

PREPARED BY: Scott Danigole
 DATE PREPARED: December 10, 2019
 PHONE: 471-0055

LB 305

Revision: 01

Updated for 2020 Legislative Session

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2020-21		FY 2021-22	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	309,066		257,843	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	309,066		257,843	

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

LB 305 is the Healthy and Safe Families and Workplaces Act.

Section 2 provides definitions for the Act.

Section 3 requires employees to accrue a minimum of one hour of paid sick and safe time for every thirty hours worked. Such employees shall not accrue more than forty hours of paid sick and safe time in a calendar year, unless the employer selects a higher limit. Employees shall be entitled to use accrued paid sick and safe time beginning on the sixtieth calendar day following commencement of employment and may use paid sick and safe time as it is accrued.

Section 4 provides authorized uses for paid sick and safe time.

The Department of Labor estimates the need for 3.0 FTE to administer the provisions of LB 305. This estimate is based on an estimate of 1,140 complaints annually. This is based on other states' cases and resultant claims, then extrapolating that data to accommodate for the population differences. There is no basis to disagree with these estimates.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 305	AM:	AGENCY/POLT. SUB: Department of Labor	
REVIEWED BY: Neil Sullivan	DATE: 12/4/2019	PHONE: (402) 471-4179	
COMMENTS: No basis to disagree with the Department of Labor assessment of fiscal impact from LB 305.			

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 305	AM:	AGENCY/POLT. SUB: Department of Administrative Services	
REVIEWED BY: Neil Sullivan	DATE: 11/26/2019	PHONE: (402) 471-4179	
COMMENTS: No basis to disagree with the Department of Administrative Services estimate of no fiscal impact from LB 305.			

Please complete ALL (5) blanks in the first three lines.

2020

LB⁽¹⁾ 305

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Nebraska Department of Labor

Prepared by: ⁽³⁾ Katie Thurber Date Prepared: ⁽⁴⁾ 11-27-2019 Phone: ⁽⁵⁾ 402-471-9912

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2020-21</u>		<u>FY 2021-22</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	<u>\$309,066</u>	<u> </u>	<u>\$257,843</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><u>\$309,066</u></u>	<u> </u>	<u><u>\$257,843</u></u>	<u> </u>

Explanation of Estimate: LB 305 creates the Healthy and Safe Families and Workplace Act. The bill requires employers of four or more employees to provide their employees paid sick and safe time. Paid sick and safe time is to accrue at a minimum of one hour for every 30 hours worked and an employee may not accrue more than 40 hours in a calendar year. An employer is not prohibited from offering a more generous policy.

Section 4 of the bill provides that paid sick and safe time may be used by the employee for mental or physical illness, injury, or health condition; the need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or the need for preventative medical care. This time may also be used for the care of a family member with the same needs described above (referred to herein as "Sick Leave").

It can also be used by the employee for an absence due to domestic assault, sexual assault, or stalking if the leave is necessary for the employee to obtain for themselves or a family member: medical attention to recover from physical or psychological injury or disability caused by domestic assault, sexual assault, or stalking; services from a victim services organization; psychological or other counseling; relocation due to domestic assault, sexual assault, or stalking; or to obtain legal services including preparing for or participating in any civil or criminal legal proceeding relating to or a result of domestic assault, sexual assault, or stalking (referred to herein as "Safe Leave").

LB 305 gives the Commissioner of Labor investigative and enforcement powers. The Commissioner may assess an administrative penalty of \$500 for the first violation of the Act by an employer and not more than \$5,000 for second and subsequent violations. Employers have the right to contest such determinations, in which case an administrative hearing would be held.

NDOL has seen an increase in employee complaints or claims in other areas, in particular the Wage Payment Collection Act (WPCA). WPCA claims have increased each of the last four years: 986 in 2016, 1,066 in 2017, 1,205 in 2018, 1,250 in 2019. Therefore, NDOL estimates that there will be a significant number of complaints to investigate under LB 305, and potentially adjudicate through administrative hearings. As mentioned above, the bill addresses Sick Leave and Safe Leave.

It is very difficult to estimate the number of complaints that will be filed concerning Sick Leave. NDOL does not have data on the number of times employees in all occupations request leave for illness or injury. This information would be necessary to estimate the number of times an employer might not comply with the act. NDOL is using information from complaints received under the Wage Payment Collection Act to estimate the number of Sick Leave complaints, and therefore estimates around 1,200 (similar to WPCA complaints in 2018).

In regard to Safe Leave, based upon similar legislation in the State of Washington, Washington indicated that 54,000 cases of domestic violence, sexual abuse, and stalking are reported yearly. Washington assumed 99% compliance with the law, and therefore estimated that 540 complaints would be filed. Using Washington data, and adjusting for population difference, NDOL estimates 140 complaints will be filed in regard to Safe Leave.

Therefore, NDOL estimates 1,140 complaints annually. These complaints will need to be investigated by NDOL. Where applicable, NDOL will issue a fine. The Employer may appeal NDOL's decision, in which case, NDOL will have a hearing on the appeal. NDOL may also pursue collection of unpaid fines.

LB 305 is very similar to LB 844 (2018). NDOL prepared an estimate of costs on LB 844 in 2018 that indicated a need for 3.0 FTE Labor Law Specialists to operate and maintain the program. Based upon increases in WPCA claims, and the estimated number of sick and safe leave complaints that will be received, NDOL will require at least 3.0 FTE Labor Law Specialists at a total cost of \$225,762 in year one and \$231,167 in year two. NDOL estimates that two percent (2%) of all complaints will proceed to hearing, and NDOL will require approximately \$1,000 per hearing for an independent hearing officer at a total cost of \$23,000 each year. In addition, General Funds will be required to assist with modifications to NDOL's complaint submission databases to allow for submission and tracking of complaints. One Contract IT position will be needed for four months at a total cost of \$48,580 in year one only.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2020-21</u>	<u>2021-22</u>
	<u>20-21</u>	<u>21-22</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Labor Law Specialist	3.00	3.00	\$143,810	\$147,118
Total Salaries	3.00	3.00	\$143,810	\$147,118
Benefits			59,941	61,555
Operating			96,315	49,170
Travel				
Capital outlay			9,000	
Aid				
Capital improvements				
TOTAL			\$309,066	\$257,843

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2020

LB⁽¹⁾ 305 (updated)

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Department of Administrative Services (DAS)

Prepared by: ⁽³⁾ Jennifer Sommars-Link Date Prepared: ⁽⁴⁾ 11/12/2019 Phone: ⁽⁵⁾ 402-471-1405

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2020-21</u>		<u>FY 2021-22</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:

LB305 requires employers to supply employees with sick and safe time. Sick and safe time is to accrue minimally at the rate of 1 hour for every 30 hours worked; with no more than 40 hours of sick and safe time to be carried over at the end of each calendar year.

LB305 has no fiscal impact on Administrative Services, as the bill explicitly excludes the "State of Nebraska" as a qualified employer.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2020-21</u>	<u>2021-22</u>
	<u>20-21</u>	<u>21-22</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____