

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

| ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates) | | | | |
|---|---------------------|----------------|---------------------|----------------|
| | FY 2018-19 | | FY 2019-20 | |
| | EXPENDITURES | REVENUE | EXPENDITURES | REVENUE |
| GENERAL FUNDS | \$4,149,044 | | \$4,809,044 | |
| CASH FUNDS | \$2,079,437 | | \$2,079,437 | |
| FEDERAL FUNDS | \$1,252,654 | | \$1,252,654 | |
| OTHER FUNDS | \$426,866 | | \$426,866 | |
| TOTAL FUNDS | \$7,908,001 | | \$8,568,001 | |

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

LB 726 requires that any individual or group health insurance policy issued or renewed in the state shall provide coverage for outpatient expenses that arise from in vitro fertilization procedures. The bill allows the Department of Insurance to develop rules and regulations to carry out the bill.

State Employee Health Insurance Plan: The Department of Administrative Services indicates the state employee health insurance plan does not currently cover in vitro fertilization or other types of fertility treatments. The vendor for the state plan estimates a 3.5% increase in medical and pharmacy claims if in vitro fertilization procedures were covered. The estimated increase in claims would be about \$6.44 million.

The state pays 79% of premiums for the health insurance plan and employees pay 21%. The state health insurance plan is self-insured, with 79% of the premium being paid by the state. Assuming the increased cost for in vitro fertilization procedures are reflected in plan premiums, the estimated fiscal impact of the bill for the state is \$5,088,000 in FY19 and FY20. The funding sources for the state health insurance plan are: general funds (51%); cash funds (25%); federal funds (20%); and, revolving funds (4%).

University of Nebraska Health Insurance Plan: The University also indicates the health insurance plan for university employees does not currently cover in vitro fertilization procedures. The University estimate of increased costs includes \$1,152,000 of claims for medical and prescription drugs for in vitro fertilization procedures assuming about 180 women of the 6,000 on the university health insurance plan use the procedures. The successful use of the procedures will increase births which will lead to approximately \$589,000 of expenditures in birth costs. The vendor for the plan indicates there may also be increased birth risks associated with the procedures which will increase claims by an estimated \$417,000 annually.

Assuming the increased cost for in vitro fertilization procedures are reflected in plan premiums, the estimated fiscal impact of the bill for the university is \$2,160,000 in FY19 and FY20. The funding sources for the university health insurance plan are: general funds (41%); cash funds (37%); federal funds (11%); and, revolving funds (11%).

Health Insurance Exchange Plans: LB 726 will have a fiscal impact for the state to cover insurance costs for in vitro fertilization procedures for persons buying insurance through the health insurance exchange beginning January 1, 2019. The Department of Insurance (DOI) indicates that under the Affordable Care Act if state law mandates insurers to cover benefits that are not included as an essential benefit in the final U. S. Health and Human Services essential benefits list, then any costs for benefits that are not on the list must be paid by the state.

The essential benefits list does not cover the costs of in vitro fertilization procedures. The DOI projects that in vitro fertilization procedures add approximately \$1.00 per member per month to the cost of health insurance premiums. Based on the number of Nebraskans purchasing policies through the exchange, the addition of in vitro fertilization coverage will increase premiums by about \$1,320,000 per year.

It is assumed the cost to provide insurance benefits to persons pursuant to LB 726 will be funded with general funds rather than cash funds from the Department of Insurance Cash Fund because the expenditure of funds for insurance benefits for individuals would not be a permissible use of this cash fund. The DOI assumes that insurers' will ask for payment by filing a miscellaneous claim with the state. It is assumed the required coverage will apply to plans issued beginning January 1, 2019, which means there will be an estimated general fund fiscal impact of \$660,000 in FY19 and \$1,320,000 in FY20.

Department of Insurance: The department may opt to develop rules and regulations to carry out the bill. The department indicates that any workload increase related to rule development and administration of the bill can be handled with existing staff and resources of the agency.

The following table summarizes the fiscal impact assuming the bill is in effect for the state and university health insurance plans beginning July 1, 2018 and the Nebraska insurance exchange plans beginning January 1, 2019.

| Funds | State Employee Ins. Plan | FY 2018-19 | Nebraska Ins. Exchange Plan | Total Fiscal Impact |
|---------|--------------------------|----------------------------------|-----------------------------|---------------------|
| | | University of Nebraska Ins. Plan | | |
| General | 2,603,444 | 885,600 | 660,000 | 4,149,044 |
| Cash | 1,280,237 | 799,200 | | 2,079,437 |
| Federal | 1,015,054 | 237,600 | | 1,252,654 |
| Other | <u>189,266</u> | <u>237,600</u> | | <u>426,866</u> |
| Total | \$5,088,001 | \$2,160,000 | \$660,000 | \$7,908,001 |

| Funds | State Employee Ins. Plan | FY 2019-20 | Nebraska Ins. Exchange Plan | Total Fiscal Impact |
|---------|--------------------------|----------------------------------|-----------------------------|---------------------|
| | | University of Nebraska Ins. Plan | | |
| General | 2,603,444 | 885,600 | 1,320,000 | 4,809,044 |
| Cash | 1,280,237 | 799,200 | | 2,079,437 |
| Federal | 1,015,054 | 237,600 | | 1,252,654 |
| Other | <u>189,266</u> | <u>237,600</u> | | <u>426,866</u> |
| Total | \$5,088,001 | \$2,160,000 | \$1,320,000 | \$8,568,001 |

Other Political Subdivisions: It is assumed the bill will also have a fiscal impact for other political subdivisions which offer health insurance to their employees. The additional costs are not able to be determined.

| ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE | | | |
|---|-----------------|--|--|
| LB: 726 | AM: | AGENCY/POLT. SUB: Nebraska Department of Insurance | |
| REVIEWED BY: Neil Sullivan | DATE: 1/31/2018 | PHONE: (402) 471-4179 | |
| COMMENTS: No basis to disagree with the Nebraska Department of Insurance's estimated fiscal impact from LB 726. | | | |

| ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE | | | |
|--|-----------------|---|--|
| LB: 726 | AM: | AGENCY/POLT. SUB: Department of Administrative Services | |
| REVIEWED BY: Neil Sullivan | DATE: 1/16/2018 | PHONE: (402) 471-4179 | |
| COMMENTS: No basis to disagree with the Department of Administrative Services estimated fiscal impact from LB 726. | | | |

| ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE | | | |
|---|-----------------|--|--|
| LB: 726 | AM: | AGENCY/POLT. SUB: University of Nebraska | |
| REVIEWED BY: Neil Sullivan | DATE: 1/16/2018 | PHONE: (402) 471-4179 | |
| COMMENTS: No basis to disagree with the University of Nebraska's estimated fiscal impact from LB 726. | | | |

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

2018

LB⁽¹⁾ 726

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Department of Administrative Services (DAS) – State
Personnel – Employee Wellness & Benefits

Prepared by: ⁽³⁾ Jennifer Norris Date Prepared: ⁽⁴⁾ 1/8/2018 Phone: ⁽⁵⁾ 402/471-4333

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

| | FY 2018-19 | | FY 2019-20 | |
|---------------|-------------------------|-------------------------|-------------------------|-------------------------|
| | EXPENDITURES | REVENUE | EXPENDITURES | REVENUE |
| GENERAL FUNDS | <u>2,603,444</u> | <u>2,603,444</u> | <u>2,603,444</u> | <u>2,603,444</u> |
| CASH FUNDS | <u>1,280,237</u> | <u>1,280,237</u> | <u>1,280,237</u> | <u>1,280,237</u> |
| FEDERAL FUNDS | <u>1,015,054</u> | <u>1,015,054</u> | <u>1,015,054</u> | <u>1,015,054</u> |
| OTHER FUNDS | <u>189,266</u> | <u>189,266</u> | <u>189,266</u> | <u>189,266</u> |
| TOTAL FUNDS | <u><u>5,088,000</u></u> | <u><u>5,088,000</u></u> | <u><u>5,088,000</u></u> | <u><u>5,088,000</u></u> |

Explanation of Estimate:

LB 726 as introduced requires insurance coverage for in vitro fertilization procedures as prescribed.

Currently, insurance plans for employees of the State of Nebraska cover most services required to treat or correct underlying causes of infertility. Currently, these plans do not cover in vitro fertilization or other types of infertility treatments.

The State of Nebraska's employee health care benefits vendor, based on their book of business, estimates that the financial impact would be an increase of approximately 3.5% of the total medical and pharmacy claims. For the prior Fiscal Year 2016-2017, the State of Nebraska paid over \$184 million in total medical and pharmacy claims. Based on the annual claims from the prior policy year, this would equate to an estimated increase of approximately \$6.44 million [$\$184 \text{ million in claims} \times 3.5\% \text{ increase} = \$6.44 \text{ million additional costs}$].

The State of Nebraska Employees' Health Insurance Plans are self-insured. Any increase in costs is linked directly to an increase in premiums paid by the State and the employees. Currently the State pays 79% of the premium cost of each plan. Employees are liable for 21% of the premium costs of each plan.

An estimated increase in claims of \$6.44 million would result in \$5.088 million in increased premium costs for the State [$\$6.44 \text{ million} \times 79\% = \5.088 million].

The table below uses a four year average of benefits paid by fund type and reflects the impact by fund type of the estimated premium increases for both fiscal years.

| | FY18-19 | FY19-20 |
|-----------|-----------|-----------|
| General | 2,603,444 | 2,603,444 |
| Cash | 1,280,237 | 1,280,237 |
| Federal | 1,015,054 | 1,015,054 |
| Revolving | 188,266 | 188,266 |
| Total | 5,088,000 | 5,088,000 |

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

| <u>POSITION TITLE</u> | <u>NUMBER OF POSITIONS</u> | | <u>2018-19</u> | <u>2019-20</u> |
|---------------------------|----------------------------|--------------|---------------------|---------------------|
| | <u>18-19</u> | <u>19-20</u> | <u>EXPENDITURES</u> | <u>EXPENDITURES</u> |
| Benefits..... | | | <u>5.088,000</u> | <u>5.088,000</u> |
| Operating..... | | | | |
| Travel..... | | | | |
| Capital outlay..... | | | | |
| Aid..... | | | | |
| Capital improvements..... | | | | |
| TOTAL..... | | | <u>5.088,000</u> | <u>5.088,000</u> |

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2018

LB⁽¹⁾ 726

FISCAL NOTE

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

Prepared by: ⁽³⁾ Robert M. Bell Date Prepared: ⁽⁴⁾ 1/31/2018 Phone: ⁽⁵⁾ (402) 471-4650

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

| | FY 2018-19 | | FY 2019-20 | |
|---------------|--------------|---------|--------------|---------|
| | EXPENDITURES | REVENUE | EXPENDITURES | REVENUE |
| GENERAL FUNDS | \$660,000 | | \$1,320,000 | |
| CASH FUNDS | | | | |
| FEDERAL FUNDS | | | | |
| OTHER FUNDS | | | | |
| TOTAL FUNDS | \$660,000 | | \$1,320,000 | |

Explanation of Estimate:

Legislative Bill 726 requires any individual or group sickness and accident policy or self-funded employee benefit plan to provide coverage for outpatient expenses that arise from in vitro fertilization procedures. Such benefits must be provided to same extent as benefits provided for other pregnancy-related procedures in the policy.

42 U.S.C. § 18031(d)(3)(B), a section of the Affordable Care Act (ACA), provides that beginning January 1, 2014, if a state law mandates insurers cover benefits on a health insurance exchange that are not included in the final United States Health and Human Services "essential benefits" list, the state will pay any additional costs for those benefits for enrollees for any individual or small group plan issued on or after January 1, 2014. The payment by the state would be either to the insurer offering the coverage or the individual purchasing such plan.

Because in vitro fertilization coverage is not included in the essential benefits list, this new mandated benefit will be a cost to the State of Nebraska to defray the costs associated with any insurer offering qualified health plans in the individual and small group markets in Nebraska. The Department of Insurance estimates that in 2017 approximately 110,000 members were covered by qualified health plans in the individual and small group markets.

A wide range of estimated costs exists from numerous sources for the additional costs to insurance plans for in vitro fertilization coverage. A very conservative estimate is that in vitro fertilization costs adds one dollar per member per month to the cost of health insurance premiums. Presuming that the number of Nebraskans remaining in qualified health plans stays static the next couple of years, the addition of in vitro fertilization coverage to these plans at one dollar per member per month will add \$1,320,000 of additional costs annually to these plans.

Federal regulation, specifically 45 CFR § 155.170(b), require insurers to calculate the actual costs of the new mandate and report it to the state. The state would then make payment to the insurer or individual enrollees in the health plan. The Department presumes that the insurer would ask for the payment by filing a miscellaneous claim against the State of Nebraska.

Presuming the new mandate would begin for qualified plans issued for the new plan year beginning January 1, 2019, the estimated costs associated with LB 726 triggering 42 U.S.C. § 18031(d)(3)(B) for the State of Nebraska would be \$660,000 in FY 2018-19 and \$1,320,000 in FY 2019-20.

Any additional regulatory responsibilities of LB 726 on the Department of Insurance, including the possible promulgation of rules and regulations, will be handled by existing staff and resources.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

| <u>POSITION TITLE</u> | <u>NUMBER OF POSITIONS</u> | | <u>2018-19</u> <u>EXPENDITURES</u> | <u>2019-20</u> <u>EXPENDITURES</u> |
|---------------------------|----------------------------|--------------|---------------------------------------|---------------------------------------|
| | <u>18-19</u> | <u>19-20</u> | | |
| Benefits..... | | | | |
| Operating..... | | | | |
| Travel..... | | | | |
| Capital outlay..... | | | | |
| Aid..... | | | | |
| Capital improvements..... | | | | |
| TOTAL..... | | | | |

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

2018

LB⁽¹⁾ 726

FISCAL NOTE

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

Prepared by: ⁽³⁾ Michael Justus Date Prepared: ⁽⁴⁾ January 11, 2018 Phone: ⁽⁵⁾ 402-472-2191

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

| | <u>FY 2018-19</u> | | <u>FY 2019-20</u> | |
|--------------------|---------------------|----------------|---------------------|----------------|
| | <u>EXPENDITURES</u> | <u>REVENUE</u> | <u>EXPENDITURES</u> | <u>REVENUE</u> |
| GENERAL FUNDS | \$885,600 | | \$885,600 | |
| CASH FUNDS | 799,200 | | 799,200 | |
| FEDERAL FUNDS | 237,600 | | 237,600 | |
| OTHER FUNDS | 237,600 | | 237,600 | |
| TOTAL FUNDS | \$2,160,000 | | \$2,160,000 | |

Explanation of Estimate:

A review of Blue Cross Blue Shield Nebraska and Blue Cross Association experience shows *allowed* in vitro fertilization costs between approximately \$6,400 and \$8,700 for medical and prescription drugs. The variance in costs depends on the degree to which the in vitro fertilization cycle is completed (i.e. oocyte retrieval through fertilization and implantation, and any associated services) and the specific health needs of the mother. Costs may also vary depending on the number of fertilized oocytes chosen to implant and benefit design components – such as cost-sharing, lifetime benefit maximums – that affect member decisions about the procedure.

The CDC reports that approximately 12% of women aged 15-44 have impaired fertility. As of December 2017, the University of Nebraska has more than 6,000 female members in this age range, or more than 700 members to which this procedure could apply on average. While we have found no credible data source on which to base an estimate of members who may elect the in vitro fertilization procedure, if 25% of eligible members do elect the procedure, the allowed cost of the procedure itself would be \$1.15 million annually, at a minimum.

In vitro fertilization leads to a successful pregnancy in about 40% of attempts. Using the University of Nebraska’s average across the past three years, this would lead to approximately \$589,000 annually in allowed birth costs as a result of the in vitro fertilization procedure utilization.

Additionally, fertility treatments are associated with increased birth risks such as multiple and premature births. In BCBS-NE claims experience, this could lead to an increase of as much as 10% in allowed costs per birth on average. Accounting for the University of Nebraska’s average annual allowed costs for births over the past three years, this would translate to an additional \$417,000 in allowed costs for births annually.

Therefore, using the above information and assumptions, the in vitro fertilization coverage as outlined in Legislative Bill 726 could cause an additional \$2.16 million annually in allowed claims for the University of Nebraska medical benefits plan.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

| <u>POSITION TITLE</u> | <u>NUMBER OF POSITIONS</u> | | <u>2018-19</u> | <u>2019-20</u> |
|-----------------------|----------------------------|--------------|---------------------|---------------------|
| | <u>18-19</u> | <u>19-20</u> | <u>EXPENDITURES</u> | <u>EXPENDITURES</u> |
| Benefits..... | | | \$2,160,000 | \$2,160,000 |
| Operating..... | | | | |
| Travel..... | | | | |
| Capital outlay..... | | | | |

Aid.....
Capital improvements.....
TOTAL.....

| | |
|--------------------|--------------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| <u>\$2,160,000</u> | <u>\$2,160,000</u> |