

FISCAL NOTE
Requested by Legislative Council
01/16/2013

Bill/Resolution No.: HB 1302

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$8,575,237		\$22,708,901	
Appropriations			\$8,575,237		\$22,708,901	

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties		\$2,240,000	\$2,240,000
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

House Bill No.1302 provides for increased penalties for DUI offenses. Section 5 of the bill contains the increased penalties. This bill will provide a fiscal impact to both counties and the DOCR.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The estimated fiscal impact to the counties was estimated by the ND Association of Counties and was provided as follows: After examining the district court data provided, and talking with prosecutors and sheriffs; it was determined that a figure of 4000 cases per year should be used. This was taking the 3,500 district court cases over the past two year and increasing that to include 500 additional municipal court cases, as those were not reflected in the data. Four additional days of jail time per case was used as an average impact of the proposed changes. At jail costs of \$70/day this equals \$1.12 million/year or \$2.24 million/biennium. The challenge is that, depending upon where those cases are jailed, there may not be room. Burleigh, Morton, Ward and Williams jails are often at capacity already. That means additional transport costs (time & expense) that have not been estimated. This may be mitigated by the deterrent effect, but since both of these factors are even more speculative, it was felt the straight calculation of days and daily rates was better supported. The estimated fiscal impact to the State is limited to the estimated impact to the DOCR. To arrive at an estimate the DOCR obtained DUI conviction data from the State's District Courts from the period January 1,2007 thru December 31, 2012. Over that time period there was a total of 19,331 DUI related convictions for an average of 3,222 DUI related convictions per year. The following assumptions were used: 1)All time incarcerated for 1st and 2nd DUI offenses will be served at the county level and will have no fiscal impact to the DOCR; 2)All time incarcerated for 3rd and 4th DUI offenses (Felony C) will be served at DOCR or DOCR contracted facilities; 3)Estimated number of 3rd offense DUI's per year - 102 and estimated number of 4th or more offense DUI's per year 213; 4)All DUI offenses occur evenly throughout the year; 5)Actual time incarcerated is equal to minimum sentence; 6)All probation served at minimum mandatory; 7)No deterrent effect was used in the estimate. Important to note: in estimating the fiscal effect of this bill the same inmate population projection was used as that to build the 2013-15 DOCR executive recommendation. The current actual average inmate population as of December 2012 (1,536) already exceeds the estimated June 30, 2015 ending inmate population (1,490). If actual inmate populations continue to exceed the project 2013-15 inmate population, the reported fiscal effect of this bill is understated.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Although the bill specifies that fines are to be levied, we are unable to determine at what rate or percentage of the fines levied would actually be collected.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

County fiscal impact determined by 4000 DUI cases per year with an average of 4 additional jail days at a cost of \$70 per day. (\$1.12 million per year or \$2.24 million per biennium). The DOCR impact was determined by estimating 102 3rd offenses per year and 213 4th or more offenses per year. These offenses would increase the prison population by 157 in FY14, 412 in FY15, 527 in FY16 and 527 in FY17. This would cause DOCR facilities to reach capacity in FY14 resulting in a need to contract for additional bed space as follows: FY15 - 258, FY16 - 377 and FY17 - 381. Costs estimated for the purpose of this fiscal note include medical, food, contract housing and additional FTE costs to provide community supervision (probation). Est Fiscal Impact 2013-15 - \$8.6 million and 1 additional FTE Est Fiscal Impact 2015-17 - \$22.7 million and 7 additional FTE See attachment for computation

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Estimated appropriation amount is equal to funding necessary for the DOCR to implement the penalty provision of HB1302 if passed into law.

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District Court Data January 1, 2007 thru December 31, 2012 (6 years)						
	Total by Offense	Unknown - Misdemeanor A	Unknown - Misdemeanor B	Converted Degree	Adjusted Total by Offense	Average Offense Per Year
1st Offense	10,441		3,496	17	13,954	2,325.67
2nd Offense	3,489				3,489	581.50
3rd Offense	156	457			613	102.17
4th Offense	1,141				1,141	190.17
5 + Offense	134				134	22.33
Unkown	3,970	(457)	(3,496)	(17)	-	-
Total DUI and APC	19,331	-	-		19,331	3,222
Assumptions						
1) Offenses occur evenly throught the year						
2) Actual time incarcerated is equal to minimum days required to serve						
3) All time incarcerated for B&A at county level						
4) All time incarcerated for Felony C at state level						
5) All probation at minimum mandatory						
6) No revocation from probation						
7) Probation caseload at 65						
8) Contract housing beds \$70 per day						
Deterrent Effect	0%	0%	0%	0%		
Increase in Prison ADP	FY2014	FY2015	FY2016	FY2017		
3rd Offense	51	102	102	102		
4th + Offense	106	309	425	425		
Total	157	412	527	527		
Offenses Per Month						
3rd	8.51	8.51	8.51	8.51		
4th +	17.71	17.71	17.71	17.71		
Est Contract Housing	FY2014	FY2015	FY2016	FY2017		
Budgeted Capacity DOCR	1,298	1,298	1,298	1,298		
Est Pop DOCR Facilities	1,140	1,144	1,147	1,151		
Bill Effect	157	412	527	527		
Needed Beds	-	258	377	381		
Days	365	365	365	365		
Bed Cost Per Day	70.00	70.00	70.00	70.00		
Estimated Cost	-	6,589,516	9,627,491	9,731,820		

Increase in Probation							
3rd Offense	-	46	102	102			
4th + Offense	-	-	97	309			
Total	-	46	199	412			
Target Caseload / Officer	65	65	65	65			
Necessary Officers	-	1	4	7			
Est FTE Cost / Year	75,000	75,000	75,000	75,000			
Estimate Cost	-	75,000	300,000	525,000			
Inmate Costs							
13-15 Budgeted Medical	6.49	6.49	6.49	6.49			
Increase Inmates	157	412	527	527			
Days	365	365	366	367			
Increase Medical	371,750	975,695	1,252,799	1,256,224			
13-15 Budgeted Food	4.96	4.96	4.96	4.96			
Increase Inmates	157	412	527	527			
Housed Outside Docr	-	258	377	381			
Net Inc Inmates	157	154	151	147			
Days	365	365	366	367			
Increased Food	284,301	278,974	273,628	266,939			
Total Cost Increase	656,052	1,254,670	1,526,427	1,523,163			
Total Cost	656,052	7,919,186	11,453,918	11,779,983			
	Total Cost 13-15	8,575,237	Total Cost 15-17	22,708,901			