

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

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)</b>				
	<b>FY 2020-21</b>		<b>FY 2021-22</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
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 attorney's fees, penalties, and interest provisions under the Nebraska Workers' Compensation Act.

The compensation court may award an attorney's fee for a failure to authorize payment for medical treatment if there is no reasonable controversy regarding the treatment within 30 days of the request of payment. The compensation court may also, in its discretion, assess a penalty not to exceed \$500 per day for each day that authorization is delayed without reasonable controversy.

Because this bill allows for the award of attorney fees and a \$500 per day penalty that are not in current law, it is reasonable to assume that there could be some additional costs to the workers' compensation programs of the state and political subdivisions.

DAS Risk Management (DAS) states that this bill creates a fiscal impact. The impact is unknown because it is unknown how often or for how much they would be assessed attorney fees or the \$500 per day penalty under this bill.

DAS is estimating the need to add an additional 0.5 FTE attorney and 0.5 FTE support staff in the Attorney General's Office for the workers' compensation program at a cost of \$106,415. The AG bills DAS for such work and this is presumably paid for from Fund 58920 - Workers' Compensation Claims Fund.

A provision of the bill states that the compensation court may also, in its discretion, assess a penalty not to exceed \$500 per day for each day that authorization is delayed without reasonable controversy. Using data from 2018 and 2019, DAS estimates this penalty could cost the workers' compensation program \$900,000 to \$1.2 million.

The state's workers' compensation program is funded by annual assessments against all agencies, boards and commissions, the university, and state colleges. Any increase in costs could increase the amount assessed against such entities.

Workers' compensation assessments are based on actuarial studies that identify actual claims and loss history for each agency. Therefore, such costs must occur before they can be worked into the assessments charged to any agency or other entity impacted by this bill. The Workers' Compensation Claims Fund (Fund 58920) had a FY19 ending balance of approximately \$15 million. If this bill has the impact that DAS estimates, this balance should give DAS a cushion to cover any increased costs imposed by this bill until DAS is able to work such costs into the workers' compensation assessments.

The DAS response also shows the impact by fund type of any increase in the workers' compensation assessments.

The Workers' Compensation Court estimates no fiscal impact from this bill.

The City of Imperial estimates no fiscal impact from this bill.

The City of Omaha estimates a significant but unknown impact at this time. See their response attached for additional details.

The City of Lincoln states the impact would depend on court rulings.

At this time, there is no basis to disagree with any of the agency or political subdivisions estimates.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
<b>LB: 1126</b>	<b>AM:</b>	AGENCY/POLT. SUB: <b>Department of Administrative Services – Risk Management Division (065)</b>
REVIEWED BY: Joe Wilcox	DATE: 2/03/2020	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the Department of Administrative Services – Risk Management Division estimate of potential, but Indeterminate Fiscal Impact to the Agency, to other state agencies whose costs might increase as a result of changes in DAS Workers Compensation Insurance premiums from the provisions in LB 1126.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
<b>LB: 1126</b>	<b>AM:</b>	AGENCY/POLT. SUB: <b>Nebraska Workers Compensation Court (037)</b>
REVIEWED BY: Joe Wilcox	DATE: 1/27/2020	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the Nebraska Workers Compensation Court estimate of No Fiscal impact to the Agency from LB 1126.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
<b>LB: 1126</b>	<b>AM:</b>	AGENCY/POLT. SUB: <b>City of Imperial</b>
REVIEWED BY: Joe Wilcox	DATE: 1/24/2020	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the City of Imperial estimate of No Fiscal Impact to the City from LB 1126.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
<b>LB: 1126</b>	<b>AM:</b>	AGENCY/POLT. SUB: <b>City of Omaha</b>
REVIEWED BY: Joe Wilcox	DATE: 1/29/2020	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the City of Omaha estimate of potential, but Indeterminate Fiscal Impact to the City from LB 1126.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
<b>LB: 1126</b>	<b>AM:</b>	AGENCY/POLT. SUB: <b>City of Lincoln</b>
REVIEWED BY: Joe Wilcox	DATE: 01/30/2020	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the City of Lincoln estimate of potential, but Indeterminate Fiscal Impact to the City from LB 1126.		

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

**2020**

**LB<sup>(1)</sup> 1126**

**FISCAL NOTE**

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

Prepared by: <sup>(3)</sup> Allen D. Simpson Date Prepared: <sup>(4)</sup> 1/24/2020 Phone: <sup>(5)</sup> (402)471-4436

**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	_____	_____	_____	_____
REVOLVING FUNDS	_____	_____	_____	_____
TOTAL FUNDS	<u>See Below</u>	<u>See Below</u>	<u>See Below</u>	<u>See Below</u>

**Explanation of Estimate:**

LB 1126 would give the compensation court the authority to award an attorney’s fee for failure to authorize or provide assurance of payment for medical treatment if there is no “reasonable controversy” regarding the treatment within 30 days of the request for authorization or assurance of payment. The bill also allows the compensation court the discretion to assess a penalty under this section not to exceed \$500 per day for each day the authorization is delayed without reasonable controversy.

This bill will require our Third Party Administrator (TPA), who has oversight of the workers’ compensation claims, to obtain additional adjustors and support staff to ensure they are meeting the 30 day requirement; thus increasing the costs of DAS – Risk Management Division. The exact increase in cost is unknown at this time. The TPA may be uncertain whether a “reasonable controversy” exists within 30 days and consequently may be forced to pay, even though one may exist, to avoid the potential attorney’s fee and \$500 per day penalty.

Additional manpower for the Attorney General’s Office would be needed, consisting of an additional .5 FTE for an attorney and .5 FTE for support staff because of the increased litigation costs. Currently the costs of staff in the Attorney General’s Office that support the Worker’s Compensation program are billed to DAS Risk Management.

This bill creates a fiscal impact, however the exact fiscal impact is unknown as we cannot foresee the exact number of times when there is no reasonable controversy regarding treatment and they are not paid within 30 days. We also cannot foresee how may \$500 per day penalties we may be assessed.

During 2018 and 2019 Risk Management’s TPA denied 24 claims each year for a reasonable controversy, where the report date and the denial date were 30 days or more. If these claims were taken to the compensation court, and there it was found to be no reasonable controversy the compensation court could at its discretion assess a penalty of \$500 per day. For example using the 24 denied claims in 2018 the additional cost to the Worker’s Compensation program could have been over \$1.2 million (\$500 per day X 2,405 days = \$1,202,500) and in 2019 \$905,000 (\$500 per day X 1,810 days = \$905,000).

We can estimate the additional cost for the two additional .5 FTE’s that would be provided by the Attorney General’s Office using the current costs of \$106,415 each fiscal year.

The State of Nebraska’s Workers’ Compensation program is self-insured and includes all agencies, boards and commissions, the University and State Colleges. Any changes in costs will require additional revolving fund appropriation and an increase to the annual assessment that is billed. The FY20-21 assessment has already been published and would require additional resources for the program and the Enterprise.

The table below summarizes the estimated impact by fund type of any increases in premiums for both fiscal years. The allocation by fund type is based on a four (4) year [2016-2019] average of the Workers Compensation Assessment that was paid.

<b>Fund Type</b>	<b>Four Yr. Avg.</b>
General Fund	56%
Cash Fund	26%
Federal Fund	15%
Revolving Fund	3%
<b>Total</b>	<b>100%</b>

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**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

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**Personal Services:**

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

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

**2020**

**LB<sup>(1)</sup> 1126**

**FISCAL NOTE**

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

Prepared by: <sup>(3)</sup> Jill Gradwohl Schroeder Date Prepared: <sup>(4)</sup> January 26, 2020 Phone: <sup>(5)</sup> 402.471.3602

**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:

LB 1126 is not expected to have a fiscal impact upon the operations of the Nebraska Workers' Compensation Court.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

Personal Services:

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

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

**2020**

**LB<sup>(1)</sup> 1126**

**FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> City of Imperial

Prepared by: <sup>(3)</sup> Jo Leyland

Date Prepared: <sup>(4)</sup> 01/23/2020

Phone: <sup>(5)</sup> 308-882-4368

**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	_____	_____	_____	_____
<b>TOTAL FUNDS</b>	<b>=====</b>	<b>=====</b>	<b>=====</b>	<b>=====</b>

Explanation of Estimate:

No fiscal impact

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

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

**2020**

**LB<sup>(1)</sup> 1126** \_\_\_\_\_

**FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> City of Omaha \_\_\_\_\_

Prepared by: <sup>(3)</sup> Tyler Leimer \_\_\_\_\_ Date Prepared: <sup>(4)</sup> 1/29/2020 \_\_\_\_\_ Phone: <sup>(5)</sup> 402-444-4514 \_\_\_\_\_

**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	_____	_____	_____	_____
<b>TOTAL FUNDS</b>	<b>=====</b>	<b>=====</b>	<b>=====</b>	<b>=====</b>

**Explanation of Estimate:** LB 1126 would have a significant fiscal impact and increase costs to the City of Omaha but they are hard to quantify. It would require the City of Omaha to complete independent medical exams more often and some of these IMEs can cost \$12,000 or more. It would also require the City to approve medical care when causation may be unknown when no reasonable controversy exists.

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

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

**2020**

**LB<sup>(1)</sup> 1126** \_\_\_\_\_

**FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> City of Lincoln \_\_\_\_\_

Prepared by: <sup>(3)</sup> James Van Bruggen Date Prepared: <sup>(4)</sup> 1/29/20 Phone: <sup>(5)</sup> 402-441-8301

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	_____	_____	_____	_____
<b>TOTAL FUNDS</b>	<b>=====</b>	<b>=====</b>	<b>=====</b>	<b>=====</b>

Explanation of Estimate:

Fiscal Impact depends on court rulings.

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