

Updated to reflect amendments adopted through April 12, 2021.

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

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES</b> (See narrative for political subdivision estimates)				
	<b>FY 2021-22</b>		<b>FY 2022-23</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS		\$7,613		\$7,613
CASH FUNDS	\$108,421	\$121,246		\$12,825
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>	<b>\$108,421</b>	<b>\$128,859</b>		<b>\$20,438</b>

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

LB 271 is the 24/7 Sobriety Program Act. The operative date of the act is July 1, 2022. The bill provides that each county, through its county sheriff or a designated entity\* may participate in a 24/7 sobriety program. The program must have a testing location or locations that can test twice a day or every day and participants may elect to utilize a continuous alcohol monitoring device or similar technology. The sheriff or designated entity must establish a reasonable fee to cover the setup and operation of a 24/7 sobriety program. Reasonable program and testing fees may be charged and may vary by participant depending on the technology employed and reason the individual is in the program. These fees may be waived by a court if the person has an inability to pay.

The bill allows individuals who have been arrested for a driving under the influence violation who are participating in a 24/7 sobriety program, and have had their license revoked, to petition the court for an order allowing them to apply for a 24/7 sobriety program permit. If the individual is enrolled in the program and has gone at least 30 days without any sanctions, then the court shall issue an order allowing the individual to obtain a 24/7 sobriety program permit. Permits are only available for holders of a Class M or O operator's license and are issued by the Department of Motor Vehicles (DMV).

Courts may also place individuals in 24/7 sobriety programs as a condition of pretrial release and allow individuals to participate in the program as a condition of their bond.

The fee for a sobriety program permit is \$45 which is remitted to the DMV Cash Fund (\$25), General Fund (\$15), and to the County General Fund of the participants county of residence (\$5). The fee for a replacement sobriety program permit is \$11 which is remitted to the county (\$2.75), DMV Cash Fund (\$6), and the General Fund (\$2.25). The fee to add, change, remove a class, endorsement or restriction on a permit is \$5 and is remitted to the DMV Cash Fund.

The statute which creates the DMV Cash Fund is also amended to allow it to receive reimbursements from counties.

**DMV Expenditures:**

The DMV would incur a one-time increase in expenditures to create a 24/7 sobriety program permit. The contractor for the department estimated a \$77,021 cash fund cost to create the permit. In addition, there will be an estimated 380 hours of programming by DMV staff which can be handled with existing staff and resources. The contract employee which DMV has at the OCIO will also have about 800 hours of programming related to the permit. However, the DMV estimates that 400 of the 800 hours will be additional billable hours due to the workload of the contract employee. The cost associated with these hours is \$31,400 in FY22.

**Revenues:** It is unknown how many permits will be issued each year. For demonstrative purposes, the DMV estimates the issuance of 500 sobriety permits, 50 replacements and five (5) permits to change or add endorsements. The estimated fiscal impact is as follows:

<b>Revenue Estimate</b>				
	<b>Permits Issued</b>	<b>Permit Replacements</b>	<b>Change Endorsement</b>	<b>Total</b>
DMV Cash Fund	\$12,500	\$300	\$25	\$12,825
General Fund	\$7,500	\$112.50	~	\$7,612.50
County General Fund	\$2,500	\$137.50	~	\$2,637.50

(continued)

The DMV also reflects a DMV Cash Fund reimbursement in FY22 from Lancaster County in an amount that mirrors the estimated expenditure amount for creating the permit and programming costs.

Revised fiscal notes were not provided by Lancaster County, the Supreme Court, the City of Imperial, or the City of Omaha. However, changes to the bill by amendments adopted through April 12, 2021 do not appear to necessitate changes from the original fiscal notes provided for LB271. As such, the previously provided fiscal notes are being incorporated by this reference and discussed below.

\*As a definition of "designated entity" is not contained in the bill, a city is an entity who could be designated by the county sheriff to provide a 24/7 Sobriety Program.

The City of Imperial has indicated no fiscal impact is present. There is no basis to disagree.

The Supreme Court expects additional costs related to the education of judges and court staff, modifications to the Judicial Branch Case Management System (JUSTICE), new forms and procedures for working with the DMV, and a potential increase in judicial workload for additional hearings. However, they indicate these potential new costs can be absorbed within their existing appropriation.

The City of Omaha indicates there would be costs associated with operation of a 24/7 Sobriety Program; a designated officer to conduct testing and submit evidence, testing costs, purchase of a new breathalyzer machine (and annual maintenance/repair). Total costs are \$99,758 in FY22 and \$85,758 in FY23. Ongoing annual costs would appear to mirror the FY23 estimate.

Lancaster County provided estimates for operating expenses and staff using an assumption that 150 individuals would participate in FY22 and 200 in FY23. FY22 expenditures are estimated to be \$104,532 and FY23 expenditures to be \$124,813. Fee revenue is estimated to be \$109,500 in FY22 and \$146,000 in FY23.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE

**LB: 271**      **AM: 853**      AGENCY/POLT. SUB: **Nebraska Department of Motor Vehicles (24)**

REVIEWED BY: Joe Wilcox      DATE: 04/21/2021      PHONE: (402) 471-4178

COMMENTS: No basis to dispute the Nebraska Department of Motor Vehicles (DMV) revised estimate of potential one-time expenditure impact for the Agency from LB 271, as amended by AM 853, or the estimated General Fund and Cash Fund Revenue impact from the bill.

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2021

LB<sup>(1)</sup> 271 AM490 as Amended With AM853

FISCAL NOTE

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

Prepared by: <sup>(3)</sup> Bart Moore Date Prepared: <sup>(4)</sup> April 13, 2021 Phone: <sup>(5)</sup> 402-471-3902

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2021-22</u>		<u>FY 2022-23</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS		7,612		7,612
CASH FUNDS	108,421	121,246		12,825
FEDERAL FUNDS				
OTHER FUNDS		2,637		2,637
TOTAL FUNDS	<u>108,421</u>	<u>131,495</u>		<u>23,075</u>

Explanation of Estimate:

**Expenditures** - There will be an increase in expenditures based on this legislation. The creation of a 24/7 permit will cost DMV \$77,021 (one time) based on an estimate received from our Contractor. There will also be an additional 380 hours of programming and testing by existing DMV staff which would need to be absorbed within current appropriation levels. We estimate this permit will take at least 800 hours of programming by the OCIO. We currently have an OCIO contracted employee that would be able to perform some of this programming, however due to the extensive programming requirement, we estimate 400 billable hours will be necessary for the OCIO to complete the programming. The estimated cost of this work will be \$31,400.

The DMV Cash Fund is not positioned to support these significant one-time expenditures. Therefore, an alternative funding source will need to be identified to offset these costs should this legislation be enacted.

**Revenues** – The DMV estimates that 500 permits per year will be issued, 50 replacement permits will be issued and 5 add or change endorsements will be necessary. The revenue generated based on the fee schedule will be:

DMV Cash Fund	\$ 12,825.00
State General Fund	\$ 7,612.50
County General Fund	\$ 2,637.50
DMV Cash Fund – Lancaster County Reimbursement	\$108,421.00

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2021-22</u>	<u>2022-23</u>
	<u>21-22</u>	<u>22-23</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Benefits.....				
Operating.....			108,421	
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
TOTAL.....			<u>108,421</u>	