

Revised to include State Patrol response received on 2/6/18

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2018-19		FY 2019-20	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	See below		See below	
CASH FUNDS	See below	See below	See below	See below
FEDERAL FUNDS				
OTHER FUNDS				
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.

LB 1133 would establish the Industrial Hemp Act. The Department of Agriculture would administer the act, and would carry out the following functions: 1) Supervision of industrial hemp research projects and licensing of demonstration plots; 2) Licensing of growers and processors of industrial hemp; 3) Obtaining necessary federal permits and waivers; 4) Reviewing applications and establishing licensing fees for growers and processors; 5) Overall supervision of the program, including technical assistance and inspections, and random testing of industrial hemp; and 6) Promotion and marketing of industrial hemp grown in Nebraska.

The Nebraska State Patrol would be authorized to inspect industrial hemp growing operations two times per year. The State Patrol would also be allowed to charge a fee for background checks upon all individuals seeking licensure under the act.

The Department of Agriculture estimates cash fund revenue of \$122,000 in FY18-19 and \$164,000 in FY19-20 based upon a \$50 application fee, a licensing fee of \$500, a \$25 per acre growing feed and lab testing fees. There is no basis to disagree with this estimate. However, because LB 1133 does not establish specific fee levels, revenue could vary depending upon the fees ultimately charged by the agency.

Operating costs to establish and operate the licensing, supervision and testing components of the program are estimated by the Department of Agriculture to total approximately \$282,850 in FY18-19 and \$434,340 in FY19-20. A total of 2.75 staff positions would be dedicated to establishing and operating the program in FY18-19, with 5.60 staff positions devoted to the program in FY19-20. The increased costs in FY19-20 are based upon anticipated participation levels and provisions of LB 1133 that direct the department to provide technical assistance to growers regarding compliance with the Industrial Hemp Act.

The Department estimates that costs for the establishment of a research program could range between \$50,000 and \$150,000 per year. The agency estimate assumes a research budget of \$100,000.

Because the agency is also tasked with marketing and promotion industrial hemp grown in Nebraska, the agency estimates \$30,000 would be required to conduct promotional and marketing strategies and materials.

Total program costs as estimated by the Department of Agriculture are shown below:

	<u>FY18-19</u>	<u>FY19-20</u>
General Fund	290,850	400,350
Cash Funds	122,000	164,000
Total	412,850	564,350

Agency funding requirements that exceed revenue deposited in Industrial Hemp Program Fund would require that General Funds either be appropriated to the agency or transferred into the Industrial Hemp Program Fund. The amount of General Funds required would

depend upon 1) Assumptions regarding the actual fees to be charged to growers and 2) The amount of funding assigned to the research and marketing components of the program. Higher fees and lower funding for research and marketing costs could lower the amount of General Funds that are needed to supplement cash funds.

Expenses to the Nebraska State Patrol would include background checks, which could be offset by fees that would be deposited in a cash fund. Because the agency would be allowed to inspect growing operations two times per year, there would be some dedication of staff time to carry out this function. Any need for future staffing to carry out inspections would depend upon the number of growing operations that are established in the state, and the time that will be spent on inspections. The agency response indicates potential expenditures ranging from \$100,000 to almost \$1,000,000.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 1133	AM:	AGENCY/POLT. SUB: Nebraska Department of Agriculture
REVIEWED BY: Claire Oglesby	DATE: 02/05/18	PHONE: (402) 471-4174
COMMENTS: Nebraska Department of Agriculture's fiscal note statement appears reasonable based on the assumptions provided.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 1133	AM:	AGENCY/POLT. SUB: Nebraska State Patrol
REVIEWED BY: Claire Oglesby	DATE: 02/06/18	PHONE: (402) 471-4174
COMMENTS: Nebraska State Patrol's fiscal note statement appears reasonable based on the assumptions provided.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 1133	AM:	AGENCY/POLT. SUB: University of Nebraska (051)
REVIEWED BY: Joe Wilcox	DATE: 01/29/2018	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the University of Nebraska estimate of Indeterminate Fiscal Impact to the University from LB 1133.		

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

2018

LB⁽¹⁾ 1133

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Department of Agriculture

Prepared by: ⁽³⁾ Christina Barber Date Prepared: ⁽⁴⁾ 2/1/2018 Phone: ⁽⁵⁾ 402-471-6821

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2018-19</u>		<u>FY 2019-20</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	\$ 290,850		\$ 400,350	
CASH FUNDS	\$ 122,000	\$ 122,000	\$ 164,000	\$ 164,000
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$ 412,850	\$ 122,000	\$ 564,350	\$ 164,000

Explanation of Estimate:

This proposed bill will adopt the Industrial Hemp Act and provide an exemption under the Uniform Controlled Substances Act. The Act will become operative on January 1, 2019. The Department will be responsible for administering the industrial hemp research program, licensing persons to grow and process industrial hemp, and establish testing criteria and protocols for industrial hemp.

The Industrial Hemp Program Fund will be created in order to support the activities of the Department. The estimated \$122,000 cash fund for the first year is based on an application fee of \$50, license fee of \$500, per acre growing fee of \$25, and lab testing fee for 100 growers with 10 acres each. The lab testing fees are based on an estimate of \$140 per sample for 100 growers with 3 samples each for the inspection. The second year would have an estimated 2 inspections per grower. There will be a fiscal impact on the Department.

The Department estimates a need for 1 FTE Ag Program Manager for administrative processes, decision making, education and outreach, a 0.1 FTE Attorney, and a 0.25 FTE Chemist II beginning July 2018 to establish the testing criteria and protocols for industrial hemp. The Chemist II will also receive, prepare, and analyze the samples as well as maintain and calibrate lab instruments in support of this legislation. The Department also estimates a need for 0.50 FTE Staff Assistant beginning September 2018 for administrative clerical, data entry, reporting, and fee collections and 2 FTE's Ag Inspection Specialists beginning January 2019 with the option to hire a third FTE by July 2019 for field work including sampling and surveillance as well as education and outreach. Additional expenses would include an estimate of \$10,000 for travel, \$25,000 for lab testing fees, \$54,600 for lab startup costs, and \$15,000 for other operating costs for the first year. Furthermore, the Department is to establish a five year research program and to promote the research and development of industrial hemp and hemp products. The estimated cost for the research program is between \$50,000 and \$150,000 for each year. This fiscal note reflects an estimate of \$100,000 for the research program. The estimated cost for the promotion of hemp and hemp products is between \$10,000 and \$50,000 for each year. This fiscal note reflects an estimate of \$30,000 for the promotion of hemp and hemp products. Additional estimated expenses for the second year would include \$10,000 for travel, \$42,000 for lab testing fees, and \$25,000 for other operating costs. It is anticipated that the Department will have capital outlay costs of \$8,000 for the first year.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2018-19</u>	<u>2019-20</u>
	<u>18-19</u>	<u>19-20</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Ag Program Manager	1.0	1.0	\$ 54,300	\$ 55,050
Ag Inspection Specialist	1.0	3.0	\$ 32,500	\$ 99,000
Staff Assistant	0.375	1.0	\$ 11,450	\$ 31,000
Attorney	0.1	0.1	\$ 7,100	\$ 7,150
Chemist II	0.25	0.5	\$ 11,100	\$ 22,200
Benefits.....			\$ 53,800	\$ 112,950
Operating.....			\$ 224,600	\$ 207,000
Travel.....			\$ 10,000	\$ 30,000
Capital outlay.....			\$ 8,000	
Aid.....				
Capital improvements.....				
TOTAL.....			\$ 412,850	\$ 564,350

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2017

LB⁽¹⁾ 1133

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Nebraska State Patrol

Prepared by: ⁽³⁾ Carol Aversman Date Prepared: ⁽⁴⁾ 2-4-18 Phone: ⁽⁵⁾ (402)471-4545

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2018-19</u>		<u>FY 2019-20</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	\$103,021 - \$852,353		\$109,078 - \$942,357	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$103,021 - \$852,353		\$109,078 - \$942,357	

Explanation of Estimate:

LB 1133 allows for the adoption of the Industrial Hemp Act in the state of Nebraska. The bill has an effective date of 1/1/2019, therefore only 6 months of salaries, benefits, and certain operating expenses are reflected in the estimated costs. Because the volume of participants in this program is unknown for the next two fiscal years, a range of costs has been provided that encompasses very few participants at the low end of the range to an assumed larger state-wide presence in terms of participation at the high end of the range. The bill allows the State Patrol to enter the premises on which industrial hemp is grown to conduct physical inspections of industrial hemp planted and grown by the applicant, and to ensure compliance with the requirements of the Industrial Hemp Act. The industrial hemp program will be overseen by the Department of Agriculture. However, they do not have authority to perform law enforcement functions. It is the Agency's interpretation that enforcement of the rules and regulations established for the program will be the responsibility of the State Patrol. The State Patrol is also charged with enforcing the Uniform Controlled Substances Act. And while LB 1133 excludes industrial hemp from being a controlled substance, ensuring that manufacturers are abiding by the regulations which result in its exclusion from being classified as marijuana will be an enforcement duty of the State Patrol. Other requirements of the Agency include the requirement to perform a state or national criminal history record information check for all persons applying for a license. The State Patrol is also charged with determining if all requirements relating to prior criminal convictions have been met and, on that basis, approving the applications for industrial hemp growers. The bill also provides that any industrial hemp that is found in the state at any location off the premises of an industrial hemp grower licensee shall be deemed to be contraband and shall be subject to seizure by the commission, the Nebraska State Patrol, or any law enforcement officer, if the person in possession of the industrial hemp does not have in his or her possession (1) proper licensing documents, (2) a bill of lading, or other proper documentation, demonstrating that industrial hemp was legally imported or is otherwise legally present in the state under applicable state and federal laws relating to industrial hemp. In order to enforce the provisions of the Act, the State Patrol estimates that it could need up to ten additional personnel to carry out enforcement activities. An Investigative Officer could be needed in each of the six troop areas. Research of national publications indicates that 500 people were employed in industrial hemp production in the state of Kentucky in 2015, and approximately 2,000 acres of hemp were planted in the state of Colorado in 2015. This was an increase of 1000% from only 200 acres in 2014, and is expected to continue to increase.

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>
State Patrol Investigative Sergeant	0 - 1	0 - 1	\$0 - \$40,660	\$0 - \$81,320
State Patrol Investigative Officer	1 - 6	1 - 6	\$34,989 - \$209,934	\$69,978 - \$419,868
Staff Assistant I	0 - 1	0 - 1	\$0 - \$15,267	\$0 - \$30,534
State Patrol Crime Analyst	0 - 2	0 - 2	\$0 - \$39,732	\$0 - \$79,464
Benefits.....			\$12,246 - \$106,958	\$24,492 - \$213,915
Operating.....			\$10,054 - \$82,378	\$13,608 - \$107,256
Travel.....			\$1,000 - \$10,000	\$1,000 - \$10,000
Capital outlay.....			\$44,732 - \$322,424	
Aid.....				
Capital improvements.....			\$0 - \$25,000	
TOTAL.....			\$103,021 - \$852,353	\$109,078 - \$942,357

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2018

LB⁽¹⁾ 1133

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ University of Nebraska

Prepared by: ⁽³⁾ Michael Justus Date Prepared: ⁽⁴⁾ January 24, 2018 Phone: ⁽⁵⁾ 402-472-2191

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2018-19</u>		<u>FY 2019-20</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:

The bill deals with industrial hemp. The bill requires the University to manage the five-year industrial hemp research program, which is to be funded by the Industrial Hemp Program Fund. The funds for the Fund are largely reliant on the application and license fees related to the legislation. We have no basis for determining the amount of those collections and are unable to make an estimate on the funds available to operate or manage the program. The funds necessary would seem to be Cash Funds and not General Funds, based on our interpretation of the bill.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2018-19</u>	<u>2019-20</u>
	<u>18-19</u>	<u>19-20</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____