

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2018-19		FY 2019-20	
	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 would change a penalty for possession under the Uniform Controlled Substances Act. It reduces the penalty for possession of a controlled substance as specified in the bill from a Class IV felony to a Class I misdemeanor.

A Class IV felony has a maximum penalty of up to two years imprisonment and twelve months post-release supervision or ten thousand dollars fine, or both. The minimum penalty is none for imprisonment and nine months post-release supervision if imprisonment is imposed. For a Class I misdemeanor, the penalty is as follows: Maximum - not more than one year imprisonment, or one thousand dollars fine, or both; Minimum - none.

The Department of Correctional Services (NDCS) states that this bill could potentially reduce the number of persons sentenced to prison because it reduces the penalty from a Class IV felony to a Class I misdemeanor and such misdemeanor sentences are generally not served in prison. The fiscal impact is indeterminable as NDCS has no way to estimate how many persons will be convicted under the provisions of this bill. See the agency response attached for additional details not included in this fiscal note.

Reducing the number of persons sent to prison could result in per diem savings to NDCS because there could be fewer inmates than under current law. For every inmate, NDCS incurs per diem costs. This is the cost for food, medical care, inmate wages, clothing, cleaning supplies, food service supplies, cell and dorm supplies, other inmate related supplies, laundry, inmate property, miscellaneous contractual services, and inmate transportation. The FY17 per diem cost for an individual inmate was \$8,649 per year, which includes NDCS inmates in county jails.

Fewer people in prison could reduce the prison population. As of July-September 2017, the state inmate prison population was 155.70% of design capacity. Additionally, NDCS contracts with some counties to temporarily house prison inmates. If those inmates are included in the state prison population numbers, then the inmate prison population would be 158% of design capacity.

For informational purposes, NDCS estimates the cost per offender (All facilities including Parole) at \$31,271 for FY16. This cost represents an average cost of all General, Cash, and Federal expenditures excluding aid, depreciation, and Capital Construction expenditures.

The Supreme Court estimates no fiscal impact from this bill.

Lancaster County states that this bill has the potential to save the county hundreds of thousands of dollars because of the penalty reduction for possession of small amounts of a controlled substance. See their response attached for additional details not included in this fiscal note.

This bill could impact county jails. It reduces the penalty from a Class IV felony to a Class I misdemeanor, and if jail time is imposed, such misdemeanor sentences are generally served in county jails. This could result in additional fiscal impacts to counties.

Any fines assessed pursuant to convictions will accrue to the county where the violation occurs to be used for the support of public schools.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 971	AM:	AGENCY/POLT. SUB: Nebraska Department of Correctional Services (046)
REVIEWED BY: Joe Wilcox	DATE: 01/24/2018	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the Nebraska Department of Correctional Services estimate of Indeterminate Fiscal Impact to the Agency from LB 971.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 971	AM:	AGENCY/POLT. SUB: Nebraska Supreme Court (005)
REVIEWED BY: Joe Wilcox	DATE: 01/23/2018	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the Nebraska Supreme Court estimate of No Fiscal Impact to the Agency from LB 971.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 971	AM:	AGENCY/POLT. SUB: Lancaster County
REVIEWED BY: Joe Wilcox	DATE: 01/17/2018	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the Lancaster County estimate of potential but indeterminate savings to the County from LB 971.		

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

2018

LB⁽¹⁾ 971

FISCAL NOTE

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

Prepared by: ⁽³⁾ Jeff Beaty Date Prepared: ⁽⁴⁾ 1/23/18 Phone: ⁽⁵⁾ 4024795767

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2018-19</u>		<u>FY 2019-20</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

Explanation of Estimate:

LB 971 reduces the penalty for possession of less than 1 gram of a schedule 1 controlled substance other than marijuana from a class IV felony to a class I misdemeanor.

LB 971 will potentially reduce the number of individuals sentenced to NDCS for drug possession in the future as class I misdemeanor sentences cannot be served in prison unless they are consecutive to or concurrent with another charge.

The fiscal impact of LB 971 is indeterminable as NDCS has no way to estimate how many individuals will be convicted under the new penalty provisions for possession of less than 1 gram of a controlled substance. NDCS does not normally receive information on the amount of controlled substances when someone is convicted of possession. A review of current convictions for drug possession indicated that only 1.3% had information on the amount of controlled substances and in all of those cases the amount was more than 10 grams.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2018-19 EXPENDITURES</u>	<u>2019-20 EXPENDITURES</u>
	<u>18-19</u>	<u>19-20</u>		
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____

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

2018

LB⁽¹⁾ 971

FISCAL NOTE

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

Prepared by: ⁽³⁾ Eric Asboe Date Prepared: ⁽⁴⁾ 1/22/18 Phone: ⁽⁵⁾ 1-4138

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2018-19</u>		<u>FY 2019-20</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:

No fiscal impact

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2018-19</u>	<u>2019-20</u>
	<u>18-19</u>	<u>19-20</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.

2018

LB⁽¹⁾ 971

FISCAL NOTE

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

Prepared by: ⁽³⁾ Joe Nigro Date Prepared: ⁽⁴⁾ 1/17/18 Phone: ⁽⁵⁾ (402)441-7631

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2018-19</u>		<u>FY 2019-20</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

Explanation of Estimate: This bill has the potential to save Lancaster County hundreds of thousands of dollars. If the penalties for possession of small amounts of a controlled substance are reduced to a misdemeanor, the County Attorney may decide not to even prosecute these cases. Bonds set in misdemeanor cases are lower, resulting in fewer people being held in jail while their case is pending. Sentences for misdemeanor convictions are less, meaning shorter jail sentences. It costs Lancaster County \$100/day to incarcerate someone. There will be a savings for the State since no one convicted of possessing small amounts of a controlled substance will be sent to DCS. People sentenced to probation will also likely receive shorter sentences, meaning less supervision time by Probation. There will be less attorney time involved and less court time. District Court will no longer have to handle these cases. There will be more time spent by County Court, but misdemeanor cases take less time than felonies. If outside counsel are appointed, there will be a savings due to attorneys only being paid \$50/hour in County Court and \$75/hour in District Court. The Public Defender's Office currently needs to add 4 attorneys due to an overload based upon our workload standards. Reducing these penalties will reduce the need for additional attorneys by 1 or 2 attorneys, saving the County \$93,492 for each attorney. The current amount being expended for outside counsel is even greater. The Public Defender's Office handles hundreds of cases each year that would be reclassified by this bill. The savings from this bill would be substantial for Lancaster County.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2018-19</u>	<u>2019-20</u>
	<u>18-19</u>	<u>19-20</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	<u>0</u>	<u>0</u>