

As amended to date

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

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)</b>				
	<b>FY 2022-23</b>		<b>FY 2023-24</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS	\$1,176,544		\$951,497	
CASH FUNDS				
FEDERAL FUNDS			\$148,191	
OTHER FUNDS				
<b>TOTAL FUNDS</b>	<b>\$1,176,544</b>		<b>\$1,099,688</b>	

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

LB921, as amended by AM 2503, strikes the original bill. Sections 1,3, and 4 contain an amended version of provisions originally included in LB1223. Section 2 contains an amended version of provisions originally included in LB952. Section 4 also would create the Legislative Mental Health Care Capacity Strategic Planning Committee. The committee would be required to contract with an independent consultant to determining the necessary capacity of inpatient mental health care in Nebraska.

As amended, LB 921 would require the Department of Health and Human Services to reimburse counties for lodging defendants who are waiting for competency restoration at the Lincoln Regional Center (LRC) before trial. The bill specifically allows for a reimbursement rate at \$100 per day after the first thirty days that the defendant is in the county jail before being transferred to LRC for competency restoration treatment. As specifically detailed in the bill, the reimbursement costs include the daily rate of lodging the defendant, food, medical services, transportation and any other necessary costs incurred by the county to lodge the defendant. The counties conducted a survey of counties, excluding the 3 largest populated counties. It was reported that the lodging costs for defendants range from \$50-\$90 so the reimbursement rate appears reasonable.

The average wait time for patients for defendants to be admitted to the LRC for competency restoration is 128 days. In calendar year 2021, DHHS admitted 92 patient defendants. The costs for reimbursement to the county would be \$100 per day for an average of ninety-eight days for ninety-two defendants. The total annual cost that would be incurred by the Department of Health and Human Services would be \$901,600. The increased annual amount would be nominal as adjusted by the annual percentage increase in the Consumer Price Index

The bill also defines the percentage of beds in LRC that would be allotted to the different types of populations that are served by the LRC. As amended by AM2826, the bill designates 30% of the available capacity exclusively to the Mental Health Board patients, approximately 60 beds out of the licensed capacity of 200. The bill also designates percentages of beds that need to be allocated to other populations that are served by the Lincoln Regional Center. The Department would be required to address the need for segregated housing units. Currently, there are 164 beds being utilized at the LRC as some beds are currently unavailable due to construction and staffing shortages. Historically, one of the buildings has not been continuously underutilized due to on-going staffing shortages so it is unclear as to if additional units would need to be constructed to expand capacity. The majority of individuals are on the LRC waiting list for forensic mental health services. (75 of the 76 individuals on the waiting list of 2/28/22).

Furthermore, LB 921 as amended, would require the Department of Health and Human Services to provide onsite, telephone or live video assistance for medical assistance program enrollment (Medicaid/Medicare) for inmates at correctional institutions at least 60 days before the inmate's release from a public institution that are located in counties with populations greater than 100,000. As amended, there are three counties that would be meet this criterion. Inmates reserve the right to refuse to enroll in medical assistance programs.

The requirement to provide medical program enrollment includes only those who were not enrolled in a medical assistance program at the time of entering the correctional system. The individuals who were previously enrolled in Medicaid/Medicare before entering a correctional facility would have this benefit suspended until the Department of Health and Human Services is notified by the Department of Corrections with 45 days of release to restart the medical assistance program upon release.

The Department is required to process the applications so that eligibility begins on the day of their release for newly identified enrollees. For those who are incarcerated and have less than sixty days prior notice of their anticipated release date, DHHS shall process the inmate's medical assistance program application to become effective as soon as practicable.

There are six state correctional facilities in Nebraska and 71 non-state facilities operated by political subdivisions. The Department of Health and Human Services fiscal note utilized the original bill, prior to the amendments that excluded the majority of counties from required participation. The estimate provided that an additional social service worker would be required for each institution for a total of 77 FTE. Since the number of workers required would be dependent on the number of eligible discharges, DHHS used a conservative estimate for the calculation of the fiscal note as written prior to the amendment. However, DHHS does acknowledge that the number of social service workers would be fewer but is unable to determine the exact number needed until additional data is gathered regarding the number of potential enrollees.

For purposes of this fiscal note, it is assumed that there would be a need for three social service workers as the amendment excludes the majority of correctional facilities from program participation. The correctional facilities in the three counties as defined by the bill would have the most volume of new applicants. DHHS social service workers would have the impetus to ensure that eligible enrollees are provided assistance for medical assistance program enrollment, either directly providing the program enrollment assistance or with coordination with correctional facility staff. For the low-volume facilities, a social service worker would be required to travel to the facility on an as needed basis or arrange telephonic or video assistance and/or in coordination with correctional facility staff to provide program enrollment assistance. The amendment changes the start date to begin the medical program enrollment until July 1, 2023 so there is no personnel cost for FY 2022-23. The total for three social service workers including wages and benefits is \$197,588 for FY2023-24. The employee cost assumes that 75% Federal Financial Participation (FFP) is available for the costs associated with providing Medicaid enrollment assistance.

DHHS also included in the fiscal note a cost of \$292,600 for staff recruitment costs. This is an expense that is not historically been a cost item in the appropriation for a bill and is not included for the purposes of this fiscal note.

AM 2502 also requires DHHS to publish a weekly report on its website to account for the capacity status of state-operated mental health facilities and the wait times associated with each priority category. DHHS estimates that the cost to provide this information on the website would require an expenditure of \$274,944 in FY 2022-23 and \$500 in FY 2023-24. This cost is included for the purpose of this fiscal note.

DHHS also has included the 28.8% indirect cost rate in the original fiscal note. For the purposes of this fiscal note, the indirect cost is also included as applicable. There is not an eligible base amount for FY 2022-23. The indirect cost amount is \$44,181 for FY 2023-24.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
<b>LB: 921</b>	<b>AM: 2503</b>	<b>AGENCY/POLT. SUB: Nebraska Department of Health and Human Services (25)</b>
REVIEWED BY: Joe Wilcox	DATE: 04/04/2022	PHONE: (402) 471-4178
<p>COMMENTS: Do not disagree with the majority of the estimated fiscal impact to the Nebraska Department of Health and Human Services (DHHS), from LB 921, as amended by the Judiciary Committee Amendment – AM 2503. However, the agency assumes in their estimates that the daily rate to be paid counties for “lodging” defendants is \$100 per day, plus the cost of meals, medical care, and transportation, which brings the daily total to \$150. However, section 1 (7) (b) of the Committee Amendment, which becomes the bill, specifically states that the “Costs of <b>lodging</b> the defendant <b>shall include</b> the daily rate of lodging the defendant, food, medical services, transportation, and any other necessary costs incurred by the county to lodge the defendant.” Section 1 (7) (c) then establishes that “The daily rate of lodging the defendant shall be one hundred dollars per day”. The \$100 per day in section (7) (c) is to be inclusive of all costs identified in section (7) (b) above, as they are part of the definition of “lodging”. Therefore, the DHHS estimate for lodging costs is not \$1,352,400, but should be \$901,600.</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) John Meals

Date Prepared : 04/01/2022

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	<u>FY 2022-2023</u>		<u>FY 2023-2024</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
<b>GENERAL FUNDS</b>	\$ 2,553,871		\$ 2,620,755	
<b>CASH FUNDS</b>				
<b>FEDERAL FUNDS</b>	\$ 1,901,782		\$ 3,803,564	
<b>OTHER FUNDS</b>				
<b>TOTAL FUNDS</b>	\$ 4,455,653	\$ 0	\$ 6,424,319	\$ 0

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

**Explanation of Estimate:**

LB921 AM2503 requires the Lincoln Regional Center (LRC) to reserve a portion of their existing beds for certain patients and to reimburse county jails \$100 per day (after the first 30 days) for housing defendants originally ordered to the LRC.

In addition to the daily rate for lodging at \$100 per patient, the amended bill requires the Department of Health and Human Services (DHHS) to reimburse county jails for the cost of meals, medical care, and transportation. Using statistics from several sources including the Pew Charitable Trust, the daily rate for meals is \$10 and the daily rate for medical care is \$30. An additional \$10 is added to the daily rate for transportation costs and any other necessary costs incurred by the county to lodge the patient. The total daily reimbursement rate is \$150 per patient.

With the average wait time for patients admitted to LRC of 128 days, the average reimbursement is estimated at \$14,700 per patient. This is calculated as 98 days (128 days less the initial 30 days) multiplied by the \$150 daily rate. Using 92 admissions received by LRC during calendar year 2021, the annual fiscal impact is estimated to be \$1,352,400.

On July 1<sup>st</sup>, 2023, and every July 1<sup>st</sup> thereafter, the reimbursement amount will be adjusted by the percentage increase in the Consumer Price Index for all Urban Consumers, as published by the United States Department of Labor, Bureau of Labor Statistics, for the twelve months ending on June 30 of such year.

AM2503 designates 45% of the available capacity exclusively for Mental Health Board (MHB) patients, or approximately 90 beds out of the existing capacity of 200. Currently, MHB patients are utilizing 46 beds, or only 23% of the available capacity. Requiring 44 additional beds to be designated only for MHB patients would result in a longer wait for court-ordered patients that could not utilize the vacant beds.

The amended bill does not address the need for segregated housing units. The designation of number of beds to specific population groups could result in a construction project to ensure males and females have the necessary bed allocations. With new construction of buildings or wings, LRC would need additional travel nurses. Altering the bed designations would likely increase the waitlist and time spent on the waitlist. Each additional day on the waitlist adds \$150 per admitted patient.

AM2503 requires DHHS to provide onsite Medicaid enrollment assistance by submitting and processing an application for individuals who are inmates of a public institution ahead of their release date. The provisions of this bill primarily affects those who are not already suspended from Medicaid due to their incarceration. DHHS may contract with certified third-party enrollment assisters to provide the enrollment assistance and application submission required by this subsection.

There are 77 public institutions in Nebraska. To provide Medicaid enrollment assistance, at least one Full Time Employee (FTE) for each of the facilities is needed. The cost to add 77 full time Social Services Workers is \$5,071,419 per year. The estimate assumes that 75% Federal Financial Participation (FFP) is available for the costs associated with providing on-site Medicaid enrollment assistance.

There are operational challenges in recruiting and or hiring staff during the Public Health Emergency and this estimate assumes all staff would be hired by January 2023. Therefore, the estimated cost for the first year is reduced by 50% to \$2,535,709. The additional cost to recruit, onboard, and train 77 new FTEs is approximately \$292,600.

AM2503 also requires DHHS to publish a weekly report on its website that states the capacity and status of state-operated mental health facilities that includes the capacity and wait times associated with each priority category. The cost to produce the reports, update and maintain the Avatar system that contains the electronic records for state-operated mental health facilities is \$ 274,944 FY2023 and \$500 for FY2024 and will be paid with state funds.

Number of Staff	Title	Hour(s)	Hourly Cost	Cost
1	<i>Project Manager</i>	153.6	\$ 120	\$ 18,432
1	<i>Business Analyst</i>	153.6	\$ 80	\$ 12,288
1	<i>Data Architect</i>	153.6	\$ 150	\$ 23,040
1	<i>Data Integration Lead</i>	153.6	\$ 120	\$ 18,432
3	<i>Data Developer</i>	1536.0	\$ 120	\$ 184,320
1	<i>Quality Assurance Tester</i>	153.6	\$ 120	\$ 18,432
<i>Total Costs FY 2023</i>				\$ 274,944

The amended bill would require additions to existing rules and regulations for eligibility. Title 477 NAC 3-003 and -005 will need to be updated to reflect the exception to the processing timeframes for new applications. The estimated absorbed cost of this minor change is \$645.

Title	Hour(s)	Hourly Cost	Absorbed Cost
<i>Director</i>	1	\$ 76	\$ 76
<i>Deputy Director</i>	1	\$ 55	\$ 55
<i>Administrator I</i>	1	\$ 31	\$ 31
<i>Program Specialist</i>	2	\$ 23	\$ 47
<i>Program Analyst</i>	4	\$ 23	\$ 91
<i>Attorney III</i>	10	\$ 35	\$ 345
<i>Total Costs</i>			\$ 645

**MAJOR OBJECTS OF EXPENDITURE**

PERSONAL SERVICES:	POSITION TITLE	NUMBER OF POSITIONS		2022-2023	2023-2024
		22-23	23-24	EXPENDITURES	EXPENDITURES
Social Service Worker		38.5	77	\$ 1,433,672	\$ 2,867,344
Benefits.....				\$ 535,046	\$ 1,070,093
Operating.....				\$ 2,486,935	\$ 2,486,882
Travel.....					
Capital Outlay.....					
Aid.....					
Capital Improvements.....					
<b>TOTAL.....</b>				<b>\$ 4,455,653</b>	<b>\$ 6,424,319</b>