

PREPARED BY: Kenneth Boggs
 DATE PREPARED: July 31, 2024
 PHONE: 4024710050

LB 57

Revision: 01

Updated Fiscal Responses

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2024-25		FY 2025-26	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS	\$25,000			
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$25,000			

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

This bill recognizes that, per Article VII, section 5 of the Nebraska Constitution, fines, penalties, and license fees must support local schools. It identifies punitive damages as similar to these fines, intended to punish and deter egregious conduct, and highlights that additional funds for schools could reduce property taxes.

It allows punitive damages for non-contractual breaches, considering various factors about the defendant’s misconduct, with three categories of punitive damages setting different award limits based on the severity and intent of the defendant’s actions. Punitive damages must be specifically requested and relevant authorities notified, with school boards potentially joining actions to protect their interests. Punitive damages awards are remitted to the State Treasurer for school funding and are cumulative with other state laws on punitive damages. Amendments to existing statutes clarify exceptions for claims against political subdivisions and state agencies, particularly in cases of failure to exercise reasonable care. Civil penalties under the Consumer Protection Act will also be directed to school funding.

The Attorney General's office has determined that there will be no fiscal impact on the state.

The Supreme Court would have a Cash Fund estimate of \$25,000 for one-time Modifications.

Counties could be impacted by LB 57, please see Nebraska Association of County Officials (NACO) response attached for additional details not included in this fiscal note.

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

2024

LB⁽¹⁾ 57 Special Session

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Nebraska Association of County Officials (NACO)

Prepared by: ⁽³⁾ Elaine Menzel Date Prepared: ⁽⁴⁾ 7/30/2024 Phone: ⁽⁵⁾ 402.434.5660

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2024-25</u>		<u>FY 2025-26</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:

LB57 would expand legal exposure through various civil actions, including punitive damages. Sections 1 to 7 of LB57 do not specifically exempt counties from the punitive damages sections; therefore, it is reasonable to assume they would be subject to such claims and expanding erosion to sovereign immunity and costs that could be borne by unfavorable lawsuits permitting punitive damages.

County attorneys would be required to be notified and they would be permitted to be parties to the action solely to protect and enforce the interests of the common schools. Costs to counties related to additional work duties of county attorneys for these circumstances are unknown; however, they may be significant. Conflict of interests may arise if counties are subject to punitive damage suits necessitating increased costs for the hiring of an alternative attorney to handle lawsuits on behalf of their interest.

LB57 would also further expand exposure by lessening sovereign immunity protections under the State and Political Subdivisions Tort Claims Acts (STCA and PSTCA) and by including intentional torts claims (1) arising out of child abuse or sexual assault of a child and (2) involving a death, when the acts are a proximate result of the county or employee of the county to exercise reasonable care to either:

- Control a person over whom the county has taken charge; or
- Protect a person who is in the county's care, custody or control from harm caused by a nonemployee actor.

Additionally, added costs for counties would be incurred to defend such claims in litigation and trial expenses in similar lawsuits. 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. As provided under the PSTCA, claims would be limited to \$1 million per person and \$5 million per occurrence.

Additionally, defendants have paid at least seven other settlements to survivors of priest sexual abuse which would not be subject to the PSTCA. However, the financial details of these settlements were never publicly disclosed. The overall fiscal impact if LB57 were implemented is unknown; however, even one claim filed against a county could be significant exposure.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2024-25</u>	<u>2025-26</u>
	<u>24-25</u>	<u>25-26</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.

2024

LB⁽¹⁾ 57, Special Session

FISCAL NOTE

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

Prepared by: ⁽³⁾ Eric Asboe Date Prepared: ⁽⁴⁾ 7/30/2024 Phone: ⁽⁵⁾ 402-326-9215

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2024-25</u>		<u>FY 2025-26</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	See Below			
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS				

Explanation of Estimate:

Note: Figures given below are preliminary. This fiscal note will be revised based on all additional information received after the date of this fiscal note.

LB57 would increase General Fund expenditures to provide judicial education and modify JUSTICE, the Judicial Branch case management system. There may be an impact on judicial workload, but any estimate cannot be determined at this time. General Fund estimate for one-time modifications: \$25,000.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2024-25</u>	<u>2025-26</u>
	<u>24-25</u>	<u>25-26</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.

2024

LB⁽¹⁾ 57

FISCAL NOTE

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

Prepared by: ⁽³⁾ Jen Huxoll Date Prepared: ⁽⁴⁾ 7-29-24 Phone: ⁽⁵⁾ 402-471-2687

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2024-25</u>		<u>FY 2025-26</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:

No Fiscal Impact.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2024-25</u>	<u>2025-26</u>
	<u>24-25</u>	<u>25-26</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____