

FISCAL NOTE
 LEGISLATIVE FISCAL ANALYST ESTIMATE

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.

LB474 relates to claims against the state. LB474 renames and amends the Nebraska Claims for Wrongful Conviction and Imprisonment Act.

Section 10 creates a separate claims process within the Nebraska Claims for Wrongful Conviction and Imprisonment Act and provides for the following.

- A successful claimant means a person who
 - Had a claim against a political subdivision arising from wrongful incarceration or wrongful conviction which was precluded by the provisions of the State Tort Claims Act or the Political Subdivisions Tort Claims Act.
 - Obtained a final judgment against such political subdivision from a federal court.
- A successful claimant and the political subdivision against which such claimant obtained a final judgment may jointly or individually file a claim with the State Claims Board for full payment of such judgment, which exceeds the available financial resources and revenue of the political subdivision required for its ordinary purposes.
 - A claim under subsection 10(2) shall be filed within 2 years of the final judgment.
- This separate claims process within the Nebraska Claims for Wrongful Conviction and Imprisonment Act shall be governed by the State Miscellaneous Claims Act.

The Department of Administrative Services (DAS) Risk Management Division indicates the fiscal impact cannot be determined.

The Attorney General indicates that if the provisions of LB474 increase the number claimants under the Nebraska Claims for Wrongful Conviction and Imprisonment Act there could be a substantial fiscal impact on their office.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 474	AM:	AGENCY/POLT. SUB: Nebraska Department of Administrative Services	
(065)			
REVIEWED BY: Joe Wilcox	DATE: 01/31/2019	PHONE: (402) 471-4178	
COMMENTS: No basis to dispute the Nebraska Department of Administrative Services estimate of potential but Unknown Fiscal Impact to the Agency from LB 474.			

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 474	AM:	AGENCY/POLT. SUB: Nebraska Attorney General (011)	
REVIEWED BY: Joe Wilcox	DATE: 01/30/2019	PHONE: (402) 471-4178	
COMMENTS: No basis to dispute the Nebraska Attorney General estimate of potential but Indeterminate Fiscal Impact to the Agency from LB 474.			

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

2019

LB⁽¹⁾ 474

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Department of Administrative Services (DAS) – Risk Management

Prepared by: ⁽³⁾ Shereece Dendy-Sanders Date Prepared: ⁽⁴⁾ January 27, 2019 Phone: ⁽⁵⁾ 402-471-4436

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>See Below</u>	<u>_____</u>	<u>See Below</u>	<u>_____</u>

Explanation of Estimate:

LB 474 seeks to make changes to the Wrongful Conviction Act by adding remedy for those who are wrongfully incarcerated. The bill seeks to change the name of the Act to the Wrongful Conviction and Incarceration Act and outlines the elements required to seek relief for wrongful incarceration.

This bill creates a fiscal impact as it allows for wrongful incarcerated individuals to seek damages from the State. However, the bill references both the Miscellaneous Claims Act and Tort Claims Act. If the bill seeks to pay these damages from the Miscellaneous Claims Act, then the state agency for which the claim originated would be responsible for paying those damages. If the agency is General funded the claim would increase general fund expenditures. Other agencies could use cash or revolving funds. However, if there is no specific agency for which the claim originated, there is a question as to which agency to bill and ultimately, if there is no agency there would be no mechanism through the Miscellaneous Claims Act to pay this claim.

If the bill seeks to pay these damages from the Tort Claims Act, approved claims would be paid out of the Tort Claims General Fund, thus increasing General Fund expenditures. If there was an agency involved that had other funding sources (cash or revolving), the amount of the claim would be transferred to Risk Management in the following fiscal year.

There have been no claims filed for wrongful incarceration within the last 4 years and there have been 3 claims filed for wrongful conviction, however, none of those 3 claims were approved for payment.

The fiscal impact is unknown.

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⁾ 474

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Attorney General

Prepared by: ⁽³⁾ Ryan Post Date Prepared: ⁽⁴⁾ 1-29-19 Phone: ⁽⁵⁾ 402-471-2687

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:

It is unclear if Section 4 is intended to increase the number of claimants under the Act. If so, LB 474 could have a substantial fiscal impact on the Nebraska Attorney General's Office.

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.....	_____	_____	_____	_____

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