

PREPARED BY: Liz Hruska
 DATE PREPARED: April 09, 2021
 PHONE: 402-471-0053

LB 411

Revision: 01

Revised based on amendments adopted through 3-30-21

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2021-22		FY 2022-23	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	\$85,900			
CASH FUNDS				
FEDERAL FUNDS	\$773,100			
OTHER FUNDS				
TOTAL FUNDS	\$859,000			

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

This bill requires on or before September 30, 2021, all health care facilities and all health care payors to participate in the designated health information exchange through sharing of clinical information as determined by policies adopted by the Health Information Technology Board as permitted by state and federal law and in compliance with privacy and security of the federal Health Insurance Portability and Accountability Act. There would be no cost to health care facilities which establish a connection by July 1, 2021.

Medicaid, Public Health and the institutions currently interface with the designated health information exchange, CyncHealth, formerly called Nebraska Health Information Initiative (NEHII). Additional infrastructure changes are estimated to be between \$56,000 and \$859,000. The department is responsible for 10% of the costs with the balance covered by federal funds through CyncHealth.

The department’s fiscal note includes a note that failure to follow Federal data restrictions could jeopardize federal Medicaid funding. The bill specifically states the data sharing must comply with state and federal law. The regulation cited by the department, 42 CFR 431.10(e) states, “The Medicaid agency may not delegate, to other than its own officials, the authority to supervise the plan or to develop or issue policies, rules, and regulations on program matters.” It is not clear this provision of law is violated in the bill.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 411	AM: 584	AGENCY/POLT. SUB: Nebraska Department of Health and Human Services	
REVIEWED BY: Ann Linneman	DATE: 3-31-2021	PHONE: (402) 471-4180	
COMMENTS: The Nebraska Department of Health and Human Services’ analysis and estimate of fiscal impact to the department appears reasonable.			

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

State Agency or Political Subdivision Name:(2) Department of Health and Human Services

Prepared by: (3) Mike Michalski

Date Prepared 3-31-2021

Phone: (5) 471-6719

	<u>FY 2021-2022</u>		<u>FY 2022-2023</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	\$85,900		\$0	
CASH FUNDS				
FEDERAL FUNDS	\$773,100		\$0	
OTHER FUNDS				
TOTAL FUNDS	\$859,000		\$0	

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

Explanation of Estimate:

LB 411 AM584 requires that, on or before September 30, 2021, each health care facility listed in subdivision (b) of this subsection shall participate in the designated health information exchange through sharing of clinical information. Such clinical information shall include the clinical data that the health care facility captured in their existing electronic health record as permitted by state and federal laws, rules, and regulations. Any patient health information shared with the designated health information exchange as determined by policies adopted by the Health Information Technology Board shall be provided in accordance with the privacy and security provisions set forth in the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations adopted under the act, including, but not limited to, specific provisions related to privacy under the medical assistance program.

The total cost for the Department of Health and Human Services to participate in the Health Information Exchange for sharing clinical information (to be defined by the HIT board) is unknown.

There would be costs associated with the Department of Health and Human Services Medicaid and Long Term Care (MLTC) to interface and/or share “clinical information”, specifically for program staff time, information system and technology staff time, and system changes needed for the Medicaid Data Warehouse for data production and sharing. Note: Failure to follow Federal data restrictions could jeopardize both Nebraska’s participation in the Federal Medicaid program and access to Federal funds (the total amount of the Federal Fiscal Year 2021 Medicaid Grant is \$1,937,726,000).

The nature of the data sharing technological requirements and architecture would determine required changes to the Data Warehouse. The expected cost for data sharing could range between **\$56,000** for a simple transaction, to as much as **\$859,000** for a more complex one. The fiscal impact is assumed to be at the higher cost of \$859,000 with Federal Financial Participation (FFP) of 90%, pending approval of federal partners for project funding to implement a significant system enhancement.

No new Department of Health and Human Services Medicaid Long Term Care program staff or IS&T staff would be required as it would be absorbed by current staff. Depending on the complexity, staff time for requirements gathering, design, and testing could range from 80 to several hundred hours, and could impact the prioritization to other projects currently in process at the Department of Health and Human Services.

MAJOR OBJECTS OF EXPENDITURE

PERSONAL SERVICES:

POSITION TITLE	NUMBER OF POSITIONS		2021-2022	2022-2023
	21-22	22-23	EXPENDITURES	EXPENDITURES
Benefits.....				
Operating.....			\$859,000	\$0
Travel.....				
Capital Outlay.....				
Aid.....				
Capital Improvements.....				
TOTAL.....			\$859,000	\$0