

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

Updated for amendments adopted through April 10, 2017.

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2017-18		FY 2018-19	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	See Below			
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS				

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

This bill, as amended, would prohibit cities and counties from canceling health insurance coverage for injured first responders. First responders are defined as sheriffs, deputy sheriffs, police officers, or paid firefighters, or out of hospital medical care providers like EMTs and paramedics.

AM842, adopted on April 10, 2017, amended LB244 into this bill. AM842 would change provisions relating to mental injury and mental illness for workers' compensation. It expands the definition of personal injury to include mental-only injuries unaccompanied by physical injury for frontline state employees. AM842 defines a frontline state employee as an employee of the Department of Correctional Services or the Department of Health and Human Services whose duties involve interaction with high-risk individuals, which is also defined by AM842.

DAS Risk Management states that this bill, as amended, could increase claims for mental only injuries for state employees that fall under the bill, which are employees at the Department of Correctional Services and the Department of Health and Human Services. DAS Risk Management notes that this could require another adjuster to handle these additional claims at an estimated cost of \$58,650 per year, and an additional Nurse Case Manager at \$66,300 per year. The agency also notes that this bill could result in an increase in the workers' compensation assessment in the next biennium. This could require a Revolving Fund appropriation increase for DAS Risk Management. See the agency response attached for additional details not included in this fiscal note.

The Legislative Fiscal Office (LFO) fiscal analyst notes that workers' compensation rates are based on the actual claims and loss history. Therefore, the cost estimates of DAS Risk Management on LB244 are more illustrative of potential costs because such costs must occur before they can be worked into the rates charged to the agencies impacted by this bill, which are NDCS and HHS. If this bill has the impact estimated by DAS Risk Management on LB244, there will be time to work any increased costs into the workers' compensation rates paid by NDCS and HHS in subsequent biennium budget requests. The Workers' Compensation Claims Fund (Fund: 58920) has a balance of over \$26 million giving DAS Risk Management a cushion to cover any increased costs.

The Department of Health and Human Services (HHS) states that workers' compensation rates are based on the actual claims and loss history of HHS. Rates for subsequent budget requests will likely be higher but any increases due to this bill will be built into the new rates published at the time of the next biennial budget request.

The Workers' Compensation Court states that this bill could result in a workload increase, but at this time, they do not expect that this workload will result in additional staffing. The Workers' Compensation Court also states that more vocational rehabilitation payments could be made for workers under this bill and this would impact the Workers' Compensation Trust Fund.

The Workers' Compensation Court also provides information on payments to "mental mental" claims for first responders under a bill enacted in 2010.

Because AM842 does not apply to political subdivisions, the responses from the following political subdivisions were the same ones used in fiscal note revision 01, dated March 29, 2017.

The City of Imperial estimates no fiscal impact from the amended bill.

The City of Lincoln and Lancaster County both state it is impossible to calculate a fiscal impact without some knowledge of the injuries that would prevent an employee from performing essential functions of their job. The City and County are also not aware of a situation where insurance coverage has been cancelled as provided under the amended bill.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES		
LB: 444	AM: 842	AGENCY/POLT. SUB: Department of Health and Human Services (25)
REVIEWED BY: Joe Wilcox	DATE: 4/18/2017	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the Nebraska Department of Health and Human Services estimate of potential future biennium impact to the Agency as a result of AM 842 to LB 444.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES		
LB: 444	AM: 842	AGENCY/POLT. SUB: Workers Compensation Court (37)
REVIEWED BY: Joe Wilcox	DATE: 4/19/2017	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the Nebraska Workers Compensation Court estimate of potential but indeterminate fiscal impact to the Agency as a result of AM 842 to LB 444.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES		
LB: 444	AM: 842	AGENCY/POLT. SUB: Department of Administrative Services – Risk Management Division (65)
REVIEWED BY: Joe Wilcox	DATE: 4/12/2017	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the Nebraska Department of Administrative Services – Risk Management Division estimate of potential but undetermined fiscal impact to the Agency and other State agencies as a result of AM 842 to LB444.		

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2017

LB⁽¹⁾ 444 AM842

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State Agency OR Political Subdivision Name: ⁽²⁾ Dept. of Administrative Services-Risk Management Division

Prepared by: ⁽³⁾ Shereece Dendy Date Prepared: ⁽⁴⁾ April 11, 2017 Phone: ⁽⁵⁾ 402-471-4436

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2017-18</u>		<u>FY 2018-19</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
REVOLVING FUNDS	<u>See Below</u>	<u>See Below</u>	<u>See Below</u>	<u>See Below</u>
TOTAL FUNDS	=====	=====	=====	=====

Explanation of Estimate:

AM842 to LB444 provides that mental injuries and mental illness may be considered a personal injury for the purposes of workers' compensation if the employee is a frontline state employee. The bill further defines this frontline state employee as an employee of the Department of Correctional Services ("DCS") or the Department of Health and Human Services ("DHHS") whose duties involve regular and direct interaction with high-risk individuals. High-risk individuals are also defined within the bill explaining that these individuals are those in state custody for whom violent or physically intimidating behavior is common.

Currently, under the law, mental injuries/mental illnesses are only considered compensable under workers' compensation if the employee is a first responder and/or the mental illness is coupled with a physical injury. This legislation extends compensability of mental only claims to those employees at DCS and DHHS working with high-risk individuals as defined by the bill.

Increasing the number of employees who have the ability to file claims for mental injuries/illness unaccompanied by physical injury would have the potential of having an increase in the number of claims filed as well as a potential increase in costs for managed care services that are charged to the claim file individually, depending on the services provide. The State cannot predict future mental injury only claims.

Based upon prior claims history for DCS and DHHS, Risk would estimate a potential 500 additional claims per year. This increase could require another adjuster (\$58,650) to handle these claims. The current contract price is based on an average of 1400 claims per year, with approximately 360 being indemnity and 1,104 being medical only. It is assumed that mental only claims would fall under indemnity and essentially more than double the amount of projected claims each year.

Because of the difficulty in proving these types of claims, more investigation and/or medical appointments are associated with these types of claim. As each mental claim is different and each employee reacts to experiences differently, it makes it difficult to estimate medical expenses. An increase in mental only claims may also cause need for the State to obtain an additional Nurse Case Manager (\$66,300) to assist with claims to ensure proper treatment is being afforded.

Frequently employees with mental claims cannot return to work with the same high-risk individuals and therefore, such employees may be required to go through vocational rehabilitation for assessment to determine what job duties can be performed. Each vocational rehabilitation visit typically ranges from \$530 to \$660 per assignment.

As a result of additional claims being filed, Risk Management would incur additional administration costs.

Risk Management may also need to cover the expenses of additional Attorney General support for litigation of the

validity of these claims and the litigation expenses paid on such claims.

To ensure that the State's Workers Compensation Program has the necessary resources to meet current requirements and the requirements as outlined in AM842 to LB444, the program may require an increase in revolving fund appropriation and an increase in the Workers' Compensation Assessment in the new biennium.

The FY17-18 and FY18-19 Workers' Compensation Assessment has already been published. An increased assessment may require additional appropriations for all state agencies, boards and commissions, including the University and State Colleges.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2017-18</u>	<u>2018-19</u>
	<u>17-18</u>	<u>18-19</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits			_____	_____
Operating			_____	_____
Travel			_____	_____
Capital outlay			_____	_____
Aid			_____	_____
Capital improvements			_____	_____
TOTAL			_____	_____

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

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

Prepared by: (3) Karen Gatherer

Date Prepared: 4-11-17

Phone: (5) 471-6719

	<u>FY 2017-2018</u>		<u>FY 2018-2019</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	\$0		\$0	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$0		\$0	

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

Explanation of Estimate:

AM842 incorporates the language of LB 244 into LB 444.

Worker's Compensation rates are set based on the actual claims and loss history for the Department. The rates for FY 2017-2018 and FY 2018-2019 are already set based on that history. If the actual claims and loss history require a change in the rates paid by the agency, the rates will be adjusted later for the 2017-2019 biennium by Risk Management. The rates for subsequent biennial requests will likely be higher, but the changes will be built into the new rates published at the time of the next request.

MAJOR OBJECTS OF EXPENDITURE

PERSONAL SERVICES:	NUMBER OF POSITIONS		2017-2018	2018-2019
	17-18	18-19	EXPENDITURES	EXPENDITURES
Benefits.....				
Operating.....				
Travel.....				
Capital Outlay.....				
Aid.....				
Capital Improvements.....				
TOTAL.....			\$0	\$0

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2017

LB⁽¹⁾ 444, AM 842

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Workers' Compensation Court

Prepared by: ⁽³⁾ Tamra L. Walz Date Prepared: ⁽⁴⁾ April 18, 2017 Phone: ⁽⁵⁾ 402.471.3602

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2017-18</u>		<u>FY 2018-19</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	=====	=====	=====	=====

Explanation of Estimate: The Workers' Compensation Court states that there would likely be increased expenditures from the Workers' Compensation Trust Fund due to this bill. Vocational rehabilitation benefit payments are made from this fund if, due to a work-related injury, a worker is unable to return to suitable employment for which he or she has previous training or experience. This bill would allow compensation for a new category of employees for these types of injuries (purely mental injuries without a causal connection to a physical injury), and a certain percentage of those new cases would qualify for vocational rehabilitation benefits. The court has no basis for determining how many employees in this new category would qualify for these benefits. The court also states that this bill could result in an increase in the workload for judges and staff in processing cases relating to employees in this new category for this type of injury, although this is impossible to quantify. At this time, the court does not anticipate that the additional workload would require an increase in staffing or other substantial court expenditures.

As further information in terms of historical data, since the passage of the initial bill allowing "mental mental" claims for first responders, there have been 21 claims filed with the court for first responders' "mental mental" injuries. The effective date of the initial bill, LB 780, was July 15, 2010. Of those claims, there were 18 individuals; one claimant filed four (4) separate First Reports for separate incidents.

Of those claims, the following payments were reported to the court as made to the claimants in four (4) of the cases:

- \$100.00 – medical (injury in 2011)
- \$83.05 – medical (injury in 2014)
- \$158.00 – medical (injury in 2016)
- \$188.48 – medical (injury in 2016)

In addition to the claims listed above, court records show one claim for "mental mental" benefits that resulted in a lawsuit filed in the Workers' Compensation Court on July 31, 2012. However, that case did not go to trial, and settled in 2013 for \$84,600. Of that amount, the court cannot quantify what portion was for a "mental mental" injury. The only details in the court's records are found in the employee's petition (complaint) that initiated the lawsuit. It states the employee was employed as a police officer and was a first responder to a deadly force incident resulting in mental injuries pursuant to Neb. Rev. Stat. § 48-101.01. Some cases are resolved this way with no detailed report to the court of the distribution of the proceeds of a settlement amount.

Even though the current law does not include corrections workers in the group of those entitled to receive compensation for "mental mental" injuries, the court did have a small number of First Report filings which appear to claim these types of injuries from this group of employees: One (1) in 2014; three (3) in 2015; and, one (1) in 2016. Court records do not show that any payments were made on these claims.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2017-18 EXPENDITURES</u>	<u>2018-19 EXPENDITURES</u>
	<u>17-18</u>	<u>18-19</u>		
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....			_____	_____
Operating.....			_____	_____
Travel.....			_____	_____
Capital outlay.....			_____	_____
Aid.....			_____	_____
Capital improvements.....			_____	_____
TOTAL.....			_____	_____