

Revised to include University response.

**FISCAL NOTE**  
**LEGISLATIVE FISCAL ANALYST ESTIMATE**

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)</b>				
	<b>FY 2020-21</b>		<b>FY 2021-22</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
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.** LB1196 establishes the Pharmacy Benefit Manager Regulation Act. The bill places restrictions and requirements on pharmacy benefit managers.

The bill also requires that the Auditor of Public Accounts conduct an audit by January 1, 2021 of the pharmacy benefit of the medical assistance program from the time period of January 1, 2017 through December 31, 2019. The bill states the intent to pay for the audit would be to use excess funds from the Medicaid managed care organizations that were returned to the state.

The bill does not account for the existing statutory and contractual requirements regarding the utilization of the excess funds from the Medicaid managed care organizations. As such, there are no guarantees of any funds being made available to the Department of Health and Human Services for the auditing purpose. If such funds were not available, the estimate from the Auditor of Public Accounts, who would be conducting the audit on a reimbursement basis from DHHS, anticipates a cost of \$52,450 and 1250 hours in FY20-21; however, this amount may differ depending on what the audit testing finds.

Additionally, DHHS anticipates that the work needed to support the audit to be completed by the Auditor of Public Accounts and would result in a significant amount of additional work for the Division of Medicaid and Long Term Care. DHHS estimates that two additional full time staff (one Budget Analyst and one Statistical Analyst) would be required to support the audit needs. The estimated fiscal impact for personnel is \$170,495 (\$77,220 in GF and \$93,295 in FF) in FY 20-21 and 21-22.

The total fiscal impact, including both the audit costs and MLTC personnel for DHHS, in FY20-21, it is estimated to have a fiscal impact for DHHS of \$222,945 (\$111,472 in GF and \$111,473 of FF). In FY21-22, the auditing cost would be eliminated resulting in a total fiscal impact for DHHS of \$170,495 (\$85,247 in GF and \$85,248 of FF).

An additional fiscal impact is that the State of Nebraska's prescription drug vendor, UHC/OptumRx, contracts with specialty pharmacies that focus on management of the high-cost, high-complexity and/or high touch models which require additional medical management services. The Department of Administrative Services anticipates the maximum financial impact for paying higher prices for specialty drugs, less the medication management and support, is estimated to be an increase of 3-5%. The State of Nebraska's cost paid to the specialty pharmacies for the prior plan year was \$20.2 million, therefore the maximum fiscal impact is estimated to be between \$600,000 (3%) to \$1,000,000 (5%).

Also, section 10 of this bill states that health carriers cannot require an enrollee to pay a deductible for prescription drugs and stipulates that the cost-sharing be limited to the amount of copayment or coinsurance as specified by the plan. The State's two current prescription plans would not be allowable as they currently exist as both charge deductibles. The fiscal impact for the replacement plans is unknown until the plans are approved and the cost analysis is completed.

The University of Nebraska estimates that the total costs of the University health plan will increase by \$1,850,000 annually. The University anticipates that it would lose a 6% discount it currently receives by partnering exclusively with CVS Caremark on specialty pharmaceuticals.

There is no basis to disagree with these estimates.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB:	1196	AM:	AGENCY/POLT. SUB: Auditor of Public Accounts
REVIEWED BY:	Ann Linneman	DATE:	2-6-20 PHONE: (402) 471-4180
COMMENTS: No basis to disagree with the Auditor of Public Accounts' estimate of fiscal impact.			

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB:	1196	AM:	AGENCY/POLT. SUB: Nebraska Department of Health and Human Services
REVIEWED BY:	Ann Linneman	DATE:	2-14-20 PHONE: (402) 471-4180
COMMENTS: No basis to disagree with the Nebraska Department of Health and Human Services' estimate of fiscal impact.			

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB:	1196	AM:	AGENCY/POLT. SUB: Nebraska Department of Insurance
REVIEWED BY:	Ann Linneman	DATE:	2-11-20 PHONE: (402) 471-4180
COMMENTS: No basis to disagree with the Nebraska Department of Insurance's estimate of no fiscal impact.			

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB:	1196	AM:	AGENCY/POLT. SUB: Nebraska Department of Administrative Services
REVIEWED BY:	Ann Linneman	DATE:	1-31-20 PHONE: (402) 471-4180
COMMENTS: No basis to disagree with the Nebraska Department of Administrative Services' estimate of fiscal impact.			

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

**2020**

**LB<sup>(1)</sup> 1196**

**FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> Auditor of Public Accounts

Prepared by: <sup>(3)</sup> Mary Avery Date Prepared: <sup>(4)</sup> 02/5/2020 Phone: <sup>(5)</sup> 402-471-3686

**ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION**

	<u>FY 2020-21</u>		<u>FY 2021-22</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	\$52,450	\$52,450	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
<b>TOTAL FUNDS</b>	<u>\$52,450</u>	<u>\$52,450</u>	<u>_____</u>	<u>_____</u>

**Explanation of Estimate:**

LB 1196, as currently written, requires the Auditor of Public Accounts, prior to January 1, 2021; conduct an audit of the pharmacy benefit of the medical assistance program under the Medical Assistance Act for the period January 1, 2017, through December 31, 2019. The audit shall compare the costs of the pharmacy benefit under the medical assistance program in fee-for-service model with a managed care model. All fees, spread pricing, rebates, and other costs associated with the managed care pharmacy benefit shall be considered. It is the intent of the Legislature to pay for the audit using the excess funds from the managed care organizations that were returned to the State of Nebraska.

Any work necessary will be done at actual costs of Agency 010, Auditor of Public. Since the audit cost are to be paid from the rebates from managed care organizations, this will be done on a reimbursement basis through the APA cash fund. At this time, we do not anticipate that cost to exceed \$52,450 and 1250 hours; however, it will depend on what the audit testing finds and the time needed to complete such a two-year audit.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2020-21</u>	<u>2021-22</u>
	<u>20-21</u>	<u>21-22</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Audit Manager	.25	_____	\$22,500	_____
Auditor	.35	_____	\$17,500	_____
Benefits.....	_____	_____	\$12,450	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
<b>TOTAL.....</b>	_____	_____	<u>\$52,450</u>	_____

**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 2-14-2020

Phone: (5) 471-6719

	<u>FY 2020-2021</u>		<u>FY 2021-2022</u>	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
<b>GENERAL FUNDS</b>	\$111,472		\$85,247	
<b>CASH FUNDS</b>				
<b>FEDERAL FUNDS</b>	\$111,473		\$85,248	
<b>OTHER FUNDS</b>				
<b>TOTAL FUNDS</b>	\$222,945	\$0	\$170,495	\$0

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

**Explanation of Estimate:**

This bill places restrictions and requirements on Pharmacy Benefit Managers and requires an annual audit of pharmacy benefits.

The audit is to be paid with funds forfeited by the contracted Medicaid Managed Care Entities and returned to the Department of Health and Human Services (DHHS). But there are no guarantees of any funds being available for these purposes. LB1196 language does not address the existing statutory and contractual requirements regarding the funds forfeited by the Managed Care Entities.

The audit will be completed by the Auditor of Public Accounts. DHHS estimates that the cost of the audit performed by the Auditor of Public Accounts and invoiced to DHHS will be \$52,450. In order to support the audits, there will be a significant amount of work for the DHHS Division of Medicaid and Long Term Care. Analytics, Financial, and Pharmacy team members will need to provide claims data and all policy, program, and regulatory changes applicable to the audit periods. It is estimated that DHHS will require two additional full time employees to support the audit needs. These employees would be for analytical positions of one Budget Analyst and one Statistical Analyst II. The analysts would begin July 1, 2020.

**MAJOR OBJECTS OF EXPENDITURE**

**PERSONAL SERVICES:**

POSITION TITLE	NUMBER OF POSITIONS		2020-2021	2021-2022
	20-21	21-22	EXPENDITURES	EXPENDITURES
Budget Analyst	1	1	\$52,069	\$52,069
Statistical Analyst II	1	1	\$43,252	\$43,252

Benefits.....	\$37,051	\$37,051
Operating.....	\$38,123	\$38,123
Travel.....		
Capital Outlay.....		
Aid.....	\$52,450	
Capital Improvements.....		
<b>TOTAL.....</b>	<b>\$222,945</b>	<b>\$170,495</b>

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**2020**

**LB<sup>(1)</sup> 1196**

**FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> Department of Insurance

Prepared by: <sup>(3)</sup> Thomas Green II Date Prepared: <sup>(4)</sup> 2/6/2020 Phone: <sup>(5)</sup> 402-471-4650

**ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION**

	<u>FY 2020-21</u>		<u>FY 2021-22</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
<b>TOTAL FUNDS</b>	<b>=====</b>	<b>=====</b>	<b>=====</b>	<b>=====</b>

**Explanation of Estimate:**

LB 1196 establishes the Pharmacy Benefit Manager Regulation Act and requires an audit of the pharmacy benefit of the medical assistance program by the Auditor of Public Accounts.

The Department does not identify any additional duties for the Department under LB 1196. As a result, the Department does not anticipate any fiscal impact from LB 1196.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2020-21</u>	<u>2021-22</u>
	<u>20-21</u>	<u>21-22</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
<b>TOTAL.....</b>	<b>_____</b>	<b>_____</b>	<b>_____</b>	<b>_____</b>

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

2020

LB<sup>(1)</sup> 1196

FISCAL NOTE

State Agency OR Political Subdivision Name: <sup>(2)</sup> Department of Administrative Services (DAS)  
- Employee Wellness & Benefits

Prepared by: <sup>(3)</sup> Jennifer Norris Date Prepared: <sup>(4)</sup> 1/27/2020 Phone: <sup>(5)</sup> 402/471-4443

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2020-21		FY 2021-22	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
REVOLVING FUNDS	_____	_____	_____	_____
TOTAL FUNDS	<u>See below</u>	<u>_____</u>	<u>See below</u>	<u>_____</u>

Explanation of Estimate:

LB 1196 provides that a pharmacy benefit manager will not be allowed to exclude pharmacies from participation in its specialty pharmacy network. A licensed pharmacy or pharmacist would be able to dispense prescription drugs that are allowed pursuant to the license.

Currently, the State of Nebraska’s vendor, UHC/OptumRx, contracts with Specialty Pharmacies that focus on member management and support for these high-cost, high-complexity and/or high touch prescriptions. Employees on specialty drugs usually require additional management services including drug administration, appropriate dosage and use support, and specialized medical services.

UHC/OptumRx has no access to the data on the cost of specialty drugs from Specialty Pharmacies in the Nebraska that are currently excluded in our plan network. The maximum financial impact for paying higher prices, less management and support on specialty drugs, is estimated to be anywhere from 3% to 5% based on UHC/OptumRx book of business. The State of Nebraska specialty pharmacy spent for the prior plan year was \$20.2 million, therefore the maximum fiscal impact is estimated to be between \$600,000 (3%) to \$1,000,000 (5%). The State’s health plans utilize Trust Funds.

It is our assumption that Section 10 does apply to the State, thus impacting two plans the State currently offers; those being:

1. Direct Primary Care (DPC) Select Plan (Non HSA qualified plan)
2. Direct Primary Care (DPC) Standard Plan (Non HSA qualified plan)

The State would no longer be allowed to offer Direct Primary Care as they currently exist, because these plans require an enrollee to pay a deductible for prescription drugs. The fiscal impact cannot be determined until the replacement plan designs are approved and the cost analysis completed. At this time the fiscal cost to replace these plans are unknown.

The State’s current medical plans are self-insured and increased costs will result in increased premium costs, The State pays 79% of the premium and the employee 21%.

The table below summarizes the estimated impact by fund type of any premium increase. The allocation by fund type is based on a four (4) year [2016-2019] average of benefits paid.

<b>Fund Type</b>	<b>Percentage by Fund Type</b>
General Fund	52%
Cash Fund	26%
Federal Fund	18%
Revolving Fund	4%
<b>Total</b>	<b>100%</b>

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**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

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**Personal Services:**

<b><u>POSITION TITLE</u></b>	<b><u>NUMBER OF POSITIONS</u></b>		<b><u>2020-21</u></b>	<b><u>2021-22</u></b>
	<b><u>20-21</u></b>	<b><u>21-22</u></b>	<b><u>EXPENDITURES</u></b>	<b><u>EXPENDITURES</u></b>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
<b>Benefits.....</b>			_____	_____
<b>Operating.....</b>			_____	_____
<b>Travel.....</b>			_____	_____
<b>Capital outlay.....</b>			_____	_____
<b>Aid.....</b>			_____	_____
<b>Capital improvements.....</b>			_____	_____
<b>TOTAL.....</b>			_____	_____

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

2020

LB<sup>(1)</sup> 1196

FISCAL NOTE

State Agency OR Political Subdivision Name: <sup>(2)</sup> University of Nebraska

Prepared by: <sup>(3)</sup> Michael Justus Date Prepared: <sup>(4)</sup> January 29, 2020 Phone: <sup>(5)</sup> 402-472-7109

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2020-21</u>		<u>FY 2021-22</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	<u>1,850,000</u>	<u></u>	<u>1,850,000</u>	<u></u>
CASH FUNDS	<u></u>	<u></u>	<u></u>	<u></u>
FEDERAL FUNDS	<u></u>	<u></u>	<u></u>	<u></u>
OTHER FUNDS	<u></u>	<u></u>	<u></u>	<u></u>
TOTAL FUNDS	<u>1,850,000</u>	<u></u>	<u>1,850,000</u>	<u></u>

Explanation of Estimate:

The bill creates the Pharmacy Benefit Manager (PBM) Regulatory Act and limits the ability of PBMs to perform, or require, how certain transactions occur.

The University and our benefit consultant estimate that if the bill is passed the total costs of the University health plan will increase by about \$1,850,000. The University would essentially lose a 6% discount it currently receives by partnering exclusively with CVS Caremark on specialty pharmaceuticals.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2020-21 EXPENDITURES</u>	<u>2021-22 EXPENDITURES</u>
	<u>20-21</u>	<u>21-22</u>		
<u>Benefits.....</u>	<u></u>	<u></u>	<u></u>	<u></u>
<u>Operating.....</u>	<u></u>	<u></u>	<u>1,850,000</u>	<u>1,850,000</u>
<u>Travel.....</u>	<u></u>	<u></u>	<u></u>	<u></u>
<u>Capital outlay.....</u>	<u></u>	<u></u>	<u></u>	<u></u>
<u>Aid.....</u>	<u></u>	<u></u>	<u></u>	<u></u>
<u>Capital improvements.....</u>	<u></u>	<u></u>	<u></u>	<u></u>
<u>TOTAL.....</u>	<u></u>	<u></u>	<u>1,850,000</u>	<u>1,850,000</u>