

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

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)</b>				
	<b>FY 2019-20</b>		<b>FY 2020-21</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS	\$767,895		\$927,873	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>	<b>\$767,895</b>		<b>\$927,873</b>	

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

LB 240 changes provisions related to determining the competency of an individual to stand trial. Currently, after a hearing when a judge determines that a defendant is mentally incompetent to stand trial, the judge can order a person to be treated at a state hospital for the mentally ill or appropriate state-owned or state-operated facility until the disability is removed. The bill expands the allowable settings for such treatment to include private facilities, facilities operated by a political subdivision, or outpatient treatment at such facilities. The Department of Health and Human Services (HHS) is to file a report with the state seeking approval to treat the individual in one of these types of settings. The state is responsible to pay the cost of maintenance and care at any of the settings chosen by HHS to remove the disability.

Competency Restoration: The fiscal note prepared by HHS appears reasonable. The department will require additional funds to conduct the restoration of competency to stand trial for individuals in the settings allowed by the bill that are outside of the Lincoln Regional Center. HHS estimates it will hire 4.5 staff (Psychologist, Master Social Worker, Mental Health Practitioner, Staff Assistant, .5 Nurse Practitioner) to provide treatment services for individuals in the eastern part of the state in other facilities or in outpatient settings. Increased general fund expenditures will be \$398,403 for ten months in FY2019-20 and \$531,202 in FY2020-21.

The department will contract to provide treatment for individuals in the middle and western parts of the state. HHS estimates there may be six individuals each year from these parts of the state who would need competency restoration. The estimated cost to contract for treatment is \$84,543 of general funds in FY20 and \$111,712 in FY21.

Care and Maintenance of Individuals: It appears that HHS will also be responsible for the cost of the care and maintenance of individuals who may be in a facility or residential setting while being treated to restore competency. Assuming six persons will be treated in private residential facilities each year pursuant to the bill, the estimated cost of care will be \$284,949 (\$47,491 per case x 6 persons). It is possible these costs may be higher if an individual is placed in a community-based hospital for treatment.

HHS may also have increased expenditures to pay for psychotropic medications for persons while competency is being restored in other settings or outpatient programs if drugs cannot be dispensed from the regional center pharmacies. The estimated cost for drugs is \$10,800 in FY20 and in FY21, assuming an average of \$400 per month for medications for six individuals who would receive treatment for 4.5 months. This amount is not included in the fiscal impact of the bill.

Future Potential Savings: There is currently a waiting list of 39 persons for court-ordered placements at the regional center. The provision of competency restoration for some persons in an outpatient setting, rather than the regional center, may reduce general fund expenditures at some point in the future when there are no longer any waiting lists at the regional center.

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

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

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Date Prepared 1/18/19

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	<u>FY 2019-2020</u>		<u>FY 2020-2021</u>	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
<b>GENERAL FUNDS</b>	\$767,895	\$0	\$927,873	\$0
<b>CASH FUNDS</b>				
<b>FEDERAL FUNDS</b>				
<b>OTHER FUNDS</b>				
<b>TOTAL FUNDS</b>	\$767,895	\$0	\$927,873	\$0

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

**Explanation of Estimate:**

All staffing and contracting estimates in this Fiscal Note assume that work will begin October 1st in year one of the biennium.

Additional staff would be needed in Program 365 to conduct the restoration on individuals outside of the Lincoln Regional Center (LRC). It is estimated at a minimum that 4.5 FTE for a full year would be required to implement the restoration program, which including overhead expenses would cost about \$398,403 in year one and \$531,202 in year two.

Contracts with providers in greater Nebraska will be needed to assist with restoration. The contractors will be each (a) LMHP, (b) Forensic Psychologist, (c) Certified Master Social Worker, and (d) Prescriber. It is common for contracted psychologist and other licensed individuals to charge \$100 - \$175 per hour or more for their fees alone. The number contractors required would be dependent on the number of individuals placed by the courts. This fiscal note assumes to perform competency restoration on 6 people in middle or western Nebraska. The total annual cost for these contractors is estimated to be \$84,543 in year one and \$111,722 in year two, which includes \$3,000 for travel costs in each year.

LB 240 is not clear about the care and maintenance of the individuals who could qualify for residential treatment. If the Department of Health and Human Services (DHHS) is responsible for such costs, additional aid funding would be required. On average, the cost for keeping individuals at private residential treatment facilities is approximately \$47,491 per case (current average time of 116 days per patient for full restoration). For six individuals, this would result in an annual cost of \$284,949.

**Following are Other Potential Considerations Not Included in the Fiscal Note:**

There is a potential for savings by placing more individuals on outpatient competency restoration. However, this is not possible in the near future because as of 1/15/19, there were 39 individuals on the court ordered waitlist. About two-thirds of those on the waitlist would not likely qualify for outpatient competency restoration due to various reasons. Over time, as more individuals move from LRC to private residential treatment facilities, it would not only save on resources, but would also help minimize the impact of court fines.

In the event that there are no qualified contractors, a program to train in forensics and restoration models would need to be implemented. Initial curriculum development (first year only) is estimated at \$30,000 with training events occurring throughout both years at an estimated \$10,000 per year. Both curriculum development and training events would be facilitated by the University of Nebraska-Lincoln. Additionally, compensation for training contractors is estimated at \$70,000 in both years, bringing the total training program estimate to \$110,000 in year one and \$80,000 in year two of the biennium.

There is some uncertainty as to whether or not DHHS can dispense drugs from the Regional Centers' pharmacies for treatment at private residential facilities. If this is not possible, DHHS will have to incur the cost of purchasing drugs through commercial pharmacies. It is common for individuals to be on multiple psychotropic medications while being restored. The individual cost per person depends on the drug and required dosage. Psychotropic medication costs for several individuals in the existing inpatient competency restoration program are between \$140 and \$750 per person per month. It typically takes 4.5 months to complete the restoration process.

Finally, it is emphasized that the above restoration cost estimate at private residential treatment facilities does not include the cost of care should a person be placed in a community based hospital, which would increase the cost for maintenance and care substantially.

<b>MAJOR OBJECTS OF EXPENDITURE</b>				
<b>PERSONAL SERVICES:</b>				
POSITION TITLE	NUMBER OF POSITIONS		2019-2020	2020-2021
	19-20	20-21	EXPENDITURES	EXPENDITURES
D75350 Nurse Practitioner	0.375	0.5	\$41,360	\$55,146
N74823 Psychologist/Licensed	0.75	1	\$78,624	\$104,832
C72342 Certified Master Social Worker	0.75	1	\$41,278	\$55,037
H72432 Mental Health Practitioner	0.75	1	\$33,579	\$44,772
S01842 Staff Assistant II	0.75	1	\$31,286	\$41,714
Benefits.....			\$74,328	\$99,104
Operating.....			\$97,948	\$130,597
Travel.....			\$3,000	\$3,000
Capital Outlay.....				
Aid.....			\$366,492	393,671
Capital Improvements.....				
<b>TOTAL.....</b>			<b>\$767,895</b>	<b>\$927,873</b>