

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2021-22		FY 2022-23	
	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.

LB 71 would allow claims against the state that arise from acts committed by a third party as a result of negligence by a political subdivision or an employee of a political subdivision.

The Department of Administrative Services reviewed tort claims stemming from actions committed by a political party subdivision or an employee of a political party subdivision that would be eligible under the State Claims Act, if the bill were enacted. It was found that in that in the last six years claims that meet the criteria as outlined in the bill would amount to approximately \$98 million.

Individual claims under \$50,000 can be approved by DAS- Risk Management. Claims over this amount would be included in the annual Claims Bill. Estimates of claims have been provided but the exact fiscal impact cannot be determined.

Douglas County reiterates that LB71 would have significant unanticipated legal costs stemming from the loss of a political subdivision's immunity of tort claims arising out of intentional torts; however, the cost is indeterminable. Douglas County's potential costs are included in the DAS estimates.

The Attorney General anticipates the number of cases litigated under the State Claims Tort Act would increase the caseload of the trial attorneys. The increase would require the addition of one assistant attorney general and litigation costs. The fiscal impact is \$182,300 for FY22 and \$184,028 for FY23.

There is no basis to disagree with these estimates.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 71	AM:	AGENCY/POLT. SUB: Department of Administrative Services	
REVIEWED BY: Neil Sullivan		DATE: 1/21/2021	PHONE: (402) 471-4179
COMMENTS: The Department of Administrative Services assessment of fiscal impact from LB 71 appears reasonable.			

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 71	AM:	AGENCY/POLT. SUB: Douglas County	
REVIEWED BY: Neil Sullivan		DATE: 2/12/2021	PHONE: (402) 471-4179
COMMENTS: No basis to disagree with the Douglas County assessment of indeterminate fiscal impact from LB 71.			

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

LB: 71 AM: AGENCY/POLT. SUB: Attorney General

REVIEWED BY: Neil Sullivan DATE: 1/19/2021 PHONE: (402) 471-4179

COMMENTS: The Attorney General assessment of fiscal impact from LB 71 appears reasonable.

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

2021

LB⁽¹⁾ 71

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⁾ 1/12/2020 Phone: ⁽⁵⁾ (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	=====	=====	=====	=====

Explanation of Estimate:

LB 71 would allow claims against the state that arise from acts committed by a third party as a result of negligence by a state agency or an employee of the state. LB 71 would also expand the definition of placement in cases arising out of misrepresentation or deceit. As a result, there is the potential for an increase in the number of tort claims filed each year and an increase in the amount of staff time needed to process such claims. The bill would allow those claims that were dismissed after January 1, 2015, to be refiled.

Over the course of the past few years, there have been several claims filed under the State Tort Claims Act based upon similar allegations. As the statute is currently written, these claims were denied. A review of claims going back to January 1, 2015 found claims in the amount of \$98,069,555 arising from acts committed by a third party.

Claims under \$50,000 can be approved by the Claims Board and processed by Department of Administrative Services (DAS) - Risk Management for payment if funds are available. If funds aren't available, the claim is included in the annual Claims Bill that is reviewed and approved by the Legislature.

81-8,224 states no portion in excess of \$50,000 of any award or judgement shall be paid until it reviewed by the Legislature and specific appropriation is provided. Thus, any claim in excess of \$50,000 would also be included in the annual Claims Bill.

Funding for any award/settlement included in the Claims Bill is only available once a year following the signing of the bill.

The bill will create a fiscal impact; however, the exact impact is unknown.

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>21-23</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.

2021

LB71 ⁽¹⁾ Change provisions relating to intentional tort claims under the Political Subdivisions Tort Claims Act and State Tort Claims Act

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ DOUGLAS COUNTY, NEBRASKA

Prepared by: ⁽³⁾ Marcos San Martin, County Administration Date Prepared: ⁽⁴⁾ 2/12/2021 Phone: ⁽⁵⁾ 402.444.5116

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	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>

Explanation of Estimate:

NEGATIVE (DETRIMENTAL) FISCAL IMPACT TO DOUGLAS COUNTY

The provisions of LB71 expand the legal exposure to counties by revising the Political Subdivision Tort Claims Act (PSTCA) and reviving claims previously dismissed based on subdivision (7) of Neb. Rev. Stat. 13-910. As a consequence of LB71, counties may experience significant unanticipated legal costs stemming from the loss of a political subdivision's immunity from suit for negligence claims arising out of intentional ('bad-actor') torts committed by non-employees engaging / acting in independent, unjustified and wrongful acts.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

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

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

2021

LB⁽¹⁾ 71

FISCAL NOTE

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

Prepared by: ⁽³⁾ Ryan Post Date Prepared: ⁽⁴⁾ 1-15-21 Phone: ⁽⁵⁾ 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>182,300.</u>	<u> </u>	<u>184,028.</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>182,300.</u>	<u> </u>	<u>184,028.</u>	<u> </u>

Explanation of Estimate:

LB 71 will increase the number of cases litigated through trial under the State Tort Claims Act. This increase in caseload and time spent on each case will necessitate the addition of at least one assistant attorney general and require additional litigation costs.

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>75,000.</u>	<u>75,000.</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>182,300</u>	<u>184,028.</u>