

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2018-19		FY 2019-20	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	\$285,165		\$241,703	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$285,165		\$241,703	

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

LB 844 creates the Healthy and Safe Families and Workplaces Act.

The bill requires employers of four or more employees to provide their employees paid sick and safe time. Employees include both full-time and part-time employees but does not include a minor child employed by their parents or an individual employed in agricultural labor.

Paid sick and safe time is to accrue at a minimum of one hour for every 30 hours worked and an employee may not accrue more than 40 hours in a calendar year. An employer is not prohibited from offering a more generous policy.

Paid sick and safe time is defined as time that is compensated at the same hourly rate and with the same benefits, as the employee normally earns during hours worked and is provided by the employer to an employee for the purposes described in Section 4 of the bill.

Section 4 of the bill provides that paid sick and safe time may be used by the employee for mental or physical illness, injury, or health condition; the need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or the need for preventative medical care. This time may also be used for the care of a family member with the same needs described above.

It can also be used by the employee for an absence due to domestic assault, sexual assault, or stalking if the leave is necessary for the employee to obtain for themselves or a family member: medical attention to recover from physical or psychological injury or disability caused by domestic assault, sexual assault, or stalking; services from a victim services organization; psychological or other counseling; relocation due to domestic assault, sexual assault, or stalking; or to obtain legal services including preparing for or participating in any civil or criminal legal proceeding relating to or a result of domestic assault, sexual assault, or stalking.

In addition, the bill provides a number of definitions; allows an employer to advance leave time; requires documentation for more than three days absence; ability to use the leave after 60 calendar days of employment; requires the employee to make a good faith effort to give advance notice of absence; prohibits an employer from interfering with employee rights under the Act or taking any retaliatory personnel action; and requires the employer to provide notice of their sick and safe time policy to their employees.

LB 844 also gives the Commissioner of Labor investigative and enforcement powers. The Commissioner may assess an administrative penalty of \$500 for the first violation of the Act by an employer and not more than \$5,000 for a second and subsequent violations.

Any person aggrieved by a violation of the Act may also bring a civil action against the employer and may recover the full amount of any unpaid sick and safe time and attorney's fees and costs.

LB 844 contains the severability clause.

The Department of Labor has noted that LB 844 is quite similar to LB 493 (2015). At that time the Department of Labor prepared an estimate of costs on LB 493 that indicated a need for 2.0 FTE Labor Law Specialists to operate and maintain the proposed program. Based upon increases in Wage Payment Collection Act (WPCA) claims, and the estimated number of sick and safe leave complaints that will be received, the Department of Labor now estimates they will require 3.0 FTE Labor Law Specialists to implement the provisions of LB 844. In addition, Labor estimates that 2% of all complaints under the proposed Act will proceed to hearings, and they will require approximately \$1,000 per hearing for an independent hearing officer at a total cost of \$23,000 each year. General Funds will be required to assist with modifications to Labor's complaint submission databases to allow for submission and tracking of complaints. 1.0 FTE IT Applications Developer Senior will be needed for four months in the first fiscal year only.

The Department of Labor estimates a total expenditure for FY2018-19 of \$285,165 with PSL of 160,554. For FY2019-20 the total expenditure is estimated at \$241,703 with PSL of \$137,013.

We have no basis to disagree with the Department of Labor's estimate of fiscal impact.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 844	AM:	AGENCY/POLT. SUB: Nebraska Department of Labor
REVIEWED BY: Neil Sullivan	DATE: 2/6/2018	PHONE: (402) 471-4179
COMMENTS: No basis to disagree with the Nebraska Department of Labor assessment of fiscal impact from LB 844.		

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2018

LB⁽¹⁾ 844

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Nebraska Department of Labor

Prepared by: ⁽³⁾ Katie Thurber Date Prepared: ⁽⁴⁾ 1-19-2018 Phone: ⁽⁵⁾ 402-471-9912

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2018-19		FY 2019-20	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	<u>\$285,165</u>	<u> </u>	<u>\$241,703</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><u>\$285,165</u></u>	<u><u> </u></u>	<u><u>\$241,703</u></u>	<u><u> </u></u>

Explanation of Estimate: LB 844 creates the Healthy and Safe Families and Workplace Act. The bill requires employers of four or more employees to provide their employees paid sick and safe time. Paid sick and safe time is to accrue at a minimum of one hour for every 30 hours worked and an employee may not accrue more than 40 hours in a calendar year. An employer is not prohibited from offering a more generous policy.

Section 4 of the bill provides that paid sick and safe time may be used by the employee for mental or physical illness, injury, or health condition; the need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or the need for preventative medical care. This time may also be used for the care of a family member with the same needs described above (referred to herein as "Sick Leave").

It can also be used by the employee for an absence due to domestic assault, sexual assault, or stalking if the leave is necessary for the employee to obtain for themselves or a family member: medical attention to recover from physical or psychological injury or disability caused by domestic assault, sexual assault, or stalking; services from a victim services organization; psychological or other counseling; relocation due to domestic assault, sexual assault, or stalking; or to obtain legal services including preparing for or participating in any civil or criminal legal proceeding relating to or a result of domestic assault, sexual assault, or stalking (referred to herein as "Safe Leave").

LB 844 gives the Commissioner of Labor investigative and enforcement powers. The Commissioner may assess an administrative penalty of \$500 for the first violation of the Act by an employer and not more than \$5,000 for second and subsequent violations. Employers have the right to contest such determinations, in which case an administrative hearing would be held.

NDOL has seen an increase in employee complaints or claims in other areas, in particular the Wage Payment Collection Act (WPCA). WPCA claims increased from 710 in 2015, to 985 in 2016, to 1054 in 2017. Therefore, NDOL estimates that there will be a fairly significant number of complaints to investigate under LB 844, and potentially adjudicate through administrative hearings. As mentioned above, the bill addresses Sick Leave and Safe Leave.

It is very difficult to estimate the number of complaints that will be filed in regard to Sick Leave. NDOL does not have data on the number of times employees in all occupations request leave for illness or injury. This information would be necessary to estimate the number of times an employer might not comply with the act. NDOL is using information from complaints received under the Wage Payment Collection Act to estimate the number of Sick Leave complaints, and therefore estimates around 1,000 (similar to WPCA complaints in 2017).

In regard to Safe Leave, based upon similar legislation in the State of Washington, Washington indicated that 54,000 cases of domestic violence, sexual abuse, and stalking are reported yearly. Washington assumed 99% compliance with the law, and therefore estimated that 540 complaints would be filed. Using Washington data, and adjusting for population difference, NDOL estimates 140 complaints will be filed in regard to Safe Leave.

Therefore, NDOL estimates 1,140 complaints annually. These complaints will need to be investigated by NDOL. Where applicable, NDOL will issue a fine. The Employer may appeal NDOL's decision, in which case, NDOL will have a hearing on the appeal. NDOL may also pursue collection of unpaid fines.

LB 844 is very similar to LB 493 (2015). NDOL prepared an estimate of costs on LB 493 in 2015, and at that time indicated a need for 2.0 FTE Labor Law Specialists to operate and maintain the program. Based upon increases in WPCA claims, and the estimated number of sick and safe leave complaints that will be received, NDOL will require at least 3.0 FTE Labor Law Specialists at a total cost of \$225,294 in year one and \$218,703 in year two. NDOL estimates that two percent (2%) of all complaints will proceed to hearing, and NDOL will require approximately \$1,000 per hearing for an independent hearing officer at a total cost of \$23,000 each year. In addition, General Funds will be required to assist with modifications to NDOL's complaint submission databases to allow for submission and tracking of complaints. One FTE will be needed for four months at a total cost of \$36,871 in year one only.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

POSITION TITLE	NUMBER OF POSITIONS		2018-19	2019-20
	18-19	19-20	EXPENDITURES	EXPENDITURES
Labor Law Specialist	3.00	3.00	\$136,001	\$137,013
IT Applications Developer/Sr	.33	0.00	24,553	
Total Salaries.....	3.33	3.00	\$160,554	\$137,013
Benefits.....			64,194	57,440
Operating.....			51,417	47,250
Travel.....				
Capital outlay.....			9,000	
Aid.....				
Capital improvements.....				
TOTAL.....			\$285,165	\$241,703