

**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	\$304,535		\$251,672	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>	<b>\$304,535</b>		<b>\$251,672</b>	

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

LB 258 is the Healthy and Safe Families and Workplaces Act.

Section 2 provides definitions for the Act.

Section 3 requires employees to acquire one hour of paid sick and safe time for every thirty hours worked. Employees shall not acquire more than forty hours of paid sick and safe time in a calendar year unless an employer selects a higher limit. Any employer with a paid leave policy which makes available an amount of paid leave sufficient to meet the accrual requirements for paid sick and safe time is not required to provide additional paid sick and safe time.

Section 4 specifies reasons and conditions for which an employer shall allow an employee to use paid sick and safe time.

Section 5 makes it unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of any right protected under the Act. An employer shall not take retaliatory action or discriminate against an employee because the employee has exercised rights protected under the Act. Such rights include, but are not limited to, the right to use paid sick and safe time pursuant to the act, the right to file a complaint or inform any person about any employer's alleged violation of the Act, the right to cooperate with the Department of Labor in its investigations of alleged violations of the Act, and the right to inform any person of potential rights under the Act. LB 258 also makes it is unlawful for an employer's absence control policy to count paid sick and safe time as an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other adverse action.

Section 7 provides duties and powers to the Department of Labor (DOL) to enforce the Act. This includes the power to impose penalty fees for violations of the Act.

DOL estimates the need for 3.0 additional FTE to administer the provisions of LB 258. This is based on similar programs in different states and in similar types of complaints in Nebraska in the past few years. There is no basis to disagree with DOL's estimates.

<b>ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY &amp; POLT. SUB. RESPONSE</b>		
LB: 258	AM:	AGENCY/POLT. SUB: Department of Labor
REVIEWED BY: Neil Sullivan	DATE: 2/3/2021	PHONE: (402) 471-4179
COMMENTS: The Department of Labor assessment of fiscal impact from LB 258 appears reasonable.		

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

2021

LB<sup>(1)</sup> 258

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> 2-2-2021 Phone: <sup>(5)</sup> 402-471-9912

**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	\$304,535		\$251,672	
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TOTAL FUNDS	<u>\$304,535</u>		<u>\$251,672</u>	

Explanation of Estimate: LB 258 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 258 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 had increased four of the last five years: 986 in 2016, 1,066 in 2017, 1,205 in 2018, 1,250 in 2019. However, in 2020 we saw a slight decrease to 1,040. We anticipate the decrease was due to the pandemic and expect a higher workload in 2021. Therefore, NDOL estimates that there will be a significant number of complaints to investigate under LB 258, 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 concerning 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 1,200 (similar to WPCA complaints in 2018).

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 regarding Safe Leave.

Therefore, NDOL estimates 1,340 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 258 is very similar to LB 305 (2019). NDOL prepared an estimate of costs on LB 305 in 2019 that indicated a need for 3.0 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 \$228,955 in year one and \$224,672 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 \$27,000 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 Contract IT position will be needed for four months at a total cost of \$48,580 in year one only.

**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>
Labor Law Specialist	3.00	3.00	\$137,279	\$140,024
<b>Total Salaries</b> .....	<b>3.00</b>	<b>3.00</b>	<b>\$137,279</b>	<b>\$140,024</b>
<b>Benefits</b> .....			59,623	61,149
<b>Operating</b> .....			98,633	50,499
<b>Travel</b> .....				
<b>Capital outlay</b> .....			9,000	
<b>Aid</b> .....				
<b>Capital improvements</b> .....				
<b>TOTAL</b> .....			<b>\$304,535</b>	<b>\$251,672</b>