

FISCAL NOTE
 LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2022-23		FY 2023-24	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	See below		See below	
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.

LB 1276 would change immunity for law enforcement officers and provide an additional legal remedy to persons and expand potential legal exposure to State and Political Subdivision law enforcement officers, including counties. This legislation would provide for civil actions against law enforcement officers who commit misconduct and exempt such actions from the Political Subdivisions Tort Claims Act and the State Tort Claims Act.

The Office of the Attorney General would likely defend such actions brought against the State Patrol. The Office asserts that because “serious misconduct” is so broadly defined, LB 1276 would result in an increase of the number of cases received and litigated. They claim that the increase in case load would require one additional assistant attorney general. For FY2022-23, the salary and benefits are \$119,000, and for FY2023-24 the salary and benefits increase 2% to \$121,000. While the Fiscal Office has no basis to disagree with this estimate, it is uncertain whether a full FTE would be utilized in the first two years, as historical data has not yet been considered.

Passage of LB 1276 would also require counties to defend such suits along with associated legal costs. Counties with self-insured retention (SIR) funds would likely increase deposits to those funds. At the same time, they could expect insurance premium costs to increase significantly. While the total impact to all local governments is unknown, Lancaster County estimates their annual impact as \$50,000 increased SIR fund + \$30,000 increased insurance premiums = \$80,000 / year. This fiscal impact is to the political subdivision and is based on a risk estimate conducted in a short time frame.

The Nebraska Association of County Officials (NACO) reports that a National Police Funding database shows that, for 2020, misconduct lawsuits across the nation resulted in settlements ranging from \$285,000 to \$20,000,000. Without caps for anyone aggrieved to file suit, the number of claims, and their impact to political subdivisions, could range from minimal to significant.

DAS estimates there is a potential impact to the indemnification fund. However, without projections based on historical patterns, the exact impact is unknown at this time.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 1276	AM:	AGENCY/POLT. SUB: Nebraska Attorney General (11)
REVIEWED BY: Joe Wilcox	DATE: 02/01/2022	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the Nebraska Attorney General estimate of potential Fiscal Impact to the Agency from LB 1276.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 1276 REVISED	AM:	AGENCY/POLT. SUB: Nebraska Association of County Officials (NACO)
REVIEWED BY: Joe Wilcox	DATE: 02/08/2022	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the Nebraska Association of County Officials (NACO) revised estimate of potential, but Indeterminate Fiscal Impact to Nebraska Counties from LB 1276.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 1276	AM:	AGENCY/POLT. SUB: Lancaster County
REVIEWED BY: Joe Wilcox	DATE: 02/02/2022	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the Lancaster County estimate of potential Fiscal Impact to the County from LB 1276.		

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

2022

LB⁽¹⁾ 1276

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Attorney General

Prepared by: ⁽³⁾ Jen Huxoll Date Prepared: ⁽⁴⁾ 1-25-22 Phone: ⁽⁵⁾ 402-471-2687

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2022-23</u>		<u>FY 2023-24</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	<u>119,079.</u>	<u> </u>	<u>120,921.</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>119,079.</u></u>	<u><u> </u></u>	<u><u>120,921.</u></u>	<u><u> </u></u>

Explanation of Estimate:

The Office of the Attorney General would likely defend such actions brought against the State Patrol, and because “serious misconduct” is so broadly defined, the anticipated added volume would increase the number of cases received and litigated. This increase in caseload would require one additional assistant attorney general.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2022-23</u>	<u>2023-24</u>
	<u>22-23</u>	<u>23-24</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Assistant Attorney General	<u>1.0</u>	<u>1.0</u>	<u>80,000.</u>	<u>81,600.</u>
Benefits.....			<u>39,079.</u>	<u>39,321.</u>
Operating.....			<u> </u>	<u> </u>
Travel.....			<u> </u>	<u> </u>
Capital outlay.....			<u> </u>	<u> </u>
Aid.....			<u> </u>	<u> </u>
Capital improvements.....			<u> </u>	<u> </u>
TOTAL.....			<u><u>119,079.</u></u>	<u><u>120,921.</u></u>

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

2022

LB⁽¹⁾ 1276

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Nebraska Association of County Officials (NACO)

Prepared by: ⁽³⁾ Elaine Menzel Date Prepared: ⁽⁴⁾ 2/7/2022 Phone: ⁽⁵⁾ 402.434.5660

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2022-23</u>		<u>FY 2023-24</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 1276 would change immunity for law enforcement officers and provide an additional legal remedy to persons and expand potential legal exposure to State and Political Subdivision law enforcement officers, including counties. This legislation would provide for civil actions against law enforcement officers who commit misconduct and exempt such actions from the Political Subdivisions Tort Claims Act and the State Tort Claims Act.

The new cause of action created under LB 1276 would require counties to defend such suits along with associated legal costs.

The fiscal impact to Nebraska counties is difficult to quantify; however, a National Police Funding database shows individual lawsuits across the nation have resulted in settlements in 2020 misconduct claims ranging from \$285,000 - \$20,000,000. Without caps and the allowance for anyone aggrieved to file suit, the number of claims could range from minimal to significant, as well as the final judgment or settled amount of a claim(s).

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2022-23 EXPENDITURES</u>	<u>2023-24 EXPENDITURES</u>
	<u>22-23</u>	<u>23-24</u>		
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____

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

2022

LB⁽¹⁾ 1276

FISCAL NOTE

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

Prepared by: ⁽³⁾ Allen Simpson Date Prepared: ⁽⁴⁾ 27JAN2022 Phone: ⁽⁵⁾ (402)471-4436

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2022-23</u>		<u>FY 2023-24</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	<u>See Below</u>	<u>_____</u>	<u>See Below</u>	<u>_____</u>

Explanation of Estimate:

LB 1276 allows for a civil action to be brought against the law enforcement officer responsible for an actionable violation which means an act of serious misconduct as defined in section 81-1401, an act for which the officer's certification could be suspended or revoked under section 81-1403 (6), an act that involves knowingly aiding or abetting, or a threat to engage in such conduct. Those bringing civil action could obtain appropriate relief. Relief would include preliminary and other equitable or declaratory relief as appropriate and reasonable attorney's fees and other litigation costs reasonably incurred. In addition, the court may assess a civil penalty of not more than ten thousand dollars for each violation.

DAS estimates there is a potential for cases to be brought which will result in prosecution of law enforcement, thereby impacting the indemnification fund. However, without knowing how many might be prosecuted under the new law, an exact impact cannot be determined.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2022-23 EXPENDITURES</u>	<u>2023-24 EXPENDITURES</u>
	<u>22-23</u>	<u>23-24</u>		
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____

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

2022

LB⁽¹⁾ 1276

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ County of Lancaster

Prepared by: ⁽³⁾ David A. Derbin Date Prepared: ⁽⁴⁾ 1/28/2022 Phone: ⁽⁵⁾ 402-441-6865

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2022-23</u>		<u>FY 2023-24</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	<u>\$80,000</u>	<u>0</u>	<u>\$80,000</u>	<u>0</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>	<u> </u>	<u> </u>	<u> </u>

Explanation of Estimate:

Lancaster County has a \$250,000 self-insured retention (SIR) on its insurance policy that would cover the liability provided for in LB1276. Given the novelty of the new claims, and based on risk estimate conducted in a short time frame, it is estimated that an additional \$50,000 per year would be placed into SIR, and that insurance premium costs could increase by \$30,000 annually, for a total estimated cost of approximately \$80,000.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2022-23</u>	<u>2023-24</u>
	<u>22-23</u>	<u>23-24</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Benefits.....	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Operating.....	<u> </u>	<u> </u>	<u>\$80,000</u>	<u>\$80,000</u>
Travel.....	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Capital outlay.....	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Aid.....	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Capital improvements.....	<u> </u>	<u> </u>	<u> </u>	<u> </u>
TOTAL.....	<u> </u>	<u> </u>	<u> </u>	<u> </u>