacy within a 30-mile radius from another pharmacy. The below tiered schedule is based on annual pharmacy dispensing volume and the defined exception.

| Annual Prescription Volume (for non-independent pharmacies) | Dispensing Fee |
|--|----------------|
| Less than 30k | \$10.38 |
| 30k to less than 70k | \$9.51 |
| Equal to or greater than 70k | \$8.30 |
| Only pharmacy within a 30-mile radius (excluding mail order) | \$10.38 |

LB138 sets a standard rate for fee-for-service (FFS) and Managed Care Organizations (MCOs), which do not have any pharmacies at this time that fill more than 30,000 prescriptions per year per pharmacy identified by the National Provider Identifier (NPI). There is no estimated increase in fees for FFS as a result of LB138. The MCO dispensing fees are negotiated between the MCO and the individual pharmacy or chain, which is allowable per MCO contracts. MCOs currently pay professional dispensing fees in accordance with the type of pharmacy; MCOs pay different fees for independent, chain, specialty, and long-term care pharmacies. As a result of LB138, the estimated annual cost to increase all MCO dispensing fees, excluding for independent pharmacies, from the current fees to the fees established in this bill is \$10,451,707 (\$6,459,991 Federal Funds and \$3,991,716 General Funds). The blended FMAP of 61.81% is based on an estimated 80/20 split for regular FMAP (54.76%) vs expansion newly (90.00%). This increase will be passed along to the state in the form of capitation payments.

| | | | |
|--|--|--|--|
| Total number of dispensing fees paid to pharmacies (excluding independent pharmacies) in SFY24 | Total dollar amount of dispensing fees paid to pharmacies (excluding independent pharmacies) in SFY24 @ \$4.2668 | Projected total dollar amount of dispensing fees paid to pharmacies (excluding independent pharmacies) at rates established in LB138 | Projected fiscal impact to increase dispensing fees to pharmacies (excluding independent pharmacies) per LB138 |
| 1,704,603 | \$7,273,212 | \$17,724,919 | \$10,451,707 |

This bill requires the completion of a cost-of-dispensing survey by July 1, 2026. The Department of Health and Human Services (DHHS) would utilize a third-party vendor to conduct this survey, at an estimated cost of \$100,000 (\$50,000 Federal Funds and \$50,000 General Funds).

Updates to the dispensing fees, and other technical work, in the Medicaid Management Information System (MMIS) would be needed. The estimated cost for this work is a one-time cost of \$3,920. LB138 also requires DHHS to submit a report to the Clerk of the Legislature by July 1, 2026. This report needs to provide recommendations for adjusting pharmacy dispensing fees annually to ensure fair and adequate reimbursement for all pharmacies participating in the medical assistance program. Expenses related to the time and effort of the MMIS updates, and the required report would be absorbed by DHHS.

| MAJOR OBJECTS OF EXPENDITURE | | | | |
|------------------------------|---------------------|-------|--------------|--------------|
| PERSONAL SERVICES: | | | | |
| POSITION TITLE | NUMBER OF POSITIONS | | 2025-2026 | 2026-2027 |
| | 26-26 | 26-27 | EXPENDITURES | EXPENDITURES |
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| Benefits..... | | | | |
| Operating..... | | | \$100,000 | |
| Travel..... | | | | |
| Capital Outlay..... | | | | |
| Aid..... | | | | \$10,451,707 |
| Capital Improvements..... | | | | |
| TOTAL..... | | | \$100,000 | \$10,451,707 |