

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 1200 (Sec. 1) creates the State and Political Subdivisions Child Sexual Abuse Liability Act.

This bill provides that the State and its political subdivisions shall be liable in the same manner and to the same extent as a private individual or entity under like circumstances for all claims arising out of child sexual abuse. In addition, child sexual abuse would not be subject to the State Tort Claims Act or to limitations or requirements of such acts. Further, there would be no time limitation for child sexual abuse that occurs on or after the effective date of the act, or prior to the effective date of the act if such action was not previously time barred. An individual who is a victim of child sexual abuse may bring a civil action for appropriate relief against any person or entity who is liable for the acts of the perpetrator.

The Department of Administrative Services (DAS) claims a fiscal impact to the state which would require General Funds, although the exact impact of LB 1200 is unknown. Claims information for related crimes from the past twenty years reveals eleven claims filed, with seven settled and payments made in the amount of \$1,055,477.

The Attorney General's office asserts that this bill will increase the number of cases brought against the State and state agencies, and that the increased caseload will require the addition of one assistant attorney general.

	FY2022-23	FY2023-24
Salary	\$80,000	\$81,600
Benefits	\$39,079	\$39,321
TOTAL	\$119,079	\$120,921

Given the twenty year history provided by DAS, it is unclear whether 1.0 FTE assistant attorney general would be fully utilized in the next two years to work solely on new claims resulting from LB1200.

With regards to political subdivisions, the number of claims a county may be required to address is unknown. But response from the Nebraska Association of County Officials (NACO) indicates that even one claim filed against a county could result in significant exposure, due to the LB1200's removal of current limitations. NACO's attached response provides additional historical perspective.

Political subdivisions 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.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 1200	AM:	AGENCY/POLT. SUB: Department of Administrative Services – Risk Management Division (65)
REVIEWED BY: Joe Wilcox	DATE: 02/01/2022	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 from LB 1200.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 1200	AM:	AGENCY/POLT. SUB: Department of Health and Human Services (25)
REVIEWED BY: Joe Wilcox	DATE: 02/07/2022	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the Department of Health and Human Services (DHHS) estimate of potential, but Indeterminate Fiscal Impact to the Agency from LB 1200.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 1200	AM:	AGENCY/POLT. SUB: Nebraska Attorney General (11)
REVIEWED BY: Joe Wilcox	DATE: 02/03/2022	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the Nebraska Attorney General estimate of potential Fiscal Impact to the Agency from LB 1200.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 1200	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 1200.		

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 2-7-2022

Phone: (5) 471-6719

FY 2022-2023

FY 2023-2024

	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	See Below		See Below	

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

Explanation of Estimate:

LB1200 would declare that the state and its political subdivisions shall be liable in the same manner and extent as a private individual for legal claims arising out of child abuse. The bill could increase litigation and liability exposure to the Department of Health and Human Services.

The fiscal impact to the Department is indeterminable. An increase in lawsuits would require Department staff to provide documentation, prepare and give depositions. If the amount of cases requires work that goes beyond the availability of current staff, then additional staff will need to be hired in the future.

MAJOR OBJECTS OF EXPENDITURE

PERSONAL SERVICES:

POSITION TITLE	NUMBER OF POSITIONS		2022-2023 EXPENDITURES	2023-2024 EXPENDITURES
	22-23	23-24		
Benefits.....				
Operating.....				
Travel.....				
Capital Outlay.....				
Aid.....				
Capital Improvements.....				
TOTAL.....				

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

2022

LB⁽¹⁾ 1200

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>119,079.</u>	<u> </u>	<u>120,921.</u>	<u> </u>

Explanation of Estimate:

This bill will increase the number of cases brought against the State and state agencies. Not only does this remove the procedural limitations for actions like negligence, it provides for liability under theories of respondent superior and vicarious liability of the perpetrator. This increase in caseload and time spent on each case will necessitate the addition of one 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>119,079.</u>	<u>120,921.</u>

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

2022

LB⁽¹⁾ 1200

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 1200 would expand legal exposure to State and Political Subdivisions, including counties, by creating the State and Political Subdivisions Child Sexual Abuse Liability Act and removing claims arising out of child sexual abuse from the State Tort Claims Act and the Political Subdivisions Tort Claims Act.

Although the number of claims a county may be required to address annually is unknown, the potential liability exposure as a result of LB 1200 would greatly expand the potential legal exposure to counties as a result of explicitly removing political subdivisions from claims arising out of child sexual abuse from the limitations or requirements in such acts, including but not limited to: (1) limits on recoverable damages, (2) limits on the availability of a jury trial, (3) notice requirements, and (4) statutes of limitations. The extension of time to file a claim and the removal of the statutory limits on recoverable damages would potentially have a very substantial impact to a county in the event there is a judgment against it. Additionally, added costs for counties would be incurred to defend such claims in litigation and trial expenses

What is known is several lawsuits filed against a class of Nebraska defendants have ended in favorable verdicts or settlements for survivors of plaintiffs. For example, in 2002, in one case a defendant in Omaha paid an \$800,000 jury award for an abuse survivor and his family. By using CPI-Midwest as an inflationary factor, the lawsuit would've amounted to over \$1.1 million in 2022. Additionally, the defendants have paid at least seven other settlements to survivors of priest sexual abuse. However, the financial details of these settlements were never publicly disclosed. The overall fiscal impact if LB 1200 were implemented is unknown; however, even if there were one claim filed against the county the exposure could be significant..

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.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	=====	=====	=====	=====

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

2022

LB⁽¹⁾ 1200

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 claims provided for in LB1200. 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>