

FISCAL NOTE

Updated to include an agency response.

LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)

	FY 2017-18		FY 2018-19	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	See below			
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.

This bill would change restrictive housing and inmate discipline provisions. The bill has the emergency clause.

The Department of Correctional Services (NDCS) estimates the following impact from this bill:

ITEMS	FY2017-18	FY2018-19	FY2017-18	FY2018-19
	Number of Positions		Expenditures	
Unit Caseworker	7.00	7.00	273,160	273,160
Corporal	49.00	49.00	1,833,133	1,833,133
Behavioral Health Case Worker	10.00	10.00	390,220	390,220
Licensed Mental Health Practitioner	3.00	3.00	134,085	134,085
Correctional Sergeant	1.00	1.00	41,793	41,793
Restrictive Housing Coordinator	1.00	1.00	49,972	49,972
Benefits			952,872	952,872
Operating			94,905	7,952
TOTAL	71.00	71.00	3,770,140	3,683,187

It appears reasonable that NDCS would need to add some positions due to the requirements of this bill, but their estimate appears high. Additionally, the Legislative Fiscal Office (LFO) fiscal analyst understands that the custody positions listed in the above-table have high turn-over rates so it is possible that even if NDCS could fill such positions, they may not be able to retain them. LFO also understands that the behavioral and mental health positions are sometimes difficult to fill for the salary currently offered.

The Board of Parole - Parole Administration estimates no fiscal impact from this bill.

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

LB: 560 **AM:** AGENCY/POLT. SUB: **Nebraska Department of Correctional Services (46)**

REVIEWED BY: Joe Wilcox DATE: 3/21/2017 PHONE: (402) 471-4178

COMMENTS: No disagreement with the Nebraska Department of Correctional Services estimate of potential Fiscal Impact to the Agency from LB 560.

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

LB: 560 **AM:** AGENCY/POLT. SUB: **Nebraska Board of Parole (15)**

REVIEWED BY: Joe Wilcox DATE: 2/02/2017 PHONE: (402) 471-4178

COMMENTS: No basis to dispute the Nebraska Board of Parole estimate of No Fiscal Impact to the Agency from LB 560.

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2017

LB⁽¹⁾ 560

FISCAL NOTE

State Agency OR Political Subdivision Name: (2) Nebraska Department of Correctional Services

Prepared by: (3) Sara Sump Date Prepared: (4) 1/11/17 Phone: (5) 402.479.5702

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2017-18</u>		<u>FY 2018-19</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	<u>3,770,140</u>		<u>3,683,187.</u>	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	<u>3,770,140</u>		<u>3,683,187.</u>	

Explanation of Estimate:

LB 560 makes the following changes to the statutes regulating the use of restrictive housing:

- Amends 83-170(14) to define solitary confinement as confinement in an isolated cell alone or with a cell mate, for an average of twenty-two or more hours per day, with limited human interaction or constructive activity and in an environment that ensures maximum control"; In combination with the existing language in 83-4,114 prohibiting solitary confinement this appears to require all inmates in restrictive housing to be provided at least 2 hours per day out of cell time.
- Provides inmates with an opportunity to seek a review of the decision to place them in restrictive housing by the District Court in the county where the facility is located after 90 days of confinement in a calendar year.
- Provides that after July 1, 2017, no member of a vulnerable population, defined as an inmate under 18, pregnant, or diagnosed with a serious mental illness shall be placed in restrictive housing. Member of vulnerable populations may be placed in immediate segregation to protect staff, other inmate or themselves pending classification.
- Requires the Department to promulgate rules and regulations for vulnerable populations in restrictive housing.

The fiscal impact of LB 560 on the Department is significant. Defining solitary confinement as more than 22 hours per day in cell effectively requires the Department to provide at least two hours per day out of cell for all restrictive housing inmates as opposed to the current restrictive housing definition which is less than 24 hours out of cell time per week. This would require additional protective services staff at each of our facilities with restrictive housing units (NSP, TSCI, LCC, OCC, NCYF and NCCW) to provide escorts for these inmates while out of cell.

The language in section 3 prohibiting vulnerable populations from being housed in restrictive housing would require the secure mental health unit to provide at least 24 hours per week out of cell time. This would require additional protective services and behavioral health staff at the secure mental health unit.

The legislation creates restrictive housing appeals to the district court which would require a restrictive housing coordinator to gather the required information, process appeals, draft rules and regulations and prepare the annual report. If the attendance of the inmate is required, additional travel orders or equipment to provide video court appearances from restrictive housing will be needed. The additional positions required to meet the

provisions of LB 560 across all NDCS facilities by July 1, 2017 are outlined below:

4 Unit Case Workers
 28 Corporals
 6 Behavioral Health Case Workers
 2 Licensed Mental Health Practitioners (LMHP)
 1 Sergeant
 1 Restrictive Housing Coordinator

In order to staff these positions 7 days a week, a relief factor of 1.75 is reflected for corporal, caseworker and behavioral health case worker and LMHP positions in the note below. Operating costs include uniforms and radios for all protective services staff and OCIO fees for all staff.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

POSITION TITLE	NUMBER OF POSITIONS		2017-18	2018-19
	<u>17-18</u>	<u>18-19</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Unit Caseworker	7	7	273,160	273,160.
Corporal	49	49	1,833,133	1,833,133
Behavioral Health Case Worker	10	10	390,220	390,220
Licensed Mental Health Practitioner	3	3	134,085	134,085
Correctional Sergeant	1	1	41,793	41,793
Restrictive Housing Coordinator	1	1	49,972	49,972
Benefits.....			952,872	952,872
Operating.....			94,905	7952
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
TOTAL.....			3,770,140	3,683,187.

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

2017

LB⁽¹⁾ 560

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Board of Parole – Parole Administration (Agency 15)

Prepared by: ⁽³⁾ Rosalyn Cotton Date Prepared: ⁽⁴⁾ 2-2-17 Phone: ⁽⁵⁾ (402) 479-5731

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2017-18</u>		<u>FY 2018-19</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:

No fiscal impact.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2017-18</u>	<u>2018-19</u>
	<u>17-18</u>	<u>18-19</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____