

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

| <b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)</b> |                     |                |                     |                |
|---|---------------------|----------------|---------------------|----------------|
|   | <b>FY 2018-19</b>   |                | <b>FY 2019-20</b>   |                |
|   | <b>EXPENDITURES</b> | <b>REVENUE</b> | <b>EXPENDITURES</b> | <b>REVENUE</b> |
| GENERAL FUNDS   | \$101,114           |                | \$99,111            |                |
| CASH FUNDS  |                     |                |                     |                |
| FEDERAL FUNDS   | \$70,867            |                | \$68,639            |                |
| OTHER FUNDS   |                     |                |                     |                |
| <b>TOTAL FUNDS</b>  | <b>\$171,981</b>    |                | <b>\$167,750</b>    |                |

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

LB 1134 creates the Nebraska Worker Adjustment and Retraining Notification Act.

In general, the bill provides that an employer who plans a business closing or mass layoff that will affect 25 or more employees, shall not order such action unless 60 days prior they have given written notices to each affected employee, or their representative, and the Department of Labor. The 60-day period applies unless a different time period is specified in a collective bargaining agreement.

The notice requires by the bill shall include the following:

- Name and address of the employment site where the closing or layoff will occur and name and telephone number of a company official to contact for further information;
- Statement on whether the action is expected to be permanent or temporary and, if the entire business is to be closed;
- Expected date of first employment loss and anticipated schedule for employment losses;
- Job titles of positions affected and names of the employees currently holding the affected jobs;
- The notice may also include additional information useful to the employees.

Notice is not required for the following:

- if the closing or layoff constitutes a strike or lockout and is not intended to evade the requirements of the bill;
- The notice requirements also do not apply to a business closing if the employer has actively been seeking capital or business at the time the notice would have been required;
- If the closing or layoffs were due to business circumstances that were not reasonable foreseeable at the time;
- If the closing or layoffs were the direct result of a natural disaster.

An employer who violates the requirements of LB 1134 shall be liable to each aggrieved employee who suffers an employment loss as a result for:

- Back pay for each day of violation at a rate of compensation not less than the higher of:
  - The average regular rate received by such employee during the last three years of employment; OR
  - The final regular rate received by such employee; and
  - Benefits under the employee benefit plan, including the cost of medical expenses incurred during the employment loss which would have been covered under the benefit plan.

In addition, an employer who violates the provisions of the Act shall be subject to a civil penalty of not more than \$250 for each day of the violation and be subject to paying a plaintiff's attorney's fees.

As noted by the Department of Labor, LB 1134 is very similar to the federal Worker Adjustment and Retraining Notification Act of 1998, with the key difference being the size of employer. The federal act covers employers with more than 100 employees and LB 1134 covers employers with 25 or more employees.

The Department of Labor would be responsible for conducting investigations under the provisions of LB 1134. If the Department finds that a violation occurred, they may bring an action on behalf of any aggrieved employee. This would be a new function for the Department and expands beyond the authority under federal law. They indicate they will require 1.0 FTE Attorney II to handle investigatory and enforcement caseload. They will also require 1.0 FTE Workforce Coordinator for which federal funds would be available. PSL for FY2018-19 would be \$106,689 and for FY2019-20 it would be \$107,483.

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

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

LB: 1134            AM:                            AGENCY/POLT. SUB: Nebraska Department of Labor

REVIEWED BY: Neil Sullivan                            DATE: 2/21/2018                            PHONE: [\(402\) 471-4179](tel:4024714179)

COMMENTS: No basis to disagree with the Nebraska Department of Labor assessment of fiscal impact from LB 1134.

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

2018

LB<sup>(1)</sup> 1134

FISCAL NOTE

State Agency OR Political Subdivision Name: <sup>(2)</sup> Nebraska Department of Labor

Prepared by: <sup>(3)</sup> Katie Thurber Date Prepared: <sup>(4)</sup> 2-20-2018 Phone: <sup>(5)</sup> 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>\$101,114</u>            | <u>                    </u> | <u>\$99,111</u>             | <u>                    </u> |
| CASH FUNDS    | <u>                    </u> | <u>                    </u> | <u>                    </u> | <u>                    </u> |
| FEDERAL FUNDS | <u>70,867</u>               | <u>                    </u> | <u>68,639</u>               | <u>                    </u> |
| OTHER FUNDS   | <u>                    </u> | <u>                    </u> | <u>                    </u> | <u>                    </u> |
| TOTAL FUNDS   | <u><u>\$171,981</u></u>     | <u>                    </u> | <u><u>\$167,750</u></u>     | <u>                    </u> |

Explanation of Estimate: LB 1134 creates the Nebraska Worker Adjustment and Retraining Notification Act. As proposed, LB 1134 is very similar to the federal Worker Adjustment and Retraining Notification Act of 1998 (WARN Act). The key difference is the size of employer. The federal law covers employers with 100 or more employees, whereas LB 1134 covers employers with 25 or more employees.

The Nebraska Department of Labor currently has two employees dedicated to Rapid Response activities. The Rapid Response activities are dedicated to helping those laid off find new employment and training and educate impacted individuals on potential benefits available. The United States Department of Labor covers all investigations and enforcement of the federal WARN Act.

In calendar year 2017, there were 8 WARN events. Additionally, there were 28 layoffs or closures reported to the Department of 25 or more employees. Under LB 1134, it is expected the Department will receive more notices of layoffs and closures and need to cover more ground geographically. This will require one additional employee be added to the Department's Rapid Response division. This position can be paid for with federal funds. Salaries and Benefits for a Workforce Coordinator would be \$60,394 in year one and \$61,110 in year two.

Under LB 1134, the Department is responsible for investigating violations. If it finds a violation occurred, the Department may bring an action on behalf of any aggrieved employee. This would be a new function for the Department and expands beyond the authority under federal law. We would need 1 Attorney II to handle the investigatory and enforcement caseload. We do not believe the workload would justify a labor standards investigator and an attorney, but cannot absorb the activities into existing workloads. We would combine both the investigatory and legal duties into one position. That position would need to be an attorney in order to do the required legal work for enforcement and recovery. Salaries and Benefits would be \$86,704 in year one and \$87,616 in year two. Federal funds would not be available for this position.

As a technical note, the Department believes on page 10 line 9, the word "employee" should be "employer".

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

| POSITION TITLE            | NUMBER OF POSITIONS |       | 2018-19<br>EXPENDITURES | 2019-20<br>EXPENDITURES |
|---------------------------|---------------------|-------|-------------------------|-------------------------|
|                           | 18-19               | 19-20 |                         |                         |
| Workforce Coordinator     | 1.00                | 1.00  | \$42,222                | \$42,536                |
| Attorney II               | 1.00                | 1.00  | 64,467                  | 64,947                  |
| Total Salaries.....       | 2.00                | 2.00  | \$106,689               | \$107,483               |
| Benefits.....             |                     |       | 40,409                  | 41,243                  |
| Operating.....            |                     |       | 18,883                  | 19,024                  |
| Travel.....               |                     |       |                         |                         |
| Capital outlay.....       |                     |       | 6,000                   |                         |
| Aid.....                  |                     |       |                         |                         |
| Capital improvements..... |                     |       |                         |                         |
| TOTAL.....                |                     |       | \$171,981               | \$167,750               |