

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

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)</b>				
	<b>FY 2019-20</b>		<b>FY 2020-21</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS	2,156,183		3,566,228	
CASH FUNDS	XX	XX		
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>	2,156,183	XX	3,566,228	

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

LB 311 is the Paid Family and Medical Leave Insurance Act.

Section 2 provides definitions for the Act.

Section 3 allows for a covered individual to take paid family and medical leave, beginning July 1, 2021, for certain reasons. Section 3 goes on to provide eligibility stipulations and maximum amounts of paid family and medical leave that a covered individual may take.

Section 6 creates the Paid Family and Medical Leave Insurance Fund, which shall be administered by the Commissioner of Labor. The fund shall consist of private donations, money transferred to the fund by the Legislature, and contributions from covered employers. Beginning January 1, 2021, covered employers shall be required to remit contributions as provided in section 6. Beginning on the effective date of the act, and continuing until September 30, 2019, the Commissioner shall accept donations from any private individual or entity and shall remit all donations for credit to the Paid Family and Medical Leave Insurance Fund. Such funds shall be used to pay the upfront administrative costs related to the Act. On October 1, 2019, “the State Treasurer shall transfer XX dollars from the Nebraska Health Care Cash Fund to the Paid Family and Medical Leave Insurance Fund”, which shall also be used to pay the upfront administrative costs related to the act. The transferred amount shall be repaid to the Nebraska Health Care Cash Fund when the commissioner of Labor determines that the Paid Family and Medical Leave Insurance Fund will have sufficient funds to pay all required family and medical leave benefits. The repayment shall occur no later than October 1, 2021.

Section 7 allows for covered individuals to take paid family and medical leave on an intermittent basis under certain circumstances.

The Department of Labor estimates the need for 3.0 FTE in fiscal year 2019-20 and 39.5 FTE beginning in fiscal year 2020-21 to address the provisions of LB 311. In fiscal year 2019-20, a one-time implementation fee of \$1,446,150 is anticipated. Beginning in fiscal year 2020-21, that fee is eliminated and replaced with an annual subscription fee of \$289,260.

Under LB 311, contributions are capped at 1% of the employer’s gross wages paid. The Department of Labor projects that this will result in a maximum amount of contributions of \$436,509,872.

The cities of Omaha and Lincoln estimate costs of \$2,150,000 and \$1,650,000, respectively. These estimates are based on the 1% cap for contributions.

The Department of Administrative Services estimates a cost of \$165,000 for fiscal year 2020-21 and \$330,000 beginning in fiscal year 2021-22.

Every state agency will likely be impacted by the provisions of LB 311. It is possible to calculate/estimate those amounts, based on the 1% contribution cap. Regardless, those amounts are not included in the table above. Since those costs would not begin until January 1, 2021, it would be more efficient to identify and appropriate funds in the following Legislative session through the mid-biennium adjustment (deficit) bill. According to the June 30, 2018 Personal Service Limitation Status report, statewide personal service expenditures for fiscal year 2017-18 totaled approximately \$1.8 billion. The statewide contribution cap would be \$18 million (all fund sources).

The figures used in the table above only include those submitted by the Department of Labor for operational and implementation costs.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 311	AM:	AGENCY/POLT. SUB: Department of Administrative Services
REVIEWED BY: Neil Sullivan	DATE: 1/30/2019	PHONE: (402) 471-4179
COMMENTS: The Department of Administrative Services assessment of fiscal impact from LB 311 appears reasonable.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 311	AM:	AGENCY/POLT. SUB: City of Omaha
REVIEWED BY: Neil Sullivan	DATE: 1/25/2019	PHONE: (402) 471-4179
COMMENTS: No basis to disagree with the City of Omaha assessment of FY 2020-21 fiscal impact from LB 311. Employer contributions would begin January 2021 and there would be no impact in FY 2019-20.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 311	AM:	AGENCY/POLT. SUB: City of Lincoln
REVIEWED BY: Neil Sullivan	DATE: 1/25/2019	PHONE: (402) 471-4179
COMMENTS: No basis to disagree with the City of Lincoln assessment of fiscal impact from LB 311.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 311	AM:	AGENCY/POLT. SUB: University of Nebraska
REVIEWED BY: Neil Sullivan	DATE: 2/1/2019	PHONE: (402) 471-4179
COMMENTS: No basis to disagree with the University of Nebraska assessment of fiscal impact from LB 311.		

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

2019

LB<sup>(1)</sup> 311

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> 01-30-2019 Phone: <sup>(5)</sup> 402-471-9912

**ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION**

	<u>FY 2019-20</u>		<u>FY 2020-21</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	<u>2,156,183</u>	<u></u>	<u>3,566,228</u>	<u></u>
CASH FUNDS	<u>XX</u>	<u>XX</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>2,156,183</u>	<u></u>	<u>3,566,228</u>	<u></u>

Explanation of Estimate: LB 311 creates the paid family and medical leave program. Under LB 311, the Nebraska Department of Labor is responsible for the administration of the program. LB 311 covers all individuals employed in covered employment. Individuals in covered employment are potentially eligible for paid leave at the following limits:

- Up to 12 weeks of paid leave for a person with a serious illness or injury (sickness or injury that requires inpatient care or continuing treatment by a healthcare provider);
- Up to 12 weeks of paid leave to bond with a new child;
- Up to 6 weeks to care for a family member;
- Up to 6 weeks to care for a service member; and
- Up to 6 weeks for exigency leave.

Rhode Island has a paid family and medical leave program similar to LB 311. Under Rhode Island’s law, they provide paid leave at the following limits:

- Up to 30 weeks of paid leave for a person with a non-work related injury or illness;
  - o Injury or illness requires 7 days of duration before eligible for paid leave; (LB 311 does not have a minimum duration requirement.)
- Up to 4 weeks of paid leave to bond with a new child; and
- Up to 4 weeks to care for a family member.

To estimate benefits paid under LB 311, the Department closely examined Rhode Island’s annual statistics.

In calendar year 2017, Rhode Island paid out \$172,300,000 in benefits. Approximately \$160,000,000 (93%) of the benefits paid out were for non-work related injury or illness corresponding to the types of leave described in Sec. 3 paragraph (1)(e) of LB 311. Approximately, \$12,000,000 (7%) of the benefits paid out were for either bonding with a new child or caring for a family member corresponding to the types of leave described in Sec. 3 paragraph (1)(a) and (1)(b) of LB 305.

In 2018, Rhode Island had a population of approximately 1,060,000; there were 487,019 people in covered employment in 2<sup>nd</sup> quarter of 2018. Comparatively, Nebraska has a population of approximately 1,920,000 and had 983,608 people in covered employment in 2<sup>nd</sup> quarter 2018.

In 2017, Rhode Island processed 45,132 claims for paid leave, which equaled approximately 9.5% of their covered employment workforce. Of the claims received, 33,266 were approved (74%). Rhode Island’s average number of payments per claim was just over 12 weeks. Assuming these numbers for Nebraska, the Department estimates that it will have 100,240 claims and 73,877 (74%) will be approved. Assuming an average number of 9 payments per claim, Nebraska would

pay out approximately \$72,246,772 per year in paid family and medical leave benefits. Please see below for a chart that calculates the benefit amount at varying average numbers of payments per claim. The amount of contributions is capped at one percent of an employer's gross wages paid. In 2018, Nebraska's total gross wages were \$43,650,987,176. The maximum amount of contributions the Department could collect is \$436,509,872.

In 2018, the Department paid out \$76,002,739 in unemployment insurance benefits with a staff of approximately 45 adjudicators. Because LB 311 has significantly fewer regulatory requirements, it is estimated that 24 adjudicators will be required. The department will also need 2 labor law specialists, 2 field representatives, 2 claims specialists, 2 program supervisors, 1 benefits administrator, 1 accountant III, .5 accountant II, 1 attorney III, and 1 staff assistant I to handle the workload. Further, the IT build will require 3 IT positions. The IT positions will begin July 1, 2019 but the Admin positions will not begin until July 1, 2020, which is one year before benefits are paid.

Total IT Salaries and Benefits in FY19-20 total \$261,814 with overhead expenses of \$76,959. These expenses increase in FY20-21 due to the annual salary increase. FY20-21 for the Admin positions totals \$2,258,491 in Salaries and Benefits with \$585,378 in overhead expenses.

A \$1,446,150 Implementation Fee will be incurred to build the system to process and pay the PFMLA claims. This will be followed by an annual subscription fee of \$289,260. Year two also includes \$177,600 for computers and cubicles for the Admin staff as well as \$12,000 for Travel.

Wage Category	Count SSN	Total Quarterly Wage Amount	Average Quarterly Wage Per Person	Paid FMLA Wage Cap	FMLA Payout (weekly) per person	12 payments per claim – 9.46% covered employment claiming, 73.7% approved	9 payments per claim – 9.46% covered employment claiming, 73.7% approved	6 payments per claim – 9.46% covered employment claiming, 73.7% approved	3 payments per claim – 9.46% covered employment claiming, 73.7% approved
≤ 20%	219,427	\$235,114,648	\$1,071	95%	\$78	\$14,374,734	\$10,781,050	\$7,187,367	\$3,593,683
>20-30%	70,032	\$200,219,924	\$2,859	90%	\$198	\$11,597,018	\$8,697,763	\$5,798,509	\$2,899,254
>30-50%	121,535	\$555,944,650	\$4,574	85%	\$299	\$30,412,141	\$22,809,106	\$15,206,071	\$7,603,035
> 50%	644,166	\$9,837,835,348	\$15,272	66%	\$569	\$306,611,804	\$229,958,853	\$153,305,902	\$76,652,951
Total	1,055,160	\$10,829,114,570	\$10,263			\$362,995,696	\$272,246,772	\$181,497,848	\$90,748,924

As an employer, NDOL will contribute up to 1% of its employees gross wages paid. Gross wages for FY17-18 were approximately \$16,500,000, which would cost the department an additional \$165,000 in taxes with one-half paid in FY19-20 and the full amount in FY20-21.

LB311 provides for an appropriation from the Nebraska Health Care Cash Fund to the Nebraska Paid Family and Medical Leave Fund on October 1, 2019 in the amount of XX for initial administrative costs. Because this amount is unknown, the department is unable to provide a number in the chart. The Nebraska Health Care Cash Fund transfer is only for upfront administrative costs and must be repaid by 10/1/2021.

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**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

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**Personal Services:**

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2019-20</u>	<u>2020-21</u>
	<u>19-20</u>	<u>2021</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
IT Business System Analyst	2.0	2.0	104,760	106,855
IT Supervisor	1.0	1.0	90,172	91,976
Labor Law Specialist		2.0		88,303
Field Representative		2.0		85,272
Adjudicator		24.0		885,520
Claims Specialist		2.0		64,480
Program Supervisor		2.0		106,596
Benefits Administrator		1.0		71,184
Accountant II		.5		22,110
Accountant III		1.0		51,102
Attorney III		1.0		74,294
Staff Assistant I		1.0		33,859
<b>Total Salaries</b>	<b>3.0</b>	<b>39.5</b>	<b>194,932</b>	<b>1,681,551</b>
<b>Benefits</b> .....			<b>66,882</b>	<b>576,940</b>
<b>Operating</b> .....			<b>1,894,869</b>	<b>1,118,137</b>
<b>Travel</b> .....				<b>12,000</b>
<b>Capital outlay</b> .....				<b>177,600</b>
<b>Aid</b> .....				
<b>Capital improvements</b> .....				
<b>TOTAL</b> .....			<b>2,156,683</b>	<b>3,566,228</b>

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

**2019**

**LB<sup>(1)</sup> 311**

**FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> Department of Administrative Services (DAS) – Director’s Office

Prepared by: <sup>(3)</sup> Ann Martinez Date Prepared: <sup>(4)</sup> 01-23-2019 Phone: <sup>(5)</sup> 402-471-4135

**ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION**

	<u>FY 2019-20</u>		<u>FY 2020-21</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	\$15,692	_____
CASH FUNDS	_____	_____	\$2,775	_____
FEDERAL FUNDS	_____	_____	_____	_____
REVOLVING FUNDS	_____	_____	\$146,533	_____
TOTAL FUNDS	<u>See below</u>	_____	<u>\$165,000</u>	_____

**Explanation of Estimate:**

LB 311 creates a paid family leave program for all employers subject to the Employment Security Law. The State of Nebraska is subject to that law. Beginning January 1, 2021 covered employers shall be required to remit contributions, thus a six month fiscal impact in FY20-21. A covered individual may take paid family and medical leave beginning in July 1, 2021.

LB 311 calls for contributions from the employer to fund the Paid Family Medical Leave Insurance Fund, which would be administered by the Department of Labor (DOL). The contributions would come from the State, increasing payroll related costs.

The bill requires that when contributions are determined by the commissioner and are due, an employer must remit them. The commissioner is to determine annually the contribution amounts needed to finance the total amount of the amounts payable for family and medical leave and administrative costs. The commissioner can increase the contributions any time during the year if the contribution amounts are not sufficient.

At this time the additional costs to the State are unknown. The bill states the contributions required would not exceed one (1) percent of the gross wages paid to covered individuals by such covered employer. In FY17-18 (the most recently completed fiscal year) the Department of Administrative Services (DAS) paid more than \$33 million in wages. Assuming no increases in salary expenses and a maximum of 1%, DAS’s contributions could be \$165,000 in FY20-21 (January-June 2021) and \$330,000 in FY21-22. This would require an increase in General, Cash and Revolving fund appropriation in FY20-21.

Any increases in DAS Revolving fund expenditures can impact the enterprise, as the DAS rates that are charged for goods and services are impacted by cost increases.

The table below summarizes the estimated impact by fund type of the increased DAS payroll expenses used in the example above. The allocation by fund type is based on FY17-18 expenditures.

<b>Fund Type</b>	<b>Percentage</b>	<b>Estimated Amount FY20-21</b>	<b>Estimated Amount FY21-22</b>
General Fund	10%	\$15,692	\$31,383
Cash Fund	2%	\$2,775	\$5,551
Revolving Fund	89%	\$146,533	\$293,066
<b>Total</b>	<b>100%</b>	<b>\$165,000</b>	<b>\$330,000</b>

The bill does require that each employee be provided written notice of his or her rights under the Act at the time of hiring and annually thereafter. Notifications must also be made when an individual requests leave under the Act or when the employer acquires knowledge that an employee’s leave may qualify for benefits under the Act. Agencies would also be required to respond to requests from the Department of Labor for compensation data in each instance that an employed individual files a claim. The Act would allow for an increase in the DAS employee eligibility from existing the Family Medical Leave Act (FMLA)

to paid family medical leave. Under existing parameters DAS-Central Human Resources (HR) has sufficient resources to manage the existing FMLA eligible employees. However, due to the potential increase in eligible employees existing resources may not be sufficient to meet the increased compensation reporting requirements, notification requirements, and ongoing communication requirements with a greater number of eligible employees. An additional half-time Personnel Officer would be sufficient to meet the potential increase in DAS eligible employees.

The estimated cost to DAS-Central HR for this .50 FTE is \$45,994 in FY21-22 and \$46,003 in FY22-23. These costs include estimated FY21-22 / FY22-23 salary and benefits (health insurance is based on the State's share of the highest cost family plan); and ongoing annual operating costs (OCIO expenses including computer leasing costs, printing/publication, rent/depreciation surcharge and other supplies); which also includes \$2,000 for materials and postage required to make the required written notifications to newly hired and existing employees and annual communication costs. There would also be a one-time cost of \$1,500 in FY21-22 for set up costs and the purchase of new non-capitalized equipment (monitors, furniture, etc.)

These additional costs would result in the need for additional revolving fund appropriation and an increase in the Director's Office – Central HR Assessment to the Divisions of DAS in FY21-22 and beyond. Any increases to a DAS internal assessment can impact the enterprise due to possible increases in rates charged to other agencies for DAS goods and services.

Future costs would be impacted by higher salary and health insurance costs than were estimated, as well as increases in operational costs – rent/depreciation surcharge, OCIO expenses, etc.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2019-20</u>	<u>2020-21</u>
	<u>19-20</u>	<u>20-21</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....			_____	_____
Operating.....			_____	_____
Travel.....			_____	_____
Capital outlay.....			_____	_____
Aid.....			_____	_____
Capital improvements.....			_____	_____
TOTAL.....			_____	_____



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

**2019**

**LB<sup>(1)</sup> 311**

**FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> City of Lincoln

Prepared by: <sup>(3)</sup> Jan Bolin Date Prepared: <sup>(4)</sup> 1/18/19 Phone: <sup>(5)</sup> 402-440-0986

**ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION**

	<u>FY 2019-20</u>		<u>FY 2020-21</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
<b>TOTAL FUNDS</b>	=====	=====	<u>\$1,650,000</u>	=====

**Explanation of Estimate:**

LB311 creates the Paid Family Medical Leave Insurance Act that is defined in the bill. Beginning January 1, 2021, covered employers are required to remit contributions to the Commissioner of Labor. The commissioner on an annual basis determines the contribution amounts necessary to finance the total amount of family and medical leave benefits payable under the act. If at any time during the year the Commissioner determines that the contribution amounts are not sufficient to pay the family and medical leave benefits payable under the act, the Commissioner shall increase the contribution amounts by the lowest amount necessary to pay all such benefits. In no case shall the contributions required from a covered employer under this section exceed one percent of the gross wages paid to covered individuals by such covered employer.

In FY 2019-20, wages budgeted for the City of Lincoln are approximately \$160,000,000. So, with budget changes in employees in FY 2020-21, cost of living wage increases, etc., wages budgeted could be \$165,000,000 to \$175,000,000 or more resulting in an annual maximum payment of \$1,650,000 or more.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2019-20</u>	<u>2020-21</u>
	<u>19-20</u>	<u>20-21</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Benefits.....	_____	_____	_____	<u>1,650,000</u>
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
<b>TOTAL.....</b>	_____	_____	_____	_____



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

**2019**

**LB<sup>(1)</sup> 311**

**FISCAL NOTE**

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

Prepared by: <sup>(3)</sup> Michael Justus Date Prepared: <sup>(4)</sup> January 25, 2019 Phone: <sup>(5)</sup> 402-472-7109

**ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION**

	<u>FY 2019-20</u>		<u>FY 2020-21</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS			1,457,000	
CASH FUNDS			1,192,000	
FEDERAL FUNDS			1,325,000	
OTHER FUNDS			2,650,000	
<b>TOTAL FUNDS</b>			<b>6,624,000</b>	

**Explanation of Estimate:**

The bill establishes the Paid Family and Medical Leave Insurance Act. The University will need additional HR staff to track the employee eligibility (once officially determined by the State), coordinate pay plans (including leave without pay), establish and maintain designee records, and to track/coordinate the FLSA (rolling calendar) versus the State Plan (calendar year) leave records and to coordinate with the campus departments/colleges.

We believe we will need to adapt the HR system to track this separate leave program. This will need to be in place prior to the effective date of plan usage, which is July 1, 2021.

The fiscal impact of the two years included in this fiscal note includes two parts. First is adapting the HR system and hiring personnel in the final quarter to be in place prior to July 1, 2021. The University anticipates a fiscal impact of about \$405,000 in FY 22 and thereafter for a full year of the added personnel. Secondly, the up to 1% charge against payroll could exceed \$13 million dollars a year beginning in FY 22, the charge to the employer is effective January 1, 2021 and so a half year is reflected in our note here.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2019-20</u>	<u>2020-21</u>
	<u>19-20</u>	<u>20-21</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Coordinators (5 positions ¼ year)		1.125		69,500
Benefits.....				19,500
Operating.....				6,535,000
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
<b>TOTAL.....</b>				<b>6,624,000</b>