Scott Danigole January 28, 2021 471-0055

LB 298

Revision: 01 FISCAL NOTE LEGISLATIVE FISCAL ANALYST ESTIMATE

Updated to reflect revised agency response.

| ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates) | | | | | | |
|------------------------------------------------------------------------------------------------|----------------|----------------|----------------|----------------|--|--|
| | FY 2021-22 | | FY 2022-23 | | | |
| | EXPENDITURES | REVENUE | EXPENDITURES | REVENUE | | |
| GENERAL FUNDS | \$14,000,000 | | \$14,000,000 | | | |
| CASH FUNDS | | | | | | |
| FEDERAL FUNDS | (\$14,000,000) | (\$14,000,000) | (\$14,000,000) | (\$14,000,000) | | |
| OTHER FUNDS | \$1,249,878 | | \$1,249,878 | | | |
| TOTAL FUNDS | \$1,249,878 | (\$14,000,000) | \$1,249,878 | (\$14,000,000) | | |

Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.

LB 298 changes provisions of the Employment Security Law.

Section 1 amends section 4-109 to specify that public benefits does not include unemployment benefits provided to the Employment Security Law.

Section 2 stipulates that an individual shall be disqualified for unemployment benefits for any week if the services upon which benefits are based are performed by an alien who is ineligible for unemployment benefits.

Utilizing 2020 data, the Department of Labor (DOL) identified 316 individuals who were denied unemployment due to citizenship status. Using 300 cases, average payout, and average claim duration, DOL estimates \$1.247, 979 in unemployment claims would have been paid in 2020 if the provisions of LB298 were in effect. While DOL believes the number of potential cases is more, they are providing a conservative estimate of payouts for future years. The figure in the table above for FY21/22 is half of the amount DOL estimated due to the anticipated effective date of LB 298.

The DOL indicates that the provisions of LB 298 modify the current process for determining unemployment insurance benefit eligibility. DOL is federally required to use Systematic Alien Verification for Entitlements program (SAVE) for legal status verification and work authorizations. LB 298 allows for an alternative process. This may create conformity issues.

The US Department of Labor has addressed the DOL and stated that the provisions of LB 298 DO NOT conform to federal requirements. DOL receives fourteen million dollars (\$14,000,000) in grant funding from USDOL for Nebraska's unemployment insurance program. The General Fund expenditures in fiscal year 2022 will allow DOL to continue running an unemployment insurance program in Nebraska.

In addition to the costs identified in the table above, DOL estimates that Nebraska employers will lose approximately \$400,000,000 with the loss of the Federal Unemployment Tax Act (FUTA) Credit.

There is no basis to disagree with DOL's estimates.

| LB: 298 | AM: | AGENCY/POLT. SUB: Departm | AGENCY/POLT. SUB: Department of Labor | | |
|------------|-------------------|---------------------------|---------------------------------------|--|--|
| REVIEWED E | 3Y: Neil Sullivan | DATE: 1/27/2021 | PHONE: (402) 471-4179 | | |

Please complete <u>ALL</u> (5) blanks in the first three lines.

| LB ⁽¹⁾ 298 – AM | | FISCAL NOTE | | | | | | |
|------------------------------------------------------------|----------------------------------|----------------------------------|-------------------------------------|------------------------------|----------------|--|--|--|
| State Agency OR Political | Subdivision Name: ⁽²⁾ | Nebraska Department of Labor | | | | | | |
| Prepared by: ⁽³⁾ Katie Thurber | | Date Prepared: ⁽⁴⁾ | ⁽⁴⁾ <u>1-25-2021</u> Pho | | 402-471-9912 | | | |
| ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION | | | | | | | | |
| | | | | | 22 | | | |
| | <u>FY 9</u> EXPENDITURES | <u>2021-22</u> <u>REVENUE</u> | EXPENDITURE | <u>FY 2022</u> . <u>S</u> | <u>REVENUE</u> | | | |
| GENERAL FUNDS | \$14,000,000 | | \$14,000,000 | | | | | |
| CASH FUNDS | | | | | | | | |
| FEDERAL FUNDS | (\$14,000,000) | (\$14,000,000) | (\$14,000,000) | _ | (\$14,000,000) | | | |
| TRUST FUNDS | \$1,249,878 | | \$1,249,878 | _ | | | | |
| TOTAL FUNDS | \$1,249,878 | (\$14,000,000) | \$1,249,878 | _ | (\$14,000,000) | | | |

Explanation of Estimate: As proposed, LB 298 expands unemployment insurance benefit eligibility to individuals employed through a work authorization under the Deferred Action for Childhood Arrivals (DACA) program.

In 2020, 316 individuals were denied unemployment insurance benefits because of citizenship status. This number includes more individuals than those authorized to work under DACA. The Nebraska Department of Labor believes additional individuals in Nebraska under DACA may not have applied for unemployment insurance benefits because they knew they would not be eligible. Because the number is unknown, NDOL is estimating an additional 300 people would have received benefits each year going forward. The average weekly benefit amount for 2020 was \$297.59 and the average claim duration was approximately 14 weeks. The Nebraska Department of Labor anticipates it will pay out \$1,249,878 more (\$297.59 * 14 * 300) in unemployment insurance benefits each year.

LB 298 also modifies NDOL's process for determining unemployment insurance benefit eligibility. NDOL is federally required to use Systematic Alien Verification for Entitlements program (SAVE) for verification of legal status and work authorization. As proposed, LB 298 allows an alien to demonstrate work authorization by submitting documentation issued by the federal government which shows such work authorization. This creates a United States Department of Labor (USDOL) conformity issue. USDOL has provided an informal opinion that LB 298 does not conform with federal requirements.

If LB 298 passed as drafted, NDOL would lose approximately \$14 million annually in federal grant funding for Nebraska's unemployment insurance program. This impact is noted in the table above with a decrease in revenue from Federal Funds and an increase in expenditures of General Funds replacing the current Federal Funds expense. The shift of funding source is to enable NDOL to continue operating an unemployment program for Nebraska.

Further, Nebraska employers would lose their Federal Unemployment Tax Act (FUTA) credit. The FUTA tax is 6.0% on the first \$7,000 an employee earns. Any earnings beyond \$7,000 are not taxed. Currently, the tax credit is 5.4%. Losing this tax credit would increase taxes on Nebraska employers in excess of \$400 million. This impact is not noted in the table above.

Personal Services:

| POSITION TITLE | NUMBER OF <u>21-22</u> | POSITIONS 22-23 | 2021-22 <u>EXPENDITURES</u> | 2022-23 <u>EXPENDITURES</u> |
|----------------------|---------------------------|--------------------|--------------------------------|--------------------------------|
| | | | | |
| Benefits | | | | |
| Operating | | | | |
| Travel | | | | |
| Capital outlay | | | | |
| Aid | | | | |
| Capital improvements | | | | |
| TOTAL | | | | |