

**FISCAL NOTE**

**LEGISLATIVE FISCAL ANALYST ESTIMATE**

Updated for amendments adopted through April 15, 2015.

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES</b> (See narrative for political subdivision estimates)				
	<b>FY 2015-16</b>		<b>FY 2016-17</b>	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	(119,351)		(350,069)	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>	<b>(119,351)</b>		<b>(350,069)</b>	

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

This bill would change habitual criminal provisions. The bill changes this provision so it applies to a conviction of an additional violent crime, instead of just another felony. Violent crime is defined in the bill. The amendment adopted would add provisions of LB172, which would eliminate certain mandatory minimum penalties.

This bill could reduce the state prison inmate population because it reduces the number of offenses under which the habitual criminal provisions would apply. Eliminating mandatory minimum penalties could also reduce the state prison inmate population because inmates would not have to serve a mandatory minimum sentence before being able to earn good time. This could result in offenders be paroled or released earlier.

The Department of Correctional Services (DCS) has not responded to the amendment. When they respond, this fiscal note may be updated. However, DCS provided a response to both LB172 and LB173. The Legislative Fiscal Office (LFO) used those responses in the following table:

	FY2015-16	FY2016-17
	Expenditures	
LB173 Per Diem Savings	(106,860)	(220,844)
LB172 Per Diem Savings	(12,491)	(129,225)
<b>TOTAL</b>	<b>(119,351)</b>	<b>(350,069)</b>

For the original version of LB173, DCS estimated a reduction of the inmate population by an average of 15 inmates per day in FY2016 (saving approximately \$106,860) and 31 inmates per day in FY2017 (saving approximately \$220,844).

For LB172, DCS estimated that this bill could reduce the inmate population by 11-25 inmates during FY2016 and by 29-51 inmates during FY2017. The population impacts are projected as a range because it is unknown whether or when inmates may be paroled in the future. DCS estimated a reduction in costs to be between \$6,245 and \$18,737 for FY2016, and between \$78,773 and \$179,677 for FY2017. LFO used the DCS estimate and averaged the two amounts shown in the above-table. This is what DCS did in their response to LB172. See LB172 for the DCS response.

The FY14 per diem for an individual inmate was \$7,124 per year. This is the cost for food, medical care, inmate wages, clothing, cleaning supplies, food service supplies, cell and dorm supplies, other supplies, and transportation.

As of March 31, 2015, the inmate prison population was 159% of design capacity. On March 31, 2014, the inmate prison population was almost 155% of design capacity.

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2015

LB<sup>(1)</sup> 173

FISCAL NOTE

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

Prepared by: <sup>(3)</sup> Chris Peters Date Prepared: <sup>(4)</sup> 2/9/2015 Phone: <sup>(5)</sup> (402) 479-5702

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

	FY 2015-16		FY 2016-17	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	<u>(106,860)</u>	<u>                    </u>	<u>(220,844)</u>	<u>                    </u>
CASH FUNDS	<u>                    </u>	<u>                    </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>(106,860)</u>	<u>                    </u>	<u>(220,844)</u>	<u>                    </u>

**Explanation of Estimate:**

LB173 proposes amending N.R.S. §29-2221 to limit the habitual criminal penalty enhancement to individuals convicted of a violent offense who have served at least two prior prison terms for violent offenses. Violent offense in the bill is defined as murder, manslaughter, 1<sup>st</sup> degree assault, kidnapping, 1<sup>st</sup> degree sexual assault, 1<sup>st</sup> degree child sexual assault, robbery and motor vehicle homicide while under the influence. This bill also removes the mandatory minimum penalty from the habitual criminal penalty enhancement. These proposed changes narrow the pool of offenders eligible to be deemed a habitual criminal and allow inmates to begin accruing good time credits in accordance with N.R.S. §83-1,107 upon admission, rather than after first serving the current 10 or 25 year mandatory minimum for the habitual felon enhancement.

During FY2014, only three newly admitted inmates met the new violent offense criteria outlined in LB173. In contrast, 22 habitual criminals were admitted in FY2014 under the existing definition. The decrease in admissions, coupled with the decrease in expected length of stay, is predicted to reduce the institutional population by an average of 15 inmates per day in FY2016 (saving approximately \$106,860) and 31 inmates per day in FY2017 (saving approximately \$220,844).

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

POSITION TITLE	NUMBER OF POSITIONS		2015-16	2016-17
	15-16	16-17	EXPENDITURES	EXPENDITURES
Benefits.....	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
Operating.....	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
Travel.....	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
Capital outlay.....	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
Aid.....	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
Capital improvements.....	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
TOTAL.....	<u>                    </u>	<u>                    </u>	<u>(106,860)</u>	<u>(220,844)</u>