

**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	See Below		See Below	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS				

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

This bill would provide for administrative segregation of certain committed offenders as prescribed.

The Department of Correctional Services (DCS) states that this bill could result in a significant and substantial on-going General Fund impact. Examples of potential additional costs identified by DCS are:

- additional staff to meet the 'beyond a reasonable doubt' standard, and
- additional staff and construction expenses to afford prisoners the same privileges as are afforded to prisoners in the general population (visitors, canteen services, library, showers, etc.), while still restricting contact between the two populations.

The response of DCS follows that details the areas of potential cost:

LB 989 changes provisions relating to administrative segregation.

The bill provides that the chief executive officer of each facility may place and maintain a committed offender in administrative segregation when there are grounds to believe beyond a reasonable doubt that the offender engages in acts which represent a serious immediate and continuing threat to the security of the facility, other persons, and the offender is personally in danger if left in the general population. If the offender is held in administrative segregation for more than seventy two (72) hours, the chief executive officer shall immediately develop a plan for the projected reintegration of the committed offender into the general population of the facility. The plan shall be in writing and shall be personalized to the specific need and circumstances of the committed offender involved. Additionally, all committed offenders placed in administrative segregation shall be afforded the same rights and privileges that are afforded to committed offenders in the general population with respect to visits, mail, telephone calls, possession of personal effects, clothing, bedding, access to personal hygiene, including showers, access to canteen services, access to the library, and access to legal materials and legal services.

The Nebraska Department of Correctional Services (NDCS) houses approximately 500 inmates at any one time on immediate segregation or administrative segregation. All must have a due process hearing. However, there are many more inmates that are placed on some form of segregation for some length of time during the year. For example, at the Tecumseh State Correctional Institution (TSCI) there were 725 instances of inmates being placed on some form of segregation (excluding Protective Custody) during CY2009. (The Tecumseh facility holds 18% of all the inmates in our department).

In order to meet the 'beyond a reasonable doubt' standard in this bill, the equivalent of a criminal trial would need to take place within 14 days. At the hearing, evidence would have to be produced that would prove beyond a reasonable doubt that the inmate should be placed on administrative segregation and that there are no reasonable alternatives to administrative segregation. Before this hearing could be held, a thorough investigation of the incident would be conducted. Additional staff would be required (investigators and recorders) to establish and maintain the record, and hearing officers (attorneys) for compliance with required activities.

In addition, this bill requires that a plan be developed for the inmate's release from administrative segregation. This plan must be completed within 72 hours of the inmate's placement on administrative segregation.

The bill also provides that all committed offenders placed in administrative segregation shall be afforded the same privileges as are afforded to prisoners in the general population including visitors, and access to canteen services, the library, showers, etc. Because the prisoner placed in administrative segregation has been determined to be a serious immediate and continuing threat to the security of the facility, other persons, or himself/herself, each inmate would need one or more assigned staff members just for movement to required activities. An exact dollar amount or FTE is impossible to estimate at this time.

This bill would result in the need for additional shower, visiting, canteen, library, legal library and programming space in the facilities to allow the segregation inmates the same privileges as the general population inmates, while still restricting contact between the two populations. As of February 16, 2010, NDCS is at 138.87% capacity, and there is little to no room for expansion of these areas without significant construction expense, up to and including new prisons.

This bill creates a liability for DCS and the State of Nebraska that would result in a significant and substantial on-going General Fund fiscal impact.