

**FISCAL NOTE**  
**LEGISLATIVE FISCAL ANALYST ESTIMATE**

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES</b> (See narrative for political subdivision estimates)				
	<b>FY 2021-22</b>		<b>FY 2022-23</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
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.**

LB 441 relates to the Nebraska Workers' Compensation Act. The bill would change provisions relating to compensation for individuals affected by COVID-19.

It is anticipated that LB 441 would greatly increase the number of workers' compensation claims assigned to the Attorney General's office. To handle the increased volume of cases, an additional Assistant Attorney General would be retained. The personnel and benefit cost for this position is estimated to be \$107,300.

The Department of Administrative Services (DAS) would be required to provide temporary total disability (TTD) payments for the time during self-quarantine that prevented the injured essential worker from returning to employment plus any medical claims incurred. DAS would incur additional costs if the employee had life-time complications that would restrict work activities or prevent the injured employee from returning to work. In the instance of the death on the affected worker, DAS would be required to pay life and spousal benefits. Actual fiscal impact cannot be determined as the number of claims that may be received is unknown.

The DAS Risk Management Workers' Compensation Program is a revolving fund. All state agencies, boards and commissions, and the University and State Colleges pay an annual assessment. The bill could increase the amounts of these assessments and result in a need for additional revolving fund appropriation. The biennial FY 21-23 workers' compensation assessment has been published and would need to be adjusted. If the State were prohibited from increasing the Workers Compensation assessment amount, the additional program costs would need to come from the General Fund.

The Department of Insurance (DOI) would be required to handle the administration of all claims under this bill. To fulfill these requirements, the DOI would need to hire additional personnel, software and start-up costs. for items necessary for the employees to perform the functions of their job duties.

The DOI would be required to hire 2 claims adjusters which would be a new classification of employee that is not currently employed by the DOI. This particular position is not currently a job classification in the labor contracts so the salary for this position is estimated to be \$57,058. In addition to the claims adjusters, DOI would need to hire 1 accounting clerk. Also, work equipment, such as computers and hardware, would need to be purchased to allow the new employees the items necessary to perform the functions of their job duties. DOI would also need to acquire the appropriate claims handling software. Due to the uncertainty of the scope of work, the upfront costs of the software could range from \$2,000-\$25,000 with on-going licensing fees. For the fiscal note, the DOI has utilized an estimate of \$7,500 for FY 21-22 and \$3000 for FY 22-23. The total estimated cost for personnel, supplies and software for DOI is \$ 226,663 for FY 21-22 and \$232,507 for FY 22-23.

The bill allows for a third party insurer to perform the claims administrator role. However, while the DOI attempted to solicit quotes, due to the uncertainties related to the scope of work insurers were unable to provide a quote.

The bill is unclear as to whom is responsible for paying out the claims for employees other than those employed by the State, whether it be DAS or DOI. While it may be assumed that the DAS would be the payer of State employee claims, the DOI utilized the data available regarding the potential impact of providing disability benefits, life and spousal benefits and healthcare for all eligible Nebraska employees who were negatively impacted by COVID 19. The DOI estimates a cost of \$92,625,970 for FY 21-22 and \$10,991,195 for FY 22-23. The bill notes that federal funds may offset these costs but the bill does not identify the source or amount of funding that would be available for the offset.

There is no basis to disagree with these estimates.

CONTINUED

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
<b>LB: 441</b>	<b>AM:</b>	AGENCY/POLT. SUB: <b>Department of Administrative Services – Risk Management Division (65)</b>
REVIEWED BY: Joe Wilcox	DATE: 02/03/2021	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the Department of Administrative Services – Risk Management Division estimate of potential, but Undetermined Fiscal Impact to the Agency from LB 441.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
<b>LB: 441 REVISED</b>	<b>AM:</b>	AGENCY/POLT. SUB: <b>Nebraska Department of Insurance (22)</b>
REVIEWED BY: Joe Wilcox	DATE: 02/25/2021	PHONE: (402) 471-4178
COMMENTS: The Nebraska Department of Insurance Revised Fiscal Note for LB 441 simply adds a paragraph identifying that the bill creates the Retroactive COVID-19 Claims Fund, but as there is no provision for revenue or transfers into this Fund, the Agency presumes the costs would come from the State General Fund. Do not disagree with this assertion.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
<b>LB: 441</b>	<b>AM:</b>	AGENCY/POLT. SUB: <b>Nebraska Attorney General (11)</b>
REVIEWED BY: Joe Wilcox	DATE: 02/01/2021	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the Nebraska Attorney General estimate of potential Fiscal Impact to the Agency from LB 441.		

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2021

LB<sup>(1)</sup> 441

FISCAL NOTE

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

Prepared by: <sup>(3)</sup> Allen Simpson Date Prepared: <sup>(4)</sup> 1/19/2021 Phone: <sup>(5)</sup> (402)471-4436

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2021-22</u>		<u>FY 2022-23</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 441 gives essential workers who otherwise qualify for workers' compensation the ability to file a workers' compensation claim for a confirmed COVID-19 positive on or after March 13, 2020 either by physician or test; has COVID-19 listed as the cause of death on their death certificate; or quarantined at the direction of the employer due to suspected COVID-19 exposure or the display of any COVID-19 symptoms shall be presumed to have suffered from the accident arising out of and in the course of his or her employment. Claims after March 13, 2020 and before the effective date of the act will be administered by the Department of Insurance and the claims will be paid by the Retroactive COVID-19 Claims Fund created by the bill. It is assumed that applicable claims after the effective date of the act will be the responsibility of the State's workers' compensation program. Finally, the bill identifies those workers designated as essential workers.

This bill will have a fiscal impact to the Department of Administrative Services (DAS) - Risk Management. The increase costs would include, at a minimum, \$55,200 for temporary total disability (TTD) payments for the self-quarantined period only, plus any medical expenses for any claims incurred after the responsibility has returned to the State's workers' compensation program. This would be based on the payment of TTD benefits starting from the earliest of the first date of quarantine, the date of positive testing, or the date of confirmed diagnosis of COVID-19, and continuing for the duration of the self-quarantine period that prevented the injured essential worker from returning to employment.

Using an average rate of \$15 per hour for a 40-hour week comes to \$600 for an average weekly wage (\$15 x 40 = \$600). TTD payments equal 2/3 of the average weekly wage of \$600, which would be \$400 (\$600 / 2/3 = \$400). The estimated TTD payments would be \$55,200 (\$400 per week X 2 weeks X 69 COVID-19 claims = \$55,200).

In the case of a severe COVID-19 claim occurring after the responsibility for such claims has returned to the State's workers' compensation program, such costs would be significant. An example would be a 30-year-old claimant requiring long-term hospitalization and then placed on lifetime restrictions where they could no longer work. Lifetime medical care could run between \$750,000 to \$1,000,000 and the claimant would also be entitled to permanent disability payments for his/her lifetime expectancy of 40 years for an amount of \$832,000 (40 years x 52 weeks x \$400 per week = \$832,000). Additional costs are also possible through subrogation of the hospitalization expenses if paid by an insurance plan other than the State's plan.

Additional costs could be incurred if additional workers are determined to be unable to work any longer due to long term health issues related to COVID-19.

A death claim related to COVID-19 occurring after the responsibility for such claims has returned to the State's workers' compensation program, for a 30-year-old claimant would also have significant costs. The medical bills for an 8-12 weeks hospitalization could be in the area of \$250,000 and the spouse death benefits of \$832,000 would be

paid out like the example above, assuming he/she had a similar life expectancy. (40 years x 52 weeks x \$400 = \$832,000).

DAS - Risk Management has received 69 COVID-19 claims for essential workers during the last eleven months. It is difficult to determine the number of claims that would be received or their fiscal impact to DAS Risk Management.

It is uncertain if the bill would permit the State to increase its assessments to pay for the additional costs. The DAS - Risk Management Workers' Compensation Program is a revolving fund program and is funded by an annual assessment that includes all agencies, boards and commissions, the University and State Colleges. Any increase in costs could increase the annual amounts assessed.

These additional costs would result in the need for additional revolving fund appropriation. The biennial FY21-23 worker's compensation assessment has already been published and would need to be adjusted, thus impacting the enterprise. Increased claims could also impact future assessments.

The table below summarizes the estimated impact by fund type of any increase in the assessment. The allocation by fund type below is based on an average of workers' compensation assessment payments over a four-year period (2017-2020).

Fund Type	Percentage by Fund Type
General Fund	57%
Cash Fund	25%
Federal Fund	15%
Revolving Fund	3%
<b>Total</b>	<b>100%</b>

If the State is prohibited from increasing the Workers Compensation assessment amount, then the additional program costs would need to come from the General Fund.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

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

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2021

LB<sup>(1)</sup> 441 Revised

FISCAL NOTE

State Agency OR Political Subdivision Name: <sup>(2)</sup> Insurance

Prepared by: <sup>(3)</sup> Thomas Green Date Prepared: <sup>(4)</sup> 2/25/2021 Phone: <sup>(5)</sup> 402-471-4650

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2021-22</u>		<u>FY 2022-23</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	\$92,866,133*		\$11,228,702*	
CASH FUNDS	***		***	
FEDERAL FUNDS	**	**	**	**
OTHER FUNDS				
TOTAL FUNDS	<u>\$92,866,133*</u>		<u>\$11,228,702*</u>	

Explanation of Estimate:

LB 441 is a retroactive workers' compensation bill that creates the presumption that any "essential" worker that contracted COVID-19 contracted it at work and has a compensable workers' compensation claim. The bill also requires the Department of Insurance ("DOI"), or a third party selected by the DOI, to handle the administration of all claims under the bill.

In order to perform the claims administration piece of the bill the DOI would need to hire **claims adjusters** as there are not any presently on the DOI payroll. Unfortunately, there is not a job description included in the DAS job listings that would provide such function. The salary of an insurance claims adjuster is estimated to be \$57,058. It is estimated that the DOI would need at least two such claims adjusters initially, depending on volume.

In addition to the claims adjusters, it is estimated that the DOI would need at least one additional **accounting clerk** to handle the processing of benefit checks and related accounting transactions/reporting.

The DOI would also need to acquire appropriate **claims handling software**. The scope of work is unclear regarding the extent of the claims administration work to be performed by the Department. Due to uncertainty with the scope of work, a reasonable estimate on the software product could be anywhere in the range of \$2,000 – \$25,000 up front, depending on the extent of the services to be performed, with annual licensing fees thereafter. For purposes of this fiscal note, the Department has utilized the figures of **\$7,500 for FY 21-22 and \$3,000 for FY 22-23**.

In addition to the software, the new employees would also require computers, workstations, dedicated telephone lines, and the other hardware and supplies necessary to perform their job duties. The DOI estimates these costs to be equal to **\$6,000 in FY 21-22 and \$2,000 in FY 22-23**.

The DOI attempted to solicit quotes from third party insurers to perform the claims administration role. Due to uncertainties related to scope of work, insurers were unable to provide a quote.

\*Assuming the Department is responsible for making the workers' compensation payments outlined in the bill, a computation of the liability is provided. The computation is based on 200,000 total COVID cases in Nebraska as of 2/24/2021, and 79% of those cases (158,000 cases) occurring among people in the age groups that are typical for workers (i.e., elimination of retirees and children). Due to Nebraska's low unemployment, the Department further assumed that of those 158,000 cases, 85% were employed. Workers' compensation disability benefits are paid weekly and are based upon 2/3 of employees' average weekly wage. Utilizing an average salary in Nebraska of \$47,216, a weekly disability payment amount of \$605.33 is the resulting weekly

disability benefit rate. 84% of cases were assumed to be of a two week duration (“Standard cases”), 15% of cases were assumed to be “Long Haulers” with an average benefit period of 10 weeks, and 1% of cases were assumed to result in death. The cost to send weekly benefits to those parties is estimated as follows:

Standard Cases: 112,812 cases x 2 weeks x \$605.33 = \$136,576,976 (FY 21-22 only)  
 Long Hauler cases: 20,145 cases x 10 weeks x \$605.33 = \$121,943,729 (FY 21-22 only)

Death Cases (1343 cases with benefits paid out weekly for 52 weeks):

FY 2021-22: \$42,273,826  
 FY 2022-23: \$42,273,826

Nebraska’s workers’ compensation laws require payout of burial expenses in death cases in an amount up to \$11,000 per case. Assuming 1343 death cases, funeral benefits of \$14,773,000 would be required.

In addition to weekly disability benefits and burial expenses, workers’ compensation statutes require payout of all related medical bills. In Nebraska, 6054 people have been hospitalized due to COVID. Using the same computations set forth above, it is assumed that 4069 hospitalized people were employed at the time. Assuming an average bill of \$10,000 for each hospitalization, the liability is \$40,686,200.

A review of the labor force was undertaken to determine the portion qualifying as essential workers under the definition contained in the bill. It was determined that approximately 26% of the work force qualifies as essential workers. As a result, after totaling all of the figures for disability benefits, burial expenses and medical bills outlined above, the Department multiplied that figure (\$356,253,731) by 26% to determine a good faith estimate regarding the portion of such amounts attributable to essential workers, resulting in a figure of **\$92,625,970 for FY 21-22 and \$10,991,195 for FY 22-23.**

\*\*Section 1(7) of the bill states that “federal money which is available to the state and is related to the COVID-19 emergency response may be used to offset state costs”, but does not identify any such federal monies that are presently available.

\*\*\*The Retroactive COVID-19 Claims Fund (which would be a Cash Fund under this fiscal note) is created by the bill, but there is no revenue source or transfer mechanism for that fund. As a result, all expenditures have been included in the General Funds category rather than the Cash Funds category.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

POSITION TITLE	NUMBER OF POSITIONS		2021-22	2022-23
	21-22	22-23	EXPENDITURES	EXPENDITURES
Workers’ Comp Claims Adjuster	2.0	2.0	114,116	116,398
Accounting Clerk I	1.0	1.0	25,824	26,341
Benefits.....			65,522	68,143
Operating.....			21,201	21,625
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
<b>TOTAL.....</b>			<b>226,663</b>	<b>232,507</b>

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**2021**

**LB<sup>(1)</sup> 441**

**FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> Attorney General

Prepared by: <sup>(3)</sup> Josh Shasserre Date Prepared: <sup>(4)</sup> 1-29-21 Phone: <sup>(5)</sup> 402-471-2687

**ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION**

	<u>FY 2021-22</u>		<u>FY 2022-23</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	<u>107,300.</u>	<u>                    </u>	<u>109,028.</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>107,300.</u>	<u>                    </u>	<u>109,028.</u>	<u>                    </u>

**Explanation of Estimate:**

LB441 would likely substantially increase the number of Workers Compensation cases assigned to Assistant Attorneys General in the Nebraska Department of Justice. In consideration of the current volume of such cases, LB441 would necessitate the addition of one Assistant Attorney General in the Nebraska Department of Justice.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2021-22</u>	<u>2022-23</u>
	<u>21-22</u>	<u>22-23</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Assistant Attorney General	<u>1.0</u>	<u>1.0</u>	<u>75,000.</u>	<u>76,500.</u>
Benefits.....			<u>32,300.</u>	<u>32,528.</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>107,300.</u>	<u>109,028.</u>