

PREPARED BY: Doug Nichols
 DATE PREPARED: April 16, 2019
 PHONE: 402-471-0052

LB 496

Revision: 01

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

Updated for amendments adopted through April 16, 2019.

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2019-20		FY 2020-21	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS				

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

This bill, as amended, would increase penalties for tampering with witnesses, informants, jurors, or physical evidence and change provisions relating to discovery in criminal cases.

The Supreme Court estimates a minimal fiscal impact from the provisions of this bill.

The Board of Parole estimates no significant impact from this bill.

The Department of Correctional Services (DCS) states that the bill has the potential to increase the length of time someone spends in prison for a tampering conviction if it is related to a Class I, IA, IB, IC, ID, or II felony. See the DCS response attached for additional details not included in this fiscal note.

Because this bill has the potential to increase the length of time someone spends in prison, this could have an impact on prison overcrowding. As of March 18, 2019, the prison population was 160% of design capacity. Additionally, DCS contracts with some counties to temporarily house prison inmates. If those inmates are included in the prison population numbers, then the prison population would be 163% of design capacity.

If the impact of this bill is to increase the length of time someone spends in prison, DCS could incur additional per diem costs. The FY18 per diem cost for an individual inmate was \$8,226 per year, which includes NDCS inmates in county jails.

Lancaster County states that the provision allowing police reports to be available per discovery request may result in more preliminary hearings. The reason is that currently the parties often agree to waive preliminary hearings in exchange for police reports. This provision would not change the number of cases but it would increase the amount of court time for attorneys. They estimate needing an additional Deputy County Attorney and a one-half time Paralegal for \$126,260 in FY20 and \$131,462 in FY21. See Lancaster County's response attached for additional details not included in this fiscal note.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 496	AM: 787	AGENCY/POLT. SUB: Nebraska Supreme Court (005)	
REVIEWED BY: Joe Wilcox		DATE: 04/02/2019	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the Nebraska Supreme Court estimate of "Minimal" Fiscal Impact to the Agency from AM 787 to LB 496.			

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 496	AM: 787	AGENCY/POLT. SUB: Nebraska Board of Parole (015)
REVIEWED BY: Joe Wilcox	DATE: 03/26/2019	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the Nebraska Board of Parole estimate of No Fiscal Impact to the Agency from AM 787 to LB 496.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 496 (046)	AM: 787	AGENCY/POLT. SUB: Nebraska Department of Correctional Services
REVIEWED BY: Joe Wilcox	DATE: 03/22/2019	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the Nebraska Department of Correctional Services (NDCS) estimate of Indeterminable Fiscal Impact to the Agency from AM 787 to LB 496.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 496	AM: 787	AGENCY/POLT. SUB: Lancaster County
REVIEWED BY: Joe Wilcox	DATE: 03/28/2019	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the Lancaster County estimate of potential Fiscal Impact to the County from AM 787 to LB496.		

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

2019

LB⁽¹⁾ 496, AM787

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ 05 Supreme Court

Prepared by: ⁽³⁾ Eric Asboe Date Prepared: ⁽⁴⁾ 3/28/19 Phone: ⁽⁵⁾ 1-4138

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	_____	_____	_____	_____
TOTAL FUNDS	=====	=====	=====	=====

Explanation of Estimate:

As amended by AM787, LB496 would have a minimal fiscal impact to provide education related to statute changes.

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⁽¹⁾ 496, AM 787

FISCAL NOTE

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

Prepared by: ⁽³⁾ Rosalyn Cotton Date Prepared: ⁽⁴⁾ March 25, 2019 Phone: ⁽⁵⁾ 402-479-5731

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2019-20		FY 2020-21	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	=====	=====	=====	=====

Explanation of Estimate:

No significant impact on budget related to LB AM 787.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

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

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

2019

LB⁽¹⁾ 496 AM 787

FISCAL NOTE

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

Prepared by: ⁽³⁾ Sara Sump Date Prepared: ⁽⁴⁾ 3/22/19 Phone: ⁽⁵⁾ 402.479.5702

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	_____	_____	_____	_____
TOTAL FUNDS	<u>_____</u>	<u>0</u>	<u>_____</u>	<u>0</u>

Explanation of Estimate:

Original Fiscal note stands, with the Amendment, the fiscal impact is indeterminable.

Fiscal Impact of LB 496 is indeterminable.

The proposed language in LB 496 would not increase the number of individuals admitted to NDCS with tampering convictions, but it has the potential to increase the length of time a person spends in an NDCS bed if the tampering is related to a Class I, IA, IB, IC, ID, or II felony. The data in NiCaMS do not currently allow for the identification of people convicted of tampering with cases of these felony levels. As such, it is not possible to estimate the potential population increases. In addition, any increase would assume that judges would not order comparable sentence lengths for existing Class 4 felony convictions (e.g., between 1.5 and 2.5 years) within the allowable penalties for Class 2 felonies (i.e., minimum of 1 year imprisonment and maximum of 50 years imprisonment).

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

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

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

2019

LB⁽¹⁾ LB 496 & AM 787

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Lancaster County

Prepared by: ⁽³⁾ Patrick Condon Date Prepared: ⁽⁴⁾ 3/26/2019 Phone: ⁽⁵⁾ (402) 441-7321

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	\$126,260.00		\$131,462.50	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	=====	=====	=====	=====

Explanation of Estimate:

The tampering portion of the statute should not affect Lancaster County Attorney's Office to any significant degree.

The change to the discovery statute, in Sec. 4. Section 29-1912 adding paragraph (g): ***Reports developed or received by law enforcement agencies when such reports directly relate to the investigation of the underlying charge or charges in the case;***

may add significant cost for the Lancaster County Attorney's Office. We filed approximately 2500 felony cases in 2018. Often, we agree to waive Preliminary Hearings in exchange for police reports. If these reports are available per a discovery request, I anticipate more preliminary hearings will be held. If the preliminary hearings increase by only 10% that is an additional 250 preliminary hearings a year, or approximately 21 additional hearings a month. Although this change will not add to case number it will add to court time for attorneys. I would need an additional attorney, \$95,100.00, for the increase in court time, and a half time paralegal, \$31,160.00, to cover the increase in hearing prep and witness notifications. Total of \$126,260.00, for the first year and \$131,462.50 for FY 2020-21. Total for biennium \$257,722.50.

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>
Deputy County Attorney	1	1	\$95,100.00	\$99,335.00
Paralegal	.5	.5	\$31,160.00	\$32,127.50
Benefits.....				
Operating.....				
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
TOTAL.....			\$126,260.00	\$131,462.50