

FISCAL NOTE
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	137,200		245,400	
CASH FUNDS	505,000		982,000	
FEDERAL FUNDS	0			
OTHER FUNDS	0			
TOTAL FUNDS	642,200		1,227,400	

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

LB299 adopts the Occupational Board Reform Act, operative January 1, 2018. Section 18 through 20 creates the Office of Supervision of Occupational Boards and provides duties for the office. Section 22 through 25 creates and provides duties for the Legislative Office of Occupational Regulations.

Section 18 (2) provides that the Office of Supervision of Occupational Boards shall provide active supervision to occupational boards pursuant to section 19 of this act to ensure compliance with the policies stated in section 15 of the act. The office shall review and approve or reject any proposed rule, regulation, policy, enforcement action, or other regulatory action prior to its adoption, promulgation, or implementation. The office shall explicitly approve or reject such occupational regulation or enforcement action. In effect, while the existing occupational licensing boards or entities would continue their current functions, all enforcement or regulatory actions would subsequently have to be approved by this newly created office. While this new office would not do the initial investigation and research on enforcement or regulatory actions, they would have to have staff capabilities to review the work done by the original occupational board. It appears there are in excess of 30 state agencies who have some regulatory functions for the 172 providers and professions listed in Section 11. It's difficult to evaluate what the workload level of this new office will be. A key is whether simply issuing a license is considered as an enforcement or regulatory action. If it is this new office would then have to approve each and every individual license.

With the number of agencies and providers listed, and the fact that this office in essence is required to review and approve/reject almost all actions of existing occupational boards, staffing levels of this office could be in the range of 10 staff in addition to the executive director appointed by the Governor. With salary, benefits, and operating expenses, total costs could be roughly \$1,000,000.

Section 18 (4) provides that the office may assess each occupational board for the costs incurred pursuant to Section 18 to 21. Although not mandated, these assessments would be likely in the absence of a General Fund appropriations and would then be financed cash funds. These increased costs would also likely result in higher licensing fees. It's unclear how assessments would be allocated to each of the various occupational boards and in the absence of a new cash fund, where the assessments would be deposited.

Section 22 creates the Legislative Office of Occupational Regulations. The duties of this office include reviewing proposed legislation to ensure compliance with the policies stated in section 15 of the act, evaluate the effects of the proposed legislation, compare the legislation with regulation in other states, and issue a report regarding the legislation to the relevant standing committee prior to voting on the legislation. The office may also require proponents of legislation which would enact or modify occupational regulations to submit evidence of present, significant, and substantiated harm to consumers in Nebraska; and also require information from sources other than proponents who are knowledgeable regarding the proposed occupational regulations, the effect on labor economics, and other relevant factors.

The office shall also an annually review the occupational regulations of approximately twenty percent of the providers listed in section 11 of this act to improve compliance with the Occupational Board Reform Act. Each of the listed providers are to be reviewed at least once every five years.

Concur with the Legislative Council estimate of \$245,400 on-going costs to cover the costs of the Legislative Regulatory Analyst as required by Section 22, a research analyst, and administrative assistant. These would be General Funds as there is no reference to fees or assessments.

With respect to the existing occupational boards, the bill does not necessarily provide for any additional duties or responsibilities. However, there could be additional costs and workloads in that all existing actions must now go through another review process. It's unknown what additional time and costs might be incurred.

Because of the January 1, 2018 operative date, costs in FY2017-18 would be half. It's also assumed that that the assessments provided for in Section 18 can be used to cover the initial startup costs.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES		
LB: 299	AM:	AGENCY/POLT. SUB: Legislative Council
REVIEWED BY: Lee Will	DATE: 01/19/2017	PHONE: (402) 471-4175
COMMENTS: No basis to disagree with Legislative Council's assessment of fiscal impact.		

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

2017

LB⁽¹⁾ 299

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ 03 Legislative Council

Prepared by: ⁽³⁾ Diane Nickolite Date Prepared: ⁽⁴⁾ 1/19/2017 Phone: ⁽⁵⁾ 402-471-2226

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>259,700</u>	_____	<u>245,400</u>	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	<u><u>259,700</u></u>	<u>_____</u>	<u><u>245,400</u></u>	<u>_____</u>

Explanation of Estimate:

The bill creates (Sec. 22-25) the Legislative Office of Occupational Regulations. The Legislative Office reviews proposed legislation to enact or modify occupational regulations to ensure compliance; determines whether the legislation meets the requirements of the policies stated in this act by using the least restrictive regulation necessary to protect consumers from present, significant, and substantiated harm; evaluate the effects of the legislation on opportunities for workers, consumer choices and costs, general unemployment, market competition, governmental costs, and any other relevant issues; compares the legislation with occupational regulation in other states; and will issue a report regarding the legislation to the relevant committee in a timely fashion in order that the committee may review the report prior to voting on the legislation which would enact or modify occupational regulations. The Legislative Office of Occupational Regulations may: Require proponents of legislation which would enact or modify occupational regulations to submit evidence of present, significant, and substantiated harm to consumers in Nebraska; and require information from sources other than proponents who are knowledgeable regarding the proposed occupational regulations, the effect on labor economics, and other relevant factors. The Legislative Office of Occupational Regulations shall annually review the occupational regulations of approximately twenty percent of the providers listed in this act to improve compliance with the Occupational Board Reform Act. The office shall complete its review of all providers every five years. The office may require the submission of information by the affected occupational board, members or employees of the board, and other affected parties. The office shall provide an electronic report of its findings and suggested changes to the Clerk of the Legislature and the Attorney General.

Fiscal note of the Legislative Office of Occupational Regulations includes cost of the director and assumes a research analyst and administrative assistant as staff to the director. Salary and benefits are estimated to \$223,900. One time office expenses \$14,300 and ongoing operating costs would be approximately \$8,500 annually. Space is limited in the Capitol, potential of rent, etc outside of the Capitol, additional cost \$13,000 annually.

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	_____	_____

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2017

LB⁽¹⁾ 299

FISCAL NOTE

State Agency OR Political Subdivision Name: (2) Agency 07- Governor's Office

Prepared by: (3) Lauren Kintner Date Prepared: (4) 02/22/2017 Phone: (5) 471-2414

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2017-18		FY 2018-19	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	\$92,813		\$262,178	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS				

Explanation of Estimate:

Section 18 creates a new Office of Supervision of Occupational Boards. The Governor is required to appoint the Executive Director of the office. The Executive Director shall employ one or more attorneys. The office is mandated to enforce policies that protect fundamental rights of individuals to pursue an occupation; use the least restrictive regulation to protect consumers from public health or safety harms; to enforce an occupational regulation only in specific circumstances; and to provide active supervision of occupational boards.

Specifically, the office is required to review and approve or reject any proposed rule, regulation, enforcement action or regulatory action against a license profession prior to a licensure board's adoption of the regulation. The office is required to evaluate 172 professions listed in section 11 to determine what type of occupational regulation is being used to regulate the provider.

Section 19 also requires the new Office of Supervision of Occupational Boards to play a substantial role in development of occupational licensing board's regulations; disapprove the use of any rule or policy that fails to comply with the bill; exercise control over an occupational board by reviewing all proposed regulations; and reviewing the legislative history of each occupation board's creation and their rules or regulations or enforcement actions. The Office is required to conduct a reasonable investigation to gain information on less restrictive ways of regulating the 172 professions set forth in the bill.

Section 20 requires the new Office to investigate, within 90 days after receipt, any complaint filed against an occupational board regarding one of its regulations or enforcement actions.

Section 18 provides statutory authority for the new Office to assess each occupational board the administrative costs for duties required of the office. "Within the statutory authorization for fees, each occupational board may increase fees for occupational regulation to pay such assessment."

No cash fund is created in the bill for the new office to receive and fund its operations; therefore, this estimate assumes General Funds will finance the operations of the new office. It is not clear what capacity each individual occupational licensing board has to increase its fees to accommodate a new assessment. At a minimum, General Funds would be required to finance the first year of operations. The act becomes operative on January 1, 2018.

It is not clear where the new Office of Supervision of Occupational Boards is to be housed. It is assumed that it would be located within the State Capitol, therefore, no cost for rental space is included in the estimate. If space outside of the Capitol is required, then a rental fee for the appropriate amount of space would need to be included in this fiscal estimate. Salary for the Executive Director was estimated using an average of the three smallest agencies with an Executive Director. The attorney salaries were estimated using the midpoint for

Attorney II positions for the 2016 pay plan which is \$65,353. Benefits are estimated at 35% of salaries. Expenses were reduced in Fiscal Year 2017-18 due to the one-half year start date.

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>
Executive Director	1.0	1.0	\$36,250	\$72,500
Attorney II	1.0	2.0	\$32,500	\$121,706
Benefits.....			\$24,063	\$67,972
Operating.....				
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
TOTAL.....			\$92,813	\$262,178