PREPARED BY: DATE PREPARED: PHONE: Kenneth Boggs January 11, 2023 402-471-0050

LB 163

Revision: 00

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)						
	FY 202	3-24	FY 20	24-25		
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE		
GENERAL FUNDS	See Below		See Below			
CASH FUNDS		See Below				
FEDERAL FUNDS						
OTHER FUNDS	See Below	See Below	See Below	See Below		
TOTAL FUNDS	See Below	See Below	See Below	See Below		

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

LB163 aims to provide for various reforms to jails and prisons, provide certain protections for prisoners, prohibit construction or expansion of prisons and jails as prescribed, and provide for oversight of the Department of Correctional Services during an overcrowding emergency by the Judiciary Committee.

LB163 seeks to provide privacy protections for inmates' legal mail, provide penalties, change provisions relating to possession of electronic communication devices in Department of Correctional Services facilities, authorize possession of such devices by certain officials and attorneys as prescribed. It also prohibits cities, counties, and the state from receiving revenue for operation of inmate telephone services and provide requirements for negotiating contracts for such services. The bill provides a limitation on the mark-up of commissary goods in jails and prisons, require the department to pay minimum wage for work by committed offenders and to provide that such persons are subject to the wage and Hour Act. It also seeks to require collection of certain data upon admission of persons committed to the department, to require the department to provide culturally diverse books as prescribed. The bill addresses changes to provisions relating to the reentry Cash fund, and provides for transfers from the Cash Reserve Fund.

Expenditures:

The Nebraska Crime Commission states that there would be four meetings to update the standards and estimates a cost of \$6,000, which would cover travel and lodging of board members.

There could be some costs to cities or counties but the cost is indeterminate at this time.

The Nebraska Department of Correctional Services (NDCS) would proceed with renovations at the Nebraska State Penitentiary (NSP) that was found in the useful life study completed in January 2022. The study was to identify deficiencies and update NSP to match new modern version in the same quantity and size of what currently exists. The study estimated the cost for renovations would be \$220,061,855, but with the increase in construction prices has increased the estimated cost to \$252,090,577. However, the timing of such expenditures in indeterminate.

NDCS has projected that the population will increase by 2% over the next two years and not having the option to expand capacity over the next twenty-year period would cause NDCS to contract with counties to house inmates in their county jails. The current cost for NDCS to house inmates in county jails is currently \$85 per day plus medical costs.

NDCS would be required by LB 163 to pay the minimum wage for work by incarcerated individuals. NDCS estimates the impact of paying minimum wage to all eligible incarcerated individuals would be an increase in pay of \$82,237, 625 in FY 24 and \$92,757,563 in FY 25 for non-industries work assignments. For CSI work assignments the estimated cost would be \$11,889,567 FY 24 and \$13,483,887 in FY 25.

The programming cost to change their currents system from a daily rate pay plan to the hourly pay plan would be \$9,100. NDCS estimates the cost of creating fields within the inmate database system to allow for them to collect last known address as part of the intake process would be \$20,000.

NDCS estimates an additional 413 Corrections Corporal full-time employees to maintain the fifteen-to-one or higher to satisfy the staffing shortage defined by LB 163. The estimated cost for the 413 employees is \$35,860,234 in FY 24 and \$35,863,538 in FY 25.

Revenues:

LB 163 limits the mark-up of commissary goods to 10%. The inmate welfare fund is a revenue-based fund. Revenues from this fund are generated by the inmates and the expenditures are used to provide recreational activities and equipment for inmates. NDCS estimates the impact of reducing mark ups to 10% would be a decrease of \$1,000,000 in net revenue.

The \$5,000,000 transfer from the Cash Reserve Fund to the Inmate Welfare Fund would be cash fund revenue to NDCS. In the future when those funds have expended, they would need other funding sources to provide comparable services for inmates as it does currently.

Some cities and counties could have a permanent loss in revenue.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE						
LB: 163	LB: 163 AM: AGENCY/POLT. SUB: Nebraska Attorney General (011)					
REVIEWED	BY: Joe Wilcox	DATE: 01/17/2023	PHONE: (402) 471-4178			
COMMENTS: No disagreement with the Nebraska Attorney General estimate of No Fiscal Impact to the Agency from LB 163.						

ADM	INISTRATI	VE SERVICES ST	ATE BUDGET DIVISION: REVIEW OF	AGENCY & POLT. SUB. RESPONSE		
LB: 163	AM:	AGENCY/POLT	. SUB: Nebraska Department of Corre	ectional Services (046)		
REVIEWED BY: Joe Wilcox DATE: 01/27/2023 PHONE: (402				PHONE: (402) 471-4178		
	COMMENTS: No Basis to Dispute the Nebraska Department of Correctional Services (NDCS) estimate of Potential Fiscal Impact to the Agency from LB 163.					

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE						
LB: 163	LB: 163 AM: AGENCY/POLT. SUB: Nebraska Equal Opportunity Commission (67)					
REVIEWED	BY: Joe Wilcox	DATE: 01/10/2023	PHONE: (402) 471-4178			
COMMENTS: No basis to disagree with the Nebraska Equal Opportunity Commission (NEOC) estimate of No Fiscal Impact to the Agency from LB 163.						

ADMII	NISTRATI	VE SERVICES STAT	TE BUDGET DIVISION: REVIEW OF	AGENCY & POLT. SUB. RESPONSE	
LB: 163	AM:	AGENCY/POLT.	SUB: Nebraska Commission on Lav	w Enforcement and Criminal Justice (078)	
REVIEWED	BY: Joe \	Vilcox	DATE: 01/19/2023	PHONE: (402) 471-4178	
COMMENTS: No Basis to Disagree with the Nebraska Commission on Law Enforcement and Criminal Justice (Crime Commission) estimate of potential Fiscal Impact to the Agency from LB 163.					

LB: 163	AM:	AGENCY/POLT. SUB: Nebraska Board of Parole (015)			
REVIEWED	BY: Joe Wilcox	DATE: 01/19/2023	PHONE: (402) 471-4178		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE

LB: 163 AM: AGENCY/POLT. SUB: Nebraska Commission on Public Advocacy (094)

REVIEWED BY: Joe Wilcox DATE: 01/17/2023 PHONE: (402) 471-4178

COMMENTS: Do not disagree with the Nebraska Commission on Public Advocacy estimate of No Fiscal Impact to the Agency from LB 163.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE

LB: 163 AM: AGENCY/POLT. SUB: Nebraska Supreme Court (005)

REVIEWED BY: Joe Wilcox DATE: 01/30/2023 PHONE: (402) 471-4178

COMMENTS: No disagreement with the Nebraska Supreme Court estimate of No Fiscal Impact to the Agency from LB 163.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE

LB: 163 REVISED AM: AGENCY/POLT. SUB: Douglas County

REVIEWED BY: Joe Wilcox DATE: 01/26/2023 PHONE: (402) 471-4178

COMMENTS: No basis to dispute the Douglas County Revised estimate of Potential Revenue Loss to the County from the provisions of LB 163.

LB ⁽¹⁾ 163				FISCAL NOTE
State Agency OR I	Political Subdivision Name: (2)	Attorney General		
Prepared by: (3)	Mike Guinan	Date Prepared: (4)	1-10-23 Pho	one: (5) 402-471-2687
	ESTIMATE PROV	TIDED BY STATE AGEN	NCY OR POLITICAL SUB	DIVISION
	<u>FY</u> EXPENDITURE	<u> 2023-24</u> <u>S REVENUE</u>	<u>FY</u> <u>EXPENDITURES</u>	<u> 2024-25</u> <u>REVENUE</u>
GENERAL FUN	·	<u> </u>		<u></u>
		_		
CASH FUNDS		_		
FEDERAL FUN	DS			
OTHER FUNDS		_	_	
TOTAL FUNDS		=		
Explanation of E	Estimate:			
No Fiscal Impa	ict.			
		WN BY MAJOR OBJECT	TS OF EXPENDITURE	
Personal Service		UMBER OF POSITION	S 2023-24	2024-25
POSIT	TON TITLE	<u>23-24</u> <u>24-25</u>	EXPENDITURES	EXPENDITURES
Benefits	······			
Capital outlay				
Aid				
Capital improve	ments			
TOTAL				

LB ⁽¹⁾ 163				FISCAL NOTE		
State Agency OR Politica	Subdivision Name: (2)	Nebraska Department of Correctional Services				
Prepared by: (3) Lisa Stanton		Date Prepared: (4)	01/13/2023 Phone: 0	5) (402)479-5702		
ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION						
	FY 6	2023-24		FY 2024-25		
EXPENDITURES		REVENUE	EXPENDITURES	REVENUE		
GENERAL FUNDS	\$118,126,959		\$128,621,101			
CASH FUNDS		\$5,000,000	<u> </u>			
FEDERAL FUNDS			<u> </u>			
OTHER FUNDS	\$262,980,144	\$4,000,000	\$13,483,887	\$(1,000,000)		
TOTAL FUNDS	\$381,107,103	\$9,000,000	\$142,104,988	\$(1,000,000)		

Explanation of Estimate:

LB 163 provides that NDCS shall not build new correctional facilities, study or identify sites for a new correctional facility, or expand or convert portions of an existing correctional facility in order to expand capacity until the Legislature determines that overall admissions and lengths of stay for all correctional facilities have declined over a twenty-year period. NDCS would need to proceed with renovations at the Nebraska State Penitentiary identified in the useful life study completed in January 2022. That report estimated the cost for those renovations to be \$220,061,855. Average construction costs rose 14.1% in 2022 making the current estimated cost \$251,090,577.

Note: The programing and design work/timeline was not included in the study since the purpose of the study was to identify deficiencies and to figure their repair or replacement to match a new modern version in the same quantity and size of what exists. Meaning it would take at least a year and a half of creating a program statement and construction documents to complete this work. That design time and subsequent inflation is not taken into account of the numbers referenced above.

The most recent population projections show a steady increase in population of over 2% each year. Without the option over at least the next twenty-year period to expand capacity, NDCS would have to contract with counties to house more of its population in county jails. NDCS currently houses approximately 40 individuals through contracts with county jails. It is difficult to estimate how many additional incarcerated individuals may need to be housed through contracts with counties to estimate the fiscal impact. The current cost for county jails is \$85/day plus medical costs.

LB 163 requires NDCS to pay the minimum wage for work by committed offenders and provides that such persons are subject to the Wage and Hour Act. Currently, incarcerated individuals assigned to non-industries work assignments in their assigned facility are paid a daily stipend for days worked. Those stipend rates range from \$1.26/day to \$6.13/day for these work assignments. Individuals assigned to CSI work assignments and some Community Corrections Center designated work detail assignments are paid an hourly rate of stipend ranging from \$.53/hr to \$1.55/hr. NDCS estimates the impact of paying all eligible incarcerated individuals the minimum hourly wage to be an increase in pay of \$82,237,625 in FY24 and \$92,757,563 in FY25 for non-industries work assignments, and \$11,889,567 in FY24 and \$13,483,887 in FY25 for CSI work assignments.

The time keeping and pay system currently used at CSI for hourly stipend pay could be implemented department wide. Programming costs to change the Corrections Inmate Payroll System (CIPS) from the current daily rate pay plan to the hourly pay plan would be \$9,100.

LB 163 requires collection of certain data upon commitment to the Department of Correctional Services to include the last known address and the legislative district in which such address is located at the time of

admission. NDCS does not currently collect last known address as part of the intake process. To comply with the proposed legislation, NDCS would add the collection of last known address to the admission process. NDCS would also add the collection of last known address to the classification process to collect the required information on the current incarcerated population. NDCS estimates the cost of creating fields within the inmate database system (development, testing and implementation) to allow for entry of this information to be \$20,000.

LB 163 limits the mark-up of commissary goods in NDCS facilities to 10%. The inmate welfare fund is a revenue-based fund, from which canteen profits are the primary source of funding. The revenues from this fund are inmate generated and expenditures from this fund are to be used to provide recreational activities and equipment for inmates at all of the Department's correctional facilities per §83-915.01, as well as in accordance with ACA standards (ACI-1B-20). FY 2022 net revenue for the canteens was approximately \$2.1 million. NDCS estimates the impact of reducing the mark-up on commissary items which currently have a higher mark-up than 10% to be a \$1,000,000 reduction in net revenue from \$7.3 million to \$6.3 million in the first year. The projected decrease assumes items with mark-ups less than 10% remain the same. For example, some personal hygiene products have mark-ups of 2% and other personal hygiene products have no mark-up. Over the counter medications are marked-up by 2%, school supplies are marked-up by 2%, and health and beauty items have a mark-up of 10%. The primary canteen items with mark-ups above 10% are food and beverages (at 36%), similar to that on similar items in a convenience store.

NDCS estimates no fiscal impact beyond the transfer of \$5,000,000 from the Cash Reserve Fund to the Inmate Welfare Fund in FY24 provided in the bill. At such time in the future when those funds are expended (approx. five years), other funding sources, like General Funds, would be necessary in order to provide similar-level services for inmates.

Staffing shortage is defined in the bill as a ratio of the inmate population to correctional officers that is fifteen-to-one or higher. NDCS estimates an additional 413 protective services FTE are required to maintain a fifteen-to-one staffing ratio at all facilities on all shifts. The estimated cost for 413 Corrections Corporal FTE is \$35,860,234 in FY24 and \$35,863,538 in FY25. This amount includes \$25,915,566 PSL, \$9,070,448 benefits, and \$874,220 (FY24) and \$877,524 (FY25) for uniforms, radios and other equipment and services.

LB 163 provides for the transfer of \$5,000,000 from the Cash Reserve Fund to the Reentry Cash Fund in FY24. It also expands the use of the fund to include reentry and reintegration programs offered to offenders at all department facilities. Although it would require additional oversight to manage programs at all facilities, NDCS would absorb these duties within its existing allocation. Therefore, other than the \$5,000,000 transfer to the Reentry Cash Fund, no fiscal impact is noted for this provision.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE						
Personal Services:	<u>DOWN BY MAJ</u>	<u>IOR OBJECTS O</u>	<u>F EXPENDITURE</u>			
r ersonar Services:	NUMBER OF	POSITIONS	2023-24	2024-25		
POSITION TITLE	<u>23-24</u>	<u>24-25</u>	EXPENDITURES	EXPENDITURES		
Corrections Corporal	413.0	0.0	\$25,915,566	\$25,915,566		
Benefits			\$9,070,448	\$9,070,448		
Operating			\$95,030,512	\$107,118,974		
Travel	•••					
Capital outlay						
Aid						
Capital improvements			\$251,090,577			
TOTAL			\$381,107,103	\$142,104,988		

TOTAL.....

LB (1)	163							FISCAL NOTE		
State Ag	ency OR I	Political Su	bdivision Name: (2)	Nebra	Nebraska Crime Commission					
Prepare	ed by: (3)	Amanda	a Limbach	Date	e Prepared: ⁽⁴⁾	1/18/23	Phone: (5)	402-471-8799		
		ES	STIMATE PROVI	DED BY	STATE AGEN	CY OR POLI	TICAL SUBDIVIS	SION		
			FV	2023-24			FY 202 4	1_05		
]	EXPENDITURES	_	<u>REVENUE</u>	EXPEN	NDITURES	REVENUE		
GENER	RAL FUN	DS	6,000.00							
CASH F	UNDS					-	_			
FEDER	AL FUN	DS				<u></u>				
OTHER	R FUNDS	.				<u>-</u>				
	L FUNDS		6,000.00		0		0	0		
Evnlana	ition of E	stimato								
	10 '		BREAKDOV	N BY M	AJOR OBJECT	S OF EXPEN	DITURE			
Persona	ıl Service	<u>s:</u>	N	UMBER (OF POSITION	S 20)23-24	2024-25		
	POSIT	ION TITI		<u>23-24</u>	<u>24-25</u>		NDITURES	EXPENDITURES		
Benefits	S									
Operati	ng									
Travel.						6,0	000.00			
_	outlay									
Capital	improver	nents								

6,000.00

LB ⁽¹⁾ 163	Revised 2					FISCAL NOTE
State Agency OR l	Political Subdivision Name:	₍₂₎ Equa	l Opportunity	Commission		
Prepared by: (3)	Kathleen Bogenreif	Dat	te Prepared: ⁽⁴⁾	1/10/2023	Phone: (5)	402-471-4061
	ESTIMATE PRO	OVIDED BY	STATE AGEN	NCY OR POLITIC	CAL SUBDIVIS	ION
	<u>EXPENDITUR</u>	FY 2023-24 <u>RES</u>	<u>REVENUE</u>	EXPENDI	<u>FY 2024</u> TURES	<u>-25</u> <u>REVENUE</u>
GENERAL FUN	DS			_		
CASH FUNDS						
FEDERAL FUN	DS	_		_		
OTHER FUNDS	<u> </u>	<u> </u>				
TOTAL FUNDS						
Explanation of E	Sstimate:					
No fiscal impa						
Personal Service		OWN BY M	IAJOR OBJECT	S OF EXPENDI	<u> FURE</u>	
1 cisonai Scivice	.5.	NUMBER	OF POSITION	S 2023	-24	2024-25
POSIT	TION TITLE	<u>23-24</u>	<u>24-25</u>	EXPEND	<u>ITURES</u>	EXPENDITURES
			_	_		
Panafita			_	_		
	ments					

Benefits..... Operating..... Travel..... Capital outlay..... Aid..... Capital improvements..... TOTAL.....

lease complete <u>ALL</u> (5) b	lanks in the first three	lines.		2023
LB ⁽¹⁾ 163				FISCAL NOTE
State Agency OR Political	Subdivision Name: (2)	Nebraska Board o	f Parole	
Prepared by: (3) Rosa	lyn Cotton	Date Prepared: (4)	January 17, 2023 Phone:	5) 402 479-5731
]	ESTIMATE PROVID	ED BY STATE AGEN	CY OR POLITICAL SUBDIV	ISION
	FY 2	023-24	FY 20	024-25
CENEDAL EUNDO	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS			<u> </u>	
CASH FUNDS				
FEDERAL FUNDS			_	
OTHER FUNDS				
TOTAL FUNDS				
Explanation of Estimate:				
Explanation of Estimate.				
B 163 - No Fiscal Imp	act			
LD 100 - NO I ISCAI IIII	<i>a</i> ot			
	BREAKDOWN	BY MAJOR OBJECT	S OF EXPENDITURE	
Personal Services:		TARRED OF DOCUMENT	70	
POSITION T		MBER OF POSITION <u>23-24</u> <u>24-25</u>	S 2023-24 <u>EXPENDITURES</u>	2024-25 <u>EXPENDITURES</u>
	· · · · · · · · · · · · · · · · · · ·		<u></u>	

LB[®] 163: NO FISCAL IMPACT **FISCAL NOTE** State Agency OR Political Subdivision Name: (2) NE Commission on Public Advocacy Jeffery A. Pickens Date Prepared: (4) 1-16-2023 Phone: (5) 402-471-7775 Prepared by: (3) ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION FY 2023-24 FY 2024-25 **EXPENDITURES REVENUE EXPENDITURES REVENUE GENERAL FUNDS CASH FUNDS** FEDERAL FUNDS **OTHER FUNDS TOTAL FUNDS Explanation of Estimate:**

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE								
Personal Services:			_					
	NUMBER OF	POSITIONS	2023-24	2024-25				
POSITION TITLE	23-24	24-25	EXPENDITURES	EXPENDITURES				
Benefits								
Operating								
Travel								
Capital outlay								
Aid								
								
Capital improvements	•							
TOTAL	•							

TOTAL.....

LB ⁽¹⁾ 163			FISCAL NOTE	
State Agency OR Political Subdivision Name: (2)	05 Supreme Court			
Prepared by: (3) Eric Asboe	Date Prepared: (4)	1/28/2023 Phone: (5	402-326-9215	
ESTIMATE PROV	<u>'IDED BY STATE AGEN</u>	CY OR POLITICAL SUBDIV	ISION	
FY	2023-24	FY 2024-25		
<u>EXPENDITURE</u>		EXPENDITURES	REVENUE	
GENERAL FUNDS	_			
CASH FUNDS	_			
FEDERAL FUNDS				
OTHER FUNDS	_			
TOTAL FUNDS				
Explanation of Estimate:				
No fiscal impact.				
Tto hood impact.				
Personal Services:	WN BY MAJOR OBJECT	S OF EXPENDITURE		
	NUMBER OF POSITIONS		2024-25	
POSITION TITLE	<u>23-24</u> <u>24-25</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>	
	<u> </u>			
Benefits				
Operating				
Travel				
Capital outlay				
Aid				
Capital improvements				

Capital improvements..... TOTAL.....

LB163(1)

Provide for various reforms to jails and prisons, provide certain protections for prisoners, prohibit construction or expansion or prisons and jails as prescribed, and CORRECTED provide for oversight of the Department of Correctional Services during an

FISCAL NOTE

OOTTILOTED	overcrowding emergency by the	ne Judiciary Committee		
State Agency OR Political Subdivision Name: (2)		DOUGLAS	CORRECTED	
Prepared by: ⁽³⁾	Marcos San Martin, County Administration	Date Prepared: (4)	1/25/2023 Phone: (5) 402-444-5116
	Debbie Otwell, County Corrections	_		402-599-2398
	ESTIMATE PROVIDE	ED BY STATE AGEN	ICY OR POLITICAL SUBDIV	ISION
	<u>FY 209</u> EXPENDITURES	<u>23-24</u> <u>REVENUE</u>	<u>FY 209</u> EXPENDITURES	24-25 <u>REVENUE</u>
GENERAL FUNI	DS			
CASH FUNDS				
FEDERAL FUNI	OS			
OTHER FUNDS				
TOTAL FUNDS	N/A	LOSS (\$300,000) est	N/A	PERMANENT REDUCTION
Explanation of Es	stimate:			
NEGATIVE (DE	ETRIMENTAL) FISCAL IMP	ACT TO DOUGLAS	S COUNTY	
mandated, inmate	oposed by LB163 will result in e benefit and welfare relating to ds importantly provides educa	rehabilitation, educa	tion, recreation, etc. For examp	ole, the programming paid
Such fixed cap wi County Department available to inmate	ement a maximum mark-up cap ill result in a significant loss of r ent of Corrections currently ha tes. Example, 2021-2022 fisca ion (loss) of approximately \$16	evenue annually to D s a mark-up of betwo l year, a maximum ca	ouglas County's 'Inmate Benef een 5% to 20% on the nearly	fit Account'. The Douglas 300 goods and products
	ating phone revenue decrease ould result in a loss of approxi			ell. Example, 2021-2022
-		BY MAJOR OBJECT	S OF EXPENDITURE	
Personal Services		BER OF POSITION	2	
POSITI	ION TITLE	IDER OF TOSITION	<u>EXPENDITURES</u>	EXPENDITURES
Benefits				
Operating				
Travel				
Capital outlay				
Aid				