

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				
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.

This bill allows a petitioner in a contested case under the Administrative Procedure Act involving a public assistance benefit provided by the Department of Health and Human Services to file for certification of a class action any time prior to a final determination being issued by the department. The filing will stay enforcement of a decision unless and until the district court declines to adjudicate the matter as a class action. Public assistance includes but is not limited to Aid to Families with Dependent Children, Emergency Assistance, Assistance to the Aged, Blind and Disabled, Medically Handicapped Children’s Program, the Supplemental Nutrition Assistance Program, Medicaid, Low-Income Energy Assistance Program, Waiver Services for the Developmentally Disabled and the Child Care Subsidy.

The fiscal impact cannot be determined. The extent to which petitions would be filed is unknown. The Department of Health and Human Services received 2,941 appeals in 2017. If the court declines to certify the class action, federal funds would not be allowed to be used for the benefits that would be paid prior to the rendering of that decision.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 1137 AM:	AGENCY/POLT. SUB: Department of Health and Human Services (DHHS)		
REVIEWED BY: Elton Larson	DATE: 2/3/2020	PHONE: (402) 471-4173	
COMMENTS: No basis to disagree with DHHS analysis and estimate of fiscal impact to DHHS.			

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 1137 AM:	AGENCY/POLT. SUB: Supreme Court		
REVIEWED BY: Elton Larson	DATE: 2/3/2020	PHONE: (402) 471-4173	
COMMENTS: No basis to disagree with Supreme Court analysis and estimate of fiscal impact to the Supreme Court.			

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

State Agency or Political Subdivision Name:(2) Department of Health and Human Services

Prepared by: (3) Mike Michalski

Date Prepared 1-24-2020

Phone: (5) 471-6719

	<u>FY 2020-2021</u>		<u>FY 2021-2022</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	\$1,453,368		\$1,453,368	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$1,453,368		\$1,453,368	

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

Explanation of Estimate:

LB 1137 would allow for individuals, in a contested case under the Administrative Procedures Act, to file a class action suit in the District Court at any time prior to the agency entering a final decision in an administrative appeal. If the District Court certifies the class, all pending substantive and procedural issues will be resolved at the District Court level. The filing of this action will stay the enforcement of a decision made by the agency. This could result in the agency continuing to pay benefits for months or longer pending the outcome of the District Court case. Benefits paid in this manner will likely not be allowed to be paid with Federal fund participation, putting the burden on state General funds.

For context, Medicaid and Long Term Care (MLTC) receives an average of 287 eligibility appeals annually. If a stay is granted, and each appeal is part of a class allowed by LB 1137, MLTC would be responsible to pay an average monthly capitated payment of \$422 for each eligible petitioner. This could result in \$121,114 in monthly General fund expenditures, or \$1,453,368 annually, until a determination is made by the District Court. Additionally, if a class can look back 2 years from an underlying case, those that had the same adverse action brought against them could become part of the class and have their benefits stayed and funded with state General funds. This is an example of one appeal type the Department of Health and Human Services (DHHS) receives today. In 2017, DHHS received 2,941 appeals that went to hearing.

In addition, these suits could result in thousands of pages of information and records that need to be provided to the Attorney General's Office. Currently, the Attorney General (AG) represents the agency in these suits with support being provided by the agency. All administrative appeals are currently being handled by the programs, and they would continue to provide records and information as they always have. It is unclear as to what support the AG will need from our department if a class is certified. If a class can look back 2 years from an underlying case, the agency would have to identify the case number and provide supporting documentation. This exceeds current resources and could require additional staffing needs and IT development to allow an agency to share, search, and retrieve relevant documents and identify applicable claim numbers.

If, upon certifying a class action claim, the agency could be required to notify all potential class members that a lawsuit has been filed. Locating the potential class members could be a challenge and may require additional resources, as our applicants/recipients tend to move frequently and may no longer reside in Nebraska.

MAJOR OBJECTS OF EXPENDITURE

PERSONAL SERVICES:	POSITION TITLE	NUMBER OF POSITIONS		2020-2021	2021-2022
		20-21	21-22	EXPENDITURES	EXPENDITURES

Benefits.....		
Operating.....		
Travel.....		
Capital Outlay.....		
Aid.....	\$1,453,368	\$1,453,368
Capital Improvements.....		
TOTAL.....	\$1,453,368	\$1,453,368

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2020

LB⁽¹⁾ 1137

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ 05 Supreme Court

Prepared by: ⁽³⁾ Eric Asboe Date Prepared: ⁽⁴⁾ 2/1/20 Phone: ⁽⁵⁾ 1-4138

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:

Judicial branch education would be required. In addition, judicial workload could increase, however, a reasonable estimate of the impact cannot be determined at this time. No additional resources required at this point.

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.....	_____	_____	_____	_____