

FISCAL NOTE
 LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2019-20		FY 2020-21	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
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.

This bill requires the Department of Health and Human Services to contract for a study of statewide access to long-term care. A status update is due to the Legislature by December 31, 2019 and a final report by December 31, 2020. The bill prohibits changes to long-term care services under Medicaid until the report is implemented. The Nursing Facility Penalty Cash Fund is to be used for the study costs.

The study is not an allowable use currently under state law. Section 71-20,100 provides for the following allowable uses of the Nursing Facility Penalty Cash Fund: 1) relocate residents to other facilities 2) maintain the operation of a nursing facility pending correction of violations, 3) close a facility or 4) reimburse residents for personal funds lost.

Approval from the Centers for Medicare and Medicaid is required before the funds can be spent. Federal guidance states the funds may be used to support activities that protect or improve the quality of care or quality of life for residents. This may include any of the following:

- Assistance to support and protect residents of a facility that closes or is decertified;
- Time-limited expenses incurred in the process of relocating residents to home and community-based settings or another facility when a facility is closed or downsized pursuant to an agreement with the State Medicaid Agency;
- Projects that support resident and family councils and other consumer involvement in assuring quality care in facilities;
- Facility improvement initiatives such as joint training of facility staff and surveyors or technical assistance for facilities implementing quality assurance and performance improvement programs;
- Development and maintenance of temporary management or receivership capability. A temporary manager's salary must be paid by the facility unless CMS stops or suspends payments to the facility under 42 CFR Part 489.55 during the temporary manager's duty period, and CMS determines that extraordinary action is necessary to protect the residents until relocation efforts are successful; and
- Expenses incurred by a State related to CMP uses (i.e., administrative expenses related to administering, monitoring, and evaluating CMP projects).

The fund has a balance of \$578,000. The projected cost of the study is \$613,000 of which \$306,600 is the state match to the same amount of federal funds.

Technical Note: The bill appropriates the funding in FY 2020-21, however a status update on the study is due by December 31, 2019.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB:	181	AM:	AGENCY/POLT. SUB: Nebraska Department of Health and Human Services
REVIEWED BY:	Ann Linneman	DATE:	3-20-19
		PHONE:	(402) 471-4180
COMMENTS: No basis to disagree with the Nebraska Department of Health and Human Services' assessment of fiscal impact.			

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 01/22/19

Phone: (5) 471-6719

	<u>FY 2019-2020</u>		<u>FY 2020-2021</u>	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	\$0		\$306,600	
CASH FUNDS				
FEDERAL FUNDS			\$306,600	
OTHER FUNDS				
TOTAL FUNDS	\$0		\$613,200	

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

Explanation of Estimate:

LB 181 is a bill requiring the Department of Health and Human Services (DHHS) to hire a contractor to provide a study regarding long-term care (LTC) access and work force needs. The bill would require the following outcomes based on the new study: regulatory changes to optimize current LTC resources more effectively, identify reimbursement changes under medical assistance program to sustain access to LTC services across the state, and create a five year plan of LTC sustainability for all Nebraskans. This bill also puts a moratorium on changes to long-term care services provided under the Medical Assistance Act until outcomes of the required study have been implemented. This bill could compel DHHS to be out of compliance with federal law and put federal funding for the Medicaid program at risk. Total Federal Funding for long term care services in state fiscal year 2018 was \$446,853,459.

A recent MLTC LTSS study for needs/design assessment was completed in SFY18, costing \$584,000. Based on historical costs and a 5% inflationary rate, initial estimates for the cost of the new LTC study would be \$613,200.

The bill funds the study from the civil monetary penalty (CMP) funds. These funds can only be used with prior approval from the Centers for Medicare and Medicaid Services (CMS). It is unknown if CMS would allow the distribution of CMP funds to pay for the study. This CMP fund is also regulated by Nebraska Revised Statute 71-20,100 in terms of restrictions outlined for the use of CMP funds. The CMP fund has a balance of approximately \$578,000 as of January 24, 2019. Any funds used for this study would be unavailable to use for other purposes.

MAJOR OBJECTS OF EXPENDITURE

PERSONAL SERVICES:	POSITION TITLE	NUMBER OF POSITIONS		2019-2020	2020-2021
		19-20	20-21	EXPENDITURES	EXPENDITURES
				\$0	\$0
Benefits.....					
Operating.....					\$613,200
Travel.....					
Capital Outlay.....					
Aid.....					
Capital Improvements.....					
TOTAL.....				\$0	\$613,200