

Updated to include an additional agency response received on February 17, 2010.

**FISCAL NOTE**  
 LEGISLATIVE FISCAL ANALYST ESTIMATE

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES *</b>				
	<b>FY 2010-11</b>		<b>FY 2011-12</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS	38,288		38,288	
CASH FUNDS	157,610		154,220	
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>	<b>195,898</b>		<b>192,508</b>	

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

This bill would adopt the Correctional Facility Reimbursement Act. This act becomes operative on July 1, 2011.

The following table shows the estimated expenditure impact to the Attorney General:

ITEMS	FY2010-2011	FY2011-2012	FY2010-2011	FY2011-2012
	Number of Positions		Expenditures	
Attorney General				
Assistant Attorney General	0.5	0.5	25,000	25,000
Benefits			13,288	13,288
<b>Total Attorney General</b>	<b>0.5</b>	<b>0.5</b>	<b>38,288</b>	<b>38,288</b>

Explanation of the expenditure impact to the Attorney General:

If LB955 becomes law the Attorney General's Office will face an increase in work equivalent to .5 FTE. The definition of prosecuting attorney in LB955 includes the Attorney General or an assistant attorney general. Therefore, all responsibilities created for prosecuting attorneys become either primary or secondary responsibilities for the Attorney General's Office. The investigative, prosecutorial and collections duties created will be voluminous which will require others defined as prosecuting attorneys to seek assistance from the Attorney General's Office. This assistance will be in addition to the extra work the additional investigative, prosecutorial and collection duties causes assistant attorneys general in their own criminal caseloads.

Expenditures for the Attorney General would be from the General Fund.

The following table shows the estimated expenditure impact to the State Treasurer:

ITEMS	FY2010-2011	FY2011-2012	FY2010-2011	FY2011-2012
	Number of Positions		Expenditures	
State Treasurer				
Account II	1.0	1.0	38,000	38,000
Accounting Clerk II	1.0	1.0	26,000	26,000
IT Staff	1.0	1.0	40,000	40,000
Benefits			44,610	47,220
Operating			9,000	3,000
<b>Total State Treasurer</b>	<b>3.0</b>	<b>3.0</b>	<b>157,610</b>	<b>154,220</b>

Following is the State Treasurer's fiscal note response which explains their estimated expenditure impact:

The passage in the bill would result in a lot of paperwork to review, and a lot of IT support. We estimate that two positions would be added to Treasury Management, and 1 to our IT staff.

With 68 jails holding over 4,000 prisoners, an accounting clerk II would be needed to review the paperwork and to call and follow-up with courts and jails. An accountant II would also be needed to process and do the remaining work required by the bill. Both of these employees would be in Treasury Management. The IT person would be needed to support the employees doing the work required in the bill. Also, with on-line reporting, a program would have to be written and put into place for this to occur.

The costs for these employees are based on annual salaries of \$38,000 for the accountant II, \$40,000 for the IT staff person and \$26,000 for the accounting clerk II, along with health insurance, retirement benefits and employer payroll taxes. An amount for each position is included in fiscal year 2010-11 for a desk, computer, phone service and office supplies. Also, for each position in fiscal year 2011-12 is included cost for phone service and office supplies.

Expenditures for the State Treasurer would come from Fund 21180 – Treasury Management Cash Fund.

The Department of Correctional Services (DCS) estimates that this bill could require additional staff and travel costs for investigations and securing reimbursements. DCS states that they assume this will be paid from their cash fund and they will be fully reimbursed by the State Treasurer by way of the cash funds. DCS also assumes that the State Treasurer would provide reimbursement of inmate costs up to \$35 per day where funds were available from the inmates, and that their General Funds would be reduced equivalent to the inmate reimbursements received.

The DCS response detailing their estimated expenditures to implement this bill follows:

LB 955, which adopts the Correctional Facility Reimbursement Act, provides a mechanism for correctional facilities (including juvenile detention facilities and jails) to seek reimbursement from prisoners for the cost of their incarceration.

The cost of care is defined as the cost for providing transportation, room, board, clothing, security, medical and other normal living expenses and the cost to the department or political subdivision for providing college level classes or programs to prisoners.

The Nebraska Department of Correctional Services (NDCS) is to develop a form (within 30 days of the act) which shall be used to obtain information from all prisoners regarding assets of the prisoners. Each prisoner shall complete the form or provide for completion of the form and shall swear or affirm under oath that to the best of his or her knowledge the information provided is complete and accurate.

The NDCS Director shall forward to the prosecuting attorney a report on each prisoner containing a completed form together with all other information available on the assets of the prisoner and an estimate of the total cost of care for that prisoner.

The prosecuting attorney shall investigate or cause to be investigated, as necessary, all reports received under section 4 of this act.

Reimbursement could only be sought by the prosecuting attorney if he/she has good cause to believe that the prisoner has sufficient assets to recover not less than ten percent of the estimated cost of care of the prisoner, or ten percent of the estimated cost of care of the prisoner for two years, whichever is less. Not more than ninety percent of the value of the assets of the prisoner could be sought for reimbursement, with certain assets and obligations excluded.

The court shall issue a show cause order and hold a hearing within 30 days. After the hearing, if the court determines the prisoner has assets which could be subject to this act, the court shall issue an order requiring any person, corporation, or entity to appropriate and apply the assets toward reimbursing the department or political subdivision. The maximum reimbursement shall not be in excess of the per capita cost of care for maintaining prisoners in the correctional facility, not to exceed thirty five dollars per day.

The fiscal note assumes that where the bill specifies that the Department may commence proceedings under the act (section 7 subsection 8) that it means the Department may request the prosecuting attorney to commence proceedings

The costs of any investigations and of securing reimbursements shall be paid from the reimbursements secured, and the balance of the reimbursements shall be credited to the General Fund.

The State Treasurer may determine the amount due the department or a political subdivision, and render statements thereof.

Impact:

Admissions to NDCS have been the following over the last five years:

<u>CY Year</u>	<u>Admissions</u>
2005:	2089
2006:	2343
2007	2185
2008	2154
2009	2070

1) Costs of developing and administering the form & obtaining information

DCS would develop the form within 30 days of July 1, 2011 and begin administering it to inmates who are sentenced on or after the effective date of the act. Since each prisoner would have to affirm under oath that the form is correct, and since the Department shall furnish to the prosecuting attorney all information and assistance possible to enable the prosecuting attorney to secure reimbursement, NDCS estimates that one additional Caser Manager (who was also a notary public) would be required to administer the forms, collect information, prepare the report, and send it to the prosecuting attorney. One additional Accountant would also be required to create and maintain a database on each inmate regarding the status of any reimbursements, and to assist in gathering information for the reports.

2) Hearing costs.

The bill specifies that the prosecuting attorney may file a complaint in the court in which a prisoner was sentenced, in order to start the hearing and order process.

Unless the specific court allowed videoconferencing, NDCS would incur significant travel costs in transporting the inmate to the sentencing court, assuming the sentencing court was in the same county as the correctional institution. Security or travel costs are not able to be estimated, since it is unknown how many inmates would be required to travel to the hearing.

Note: In cases where the sentencing court is not in the same county as the correctional institution, RRS 25-1233 provides that the prisoner examination be by deposition, unless the court orders the production of the prisoner. The costs of the deposition or the security and transportation of the inmate is to be paid by the party who moved for the production order.

3) Costs of Incarceration

NDCS's most recent annual cost report (for the fiscal year ending June 30, 2009) identified an average cost per inmate of \$32,965/yr, or \$90.32/day if all costs incurred by the department (including administration, security, utilities, all services and programming, etc) are taken into account. The cost per inmate would be less if only certain cost items are to be taken into account.

4) The fiscal note assumes that all costs incurred of any investigations and of securing reimbursements (including staff and travel costs) would be paid from the NDCS cash fund, that NDCS would be fully reimbursed by the State Treasurer by way of the cash funds.

The fiscal note also assumes that the State Treasurer would also then provide reimbursement of inmate costs up to the \$35 per day where funds were available from the inmates. It is unknown how much this reimbursement would be. The fiscal note assumes the General Funds of the Department would be reduced equivalent to the inmate reimbursements received.

The Supreme Court estimates no significant fiscal impact and states the following regarding this bill:

Section 7 of LB 955 states that there can be hearings related to complaints filed by prosecuting attorneys regarding prisoner assets. Any increase in judicial workload is not estimated to be significant.

IMPACT ON POLITICAL SUBDIVISIONS: The following table shows the potential impact of this bill as estimated by Lancaster County:

Fiscal Year	Inmate Days	Reimbursement Rate	Estimated Reimbursement
FY2010	75,946	\$ 35	\$ 2,658,110
FY2011	80,199	\$ 35	\$ 2,806,965

The cities of Fremont and Imperial, and the Lancaster County Sheriff estimate no fiscal impact.