

**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				
CASH FUNDS				
FEDERAL FUNDS	See Below		See Below	
OTHER FUNDS	See Below		See Below	
TOTAL FUNDS	See Below		See Below	

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

LB 712 amends the Employment Security Law to provide for a disqualification from unemployment benefits for failing a pre-employment drug screening test which is a condition of employment or for refusing to take or failing a drug test ordered by the Commissioner of Labor pursuant to Section 4 of the bill. It is assumed that the employer pays for the pre-employment drug testing.

Section 4 provides that the Commissioner of Labor may, by rule and regulation, require drug testing of individuals applying for or receiving unemployment benefits if such individual was terminated from employment for unlawful use of a controlled substance. The Department of Labor is to pay the cost of the testing.

Because the language of Section 4 is permissive and not mandatory, the Labor Commissioner could choose not to implement such testing and there would be no cost to the state in that regard.

However, if the Commissioner did choose to implement the provisions of Section 4, the Department of Labor has indicated the following: based on an average of 75 tests per year and costs per test between \$50 and \$75, the annual costs for testing would be between \$3,750 and \$5,625. The Department would use Federal funds to pay for the testing.

In addition, the Department anticipates a refusal/failure rate of 20%, which would result in an approximate savings to the Unemployment Insurance Trust Fund of \$58,000.

For those claimants disqualified for failing a pre-employment drug test, this would be regarded as a "refusal of suitable work" and assessed a twelve-week unemployment benefit disqualification period. The Department assumes a 5% failure rate based on 2,000 claimants at a weekly benefit amount of \$323. This would result in a savings to the Unemployment Insurance Trust Fund of \$387,600 for the fiscal year. Increases in the failure rate would see a commensurate increase in saving to the Trust.

Overall, if implement, the Department of Labor estimates a savings of \$439,975 between Federal funds and the Trust fund. No additional staffing would be required.

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

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2018

**LB<sup>(1)</sup> 712 REVISED**

**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> 1-11-2018 Phone: <sup>(5)</sup> 402-471-9912

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2018-19</u>		<u>FY 2019-20</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	<u>\$5,625</u>	_____	<u>\$5,625</u>	_____
TRUST FUNDS	<u>(\$445,600)</u>	_____	<u>(\$445,600)</u>	_____
TOTAL FUNDS	<u>(\$439,975)</u>	_____	<u>(\$439,975)</u>	_____

Explanation of Estimate:

The number of claimants disqualified for receiving unemployment insurance benefits because they were discharged for unlawful use of controlled substances were as follows: CY 2013 – 93; CY 2014 – 82; CY 2015 – 64; CY 2016 – 62; for an average of 75 per year. Under LB712 all 75 of these claimants would meet requirements for drug testing as a condition of unemployment benefit payments.

The exact cost of the drug testing is unknown, but price quotes ranged from \$50 to \$75 per test. With an average of 75 tests per year, the annual cost would be approximately \$3,750 to \$5,625 per year. The Department would pay for the drug testing out of Federal Funds.

Of the 75 claimants required to be tested for drugs, we anticipate that 20% would fail or refuse the test. On average, a typical claimant receives \$3,876 in unemployment benefits. Based on our assumption of a 20% failure rate, there would be an approximate savings of \$58,000 to the Unemployment Insurance Trust Fund. This would result in a net savings of \$52,375.

The second component of this bill disqualifies claimants for failing a pre-employment drug test. There would be no cost to the agency because the employer would administer the test as part of their hiring process. If a claimant fails a pre-employment drug test, it would be treated as a 'refusal of suitable work' and assessed a 12-week unemployment benefit disqualification period.

Approximately 2,135 claims were filed in 2015 and approximately 1,842 claims were filed in 2016 by individuals working in occupations that regularly conduct drug testing. We are estimating this to be the number of claimants that would be required to undergo a pre-employment drug test.

We limited these occupations by NAICS code to the following: **481** Air Transportation; **484** Truck Transportation; **483** Water Transportation; **485** Transit and Ground Passenger Transportation; **486** Pipeline Transportation; and **487** Scenic and Sightseeing Transportation.

Below is a table outlining possible savings to the Trust Fund due to non-payment of benefits. The table assumes a pool of 2,000 claimants at weekly benefit amount of \$323 and a 12 week benefit reduction. For purposes of this fiscal note we estimate 5% of the 2,000 potential claimants would fail the pre-employment drug test totaling an approximate savings of \$387,600 to the Unemployment Insurance Trust Fund.

<b>Failure Rate</b>	<b>Reduction in Benefits Paid</b>
0%	\$ 0
5%	\$ 387,600
10%	\$ 775,200
25%	\$ 1,938,000
50%	\$ 3,876,000
75%	\$ 5,814,000
100%	\$ 7,752,000

As a result of both provisions of LB 712, the Department anticipates a total annual savings of \$439,975 between Federal Funds and the Trust Fund. No staffing changes will be required.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

POSITION TITLE	NUMBER OF POSITIONS		2018-19	2019-20
	18-19	19-20	EXPENDITURES	EXPENDITURES
Benefits.....				
Operating.....			\$5,625	\$5,625
Travel.....				
Capital outlay.....				
Aid.....			(\$445,600)	(\$445,600)
Capital improvements.....				
TOTAL.....			(\$439,975)	(439,975)