

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	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 provide an exception for a claim based on bad faith and a limitation of action under the Nebraska Workers' Compensation Act.

Because this bill creates a claim for bad faith denial of workers' compensation benefits and allows a civil action to be brought, 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 many bad faith claims may be filed or the increased costs to the workers' compensation program that could be incurred.

DAS can estimate the additional costs for staff that will be provided to the Attorney General's office to defend potential lawsuits for bad faith claims in civil court. This staff consists of an additional 0.5 FTE attorney and 0.5 FTE support staff 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.

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 Lincoln states the impact would depend on court rulings.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 1128	AM:	AGENCY/POLT. SUB: Department of Administrative Services – Risk Management Division (065)
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 1128.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 1128	AM:	AGENCY/POLT. SUB: City of Imperial
REVIEWED BY: Joe Wilcox	DATE: 01/24/2020	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the City of Imperial estimate of No Fiscal Impact to the City from LB 1128.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 1128	AM:	AGENCY/POLT. SUB: City of Lincoln
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 1128.		

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

2020

LB⁽¹⁾ 1128

FISCAL NOTE

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

Prepared by: ⁽³⁾ Allen D. Simpson Date Prepared: ⁽⁴⁾ 1/24/2020 Phone: ⁽⁵⁾ (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 1128 provides that any acceptance of payment from an employer or from an insurance company carrying such risk does not constitute a release of all claims or demands at law when the claim is for a bad faith denial of workers' compensation benefits. LB1128 would allow for civil action for a bad faith denial of workers' compensation benefits to be brought in any court of competent jurisdiction within five years after the cause of action.

This bill will allow injured workers to bring civil action against the State of Nebraska if our third party administrator denies a workers' compensation claim in bad faith. This bill would increase the cost to the State's workers' compensation fund for the following reasons: First, our Third Party Administrator (TPA) costs would increase because additional adjustors and staff would be required to ensure claims were not denied in bad faith or without a reasonable basis.

The Attorney General's office indicates that additional manpower would be required of an additional .5 FTE for an attorney and .5 FTE for support staff would be required because of the increased litigation costs to defend potential lawsuits for bad faith claims against our TPA and perhaps DAS Risk Management in civil court. Currently the costs of staff in the Attorney General's Office that support the Workers' 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 bad faith claims that will be filed, or the amount of increased costs from the TPA. During 2018 46 claims were denied and in 2019 45 claims were denied.

We can estimate the additional cost for the two additional .50 FTE's that would be provided by the Attorney General's Office using the current costs at \$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 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 were paid.

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

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.....				

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2020

LB⁽¹⁾ 1128

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Nebraska Workers' Compensation Court

Prepared by: ⁽³⁾ Jill Gradwohl Schroeder Date Prepared: ⁽⁴⁾ January 26, 2020 Phone: ⁽⁵⁾ 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 1128 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.....	_____	_____	_____	_____

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2020

LB⁽¹⁾ 1128

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ City of Imperial

Prepared by: ⁽³⁾ Jo Leyland

Date Prepared: ⁽⁴⁾ 01/23/2020

Phone: ⁽⁵⁾ 308-882-4368

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2020-21		FY 2021-22	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	=====	=====	=====	=====

Explanation of Estimate:

No fiscal impact

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

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

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2020

LB⁽¹⁾ 1128

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ City of Lincoln

Prepared by: ⁽³⁾ James Van Bruggen Date Prepared: ⁽⁴⁾ 1/29/20 Phone: ⁽⁵⁾ 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	_____	_____	_____	_____
TOTAL FUNDS	=====	=====	=====	=====

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.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____