

**ONE HUNDRED FOURTH LEGISLATURE - SECOND SESSION - 2016**  
**COMMITTEE STATEMENT**  
**LB606**

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**Hearing Date:** Friday February 20, 2015  
**Committee On:** Judiciary  
**Introducer:** Mello  
**One Liner:** Adopt the Office of Inspector General of the Nebraska Correctional System Act, change provisions relating to the Public Counsel, and mandate a declaration by the Governor of a correctional system overcrowding emergency as prescribed

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**Roll Call Vote - Final Committee Action:**

Indefinitely postponed

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**Vote Results:**

<b>Aye:</b>	6	Senators Coash, Krist, Morfeld, Pansing Brooks, Seiler, Williams
<b>Nay:</b>		
<b>Absent:</b>	2	Senators Chambers, Ebke
<b>Present Not Voting:</b>		

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**Verbal Testimony:**

**Proponents:**

SEN. HEATH MELLO  
JOHN KRECJI  
TOMMIE WILSON  
MARSHALL LUX  
JULIE ROGERS  
MIKE MARVIN

**Representing:**

INTRODUCER  
REENTRY ALLIANCE OF NEBRASKA  
OTOC/MCC ROUND TABLE  
OMBUDSMAN  
OFFICE OF IG FOR NE CHILD WELFARE  
NAPE

**Opponents:**

DIRECTOR SCOTT FRAKES  
RICHARD HALVORSON

**Representing:**

NEBRASKA DEPARTMENT OF CORRECTION  
SELF

**Neutral:**

**Representing:**

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**Summary of purpose and/or changes:**

LB606 would implement several of the recommendations made by the Department of Correctional Services Special Investigative Committee (the LR424 Committee). For a breakdown of which recommendations are implemented by this bill, see the attached table.

Section 1 through Section 32 would create the Office of Inspector General of the Nebraska Correctional System. These provisions are similar to the existing Inspector General of Child Welfare Act, created by the Health and Human Services Committee with LB821 (2012).

The Inspector General would be within the Office of Public Counsel (Ombudsman's office), and would be authorized to investigate and report on issues that may require systemic reform, in addition to case-specific action. (see page 11, lines 3-11)

The Inspector General would be required to issue an annual report to the Judiciary Committee regarding the reports and

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investigations conducted in the previous year. (page 13, lines 4-18)

Section 33 would require to Department to allow the Ombudsman's office to access certain computer records.

Section 35 would amend the Correctional System Overcrowding Emergency Act, to change the permissive language to mandatory language. This change would restore the Act to the language of LB46 (2003), as it was introduced.

Under current law, the Governor "may" declare an overcrowding emergency when the prison population reaches 140%. As amended by LB606, the Governor would be required to declare an emergency, which would require the Parole Board to consider or reconsider inmates who are parole eligible.

This change would NOT require the Board to release anyone who would be unlikely to conform to the conditions of parole, anyone whose release would negatively impact prison discipline, or anyone who the Board considers likely to commit a violent act against a person. This change would NOT authorize the Department to release anyone without the approval of the Parole Board.

Section 36 would amend 84-901 to change the definition of "rule or regulation" for purposes of the Administrative Procedures Act (APA). As drafted, this change would significantly expand the definition, which would increase the number of agency actions that would be required to go through the formal APA process.

Sen. Mello may have an amendment to address issues raised by this section.

As currently drafted, this change to the APA would require all state agencies to spend a significant amount of time working through the APA process. There have been several efforts in recent years to change the APA to require agencies to promulgate more formal rules and regulations, and make fewer changes through informal, internally promulgated documents (like the Department of Corrections' "Administrative Regulations" and "Operational Memorandum").

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Les Seiler, Chairperson