

Revised to Include provisions adopted in AM848 AM1332 AM1477
 AM1486 AM1488 AM1497 and AM 1989

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

| ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates) | | | | |
|---|---------------------|----------------|---------------------|----------------|
| | FY 2023-24 | | FY 2024-25 | |
| | EXPENDITURES | REVENUE | EXPENDITURES | REVENUE |
| GENERAL FUNDS | \$10,635,764 | | \$11,966,007 | |
| CASH FUNDS | \$467,368 | | \$491,848 | \$200,000 |
| FEDERAL FUNDS | \$15,349,933 | | \$20,431,504 | |
| OTHER FUNDS | | | | |
| TOTAL FUNDS | \$26,453,065 | | \$32,889,359 | |

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

Analysis on the provisions adopted in AM1989 are indicated with underline.

The bill contains the provisions of **LB123 as amended by AM744**, the Behavior Analyst Practice Act, which also creates the Board of Behavior Analysts to oversee licenses as prescribed in the Uniform Credentialing Act. The Department of Health and Human Services (DHHS) is to establish and collect fees for initial licensure and renewal. Implementation of this section of the bill would be completed approximately eighteen (18) months from the effective date of this bill. A biennial fee of \$250 is in line with similar programs in other states and, with 800 estimated licensees, such a fee would generate \$200,000 in revenue. Startup costs of the program would require additional cash spend authority because fees are not collected until the program is established. DHHS assumes the new board will cost of \$9,600 in FY24 and \$6,400 each year thereafter as additional meetings would be needed in the first year. DHHS would need additional staff to assist with creation of the Board, research, material preparation and other duties. The cost of board members meetings plus salaries, benefits, and operating costs for staff additions totals to \$97,865 (\$63,564 being PSL) in FY24 and \$121,919 (\$75,664 being PSL) in FY25. The State Patrol indicates no fiscal impact of the provisions of these sections.

The bill contains provisions of **LB268** which changes provisions of the Uniform Credentialing Act to define physician peer coach and requiring confidentiality of a physician wellness program as defined. These provisions have no fiscal impact.

The bill contains the provisions of **LB431**, modifying the Uniform Credentialing Act with regard to criminal history record information checks and authorizing the Nebraska State Patrol (NSP) to submit fingerprinting to the Federal Bureau of Investigation for a national criminal history record information check. The State Patrol must then issue a report of any findings to the Division of Public Health. The Occupational Licensure Unit within DHHS currently shares data with NSP. There is no fiscal impact to DHHS or NSP for this section.

The bill contains the provisions of **LB572 as amended by AM390**, the Medical Nutrition Therapy Practice Act, which changes provisions related to licensing requirements for dietitian nutritionists and licensed nutritionists by DHHS effective December 1, 2023. DHHS indicates minimal cost for implementation, potentially being offset by increased revenues. No fiscal impact of these sections. The bill contains the provisions of LB261 which allows mortuary science practitioners to complete the first-six months of the apprenticeship, while the individual is completing their education, rather than prior. This provision has no fiscal impact.

The bill contains the provisions of **LB181 as amended by AM812** which would allow filling and refilling prescriptions in certain circumstances, provisions the of **LB548** which would change examination and compounding requirements under the Pharmacy Practice Act, provisions of **LB202** which would allow for vaccine administration by pharmacy technicians, and provisions of **LB434** which would require DHHS to submit a State Plan Amendment to the federal Centers for Medicare and Medicaid Services (CMS) to provide coverage under the medical assistance program for long-term acute care hospitals. The costs of these sections are minimal and can be absorbed within current DHHS appropriations.

The bill contains the provisions of **LB 219 as amended by AM 848** requires for rebasing inpatient interim per diem rates for critical access hospitals every two years. Due to additional workload, an additional Fiscal Project Analyst would be required starting in October 2023 and paid for 50/50 with Federal Funds and General Funds in the amounts of \$64,362 (\$32,181 GF and \$32,181 FF and inclusive of \$39.803 PSL) in FY24 and \$90,108 (\$45,054 GF and \$45,054 FF and inclusive of \$55,725) in FY25.

The bill contains the provisions of **LB590 as amended by AM725** which increases the standard of need for eligible aged, blind, and disabled persons from \$60 per month to \$75 per month for a personal needs allowance if such persons reside in an alternative living arrangement (Neb. Rev. Stat. § Section 68-1006.01). Two DHHS divisions, Medicaid and Long-Term Care (MLTC) and Children and

Family Services (CFS), would be impacted by this bill. Based on figures from October 2022, there were an average of 5,710 Medicaid members per month living in nursing facilities. An increase of \$15 monthly for each such member results in an annual increase of \$1,027,800. An average of 1,796 Medicaid members per month lived in assisted living facilities over this same period, with approximately 95% in waiver and 5% in non-waiver cases. The estimated annual cost of waiver cases is \$307,116. The total annual cost for Medicaid would be \$1,334,916. There is no effective date in the bill. The estimate for this section is based on an operational date of October 1, 2023.

The impact of the provisions of LB590 as amended by AM725 to the Division of Children and Family Services (CFS) pertains to the Aid to the Aged, Blind, or Disabled (AABD) grant which is funded by State dollars for living arrangements received monthly. The payments to eligible individuals would also increase by \$15 per recipient per month. Currently, AABD makes supplemental payments to meet the Maintenance of Effort (MOE) for this program. CFS could decrease the amount of supplementals each year to meet the requirements effectively absorbing the cost of the increase. Additionally, DHHS would absorb the cost to update the Nebraska Family Online Client User System (NFOCUS) to reflect the new personal needs allowance amount. The total cost for this section is \$1,001,187 for FY24 and \$1,334,916 for FY25, all for Medicaid. The cost is less in FY24 due to the operational date of October 1, 2023; as such, provisions would only being active for three quarters of the fiscal year.

The bill contains provisions of **LB227 as amended by AM848** which directs DHHS to provide reimbursement to a hospital at 100% of the statewide average nursing facility per diem rate for an individual when the individual meets certain criteria outlined in the bill. During 2022, the Department of Public Health (DPH) implemented a COVID-19 emergency program that reimbursed hospitals to create capacity for patients that did not meet inpatient level of care but were unable to be discharged. The program was in response to the core issue identified in the bill – the lack of available nursing facility capacity for hospital discharge-eligible patients. This program's cost was approximately \$14M at \$1,200 per patient-day or 11,666 patient-days. Using the same number of patient-days and 100% of the 2023 swing bed daily rate of \$264.13, the annual cost of these provisions is \$3,081,341 total funds. For purposes of the estimate for this section of the fiscal note, a start date of October 1, 2023 is used therefore the estimated cost for FY24 is \$2,311,005 total funds.

The bill contains provisions of **LB517** which directs the DHHS Department of Public Health (DPH) contract, or provide a grant to, a nonprofit statewide association whose members include eligible acute care hospitals, a pilot program to facilitate transfer of patients with complex health needs from an eligible acute care hospital to an appropriate post-acute care setting including skilled nursing or long-term care. Funding under the pilot shall comply with all Medicaid and Medicare reimbursement policies for Swing Bed Nursing Facilities, Nursing Facilities, and swing-bed hospitals. Implementation of the pilot program will require one Accountant I in FY24 and FY25 only at a cost of \$38,002 in FY24 and \$53,202 in FY25. The provisions state legislative intent to appropriate \$1,000,000 in state General Funds for this purpose. As such, after costs to oversee payments through the pilot program, \$908,796 would remain to be contracted or granted in aid to a nonprofit or for DHHS to operate the program as described in subsection 4. Subsection 7 stipulates that no more than 2.5% of the contracted amount shall be used to administer the pilot program. As such, of the remaining amount after the cost of the one accountant which is required by DHHS to issue payments, 2.5% of \$908,796 is \$22,720 which would become the administrative cap for the contracted entity. Assuming the cap is maximized, remaining left for direct aid under this section is \$886,076.

The bill contains amended provisions of **LB84** which changes the sunset date of the current threshold for SNAP gross income eligibility of 165% of the Federal Poverty Level (FPL) from 9/30/2023 to 9/30/2025. The new sunset date means the gross income eligibility would revert back to 130% of the FPL on October 1, 2025. The net income eligibility, money earned after deductions such as taxes, insurance premiums, and retirement contributions, remains limited to 100% FPL. SNAP benefit amounts are 100% federally funded; however, the Federal Government (Food and Nutrition Services) and the Department of Health and Human Services (DHHS) share administrative expenses at 50/50 split of federal funds and state General Funds.

Administrative expenses for SNAP consist of personnel primarily to review SNAP applications for eligibility. DHHS indicates the total cost of the extending the increased gross eligibility is \$1,088,875 in FY24 and \$1,361,493 in FY25. These figures include the estimates fiscal note for **LB108** in 2021 (the base of FY23 \$443,339 total funds increased by 5% each year for cost-of-living increases, \$465,506 total funds in FY24 and \$488,780 in total funds in FY25) plus \$623,369 in FY24 and \$872,713 in FY25. The additions are estimates based on the actual number of applications DHHS received (23,250) which was higher than what was anticipated in 2021 (14,714). More detail on the calculation of these estimates can be found in the original fiscal note for **LB84**.

Note that the total funds initially reported in LB108 (\$443,339 in FY23) were funded entirely by Federal Funds due to availability of specific ARPA funds designated for SNAP Administration purposes. The SNAP Admin ARPA has an expiration date of 9/30/2023 which was the basis for the initial sunset. All funding for the provisions of LB84 which extend the sunset will be required to be split 50/50 between General Funds and Federal Funds. DHHS has sufficient General Fund appropriation for the FY24-25 biennium to absorb the General Fund cost of the provisions of LB84 which amount to \$544,438 in FY24 and \$680,747 in FY25. Federal Fund appropriation for the provisions of LB84 are \$544,438 (\$232,753 from LB108 plus \$311,685 to account for the increase in actual applications) in FY24 and \$680,747 (\$244,390 from LB108 plus \$436,357 to account for the increase in actual applications) in FY25.

The bill contains provisions of **LB35** which changes the provisions relating to childcare assistance. It extends the current threshold for childcare subsidy income eligibility of 185% of the Federal Poverty Level (FPL) and transitional or redetermination of childcare income eligibility of 200% of the FPL beyond the current sunset date of September 30, 2023 until October 1, 2026. The bill states the federal Child Care Block Grant would be used first to cover the cost of the increase; the Temporary Assistance for Needy Families grant would

be the second source of funding. DHHS indicates that the number of families who became eligible since the enactment of LB 485 was 1,923 families. The average number of families who have billed for childcare between June 2022 and August 2022 is 1,201. The average monthly cost between July 2021 and August 2022 was \$523.75. Using these figures, the monthly amount needed to fund this increase in eligibility is \$629,018 per month or \$7,548,216 annually. The aid funding would be, first, the Child Care Block Grant and then the Temporary Assistance for Needy Families Grant. DHHS indicates current federal fund appropriations and grant awards are sufficient to cover the \$7.5 million increase in state aid, therefore no additional expenditures are required for the direct aid. DHHS notes that if federal grant funding changes, General Funds may be needed to cover a portion or the totality of this aid cost.

General Funds are prohibited from being used to cover the expanded eligibility costs through September 30, 2026 except for administration. Costs to update systems would be absorbed. LB 485 used an annual admin cost of \$483,467 for FY23. Using this as the base, adjusting for the start date of LB 35 of October 1, 2023, plus 5% annually for cost-of-living increases, the cost for FY24 is \$380,730 in General Funds (including \$247,474 in PSL) and for FY25 \$533,022 in General Funds (including \$346,464 in PSL).

The bill contains provisions of **LB357** which would change the maximum monthly support allowable under the Disabled Persons and Family Support Act within Program 347 Public Assistance. This would be an increase from a maximum of \$300 per month to a maximum of \$400 per month for eligible individuals. In addition, it would also increase the monthly support for an additional disabled family member from \$150 per month to \$20 per month. DHHS reports that currently the program provides support to ninety-three eligible individuals. Of these individuals, ninety-two receive \$300 monthly and one individual receives \$150 monthly. This would potentially increase Disabled Persons & Family Support Program (DPFS) expenditures by \$111,600 annually in General Funds.

The bill contains provisions of **LB402 AM392**, changing the definition of a home health agency. The bill contains provisions of **LB245** which changes the per diem rate of compensation for the Board of Barber's Examiners from \$75 to \$150. There is no fiscal impact due to a corresponding reduction in meeting days by half. The bill contains provisions of **LB611 AM310**, changing the Health Care Facility Licensure Act. The bill contains provisions of **LB 345** which defines palliative care for purposes of the Health Care Facility Licensure Act. The bill contains provisions of **LB458**, allowing certain central fill pharmacies to deliver to a patient under the Prescription Drug Safety Act. These sections have no fiscal impact.

The bill contains provisions of **LB586** which states legislative intent to appropriate funds necessary for the Nebraska Center for Nursing to carry out the Nebraska Center for Nursing Acting including but not limited to (1) administrative costs to expand clinical training sites in addition to (2) \$3 million in General Funds in FY24 and \$3 million in General Funds in FY25 not to extend into the following biennium. The provisions direct the Nebraska Center for Nursing Board (NCNB) to consult with a statewide association representing hospitals and health systems providing clinical nurse opportunities and for the NCNB to utilize the \$6 million total aid funds to expand clinical training sites throughout the state with preference to areas that have lower numbers of registered nurses per capita compared to the state average. NCNB is to develop programs incentivize clinical nurses to become clinical nurse faculty, incentivize nurse faculty to partner with staff nurses in the development of clinical nurse faculty, expand simulation training for nurse clinical education and incentivize hospital facilities to support the Nebraska Center for Nursing in these programmatic efforts. The cost for DHHS to administer this program is \$177,063 in General Funds FY24 and \$247,890 in General Funds FY25 to Program 33 Administration for a Nurse Consultant and a Registered Nurse Program Specialist. The \$3 million in General Funds in FY24 and \$3 million in General Funds in FY25 would be also be appropriated for Program 33.

The bill contains provisions of **LB765** which repeals Neb. Rev. Stat. §81-8252 which specifies the duties and powers of the Regional Trauma Advisory Boards within DHHS Administration. DHHS will accumulate a cost savings of \$16,000 per year. DHHS will be required to develop injury prevention strategies with advice from the Statewide Trauma Advisory Board. The estimated cost for each Statewide Trauma Advisory Board meeting is \$2,250 which includes board member expense reimbursements. It is anticipated that a minimum of 3 additional board meetings would be necessary therefor the cost would be \$6,750 in FY24. Total savings amount to \$9,250 in FY24 and \$16,000 in FY25 and each year thereafter.

The bill now contains provisions of **LB75** which expands the purview of the State Maternal Death Review Team as created by the Child and Maternal Death Review Act to include review of incidents of severe maternal morbidity. Due to the specification that nothing in this subsection is to be interpreted to require the review of any incident of severe maternal morbidity, these provisions have no fiscal impact.

The bill now contains provisions of **LB570** which establishes the Overdose Fatality Review Teams Act (Act). The Act establishes county level, multidisciplinary overdose fatality review teams in Nebraska, distinguishes core members of the team, provides duties, allows the teams to obtain and review documents related to overdoses from relevant parties, and provides protections of personal information. DHHS anticipates a need for additional staff to obtain, review, and disseminate county-specific records and other documentation within required five business days as prescribed by the bill. A legal review would also need to be performed to ensure HIPAA compliance. Total cost for FY24 is \$378,754 and \$388,160 for FY25 out of the Nebraska Opioid Recovery Fund.

The bill now contains provisions of **LB419** which requires DHHS to submit a Medicaid state plan amendment to extend postpartum coverage from sixty days to at least six months no later than October 1, 2023. Currently, postpartum coverage extends for 60 days. As of January 26, 2023, 29 states including DC have implemented twelve-month postpartum coverage and 6 additional states are planning to implement a twelve-month extension. As such, DHHS plans to implement a twelve-month postpartum coverage which is consistent with the language of the bill which indicates coverage would be required to extend at least six months.

The total cost of additional coverage presented in this fiscal note, \$23,264,640 for a full year, is consistent with the total estimate provided in [LB929](#) brought in 2022 that is based on a monthly manage care cost of \$600 per enrollee and 2,370 newly eligible for the full 10-month extension and 2,284 newly eligible beyond 60 days but less than 12 months due to requalification under a different eligibility category. FY24 represents 9 months of costs whereas FY25 represents the full 12 months of increased eligibility. Updates to the Medicaid eligibility system can be absorbed within current resources. The split of the total between general funds and federal funds differs due to a provision in the American Rescue Plan that allows states to claim the Medicaid expansion FMAP (Federal Medicaid Assistance Percentage) of 90% federal and 10% state. The following chart shows the aid cost by fund type for a full year:

| | Expansion | Regular FMAP | Total |
|---------------|---------------|---------------|---------------|
| General Funds | \$ 1,116,703 | \$ 5,030,187 | \$ 6,146,890 |
| Federal Funds | \$ 10,050,324 | \$ 7,067,426 | \$ 17,117,750 |
| Total Funds | \$ 11,167,027 | \$ 12,097,613 | \$ 23,264,640 |

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE

LB227AM: 848,1332,1497,1488,1486,1477,1989 AGENCY/POLT. SUB: Nebraska Department of Health & Human Services

REVIEWED BY: Ann Linneman DATE: 5-25-2023 PHONE: (402) 471-4180

COMMENTS: The Nebraska Department of Health and Human Services' analysis and estimate of fiscal impact to the department appears reasonable.

LB (1) 227 AM848
AM1332 AM1497
AM1488 AM1486
AM1477 AM1989

FISCAL NOTE

2023

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 5-25-23

Phone: (5) 471-6719

| | FY 2023-2024 | | FY 2024-2025 | |
|----------------------|---------------------|---------|---------------------|-----------|
| | EXPENDITURES | REVENUE | EXPENDITURES | REVENUE |
| GENERAL FUNDS | \$11,621,844 | \$0 | \$13,072,492 | \$0 |
| CASH FUNDS | \$88,614 | \$0 | \$103,688 | \$200,000 |
| FEDERAL FUNDS | \$15,349,933 | \$0 | \$20,431,504 | \$0 |
| OTHER FUNDS | \$0 | \$0 | \$0 | \$0 |
| TOTAL FUNDS | \$27,060,391 | \$0 | \$33,607,684 | \$200,000 |

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

Explanation of Estimate:

AM1332 strikes the original sections and all amendments thereto and inserts the following new sections:

LB123 AM744: The bill as amended creates the Behavior Analyst Practice Act which is intended to facilitate an application process for behavior analysts to become licensed in the State of Nebraska. It also creates the Board of Behavior Analysts to administer all duties as prescribed in the Uniform Credentialing Act. The Department of Health and Human Services (DHHS) is to establish and collect fees for initial licensure and renewal. It is expected that implementation work on this section of the bill would be completed approximately eighteen (18) months from the effective date of this bill.

DHHS provides a total estimate of 802 Behavioral Analysts in Nebraska based on data from the Behavior Analyst Certification Board and an unknown number of non-certified persons representing themselves as registered behavioral technicians. A biennial fee of \$250 is in line with similar programs in other states and, with 800 licensees, would generate \$200,000 in revenue. Costs and revenue would be accounted for under Program 178 Professional Licensure. Startup costs of the program would require additional cash spend authority because fees are not collected until the program is established.

DHHS assumes the new board will be composed of 4 members meeting 6 times in the first year, at a cost of \$9,600, and quarterly each year thereafter, at a cost of \$6,400. DHHS would need additional staff to assist with creation of the Board, research, material preparation and other duties as required: a .50 FTE Program Manager II, a .50 FTE Health Licensing Coordinator, and a .50 FTE Administrative Technician all starting in the second quarter of State Fiscal Year 2024 (October 2023), as well as eighty hours of an IT Business Analyst in FY24. The cost of board members meetings plus salaries, benefits, and operating costs for staff additions totals to **\$97,865** in FY24 and **\$121,919** in FY25.

| Summary of Expenditures | FY2023-24 FTE | FY2024-25 F | FY2023-24 | FY2024-25 |
|-------------------------------------|---------------|-------------|-----------|-----------|
| PERSONAL SERVICES: | | | | |
| G78792 DHHS Program Manager II | 0.38 | 0.50 | \$22,810 | \$30,414 |
| X01740 Health Licensing Coordinator | 0.38 | 0.50 | \$15,757 | \$21,009 |
| V01013 Administrative Technician | 0.38 | 0.50 | \$13,381 | \$17,841 |
| V07081 IT Business Systems Analyst | 0.04 | 0.00 | \$2,016 | \$0 |
| | 0.00 | 0.00 | \$0 | \$0 |
| | 0.00 | 0.00 | \$0 | \$0 |
| BENEFITS: | | | \$15,700 | \$20,150 |
| OPERATIONS | | | \$28,200 | \$32,505 |
| TRAVEL | | | \$0 | \$0 |
| Capital Outlay | | | \$0 | \$0 |
| Aid | | | \$0 | \$0 |
| Capital Improvements | | | \$0 | \$0 |
| TOTAL | | | \$97,865 | \$121,919 |

LB431: The bill includes provisions of the Uniform Credentialing Act pertaining to criminal history record information checks, authorizing the Nebraska State Patrol (NSP) to submit fingerprinting to the Federal Bureau of Investigation for a national criminal history record information check. The State Patrol must then issue a report of any findings to the Division of Public Health of the Department of Health and Human Services (DHHS). Currently, background checks are only required if a criminal background check is required by an interstate licensure compact. The Occupational Licensure Unit within DHHS shares data with NSP via an online site on SharePoint. Due to the existing partnership, DHHS will need minimal updates to accommodate the changes proposed in the bill. DHHS indicates the costs can be absorbed within current resources.

LB572 AM390: The bill cites the Medical Nutrition Therapy Practice Act which changes provisions related to licensing requirements for dietitian nutritionists and licensed nutritionists by DHHS effective December 1, 2023. DHHS estimates a total first year cost of \$7,603 to Program 178 – Professional Licensure. This includes updating regulations and the website, application and license system development, and application review and issuance. Of this amount, \$4,715 would be one-time implementation costs and the remaining \$2,888 would be on-going costs. DHHS estimates recapturing the costs within the biennium utilizing a \$10 licensing fee to 742 licensees, yielding \$7,420 in revenue. The revenue and expenditures to the affected program can be accounted for within the existing program budget. DHHS estimates reissuing charges of \$7,420 will offset the cost of \$7,603 resulting in minimal impact of \$183.

LB181 AM812, LB548, LB202, LB458, LB286, LB261, LB245, LB345, LB458: Minimal or no fiscal impact. All costs associated with these bills are minor and will be absorbed by the department.

LB590 AM725: The bill mandates that DHHS shall include in the standard of need for eligible aged, blind, and disabled persons \$75 per month for a personal needs allowance if such persons reside in an alternative living arrangement. (Sec. 58. Section 68-1006.01)

An alternative living arrangement shall include board and room, a boarding home, a certified adult family home, a licensed assisted-living facility, a licensed residential child caring agency as defined in section 71-1926, a licensed center for the developmentally disabled, and a long-term care facility.

The personal needs allowance was changed to its current level of \$60 by LB 366 (2015), which was signed into law on May 27, 2015. Passage would increase the personal needs allowance by \$15 per member.

The Nebraska Family Online Client User System (NFOCUS) would need to be updated to reflect the new personal needs allowance amount. Once the update is made, budgets will need to be re-run to calculate the new share of cost amounts for the affected living arrangement cases. The total NFOCUS estimate for the updates is 29 hours at a cost of \$2,412. The department will absorb these costs.

Two DHHS divisions, Medicaid and Long-Term Care (MLTC) and Children and Family Services (CFS), would be impacted by this bill.

The impact to the MLTC division is due to the increase to the size of income disregard on Medicaid members. Rather than disregarding \$60 per month per Medicaid case (once they are determined eligible), Medicaid would disregard \$75 monthly. The additional \$15, per member per month, would shift from the member/client pay to be paid by Medicaid, for all current and future members who are or will be nursing home or assisted living waiver residents.

According to the October 2022 Indicators report, there was an average of 5,710 Medicaid members per month living in nursing facilities. This would translate to a monthly increase to the program of \$85,650, or \$1.03 million per year. An average of 1,796 Medicaid members per month lived in assisted living facilities over this same period, with approximately 95% in waiver and 5% in non-waiver cases. The estimated annual cost of waiver cases is \$307,116. The total annual cost for Medicaid would be \$1,334,916. There is no effective date in the bill. The estimate for this section is based on an operational date of October 1, 2023.

The impact to CFS for the Aid to the Aged, Blind, or Disabled (AABD) grant is funded by State dollars for living arrangements received monthly. The payments to eligible individuals would increase \$15.

| Living Arrangement | Cases | Total |
|---|-------|-----------|
| Room and Board | 4 | \$60 |
| Licensed Assisted Living | 440 | \$6,600 |
| Certified Adult Family Home | 9 | \$135 |
| Long Term Care Facilities | 190 | \$2,850 |
| Center for the Developmentally Disabled | 85 | \$1,275 |
| Child Caring Agency | 0 | \$0 |
| Monthly Increase | | \$10,920 |
| Annual Increase * 12 Months | | \$131,040 |

Currently, AABD makes supplemental payments to meet the Maintenance of Effort (MOE) for this program. CFS could decrease the amount of supplementals each year to meet the requirements effectively absorbing the cost of the increase.

The total costs absorbed by DHHS for this section of the bill would be \$133,452 which includes the CFS increase and NFOCUS.

LB434: The bill mandates that DHHS shall enroll long-term acute care hospitals in Nebraska as providers eligible to receive funding under the medical assistance program. (LB434, Sec. 55.)

No later than July 1, 2023, the department shall submit a State Plan Amendment (SPA) or waiver to the federal Centers for Medicare and Medicaid Services (CMS) to provide coverage under the medical assistance program for long-term acute care hospitals. To implement the requirements of this bill DHHS would be required to initiate a change request to the Medicaid Management Information System (MMIS), the contracted provider screening and enrollment (PSE) vendor, and the Department's Health Inter Active (HIA) data warehouse and decision support system to allow for a new provider type of long-term acute care.

The MMIS change request would include adding the new provider type to the MMIS system and working with the PSE, and HIA system vendors and establishing the appropriate processing of the new provider type. The cost to change the MMIS, PSE and HIA systems would be approximately \$10,000 each. This cost will be absorbed by the Department.

LB219: DHHS shall provide for rebasing inpatient interim per diem rates for critical access hospitals. The department shall rebase the rates every two years, and the most recent audited Medicare cost report shall be used as the basis for the rebasing process within ninety days after receiving the cost report. Due to additional workload, an additional Fiscal Project Analyst would be required starting in October 2023 and paid for 50/50 with Federal Funds and General Funds in the amounts of \$64,362 (\$32,181 GF and \$32,181 FF) in FY24 and \$90,108 (\$45,054 GF and \$45,054 FF) in FY25. Additional costs to update rules would be absorbed within current resources,

| Position(s) | First Fiscal Year | | | | | | | Second Fiscal Year | | | | | | | |
|--------------------------------------|-------------------|-------------|----------------|-------|------|-------------|-----------|--------------------|-------------------------|-----------|-------------|-----------|-----------|----------------|-------------------------|
| | Job Title | Hourly Rate | Hours per Year | Class | FTE | Modified FT | Pay | Benefits (35%) | Operating costs (26.7%) | Total | 5% increase | FTE | Pay | Benefits (35%) | Operating costs (26.7%) |
| K19850 - DHHS Fiscal Project Analyst | \$ 25,515 | 2,080 | No | 1.00 | 0.75 | \$ 39,803 | \$ 13,931 | \$ 10,628 | \$ 64,362 | \$ 26,791 | 1.00 | \$ 55,725 | \$ 19,504 | \$ 14,879 | \$ 90,107 |
| | \$ - | 2,080 | | | 0.00 | \$ - | \$ - | \$ - | \$ - | \$ - | | \$ - | \$ - | \$ - | \$ - |
| | \$ - | 2,080 | | | 0.00 | \$ - | \$ - | \$ - | \$ - | \$ - | | \$ - | \$ - | \$ - | \$ - |
| | | | | 1.00 | 0.75 | \$ 39,803 | \$ 13,931 | \$ 10,628 | \$ 64,362 | \$ 26,791 | 1.00 | \$ 55,725 | \$ 19,504 | \$ 14,879 | \$ 90,107 |

LB227 AM848: DHHS shall provide Medicaid reimbursement to a hospital at one hundred percent of the statewide average nursing facility per diem rate for an individual when the individual meets certain criteria outlined in the bill. The bill as amended intends to appropriate **\$1,000,000** in state general funds for this

purpose. It is unclear if the appropriation for the pilot program is for one year only and when the funds would be spent. The “Total Aid” amount for SFY 2024 assumes \$1M is appropriated and spent in SFY 2024.

LB517: During 2022 the Department of Public Health (DPH) implemented a COVID-19 emergency program that reimbursed hospitals to create capacity for patients that did not meet inpatient level of care but were unable to be discharged. The program was in response to the core issue identified in the bill – the lack of available nursing facility capacity for hospital discharge-eligible patients. This program’s cost was approximately \$14M at \$1,200 per patient-day or 11,666 patient-days.

If the same number of patient-days is needed and using 100% of the 2023 swing bed daily rate or \$264.13, the annual cost to DHHS would be \$3,081,341. For purposes of the estimate for this section of the fiscal note, a start date of October 1, 2023, is used. The bill includes specific dollar amounts for patient scenarios, but DHHS does not have patient-level data needed to project the impact. The bill also does not address where the funding will be obtained and there are no limits to total expenditures under the program, which makes projecting costs difficult.

DHHS shall implement a pilot program to facilitate transfer of patients with complex health needs from an eligible acute care hospital to an appropriate post-acute care setting including skilled nursing or long-term care. Funding under the pilot shall comply with all Medicaid and Medicare reimbursement policies for Swing Bed Nursing Facilities, Nursing Facilities, and swing-bed hospitals. Implementation of the pilot program will require 1x FTE Accountant I for a cost of \$38,002 in FY24 and \$53,202 in FY25.

LB35: The bill changes the provisions relating to childcare assistance. It extends the current threshold for childcare subsidy income eligibility of 185% of the Federal Poverty Level (FPL) and transitional or redetermination of childcare income eligibility of 200% of the FPL beyond the current sunset date of September 30, 2023, until October 1, 2026. The bill states the federal Child Care Block Grant would be used first to cover the cost of the increase; the Temporary Assistance for Needy Families grant would be the second source of funding. General funds are prohibited from being used to cover the expanded eligibility costs through September 30, 2026. There is an issue with this stipulation, described below, due to the administrative costs associated with the bill

With the passing of LB485 in 2021, the Department of Health and Human Services (DHHS) increased the gross income eligibility for the childcare subsidy program from 130% of the FPL to 185% of the FPL for initial subsidy eligibility and increased the FPL from 185% to 200% for subsidy redetermination. This was enacted on August 28, 2021, and currently has a sunset date of September 30, 2023.

DHHS indicates that the number of families who became eligible since the enactment of LB 485 was 1,923 families. The average number of families who have billed for childcare between June 2022 and August 2022 is 1,201. The average monthly cost between July 2021 and August 2022 was \$523.75. Using these figures, the monthly amount needed to fund this increase in eligibility is \$629,018 per month or \$7,548,216 annually.

The funding would be, first, the Child Care Block Grant and then the Temporary Assistance for Needy Families Grant. DHHS indicates current federal fund appropriations and grant awards are sufficient to cover the \$7.5 million increase in state aid, therefore no additional expenditures are required for the direct aid. DHHS notes that if federal grant funding changes, general funds may be needed to cover a portion or the totality of this aid cost.

Administratively, DHHS indicates that the agency is already maximizing their administrative limit for the Child Care Block Grant. This means that the administrative costs would need to be general funds. Costs to update systems would be absorbed by DHHS. LB 485 used an annual admin cost of \$483,467 for FY23. Using this as the base, adjusting for the start date of LB 35 of October 1, 2023, and adjusting 5% annually for cost-of-living increases, the cost for FY24 is **\$380,730** and the cost for FY25 is **\$533,022**. (LB35)

LB402 AM392: The bill changes the definition of a home health agency. There is no fiscal impact from this section of the bill. (LB402)

LB611 AM310: The bill makes changes to the Health Care Facility Licensure Act. There is no fiscal impact from this section of the bill. (LB611)

LB765: The bill repeals Nebraska §81-8252 which specifies the duties and powers of the Regional Trauma Advisory Boards. DHHS will see a cost savings by dissolving the Regional Trauma Advisory Boards. There are a total of 10 members which regularly meet 8 times per year. Based on the average expenses of \$200 per member per meeting, DHHS will accumulate a cost savings of \$16,000 per year. DHHS will be required to develop injury prevention strategies with advice from the Statewide Trauma Advisory Board. The estimated cost for each Statewide Trauma Advisory Board meeting is \$2,250. This cost includes board member expense reimbursements. It is anticipated that a minimum of 3 additional board meetings would be necessary. Therefore, the estimated cost associated with development of injury prevention strategies and subsequent incorporation into the existing rules and regulations would be as follows:

FY2024 one-time cost to develop injury prevention strategies (**absorbed**)

| Title | Hour(s) | Hourly Cost | Cost |
|------------------------------|-----------|-------------|---------------|
| Director | 1 | 76 | \$ 76 |
| Deputy Director | 1 | 55 | \$ 55 |
| Administrator I | 1 | 31 | \$ 31 |
| Program Specialist | 2 | 23 | \$ 46 |
| Program Analyst | 4 | 23 | \$ 92 |
| Attorney III | 10 | 35 | \$ 350 |
| | | | |
| Total Personnel Costs | 19 | | \$ 650 |

FY2024 1-time cost for board meetings from Statewide Trauma Advisory Board

Average Board Meeting Cost \$1,600
 Total Cost Per Meeting \$2,250
 Estimate for 3 meetings = **\$6,750**

The costs associated with the bill would be expended from Program 033 – Public Health Administration Cash Funds. This fiscal note assumes all cost would be incurred during Fiscal Year 2023-2024.

LB586 AM1486: LB 586 authorizes funding for the Nebraska Center for Nursing to expand clinical training sites through the state for nursing faculty and students with a preference for sites in underserved areas and other programs to encourage clinical training. The Nebraska Center for Nursing Board will be required to establish a committee to examine expanding nursing clinical opportunities throughout the state while giving preference to areas that have lower numbers of registered nurses per capita compared to the state average.

LB 586 appropriates from the general fund \$3,000,000 in FY24 and \$3,000,000 in FY25. This bill does not designate a budget program, so this fiscal note assumes the total funds required for the program is the amounts stated in FY24 and FY25 and the corresponding A bill will properly separate aid and administrative costs to the correct budget program.

An additional Department of Health and Human Services (DHHS) Nurse Consultant will be required to administer the new work associated with LB586 in supporting the Committee established by the Nebraska Center for Nursing Board to examine expanding nursing clinical training opportunities throughout the state. An additional DHHS Program Specialist-RN will be necessary to assist the DHHS Nurse Consultant in carrying out this new work.

Procurement, Accounting, and IT would be impacted with additional contracts or grants to award to distribute funds. The department will absorb these costs.

LB357 AM1497: LB 357 would change the maximum monthly support allowable under the Disabled Persons and Family Support Act. This would be an increase from a maximum of \$300 per month to a maximum of \$400 per month for eligible individuals. In addition, it would also increase the monthly support for an additional disabled family member from \$150 per month to \$250 per month.

LB 357 would also require regulations to be updated to increase the payment amounts that an individual would be eligible for. The program is funded by state general funds which are paid to the individual or authorized representative unless arranged with the program to make payments directly to the provider. Currently, the program provides support to 93 eligible individuals. 92 of these individuals receive \$300 monthly and one individual receives \$150 monthly. This would potentially increase Disabled Persons and Family Support Program (DPFS) monthly expenditures by \$9,300 monthly or \$111,600 annually.

LB84: LB 84 will continue the Supplemental Nutrition Assistance Program (SNAP) gross income eligibility limit increase to 165% of the Federal Poverty Level (FPL) from 130% of the FPL but would not increase the net income eligibility limit of 100% of the FPL. LB 108 (passed in 2021) created a temporary pilot to increase SNAP eligibility until the sunset date of 9/30/2023. LB84 pushes this sunset date to 9/30/2025. These costs were paid with one-time federal dollars that required no state match. SNAP benefit amounts are 100% federally funded; however, the Federal Government (Food and Nutrition Services) and the Department of Health and Human Services (DHHS) share administrative expenses at 50/50 split of federal funds and state general funds.

The Department and the legislative fiscal office used an estimate of 14,714 new applications for the fiscal note in LB108. Annualizing a monthly average from July 2021 through January 2023, the department experienced an increase in applications of 23,250. The resulting difference of 8,536 applications requires an average of 2 hours of work by an SSW per application resulting in an estimated total of 17,072 SSW hours. In addition, the LB 108 fiscal note assumed that 25% of the additional applications (2,134) would be eligible for SNAP and thus would require an average of 3 additional hours of work by an SSW per year. This results in 6,402 annual hours by an SSW. The total additional hours required above the LB 108 estimates are 23,474. With 2,080 hours per year, this resulted in a shortage of approximately 11 SSW FTEs. The department also estimates an additional team lead, manager, and case aide for this group of SSW FTEs. The costs are paid 50/50 between federal SNAP administrative funds and state general funds.

In addition, due to the funding sunset for LB108 at 9/30/23, all administrative costs will be funded 50/50 between SNAP administrative federal funds and state general funds. This includes the original amount funded by LB108. The Department was appropriated \$443,339 of federal funds in FY23. Projecting a 5% increase in FY24 and a 5% increase in FY25, the total fund cost would be \$465,506 in FY24 (\$232,753 federal funds and state general funds) and \$488,780 in FY25 (\$244,390 federal funds and state general funds). Both state and federal appropriations would need adjusted to account for this. These amounts were added to operating expenses for the purposes of this fiscal note.

The FTE shortage is an immediate need for the Department, but LB 84 does not include an emergency clause, so the funding estimate assumes a start date of 10/1/2023.

The Departments budget request for FY24-25 and the Governor's recommendation removes the federal appropriation from LB 108 due to its sunset on 9/30/23. This fiscal note assumes the need to request that federal funding again.

LB75: LB 75 adds Severe Maternal Morbidity (SMM) case reviews to the scope of the Maternal Mortality Review Committee (MMRC) formed by statute and operating under the Department of Health and Human Services (DHHS). This fiscal note is based on the review of all cases identified by DHHS using newly created case identification methods and data requirements.

The MMRC is currently comprised of 15 expert volunteer reviewers that meet quarterly and review 12-15 maternal mortality cases per year. DHHS staffing for the MMRC currently totals 0.95 FTE, which includes 0.75 Epidemiology Surveillance Coordinator and 0.2 Program Specialist RN Abstractor. Additionally, the Child Death Review Team (CDRT) is comprised of another team of 15 expert volunteer reviewers that reviews approximately 240 child deaths annually. DHHS staffing for the CDRT totals 0.7 FTE, which includes 0.1 Administrator, 0.1 Epidemiology Surveillance Coordinator and 0.5 Health Surveillance Specialist. There are 5 individuals that presently serve on both teams. Therefore, LB 75 would require additional staffing, operational resources, and volunteer reviewers for the MMRC.

To implement LB 75 and conduct SMM reviews, DHHS would require additional resources estimated as follows:

Provide 1.0 FTE Health Surveillance Specialist, 1.0 FTE Program Specialist RN Abstractor, .5 FTE Epidemiology Surveillance Coordinator and .2 FTE Administrative Specialist to guide and support the development of comprehensive protocols and procedures. These resources will also be needed on a continual basis to operate this program.

Provide 1.0 DHHS Contract IT Program Developer to create a database structure to house SMM data and provide analysis and reporting structures. Estimate is 80 hours @ \$75.00 = \$6,000
It is also estimated that the cost to provide ongoing annual support of the database is 16 hours @ \$75 = \$1,200. This would begin in the second year.

Volunteer Reviewers receive travel reimbursement for attending the quarterly meetings. Based on an additional 15 reviewers to attend 4 meetings per year at an average reimbursement cost of \$50.00 totals \$3,000 annually.

This estimate is based on funding from General Funds appropriated to Program 033 – Administration; Program 262 – Public Health.

LB570: LB 570 establishes county-level, county-led, multidisciplinary Overdose Fatality Review Teams. This bill outlines their duties and responsibilities to examine and understand the circumstances leading up to overdose fatalities.

These teams will obtain and review records and other documentation related to overdoses from relevant agencies, entities, and individuals. The Department of Health and Human Services (DHHS) will need an additional Statistical Analyst II, Program Specialist, Drug Overdose Epidemiologist, and Drug Overdose Community Health Educator to obtain, review, and disseminate county-specific records and other documentation within the required five business days. In addition, five hours of a Program Specialist's time will be needed to update the critical incident reporting and review process, policy, and guidance.

A full legal review will also need to be performed to ensure DHHS remains within compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and privacy laws.

IT Business Analyst hours will be needed to gather/define the requirements for, create a functional design of, and conduct the testing of a new report. Technical Analyst hours will be needed to create a new window of "Person Detail" to collect data; create new correspondence, create analysis, and design and code tables for storing data. The "Placement" type in the Nebraska Family On-line Client User System (NFOCUS) will be updated and necessary data points will be built into the system. A new report will also be created using survey/assessment information.

LB419: The intent of the bill is to require a state plan amendment (SPA) to extend the postpartum coverage period from 60 days to 12-months for Medicaid beneficiaries. The SPA submission is required no later than October 1, 2023.

This bill would require additional social service worker staff time to determine eligibility for 'newly' eligible Federal Medical Assistance Percentage (FMAP) and maintain cases which remain open should the Centers for Medicare and Medicaid Services (CMS) approved proxy methodology not be elected.

Changes and/or updates to the Medicaid eligibility system logic to allow a 12-month postpartum period versus the current 60-day period. In addition to the current 60-day postpartum alert, a new 12-month postpartum alert would be needed.

Additional system updates would be needed to implement the proxy methodology in the Nebraska Family Online Client User System (NFOCUS) system, which will allow claiming of the expansion 'newly eligible' FMAP for individuals enrolled in the pregnant women's Medicaid category who meet eligibility for this funding.

To implement the system updates and changes described above, an estimated 500 business analyst hours would be needed for analysis, design, and testing. The estimated cost for this time is \$40,000. An estimated 150 technical analyst hours would also be needed for analysis, design, coding, and testing. The estimated cost for this time is \$15,000. In total, for system updates and changes, the total estimated absorbed cost is \$55,000.

The identified population will have a longer eligibility period than is currently allowed. This results in an overall increase in capitation payments and fee-for-service claims paid for individuals who would otherwise become ineligible. Below is an estimate of the Aid fiscal impact for program 348, based on the original fiscal note from LB929 (2022) and information on the estimated number of individuals who may qualify in expansion based on Federal Poverty Level (FPL):

| Original Estimate from LB929 in 2022 | |
|--------------------------------------|---------------|
| Total Fund | \$ 23,264,640 |
| Federal Fund | \$ 13,463,247 |
| General Fund | \$ 9,801,393 |

To address state concerns regarding the loss of increased Federal Medical Assistance Percentage (FMAP) which results when women are transitioned into the adult expansion group after the 60-day postpartum period, the ARP introduces a method for states to make this change during the 12-month postpartum period. States may claim the newly eligible FMAP for individuals receiving extended postpartum coverage if the state implements a Centers for Medicare and Medicaid Services (CMS)-approved proxy methodology to determine the proportion of expenditures for beneficiaries receiving extended postpartum coverage which are for individuals who would be eligible for the adult group and qualify as newly eligible if a redetermination was completed. This methodology will allow states to claim the newly eligible FMAP while not transitioning beneficiaries into the adult group during the postpartum period, effectively eliminating an administratively burdensome redetermination at the end of the 60-day postpartum period.

A review of the FPL of individuals eligible in August 2019 in pregnant women's category, about 48% could be considered newly eligible (59%-133% FPL).

| Potential Costs with "proxy" FMAP for expansion: | | | |
|--|---------------|---------------|---------------|
| | Expansion | Regular FMAP | Total |
| Total Fund (TF) | \$ 11,167,027 | \$ 12,097,613 | \$ 23,264,640 |
| Federal Fund (FF) | \$ 10,050,324 | \$ 7,067,426 | \$ 17,117,750 |
| General Fund (GF) | \$ 1,116,703 | \$ 5,030,187 | \$ 6,146,890 |

The fiscal impact estimate for State Fiscal Year (SFY) 2024 is for 9 months starting October 1, 2023.

| MAJOR OBJECTS OF EXPENDITURE | | | | |
|--------------------------------------|---------------------|-------|------------------------|------------------------|
| PERSONAL SERVICES: | | | | |
| POSITION TITLE | NUMBER OF POSITIONS | | 2023-2024 EXPENDITURES | 2024-2025 EXPENDITURES |
| | 23-24 | 24-25 | | |
| G78792 DHHS Program Manager II | .38 | .5 | \$22,810 | \$30,414 |
| X01740 Health Licensing Coordinator | .38 | .5 | \$15,757 | \$21,009 |
| V01013 Administrative Technician | .38 | 5 | \$13,381 | \$17,841 |
| V07081 IT Business Systems Analyst | .04 | 0 | \$2,016 | \$0 |
| K19850 - DHHS Fiscal Project Analyst | .75 | 1 | \$39,803 | \$55,725 |
| V78791 DHHS Program Manager I | .75 | 1 | \$42,438 | \$59,414 |

| | | | | |
|--|------|-----|-----------|-----------|
| V19011 Accountant I | .75 | 1 | \$23,501 | \$32,902 |
| C72172 Social Service Worker | 8.25 | 11 | \$298,430 | \$417,801 |
| V72174 – Social Services Supervisor | 0.75 | 1 | \$34,205 | \$47,886 |
| C72173 – Social Services Lead Worker | 0.75 | 1 | \$29,166 | \$40,832 |
| K01012 – Office Specialist | 0.75 | 1 | \$23,709 | \$33,192 |
| DHHS Nurse Consultant | 0.75 | 1 | \$56,038 | \$78,454 |
| DHHS Program Specialist - RN | 0.75 | 1 | \$53,463 | \$74,848 |
| H74931 Health Surveillance Specialist | .75 | 1 | \$40,844 | \$54,459 |
| H73320 DHHS Program Specialist RN | .75 | 1 | \$56,137 | \$74,849 |
| H74932 Epidemiology Surveillance Coordinator | .375 | .5 | \$23,603 | \$31,470 |
| A01014 Administrative Specialist | .2 | .2 | \$5,754 | \$7,672 |
| Statistical Analyst II | .25 | .25 | \$11,029 | \$11,581 |
| Program Specialist | 1 | 1 | \$48,493 | \$50,918 |
| Medical Epidemiologist | 1 | 1 | \$146,625 | \$153,957 |
| Drug Overdose Community Health Educator | .5 | .5 | \$22,470 | \$23,594 |

| | | | | |
|---------------------------|--|--|---------------------|---------------------|
| Benefits..... | | | \$346,138 | \$452,082 |
| Operating..... | | | \$3,923,479 | \$4,044,242 |
| Travel..... | | | | |
| Capital Outlay..... | | | | |
| Aid..... | | | \$21,781,102 | \$27,792,542 |
| Capital Improvements..... | | | | |
| TOTAL..... | | | \$27,060,391 | \$33,607,684 |