

7/10/11

PREPARED BY: Doug Nichols
DATE PREPARED: March 2, 2011
PHONE: 471-0052

LB 675

Revision: 00

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES *

| | FY 2011-12 | | FY 2012-13 | |
|---------------|--------------|---------|--------------|---------|
| | EXPENDITURES | REVENUE | EXPENDITURES | REVENUE |
| GENERAL FUNDS | 319,725 | | 319,725 | |
| CASH FUNDS | | | | |
| FEDERAL FUNDS | | | | |
| OTHER FUNDS | | | | |
| TOTAL FUNDS | 319,725 | | 319,725 | |

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

This bill would provide and change penalties and enforcement relating to driving under the influence and the duty to stop at motor vehicle accidents and create an offense relating to certain controlled substances.

Following is a table that summarizes the Nebraska Department of Correctional Services (NDCS) estimate. The NDCS response follows the table and includes all details of how the estimate was calculated:

| | |
|---|------------|
| If a person meet the bill's requirements, mandatory minimum of 5 years to be served | 5.00 |
| Average number of inmates that meet the bill's requirements | 49.00 |
| NDCS assumes 80% of these inmates will come under the bill's provisions | 80% |
| 80% of 49 inmates is this number of inmates that could come under the bill's provisions | 39.20 |
| Actual time served (after good time) of inmates that come under the bill's provisions: | |
| Minimum | 1.30 |
| Maximum | 2.25 |
| Minimum Sentence: The bill requires 5 years mandatory minimum (1/2 served with good time) | 2.50 |
| Minimum additional time served per inmate (years) | 1.20 |
| Minimum total time served all eligible inmates (years) | 47.04 |
| Maximum Sentence: The bill requires 5 years mandatory minimum (1/2 served with good time) | 2.50 |
| Maximum additional time served per inmate | 0.25 |
| Maximum total time served all eligible inmates | 9.80 |
| The FY10 Per Diem (cost per day of feeding, clothing, housing, medical, etc) for an individual inmate | \$ 5,625 |
| Additional possible years served under this bill: minimum of 47.04 years plus maximum of 9.80 years | 56.84 |
| Per Diem times additional years = additional estimated cost per year | \$ 319,725 |

The NDCS response follows:

LB675 includes the following provisions that may have an impact on the Nebraska Department of Correctional Services:

Provides that any person providing a sample of bodily fluid (pursuant to Section 60-6,197) containing any amount of a schedule I or schedule II controlled substance commits an offense (a Class I misdemeanor)..

Adds a provision to the duty to stop statutes increasing the penalty from a Class IIIA felony to a Class III felony if the accident resulted the death of any person or serious bodily injury.

Changes the definition of a prior conviction to mean a conviction for a violation within the 20 year period (rather than the current 12 year period) prior to the offense.)

Provides that if such person has four or more prior convictions, in addition to being guilty of a Class III felony, shall serve a mandatory minimum of five years' imprisonment.

Currently the minimum sentence for a Class III felony is one year imprisonment, and the maximum is 20 years imprisonment. There are an average of 49 inmates admitted each year (47 in 2008; 56 in 2009; 44 in 2010) to the Nebraska Department of Correctional Services (NDCS) for Class III DUI felonies. Most of them are for 4th offense or higher, but some are other DUI related. The fiscal note assumes 80% of the current Class III DUIs are for 4 or more prior convictions. The average minimum sentence is 2.59 years and the average maximum sentence is 4.5 years. The actual time served (assuming no loss of good time) is 1.3 years minimum and 2.25 yrs maximum. With this bill, the minimum will increase to five years (2.5 served). This will mean an extra 1.2 years minimum served per individual, or an extra 47.04 years served minimum per year. The maximum will also increase to at least five years, or 2.5 years served. This will result in a possible minimum additional increase in years served of 9.80 years per year. The maximum number of years could actually be higher, but the fiscal note does not make any assumptions except that the maximum has to at least equal the minimum.

DCS current inmate population is 4, 5613 (2/15/2011 Tuesday Count)

The FY10 per Diem (cost per day of feeding, clothing, housing, medical, etc) for an individual inmate was \$15.41 per day or \$5,625/yr.

The cost of these longer sentences will be at least 56.84 years (47.04 years plus 9.80 years) times \$5,625 or \$319,725/year at a minimum.

The Supreme Court states that this bill could significantly increase judicial workload, and their response follows:

LB 675, as introduced, could significantly increase the number of jury trials. In turn, an increase in jury trials could significantly increase judicial workload and possibly require additional judicial and court staff resources. Currently, there is a jurisdictional limit of \$500 for fines under a city ordinance. By increasing fines for Driving Under the Influence (DUI) above the jurisdictional limit DUI cases would now have to be filed under State statute which would entitle defendants to a jury trial if they request it. This entitlement is not available if filed by a city attorney under a city ordinance. Further information: based on CY 2010 filings, the increase in the number of cases eligible for jury trial in Douglas County would be approximately 3,700 and, in Lancaster County, approximately 1,000. Although the number of cases that would actually go to trial is unknown, it is estimated that the number of defendants requesting a trial will increase.

DEPARTMENT OF ADMINISTRATIVE SERVICES

| | | | | | |
|---|------------|------|---------|-------|----------|
| REVIEWED BY | Joe Wilcox | DATE | 2/22/11 | PHONE | 471-2526 |
| COMMENTS | | | | | |
| DEPARTMENT OF CORRECTIONAL SERVICES: No basis to dispute agency analysis for the Department of Corrections. | | | | | |

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LEGISLATIVE SERVICES

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

LB 675 FISCAL NOTE

State Agency OR Political Subdivision Name: (2) DEPARTMENT OF CORRECTIONAL SERVICES

Prepared by: (3) Kate Morris

Date Prepared: (4) 2/22/2011 Phone: (5) 479-5702

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

| | FY 2011-2012 | | FY 2012-2013 | |
|---------------|--------------|---------|--------------|---------|
| | EXPENDITURES | REVENUE | EXPENDITURES | REVENUE |
| GENERAL FUNDS | \$319,725 | _____ | \$319,725 | _____ |
| CASH FUNDS | _____ | _____ | _____ | _____ |
| FEDERAL FUNDS | _____ | _____ | _____ | _____ |
| OTHER FUNDS | _____ | _____ | _____ | _____ |
| TOTAL FUNDS | \$319,725 | _____ | \$319,725 | _____ |

Explanation of Estimate:

LB675 includes the following provisions that may have an impact on the Nebraska Department of Correctional Services:

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The cost of these longer sentences will be at least 56.84 years (47.04 years plus 9.80 years) times \$5,625 or \$319,725/year at a minimum. .

MAJOR OBJECTS OF EXPENDITURE

Personal Services:

| <u>POSITION TITLE</u> | <u>NUMBER OF POSITIONS</u> | | <u>2011 -2012</u> | <u>2012-2013</u> |
|----------------------------|----------------------------|--------------|---------------------|---------------------|
| | <u>11-12</u> | <u>12-13</u> | <u>EXPENDITURES</u> | <u>EXPENDITURES</u> |
| Benefits | | | | |
| Operating | | | <u>\$319,725</u> | <u>319,725</u> |
| Travel | | | | |
| Capital outlay | | | | |
| Aid | | | | |
| Other | | | | |
| Capital improvements | | | | |
| TOTAL | | | | |

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

LB⁽¹⁾ 675 FISCAL NOTE

LEGISLATIVE

State Agency OR Political Subdivision Name: ⁽²⁾ Supreme Court

Prepared by: ⁽³⁾ Eric Asboe Date Prepared: ⁽⁴⁾ 2/28/11 Phone: ⁽⁵⁾ 1-4138

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

| | FY 2011-2012 | | FY 2012-2013 | |
|---------------|--------------|---------|--------------|---------|
| | 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:

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MAJOR OBJECTS OF EXPENDITURE

Personal Services:

| POSITION TITLE | NUMBER OF POSITIONS | | 2011-2012 EXPENDITURES | 2012-2013 EXPENDITURES |
|---------------------------|---------------------|-------|------------------------|------------------------|
| | 11-12 | 12-13 | | |
| Benefits..... | | | | |
| Operating..... | | | | |
| Travel..... | | | | |
| Capital outlay..... | | | | |
| Aid..... | | | | |
| Capital improvements..... | | | | |
| TOTAL..... | | | | |