

FISCAL NOTE
 LEGISLATIVE FISCAL ANALYST ESTIMATE

| ESTIMATE OF FISCAL IMPACT – STATE AGENCIES * | | | | |
|--|--------------|---------|--------------|---------|
| | FY 2012-13 | | FY 2013-14 | |
| | EXPENDITURES | REVENUE | EXPENDITURES | REVENUE |
| GENERAL FUNDS | 567,753 | | 540,274 | |
| CASH FUNDS | 220,869 | | 223,620 | |
| FEDERAL FUNDS | | | | |
| OTHER FUNDS | 66,550 | 66,550 | 65,203 | 65,203 |
| TOTAL FUNDS | 855,172 | 66,550 | 829,097 | 65,203 |

*Does not include any impact on political subdivisions. See narrative for political subdivision estimates.

LB 1013 expands the meaning of "Rule or regulation" for purposes of the Administrative Procedure Act.

Section 1 adds "statement, policy, instruction" to the list of what rule or regulation shall mean. In addition, "standard" is changed to "standard of general applicability".

The provisions of LB 1013 have the potential to impact every state agency, board, or commission. It is impractical to survey all such entities. Under these circumstances, a sampling of agencies has been collected to provide a sense of the bill's potential costs.

Some agencies estimate the provisions will have no fiscal impact (e.g. Department of Correctional Services, University of Nebraska, and Secretary of State). Other agencies report small estimates of impact (Nebraska State Patrol, Nebraska Department of Labor). It is assumed that these small increases can be addressed with currently budgeted resources.

The Department of Administrative Services estimates the need for one new FTE to address the bill's provisions. By way of example, AS points to the normal changes made to the State Accounting Manual each year. If these changes are included under the expanded definition of "rule or regulation" legal notices would need to be published. This example is applicable to multiple programs and divisions of AS.

The need for a full-time employee to address the changes imposed by LB 1013 may prove to be excessive. However, it could be the case that this level of staffing is truly required, especially as the bill's provisions are initially put in effect. As time goes on and these provisions become part of a normalized routine, AS may find that its need for a full time positions is unwarranted.

The Department of Revenue (DOR) estimates the need to hire four FTE to address the bill's provisions. DOR estimates they process 7,200 "statements, policies, or instructions" each year. Each of these instances would require additional processing and notice to the public. The estimated cost is \$788,622 in the first year and \$763,894 in the second year. These costs would be attributable to both General Funds and Cash Funds. While the number of FTEs and the dollar figure estimated may be high, the sheer volume of statements, policies, or instructions that DOR deals with will certainly require additional staffing and costs. There is no basis to disagree with this estimate.

DEPARTMENT OF ADMINISTRATIVE SERVICES

| | | | | | |
|---|------------|------|---------|-------|----------|
| REVIEWED BY | Joe Wilcox | DATE | 2/07/12 | PHONE | 471-2526 |
| COMMENTS | | | | | |
| ADMINISTRATIVE SERVICES: No basis to dispute agency analysis relative to DAS. DEPARTMENT OF CORRECTIONAL SERVICES: No basis to dispute agency analysis relative to NDCS. NEBRASKA DEPARTMENT OF LABOR: No basis to dispute agency analysis for the Department of Labor. SECRETARY OF STATE: No basis to dispute agency analysis respective to the Secretary of State. NEBRASKA STATE PATROL: No basis to dispute agency analysis for the State Patrol. UNIVERSITY OF NEBRASKA: No basis to dispute agency analysis relative to the University of Nebraska. | | | | | |

2012 Legislative Bill Proposal Fiscal Note

RECEIVED
FEB 07 2012
LEGISLATIVE FISCAL

Bill #: LB 1013
State Agency: Administrative Services
Prepared by: Jeannie O'Meara
Approved by:

Date Prepared: 1-23-12 Phone: 402-471-8292

Estimate of Fiscal Impact – State Agencies

| | FY 2012-13 | | FY 2013-14 | |
|---------------|--------------|---------|--------------|---------|
| | Expenditures | Revenue | Expenditures | Revenue |
| General Funds | | | | |
| Cash Funds | | | | |
| Federal Funds | | | | |
| Other Funds | 66,550 | 66,550 | 65,203 | 65,203 |
| Total Funds | 66,550 | 66,550 | 65,203 | 65,203 |

Explanation of Estimate: LB 1013 amends the definition of rule or regulation under the Administrative Procedures Act to include “statement, policy, instruction, or standard of general applicability issued by an agency....”

As written, this bill would require that essentially all policies and procedures of the Department of Administrative Services (DAS) would have to go through the promulgation process. This would require DAS to take almost every rule and/or business operation standard through the entire approval process as outlined in the Administrative Procedure Act, thus creating a significant administrative burden.

Each of the Divisions/Programs within DAS would be required in FY12-13 to complete the approval process for current rules and/or business processes. The range of the estimated increased cost to provide notification is \$990 to \$6,600 depending on the newspaper used to publish the legal notice. (Approximately 33 Programs X \$30.00 per legal notice = \$990 / Approximately 33 Programs x \$200 per legal notice = \$6,600)

It is difficult to estimate the number of approval processes that would be necessary each year and therefore the amount of increased costs in future fiscal years. For example State Accounting annually makes approximately 15 changes to the State Accounting Manual at an estimated cost range of \$450 to \$3,000 for legal notices. (15 notices X \$30 per legal notice = \$450 / 15 notices X \$200 per legal notice = \$3,000) Each Division/Program within DAS could possibly have more or less changes each year.

These estimated increased costs could be absorbed and would not require additional appropriations, but it does involve a loss of productivity and efficiency that cannot be quantified in this fiscal note.

An additional FTE is required at the Agency level to assist each Division/Program internally with the development of each required process review, to coordinate the notification process, monitor the status of each step within the approval process and monitor ongoing compliance. The additional FTE would be a part of Central Services - Finance.

Estimated costs for the additional FTE are \$66,550 in FY12-13 and \$65,203 in FY13-14. These costs include salary and benefits (health insurance is budgeted using the State's current share of the highest cost family plan), ongoing annual operating costs (communication/data processing, printing/publication, supplies and rent/depreciation surcharge). There would also be a onetime cost in FY12-13 for the purchase of new equipment and set up costs of \$2,500 for the new employee.

The additional costs would require an increase in Central Services – Finance's annual assessment to the Agency's Divisions.

The bill would also allow attorney's fees and court costs if a rule or regulation is declared invalid. This has the potential to create unknown future litigation costs.

Major Objects of Expenditure

Personal Services:

| Position Title: | Number of Positions | | | 2012-13 | 2013-14 |
|------------------------|----------------------------|--------------|--|---------------------|---------------------|
| | 12-13 | 13-14 | | Expenditures | Expenditures |
| Staff Assistant II | 1 | 1 | | 33,186 | 33,850 |
| Benefits | | | | 26,489 | 26,978 |
| Operating | | | | 4,375 | 4,375 |
| Travel | | | | | |
| Capital Outlay | | | | 2,500 | 0 |
| Aid | | | | | |
| Capital Improvements | | | | | |
| TOTAL | 1 | 1 | | 66,550 | 65,203 |

RECEIVED

JAN 24 2012

2012

LEGISLATIVE FISCAL

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

LB⁽¹⁾ 1013 FISCAL NOTE

State Agency OR Political Subdivision Name: (2) Department of Correctional Services

Prepared by: (3) Christina Peters Date Prepared: (4) 1/23/2012 Phone: (5) 402-479-5702

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

| | FY 2012-2013 | | FY 2013-2014 | |
|---------------|--------------|---------|--------------|---------|
| | EXPENDITURES | REVENUE | EXPENDITURES | REVENUE |
| GENERAL FUNDS | none | | | |
| CASH FUNDS | | | | |
| FEDERAL FUNDS | | | | |
| OTHER FUNDS | | | | |
| TOTAL FUNDS | | | | |

Return by date specified or 72 hours prior to public hearing, whichever is earlier.

Explanation of Estimate:

NDCS does not interpret the language in LB 1013 to create issues which could impact agency costs.

MAJOR OBJECTS OF EXPENDITURE

Personal Services:

| POSITION TITLE | NUMBER OF POSITIONS | | 2012-2013 | 2013-2014 |
|---------------------------|---------------------|-------|--------------|--------------|
| | 12-13 | 13-14 | EXPENDITURES | EXPENDITURES |
| Benefits..... | | | | |
| Operating..... | | | | |
| Travel..... | | | | |
| Capital outlay..... | | | | |
| Aid..... | | | | |
| Capital improvements..... | | | | |
| TOTAL..... | | | | |

RECEIVED

2012

FEB 17 2012

LEGISLATIVE FISCAL

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

LB⁽¹⁾ 1013 FISCAL NOTE

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

Prepared by: (3) Thuman, Gregg R. Date Prepared: (4) 2/14/2012 Phone: (5) 402-471-0829

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

| | FY 2012-2013 | | FY 2013-2014 | |
|---------------|--------------|---------|--------------|---------|
| | EXPENDITURES | REVENUE | EXPENDITURES | REVENUE |
| GENERAL FUNDS | | | | |
| CASH FUNDS | | | | |
| FEDERAL FUNDS | 3,886.44 | | 3,886.44 | |
| OTHER FUNDS | | | | |
| TOTAL FUNDS | 3,886.44 | None | 3,886.44 | None |

Return by date specified or 72 hours prior to public hearing, whichever is earlier.

Explanation of Estimate:

Even though the fiscal impact shown above is minimal, LB1013 could have significant cost implications for this agency. LB1013 could cover things like the Employer and Claimant Handbooks, tax forms, benefit hearing instructions and WIA sign up procedures. A public hearing on each change to those instructions will be expensive. In addition there would be publication costs for every change. In the past five years it has cost an average of \$323.87 each time we have had to publish a notice of change to our regulations. With LB1013 we estimate somewhere between 10 and 12 publications per year. We also assume that all rules and regulations now in existence will be grandfathered and no public hearings or publications will be necessary to bring them into compliance with this bill.

MAJOR OBJECTS OF EXPENDITURE

Personal Services:

| POSITION TITLE | NUMBER OF POSITIONS | | 2012-2013 EXPENDITURES | 2013-2014 EXPENDITURES |
|---------------------------|---------------------|-------|---------------------------|---------------------------|
| | 12-13 | 13-14 | | |
| Benefits..... | | | | |
| Operating..... | | | 3,886.44 | 3,886.44 |
| Travel..... | | | | |
| Capital outlay..... | | | | |
| Aid..... | | | | |
| Capital improvements..... | | | | |
| TOTAL..... | | | 3,883.44 | 3,886.44 |

RECEIVED

JAN 27 2012

LEGISLATIVE FISCAL

2012

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

LB⁽¹⁾ 1013 FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Secretary of State

Prepared by: ⁽³⁾ Suzanne Hinzman Date Prepared: ⁽⁴⁾ 1/27/2012 Phone: ⁽⁵⁾ 402-471-2384

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

| | <u>FY 2012-2013</u> | | <u>FY 2013-2014</u> | |
|---------------|---------------------|----------------|---------------------|----------------|
| | <u>EXPENDITURES</u> | <u>REVENUE</u> | <u>EXPENDITURES</u> | <u>REVENUE</u> |
| GENERAL FUNDS | _____ | _____ | _____ | _____ |
| CASH FUNDS | _____ | _____ | _____ | _____ |
| FEDERAL FUNDS | _____ | _____ | _____ | _____ |
| OTHER FUNDS | _____ | _____ | _____ | _____ |
| TOTAL FUNDS | <u>0</u> | <u>0</u> | <u>0</u> | <u>0</u> |

Return by date specified or 72 hours prior to public hearing, whichever is earlier.

Explanation of Estimate:

This bill has no fiscal impact for the Secretary of State.

MAJOR OBJECTS OF EXPENDITURE

Personal Services:

| <u>POSITION TITLE</u> | <u>NUMBER OF POSITIONS</u> | | <u>2012-2013</u> | <u>2013-2014</u> |
|---------------------------|----------------------------|--------------|---------------------|---------------------|
| | <u>12-13</u> | <u>13-14</u> | <u>EXPENDITURES</u> | <u>EXPENDITURES</u> |
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |
| Benefits..... | _____ | _____ | _____ | _____ |
| Operating..... | _____ | _____ | _____ | _____ |
| Travel..... | _____ | _____ | _____ | _____ |
| Capital outlay..... | _____ | _____ | _____ | _____ |
| Aid..... | _____ | _____ | _____ | _____ |
| Capital improvements..... | _____ | _____ | _____ | _____ |
| TOTAL..... | _____ | _____ | _____ | _____ |

RECEIVED

FEB 16 2012

2012

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

LB⁽¹⁾ 1013 FISCAL NOTE

State Agency OR Political Subdivision Name: (2)

Nebraska State Patrol

LEGISLATIVE FISCAL

Prepared by: (3) Kerry Bohlken

Date Prepared: (4) 2/16/12

Phone: (5) 402-479-4907

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

| | FY 2012-2013 | | FY 2013-2014 | |
|---------------|--------------|---------|--------------|---------|
| | EXPENDITURES | REVENUE | EXPENDITURES | REVENUE |
| GENERAL FUNDS | \$1,903.12 | | \$1,903.12 | |
| CASH FUNDS | | | | |
| FEDERAL FUNDS | | | | |
| OTHER FUNDS | | | | |
| TOTAL FUNDS | \$1,903.12 | | \$1,903.12 | |

Return by date specified or 72 hours prior to public hearing, whichever is earlier.

Explanation of Estimate:

LB 1013 amends the definition of a "rule or regulation" under the Administrative Procedures Act to include "statement, policy, instruction or standard of general applicability by an agency..."

As currently drafted, this bill would require that most policies and perhaps some procedures of the Nebraska State Patrol would have to go through the Administrative Procedures Act promulgation process. The State Patrol is accredited by the Commission on Accreditation for Law Enforcement (CALEA) and the State Patrol has a crime lab accredited by the American Society of Crime Lab Directors (ASCLD), both of which require particular policies for accreditation. Additional policies are required to be eligible for, or in order to continue to receive grant funding.

The State Patrol has 153 separate policies and over 200 chapters of procedures, not subject to the Administrative Procedures Act. In an average year, the State Patrol updates approximately 100 of these policies and procedures. The State Patrol publishes rules and regulation notices in the Omaha World Herald and Lincoln Journal-Star at an average cost from 2011 in \$475.78 per publication. If changes are made 4 times per year utilizing the Administrative Procedures Act, anticipated cost would be \$475.78 x 4 = \$1,903.12.

Additional, undetermined costs would be attorney's fees and court costs if a court would declare a rule or regulation invalid under the amendments provided in LB 1013. The potential litigation costs are unknown and difficult to estimate.

MAJOR OBJECTS OF EXPENDITURE

Personal Services:

| POSITION TITLE | NUMBER OF POSITIONS | | 2012-2013 | 2013-2014 |
|---------------------------|---------------------|-------|--------------|--------------|
| | 12-13 | 13-14 | EXPENDITURES | EXPENDITURES |
| Benefits..... | | | | |
| Operating..... | | | | |
| Travel..... | | | | |
| Capital outlay..... | | | | |
| Aid..... | | | | |
| Capital improvements..... | | | | |
| TOTAL..... | | | | |

RECEIVED

2012

JAN 20 2012

JAN 20 2012

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

LB⁽¹⁾ 1013 FISCAL NOTE

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

Prepared by: ⁽³⁾ Michael Justus Date Prepared: ⁽⁴⁾ January 19, 2012 Phone: ⁽⁵⁾ 402 472 2191

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

| | FY 2012-2013 | | FY 2013-2014 | |
|---------------|--------------|---------|--------------|---------|
| | EXPENDITURES | REVENUE | EXPENDITURES | REVENUE |
| GENERAL FUNDS | _____ | _____ | _____ | _____ |
| CASH FUNDS | _____ | _____ | _____ | _____ |
| FEDERAL FUNDS | _____ | _____ | _____ | _____ |
| OTHER FUNDS | _____ | _____ | _____ | _____ |
| TOTAL FUNDS | ===== | ===== | ===== | ===== |

Return by date specified or 72 hours prior to public hearing, whichever is earlier.

Explanation of Estimate:

LB 1013 does not have a fiscal impact on the University.

MAJOR OBJECTS OF EXPENDITURE

Personal Services:

| POSITION TITLE | NUMBER OF POSITIONS | | 2012-2013 | 2013-2014 |
|---------------------------|---------------------|-------|--------------|--------------|
| | 12-13 | 13-14 | EXPENDITURES | EXPENDITURES |
| Benefits..... | _____ | _____ | _____ | _____ |
| Operating..... | _____ | _____ | _____ | _____ |
| Travel..... | _____ | _____ | _____ | _____ |
| Capital outlay..... | _____ | _____ | _____ | _____ |
| Aid..... | _____ | _____ | _____ | _____ |
| Capital improvements..... | _____ | _____ | _____ | _____ |
| TOTAL..... | _____ | _____ | _____ | _____ |

State Agency Estimate

State Agency Name: Department of Revenue

Date Due LFA:

Approved by: Douglas Ewald

Date Prepared:

LEGISLATIVE FISCAL Phone: 471-5700

| | FY 2012-2013 | | FY 2013-2014 | | FY 2014-2015 | |
|--------------------|------------------|---------|------------------|---------|------------------|---------|
| | Expenditures | Revenue | Expenditures | Revenue | Expenditures | Revenue |
| General Funds | \$567,753 | | \$540,274 | | \$546,899 | |
| Cash Funds | \$220,869 | | \$223,620 | | \$226,353 | |
| Federal Funds | | | | | | |
| Other Funds | | | | | | |
| Total Funds | \$788,622 | | \$763,894 | | \$773,252 | |

LB 1013 expands the definition of “rule or regulation” under the Nebraska Administrative Procedures Act (APA) to include all generally applicable statements, policies and instructions issued by a state agency. As drafted, LB 1013 subjects all forms and instructions, revenue rulings, and other guidance issued by the Department to notice and review requirements under the APA, which includes a public hearing, and approval from the Attorney General and Governor.

LB 1013 allows a court to award attorney’s fees for successful challenges to rules and regulations based upon failure to meet the procedural requirements.

It is estimated that there will be no revenue impact to the General Fund to implement this bill.

It is estimated that the cost to the Department to implement this bill is as follows:

| | Personnel Costs | Lottery Operating Costs | Revenue Operating Costs | Total Costs |
|------------|-----------------|-------------------------|-------------------------|-------------|
| FY 2012-13 | \$ 247,622 | \$ 185,000 | \$ 356,000 | \$ 788,622 |
| FY 2013-14 | \$ 217,894 | \$ 187,000 | \$ 359,000 | \$ 763,894 |
| FY 2014-15 | \$ 222,252 | \$ 189,000 | \$ 362,000 | \$ 773,252 |

The Department generates 7,200 rules, regulations, statements, policies and instructions per year. The Department will require four FTEs to implement and administer this bill. In addition, the Department will hold at least two to three hearings per month, resulting in additional operating costs due to public notice requirements.

The Lottery also offers approximately 35 games and promotions, each of which would be subject to APA notice and review requirements. The Department estimates game production would be delayed, and the Department would be unable to offer timely promotions in response to variances in sales figures.

Major Objects of Expenditure

| Class Code | Classification Title | 12-13 | 13-14 | 14-15 | 12-13 | 13-14 | 14-15 |
|------------|-----------------------------|-------|-------|-------|------------------|------------------|------------------|
| | | FTE | FTE | FTE | Expenditures | Expenditures | Expenditures |
| S29112 | Revenue Operations Clerk II | 2.0 | 2.0 | 2.0 | \$55,234 | \$56,338 | \$57,465 |
| A29621 | Revenue Tax Specialist | 1.0 | 1.0 | 1.0 | \$45,373 | \$46,280 | \$47,206 |
| G31113 | Attorney III | 1.0 | 1.0 | 1.0 | \$60,012 | \$61,212 | \$62,436 |
| | | | | | | | |
| | Benefits..... | | | | \$53,004 | \$54,064 | \$55,145 |
| | Operating Costs..... | | | | | | |
| | Travel..... | | | | | | |
| | Capital Outlay..... | | | | \$34,000 | | |
| | Aid..... | | | | | | |
| | Capital Improvements..... | | | | | | |
| | Total..... | | | | \$247,622 | \$217,894 | \$222,252 |