

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

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES</b> (See narrative for political subdivision estimates)				
	<b>FY 2017-18</b>		<b>FY 2018-19</b>	
	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 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. The bill 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 in the bill.

The Department of Correctional Services (NDCS) estimates no fiscal impact from this bill.

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.

DAS Risk Management states that this bill 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.

The Attorney General states that this bill will require an additional attorney estimated to cost \$107,666. The Attorney General shows this expense as coming from General Funds but the fiscal analyst understands that this cost would come from the Workers Compensation Claims Revolving Fund (Fund 58920).

Workers' compensation rates are based on the actual claims and loss history. Therefore, the cost estimates of DAS Risk Management and the Attorney General 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 and the Attorney General, 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 imposed by this bill.

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.

See all of the attached agency responses for additional details not included in this fiscal note.

This bill does not apply to political subdivisions. See Lancaster County's response.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES		
<b>LB: 244</b>	<b>AM:</b>	AGENCY/POLT. SUB: <b>Nebraska Department of Health and Human Services (25)</b>
REVIEWED BY: Joe Wilcox	DATE: 2/08/2017	PHONE: <a href="tel:4024714178">(402) 471-4178</a>
<p>COMMENTS: The Nebraska Department of Health and Human Services fiscal note on LB 244 does not attempt to estimate potential fiscal impact to the Agency from LB 244, but indicates Worker's Compensation rates from the Department of Administrative Services Risk Management Division 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. The Agency concludes that if the bill results in additional claims and loss, this will impact future biennium budgets but not the 2017 – 2019 biennium. The DAS Risk Management fiscal note on this bill, however, indicates an indeterminate fiscal impact, but that an increased assessment may require additional appropriations for all state agencies in FY 2017-18 and/or FY 2018-19.</p>		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES		
<b>LB: 244</b>	<b>AM:</b>	AGENCY/POLT. SUB: <b>Nebraska Department of Correctional Services (46)</b>
REVIEWED BY: Joe Wilcox	DATE: 1/23/2017	PHONE: <a href="tel:4024714178">(402) 471-4178</a>
<p>COMMENTS: No Basis to dispute the Nebraska Department of Correctional Services estimate of No-to-Indeterminate Fiscal Impact to the Agency from LB 244.</p>		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES		
<b>LB: 244</b>	<b>AM:</b>	AGENCY/POLT. SUB: <b>Department of Administrative Services – Risk Mgt (65)</b>
REVIEWED BY: Joe Wilcox	DATE: 1/20/2017	PHONE: <a href="tel:4024714178">(402) 471-4178</a>
<p>COMMENTS: No basis to dispute the Department of Administrative Services – Risk Management Division estimate of potential fiscal impact to the Agency from LB 244, as the fiscal note does not provide a total estimated cost figure.</p>		

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

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

Prepared by: (3) Pat Weber

Date Prepared:(4) 1-12-17

Phone: (5) 471-6351

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

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

**Explanation of Estimate:**

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 due to LB 244 will be built into the new rates published at the time of the next request.

**MAJOR OBJECTS OF EXPENDITURE**

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



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2017

LB<sup>(1)</sup> 244

FISCAL NOTE

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

Prepared by: <sup>(3)</sup> Shereece Dendy Date Prepared: <sup>(4)</sup> January 13, 2017 Phone: <sup>(5)</sup> 402-471-4436

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2017-18		FY 2018-19	
	<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:

LB244 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 LB244, 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>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
<b>Benefits.....</b>			_____	_____
<b>Operating.....</b>			_____	_____
<b>Travel.....</b>			_____	_____
<b>Capital outlay.....</b>			_____	_____
<b>Aid.....</b>			_____	_____
<b>Capital improvements.....</b>			_____	_____
<b>TOTAL.....</b>			_____	_____

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**2017**

**LB<sup>(1)</sup> 244**

**FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> Workers' Compensation Court

Prepared by: <sup>(3)</sup> Tamra L. Walz Date Prepared: <sup>(4)</sup> January 18, 2017 Phone: <sup>(5)</sup> 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	_____	_____	_____	_____
<b>TOTAL FUNDS</b>	<b>=====</b>	<b>=====</b>	<b>=====</b>	<b>=====</b>

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 workers 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.

**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.....	_____	_____	_____	_____
<b>TOTAL.....</b>	<b>_____</b>	<b>_____</b>	<b>_____</b>	<b>_____</b>

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2017

LB<sup>(1)</sup> 244

FISCAL NOTE

State Agency OR Political Subdivision Name: <sup>(2)</sup> Attorney General

Prepared by: <sup>(3)</sup> Jim Smith

Date Prepared: <sup>(4)</sup> 1-19-17

Phone: <sup>(5)</sup> 471-2687

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	<u>107,665.50</u>	<u>                    </u>	<u>107,665.50</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>107,665.50</u>	<u>                    </u>	<u>107,665.50</u>	<u>                    </u>

Explanation of Estimate:

This bill would require our agency to hire an additional Attorney.

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>
<u>Assistant Attorney General</u>	<u>1.0</u>	<u>1.0</u>	<u>77,000.00</u>	<u>77,000.00</u>
<u>Benefits.....</u>			<u>30,665.50</u>	<u>30,665.50</u>
<u>Operating.....</u>			<u>                    </u>	<u>                    </u>
<u>Travel.....</u>			<u>                    </u>	<u>                    </u>
<u>Capital outlay.....</u>			<u>                    </u>	<u>                    </u>
<u>Aid.....</u>			<u>                    </u>	<u>                    </u>
<u>Capital improvements.....</u>			<u>                    </u>	<u>                    </u>
<u>TOTAL.....</u>			<u>107,665.50</u>	<u>107,665.50</u>

*Handwritten signature and date: 1-19-17*



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2017

LB<sup>(1)</sup> 244

FISCAL NOTE

State Agency OR Political Subdivision Name: <sup>(2)</sup> Lancaster County (Risk Management)

Prepared by: <sup>(3)</sup> Sue Eckley Date Prepared: <sup>(4)</sup> 1/12/17 Phone: <sup>(5)</sup> 402-441-0510

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2017-18		FY 2018-19	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	_____	_____	_____	_____

Explanation of Estimate:

No fiscal impact to Lancaster County.  
The bill adds state employees to be covered

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

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