

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

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES</b> (See narrative for political subdivision estimates)				
	<b>FY 2015-16</b>		<b>FY 2016-17</b>	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	71,258		(5,851,950)	
CASH FUNDS	0		0	
FEDERAL FUNDS	0		0	
OTHER FUNDS	0		0	
TOTAL FUNDS	71,258		(5,851,950)	

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

LB606 adopts the Office of Inspector General of the Nebraska Correctional System Act, changes provisions relating to the declaration of an overcrowding emergency, and amends the definition of a rule and regulation.

Sections 1 to 29 creates the office of Inspector General of the Nebraska Correctional System within the office of Public Counsel for the purpose of conducting investigations, audits, inspections, and other reviews of the Nebraska correctional system. The duties and responsibilities are similar to the Office of Inspector General of Nebraska Child Welfare created in 2012. At that time, funding was only provided for the Inspector General position with the acknowledgement that there could be the need for additional staff depending on the workload. An additional two staff were subsequently funded in 2014. While the duties and responsibilities are similar, the subject area of corrections could be considered somewhat more limited than child welfare and therefore less likely a need for additional staffing. At this point minimum additional costs would be the salary and benefits for the Inspector General position (\$96,000) plus \$5,000 for operating expenses. Note however that as before, there is the potential for the need for additional investigative staff in the future depending on the workload.

Section 35 would require, not simply authorize, that a Governor declare a correctional system overcrowding emergency whenever the director certifies that the population is over one hundred forty percent of design capacity. Based on the current population, this change from may to shall would trigger the provisions of the Correctional System Overcrowding Emergency Act. No basis to disagree with the Department of Correctional Services estimate of a net \$6 million savings by FY2016-17. This would consist of a \$2.9 million increase in costs, mostly in parole staffing, and an \$8.9 million reduction in inmate per diem costs due to lower populations.

Section 36 amends the administrative procedures act section regarding the definition of a rule or regulation. This change expands the definition to include a “statement, policy, instruction, guideline, criterion, or standard of general applicability”. This expanded definition will likely incur additional costs for the Secretary of State for their rule and regulation responsibilities. No basis to disagree with their estimate of additional costs. There could also be additional costs on agencies for purposes of complying with the broader definition of rule and regulation. The Department of Revenues’ estimate provides an example although the amount appears high.

	<u>FY2015-16</u>	<u>FY2016-17</u>
Office of Inspector General of Nebr Correctional System	\$101,000	\$105,000
Secretary of State impact, rules and regulations definition	58,000	58,000
Trigger of Correctional System Overcrowding Emergency Act	(87,742)	(6,014,950)
Total	<u>71,258</u>	<u>(5,851,950)</u>



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

2015

LB<sup>(1)</sup> 606

FISCAL NOTE

State Agency OR Political Subdivision Name: <sup>(2)</sup>

Nebraska Department of Corrections

Prepared by: <sup>(3)</sup> Chris Peters

Date Prepared: <sup>(4)</sup> 2/17/2015

Phone: <sup>(5)</sup> (402) 479-5702

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2015-16</u>		<u>FY 2016-17</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	<u>(87,742)</u>	<u>0</u>	<u>(6,014,950)</u>	<u>0</u>
CASH FUNDS	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
FEDERAL FUNDS	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
OTHER FUNDS	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
TOTAL FUNDS	<u>(87,742)</u>	<u>0</u>	<u>(6,014,950)</u>	<u>0</u>

Explanation of Estimate:

LB 606 contains three proposals. The first creates the Office of Inspector General of the Nebraska Correctional System within the office of Public Counsel. The second amends the Correctional System Overcrowding Emergency Act to require declaration of an overcrowding emergency whenever the inmate population is over 140% of design capacity. The third amends the administrative procedures act to expand the definition of rule and regulation to include policies, statements, instructions, guidelines, criterion and standards of general applicability and creates an exemption from the promulgation requirement for informational materials intended for the public.

NDCS estimates minimal fiscal impact from the adoption of the Inspector General for Corrections Act. The Department currently cooperates with investigations from the office of public counsel and would continue to do so with the inspector general. There will be development costs, estimated at \$3,000, associated with granting access to all of the Department's computer systems and creating view only roles for some databases.

The portion of the bill amending the overcrowding emergency act will have a significant fiscal impact on the Department. NDCS current design capacity is 3,275. The threshold for declaration of an emergency would occur each time the population reached 4,585 inmates. The NDCS population on 1/31/2015 was 5,396 and an emergency would be required to be declared until the population was reduced to 125% of design capacity or 4,094 inmates.

An overcrowding emergency would require the Parole Board to consider or reconsider all inmates eligible for parole who have not been released on parole. Using January 31<sup>st</sup> population figures, an emergency declaration would require reducing the population by 1,302 inmates. Estimating it would take approximately nine months to hold hearings to parole 1,302 inmates, the Average Daily Population for FY2016 would drop by 311, and reduce Per Diem by \$2.2M. ADP for FY2017 should be no higher than 125% of design capacity, or 4,094. This is a reduction of 1,246 inmates and \$8.9M in Per Diem costs.

At the same time, this would increase the Parolee population by over 100%. In order for the Adult Parole Administration to maintain caseloads of an average of 35 per officer, an additional 32 Parole Officers, 6 Parole Supervisors, and other support staff would be needed. These staff would be brought on gradually as the number of parolees rose. Additional operating costs would include increased electronic monitoring and rented office space. Capital outlay costs would include vehicles and office furnishings for the new staff.

The final provision of the bill amending the administrative procedures act will impact the Department by requiring the promulgation of additional rules and regulations and the associated hearings. The Department has 220 administrative regulations (AR), and each AR has one or more associated operational memorandum at each of the 10 facilities in the Department. In order to manage the operational memorandums and

administrative regulations required to be promulgated and the hearings held each time they are amended, the Department would need to hire two additional support staff to handle rule and regulation promulgation.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2015-16</u>	<u>2016-17</u>
	<u>15-16</u>	<u>16-17</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Corrections Sr. Parole Officer	18	32	672,117	1,194,875
Corrections Parole Supervisor	4	6	186,688	280,032
AA II; 2 AA III; 2 Admin. Sec.; Staff Asst. II	6	6	223,904	223,904
Benefits.....			324,813	509,643
Operating.....			(1,765,564)	(8,423,504)
Travel.....			103,500	103,500
Capital outlay.....			166,800	96,600
Aid.....				
Capital improvements.....				
<b>TOTAL.....</b>			<b>(87,742)</b>	<b>(6,014,950)</b>

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**2015**

**LB<sup>(1)</sup> 606**

**FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup>

Nebraska Secretary of State

Prepared by: <sup>(3)</sup> Suzanne Hinzman

Date Prepared: <sup>(4)</sup> 2/18/2015

Phone: <sup>(5)</sup> 402-471-2384

**ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION**

	<u>FY 2015-16</u>		<u>FY 2016-17</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	<u>58,236</u>	<u>          </u>	<u>57,980</u>	<u>          </u>
CASH FUNDS	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
FEDERAL FUNDS	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
OTHER FUNDS	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
<b>TOTAL FUNDS</b>	<u><b>58,236</b></u>	<u><b>0</b></u>	<u><b>57,980</b></u>	<u><b>0</b></u>

**Explanation of Estimate:**

The Secretary of State files and maintains state agency rules and regulations for public inspection and distributes copies to subscribers of the Nebraska Administrative Code. The Secretary of State also maintains an online version of the Nebraska Administrative Code and an online tracking website which tracks the progress of rules and regulations through the various stages of approval. In addition, the Secretary of State maintains notices of proposed rules and regulations for public inspection and distributes copies of notices of proposed rules to subscribers of those notices.

Section 36 of LB 606 expands the definition of rule or regulation to include any statement, policy, instruction, guideline, or criterion of general applicability issued by an agency. Due to this expansion of the definition of rule or regulation, the Secretary of State's office anticipates a 50% increase in the number of rules and regulations promulgated and filed with the Secretary of State's Office. The Secretary of State's Office will need additional staff to file and process new regulations. In addition, there will be storage and microfilming costs associated with maintaining an increased number of regulations.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2015-16</u>	<u>2016-17</u>
	<u>15-16</u>	<u>16-17</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Administrative Assistant	<u>1</u>	<u>1</u>	<u>34,018</u>	<u>34,783</u>
Benefits.....			<u>16,746</u>	<u>17,441</u>
Operating.....			<u>8,262</u>	<u>6,546</u>
Travel.....			<u>          </u>	<u>          </u>
Capital outlay.....			<u>          </u>	<u>          </u>
Aid.....			<u>          </u>	<u>          </u>
Capital improvements.....			<u>          </u>	<u>          </u>
<b>TOTAL.....</b>			<u><b>58,236</b></u>	<u><b>57,980</b></u>