

Revised to include a revised agency response

**FISCAL NOTE**  
**LEGISLATIVE FISCAL ANALYST ESTIMATE**

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)</b>				
	<b>FY 2019-20</b>		<b>FY 2020-21</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS	870,847		See Below	
CASH FUNDS			1,730,004	2,129,800
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>	<b>870,847</b>		<b>1,730,004</b>	<b>2,129,800</b>

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

This bill creates the Medical Cannabis Act. This bill allows for the use of cannabis in treating or alleviating symptoms associated with a variety of debilitating medical conditions. A Division of Marijuana Enforcement is created as an independent agency with a nine-member governing board. Up to ten producers in each Congressional District could be registered by November 2020. One six-month extension is allowed. Producers would pay an application fee of \$25,000 and an annual fee of up to \$40,000 for the costs of regulating and inspecting. Up to ten processors in each Congressional District could be registered by November 2020. One six-month extension is allowed. Producers would pay an application fee of \$25,000 and an annual fee of up to \$40,000 for the costs of regulating and inspecting. Up to ten dispensaries per Congressional District could need to be registered by May 1, 2021 with one six-month extension allowed. Dispensaries would pay an application of \$25,000 and an annual fee of \$25,000 for the costs of regulating and inspecting the centers. Division would establish a patient registry. Parents and legal guardians would also be allowed on the registry.

A nine-member Medical Cannabis Board is established. Travel and operating costs are estimated to be \$29,000 in FY 2019-20 and \$19,000 in FY 2020-21 and \$15,000 in FY 22. Staffing costs for FY 2020 through FY 22 are shown below:

FTE	FTE	FTE	Staffing	FY 20	FY 21	FY 22
0.75	1	1	Director	93,800	10,000	140,000
0.67	1	1	Licenisng Coordinator	27,192	42,000	43,000
0.25	2	2	Licenisng Specialist	16,500	67,000	68,000
0.25	3	4	Inspectors	34,250	137,000	182,600
0.67	1	1	Business Analyst	36,180	55,000	56,000
0.67	1	1	Admin Assist	30,485	46,500	47,500
0.1	1	1	Staff Assist	3,700	38,000	39,000
3.36	10	11	PSL Total	242,107	395,500	576,100
			Benefits	96,843	158,200	230,440

There would be a one-time cost of \$500,000 to develop the patient registry in FY 21. Contractual costs for legal, financial and security expertise is estimated to be \$100,000 in FY 20 and \$200,000 in FY 21 and annually thereafter. Other operating costs will be approximately \$228,400 in FY 20, \$240,000 in FY 21 and \$250,000 in FY 22.

An assistant attorney general is to be available to the Medical Cannabis Board. The cost would be \$102,597 in FY20; \$104,255 in FY 21 and \$106,000 in FY 22. It is assumed the Division of Marijuana Enforcement would pay for the Assistant A. G. once revenue is available.

It is assumed in this fiscal note that the number of producers, processors and dispensaries would be phased-in and no extensions would be needed. In the FY 2021, the number of producers would be six; the number of processors would be nine and there would be 15 dispensaries. The revenue would be \$1,950,000. In FY 22, the number of producers would increase to nine; processors to 12 and dispensaries to 25. The revenue would be \$1,790,000.

In FY 20 there isn't a source of revenue to cover the initial costs, so General Funds would be needed. In FY 21 there will be sufficient revenue to cover the costs, the timing of the receipt of revenue may be an issue. For purposes of this fiscal note, it is assumed there would be adequate cash flow from application fees to pay for all the expenses for the entire year.

The Department of Health and Human Services indicated they anticipate more complaints against practitioners and may need an additional investigator. If there is a need the cost would not occur until FY 22. The position would be paid from licensing fees. The estimated cost is \$74,000.

The State Patrol estimates 800 criminal background checks will be conducted on designated caregivers and employees of the producers, processors and dispensaries. Four additional staff would be needed to handle the increased volume. Due to lead time to train staff, the staff and operating costs are assumed for a full year in FY 2020-21. The costs would be \$241,751 in FY 2020-21 and \$210,751 in FY 2021-22. Total revenue would be \$36,200 annually.

The State Patrol also indicates the need for six additional officers and a supervisor due to newly created felony offenses and an expected increase in investigative/enforcement activities. This fiscal notes acknowledges there will be an increase, but additional research is needed to determine the likely level. The Patrol's estimates are \$958,758 the first year and \$736,297 in the second. The costs would be paid from the General Fund.

Sales and use taxes generated from the sale of medical cannabis shall be deposited into the Medical Cannabis Regulation Fund. The estimated revenue is \$138,080 in FY 2021 (one month of collections) and \$2,695,000 in FY 2021-22. Additional revenue into the highway fund would be \$5,520 in FY 2020-21 and \$122,000 in FY 2021-22. The Department of Revenue would incur a one-time General Fund cost of \$23,000 in FY 2020-21 for programming changes.

The revenue by fund source for FY 2020-21 and FY 2122 is shown in the table below:

Fee	FY21	FY 22	Revenue	FY21	FY 22
			Producers		
40,000	6	3	Application	240,000	120,000
25,000	6	9	License	150,000	225,000
			Processors		
40,000	9	3	Application	360,000	120,000
25,000	9	12	License	225,000	300,000
			Dispensaries		
40,000	15	10	Application	600,000	400,000
25,000	15	25	License	375,000	625,000
			Sales Tax	138,080	2,695,000
			Total	2,088,080	4,485,000
			Highway Cash	5,520	122,000
			Background Checks	36,200	36,200
			Revenue Total	2,129,800	4,643,200

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

LB: 110 AM: AGENCY/POLT. SUB: Dept. of Health and Human Services (DHHS)

REVIEWED BY: Elton Larson

DATE: 1 /23/2019

PHONE: (402) 471-4173

COMMENTS: No basis to disagree with estimate of fiscal impact to DHHS.

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

2019

LB<sup>(1)</sup> 110

FISCAL NOTE

State Agency OR Political Subdivision Name: <sup>(2)</sup> Attorney General

Prepared by: <sup>(3)</sup> Corey O'Brien Date Prepared: <sup>(4)</sup> 1-16-19 Phone: <sup>(5)</sup> 402-471-2682

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2019-20		FY 2020-21	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	102,597		104,255	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	<u>102,597</u>		<u>104,255</u>	

Explanation of Estimate:

This bill creates a division of a state agency with rulemaking authority, and whose decisions are subject to appeal under the APA. This bill will require an additional Assistant Attorney General to represent the Medical Cannabis Board which has the potential to result in extensive civil litigation and criminal prosecution of those who violate the provisions of the bill.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

POSITION TITLE	NUMBER OF POSITIONS		2019-20	2020-21
	19-20	20-21	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Assistant Attorney General	1.0	1.0	72,000	73,440
Benefits.....			30,597	30,815
Operating.....				
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
TOTAL.....			<u>102,597</u>	<u>104,255</u>

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**ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION**

State Agency or Political Subdivision Name:(2) Department of Health and Human Services

Prepared by: (3) Mike Michalski

Date Prepared 1-18-19

Phone: (5) 471-6719

	<u>FY 2019-2020</u>		<u>FY 2020-2021</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
<b>GENERAL FUNDS</b>	\$857,284		\$19,539	
<b>CASH FUNDS</b>	\$390,000	\$390,000	\$1,575,000	\$1,575,000
<b>FEDERAL FUNDS</b>				
<b>OTHER FUNDS</b>				
<b>TOTAL FUNDS</b>	\$1,247,284	\$390,000	\$1,594,539	\$1,575,000

Return by date specified or 72 hours prior to public hearing, whichever is earlier.

**Explanation of Estimate:**

Clarification is needed as to the home department of the Marijuana Enforcement Division (MED) as well as the Medical Cannabis Board. LB 110 does not specify which department the MED would be authorized under. The legislation assigns all responsibilities to the Marijuana Enforcement Division with oversight provided by the Medical Cannabis Board. This fiscal note assumes the Department of Health and Human Services is the agency responsible for administering the duties of the Marijuana Enforcement Division and the Medical Cannabis Act.

Estimated costs to implement LB 0110 are based upon the following:

Deadline for the division to complete processing initial applications: 11/1/2020 Estimate is based on up to (6) producers and (6) processors submitting applications and certifications issued within the timeframes set forth in LB 0110.

Dispensaries must commit to being able to supply medical cannabis by 5/1/2021. Estimate is based on up to (15) dispensaries submitting applications and certifications issued by 5/1/2021.

Formation of the Medical Cannabis Board and the Marijuana Enforcement Division should begin as soon as possible after enacted in order to meet timelines stated in LB 0110.

Examinations and inspections required in Section 47 would likely require retention of outside professionals and specialists. This could include attorneys, appraisers, independent economists, independent accountants, security experts and others. The Department estimates this expense at \$200,000 per year.

**Personnel & Board Expense:**

	<u>FY2019-20</u>	<u>FY2020-21</u>
Medical Cannabis Board – 9 member board		
Six (6) meetings for the first two (2) fiscal years		
At cost of \$1,500 each.	\$ 9,000	\$ 9,000
Miscellaneous reimbursable expenses at \$500 per year		
per member and \$1,000 per year for Chairperson	\$ 5,000	\$ 5,000
Conference/seminar travel once per year for 3 to 4 persons	\$ 5,000	\$ 5,000
Initial training expenses for board members from outside party	\$10,000	\$ 0
<b>Total Board Expenses</b>	<b>\$29,000</b>	<b>\$19,000</b>

Estimate is based on the MED being composed of the following employees:

- 1 - Director of the MED Division
- 1 - Licensing Coordinator
- 2 - Licensing Specialists
- 1 - IT Business Systems Analyst (full-time until 6/30/21)
- 3 - Investigators/Inspectors with one as an Agriculture Inspector/Investigator, one as a Pharmacy Inspector/Investigator and one as a RN Health Care Inspector/Investigator.

1 – Attorney III to assist with the promulgation of rules and regulations and serve as the legal advisor to the Medical Cannabis Board and the MED.

1 – Administrative Assistant to the Director

1 – Staff Assistant assigned to the Investigators/Inspectors

Costs associated with salaries are itemized in bottom section of this form.

Operating Startup and Expenses:	<u>FY2019-20</u>	<u>FY2020-21</u>
Training for Director and Attorney estimated to occur in September 2019 And Training for Inspectors/Investigators estimated to occur in June 2020		
Airfare \$1000 each = 5,000	\$ 5,000	\$ 0
Training fee \$500 each = \$2,500	\$ 2,500	\$ 0
Room & board \$1,000 each = \$5,000	\$ 5,000	\$ 0
Office Space Setup for approximately 1,500 square feet		
Provide and install cubicles	\$ 30,000	\$ 0
Furniture and miscellaneous office equipment Allowance	\$ 15,000	\$ 0
Software systems for registries and licensing if purchased from outside contractor. We would still need an internal IT employee to coordinate development for the division.		
System maintenance is included under annual expenses.	\$500,000	\$ 0
Total Startup Expenses	<u>\$557,500</u>	

Annual Operating Expenses:

Rent at commercial location \$1,700 per month	\$ 20,400	\$20,400
Computer Costs from IS&T \$100 per month for 11	\$ 13,200	\$13,200
Office supplies per year	\$ 6,600	\$ 6,600
Telecommunications expense \$100 per month for 7	\$ 13,200	\$13,200
Utility costs are assumed to be included in rent amount.		
Costs for Director and Attorney to attend one Conference or Seminar per year including travel	\$ 10,000	\$10,000
Travel Costs for Inspectors/Investigators to cover the state are 3 persons @ \$2,500 per year	\$ 7,500	\$ 7,500
Contracting Services to provide examination and assessment of applicants' submissions of evidence as required by LB110 at 6 months for FY2019-2020 and 12 months for FY2020-2021	\$ 100,000	\$200,000
Maintenance and support of software systems	<u>\$ 0</u>	<u>\$150,000</u>
Total Annual Operating Expenses	\$ 170,900	\$420,900

Revenue Estimate is based upon 20% of the maximum producers and processors (six of each) submitting applications within FY2019-2020 and 50% of the maximum number of producers, processors, and dispensaries (9 of each) applied and licensed in 2021. The bill calls for the initial registrants to begin supplying cannabis by May 1, 2021, which is within the last two months of the biennium for which the biennium fiscal will cover.

	<u>FY2019-20</u>	<u>FY2020-21</u>
Revenue from 6 applications submitted @ \$25,000 each	\$ 150,000	\$ 0
Revenue from 6 licenses issued at \$40,000 each	\$ 240,000	\$ 0
Revenue from 9 applications submitted @ \$25,000 each	\$ 0	\$ 225,000
Revenue from 9 licenses for producers and processors @ \$40,000 each	\$ 0	\$ 360,000
Revenue from 6 annual license renewals @\$40,000 each	\$ 0	\$ 240,000
Revenue from 15 dispensary applications @\$25,000 each	\$ 0	\$ 375,000
Revenue from 15 licenses for dispensaries @ \$25,000 each	<u>\$ 0</u>	<u>\$ 375,000</u>
Total Revenue	\$ 390,000	\$1,575,000

An increase of medical and pharmacy complaints related to the Act is anticipated. These complaints are investigated by the Professional and Occupational Licensure Unit as part of Program 262. This would require the addition of 1 FTE Professional/Occupational Investigator/RN. Program 262 would \$94,464 in cash funds

appropriated for FY 2020-21. This position is included below but would not be in direct support of the Medical Cannabis Act.

<b>MAJOR OBJECTS OF EXPENDITURE</b>				
<b>PERSONAL SERVICES:</b>				
POSITION TITLE	NUMBER OF POSITIONS		2019-2020	2020-2021
	19-20	20-21	EXPENDITURES	EXPENDITURES
Director of MED	.75	1.00	\$106,470	\$141,960
X01740 Licensing Coordinator	.67	1.00	\$27,057	\$40,585
X01750 Licensing Specialist	.17	2.00	\$5,499	\$65,986
X62330 Investigators/Inspectors	.25	3.00	\$11,394	\$136,731
A07082 IT Business Systems Analyst	.67	1.0	\$35,978	\$53,968
X62462 Professional & Occupational Inspector/RN	0	1.0	\$0	\$53,080
G31113 Attorney III	.75	1.00	\$55,403	\$73,871
A09123 Administrative Assistant III	.67	1.00	\$30,385	\$45,577
S01842 Staff Assistant II	.08	1.00	\$3,088	\$37,053
Benefits.....			\$94,171	\$221,958
Operating.....			\$877,839	\$723,770
Travel.....				
Capital Outlay.....				
Aid.....				
Capital Improvements.....				
<b>TOTAL.....</b>			<b>\$1,247,284</b>	<b>\$1,594,539</b>

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

**2019**

**LB<sup>(1)</sup> 110 REVISED**

**FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> Nebraska State Patrol

Prepared by: <sup>(3)</sup> Carol Aversman Date Prepared: <sup>(4)</sup> 1-22-2019 Phone: <sup>(5)</sup> (402)471-4545

**ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION**

	<u>FY 2019-20</u>		<u>FY 2020-21</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	\$1,491,647	_____
CASH FUNDS	_____	_____	\$39,609	\$36,200
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
<b>TOTAL FUNDS</b>	<b>=====</b>	<b>=====</b>	<b>\$1,531,256</b>	<b>\$36,200</b>

**Explanation of Estimate:**

LB 110 allows for the adoption of the Medical Cannabis Act. The State Patrol has not been identified as the Marijuana Enforcement Division, and accordingly, this fiscal note does not contemplate any of the costs of such a Division. However, the State Patrol does anticipate increased crime and additional law enforcement workload that will be required to be carried out by the Patrol as a by-product of the bill and due to the referral of cases by the Marijuana Enforcement Division. There are several new felonies that are created by the bill. For example, Section 39 of the bill states that if a dispensary intentionally transfers or dispenses medical cannabis to a person other than an individual eligible under the program, they will be guilty of a Class IV felony. Similar provisions exist for the producers or processors of medical cannabis. The bill also requires that registered designated caregivers, and employees of producers, processors or dispensaries must be fingerprinted and that such fingerprints are to be transmitted to the State Patrol, with further transmission to the Federal Bureau of Investigation for a national criminal history record information check. The State Patrol will be required to undertake a search for Nebraska criminal history record information and shall issue a report to the Marijuana Enforcement Division containing the results of the information check. The State Patrol estimates that 800 record checks will be required. This estimate is based on inquiries of other states that have similar legislation. The State Patrol estimates that 11 additional employees will be needed to oversee the anticipated increased law enforcement activities and the requirements of the bill. An Investigative Officer will be needed in each of the six troop areas, with one added Investigative Sergeant. Additionally, the Patrol estimates that it will need two additional Crime Analysts, and a Criminal Identification Records Tech in order to process the additional estimated workload and volume. Construction costs of \$25,000 have been added for renovations in troop area offices to handle the increased fingerprinting volume that is anticipated. Operating costs include the replacement of 10 Police Service Dogs at a cost of \$100,000, training associated costs for the new additional employees as well as existing sworn employees totaling \$144,500, and auto operating costs (gasoline, maintenance, insurance, repairs) of approximately \$51,000. Capital outlay costs include vehicles and radio equipment for the new sworn employees, and computer equipment and workstations for both sworn and civilian new additional employees, totaling \$338,463.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2019-20 EXPENDITURES</u>	<u>2020-21 EXPENDITURES</u>
	<u>19-20</u>	<u>20-21</u>		
State Patrol Investigative Sergeant	_____	1	_____	\$82,392
State Patrol Investigative Officer	_____	6	_____	\$421,320
Staff Assistant I	_____	1	_____	\$30,534
State Patrol Crime Analyst	_____	2	_____	\$79,464



State Patrol Criminal Identification Records Technician		1		\$26,433
Benefits.....				\$224,050
Operating.....				\$295,600
Travel.....				\$8,000
Capital outlay.....				\$338,463
Aid.....				
Capital improvements.....				\$25,000
<b>TOTAL.....</b>				<b>\$1,531,256</b>

State Agency Estimate

State Agency Name: Department of Revenue	Date Prepared: 1/23/19	Date Due LFA: 1/24/19				
Approved by: Tony Fulton	Phone: 471-5896					
	<b>FY 2019-2020</b>	<b>FY 2020-2021</b>	<b>FY 2021-2022</b>			
	Expenditures	Revenue	Expenditures	Revenue	Expenditures	Revenue
General Funds	\$1,749,000	\$1,657,000	\$2,695,000	\$2,573,000	\$2,789,000	\$2,663,000
Cash Funds		\$1,785,000		\$2,799,000		\$2,896,000
Federal Funds						
Other Funds		\$10,000		\$18,000		\$19,000
<b>Total Funds</b>	<b>\$1,749,000</b>	<b>\$3,452,000</b>	<b>\$2,695,000</b>	<b>\$5,390,000</b>	<b>\$2,789,000</b>	<b>\$5,578,000</b>

LB 110 adopts the Medical Cannabis Act, provides for cannabis dispensing and regulation, and creates the Medical Cannabis Regulation Fund. This bill excludes medical cannabis from the definition of “drugs” that are exempt from sales tax. The bill provides that the proceeds from the collection of sales and use taxes on sales of medical cannabis be deposited in the Medical Cannabis Regulation Fund. This bill excludes medical cannabis from the provisions of the Marijuana and Controlled Substances Tax Act.

To estimate the increase in sales tax revenue due to taxing of medical cannabis, the Department utilized data on medical marijuana sales tax revenue from five states: New Mexico, Colorado, Arizona, California, and Washington and generalized it to Nebraska population and sales tax rate. From the data, the Department estimates that for every 1,000 in population there are 15.6 users of medical cannabis and each user pays \$14.38 dollars per year for each 1% of sales tax. The estimated increase in revenues and expenditures are as follows:

Fiscal Year	General Fund Revenues	General Fund Expenditures	Highway Allocation Fund (Cities and Counties)	State Highway Capital Improvement Fund	Medical Cannabis Regulation Fund
FY18-19	\$ -	\$ -	\$ -	\$ -	
FY19-20	\$ 1,657,000	\$ 1,726,000	\$ 10,000	\$ 59,000	\$ 1,726,000
FY20-21	\$ 2,573,000	\$ 2,695,000	\$ 18,000	\$ 104,000	\$ 2,695,000
FY21-22	\$ 2,663,000	\$ 2,789,000	\$ 19,000	\$ 107,000	\$ 2,789,000
FY22-23	\$ 2,756,000	\$ 2,887,000	\$ 20,000	\$ 111,000	\$ 2,887,000

Note that the increase in General Fund expenditures are higher than General Fund revenues because the increase in the sales tax base only results in an increase in the General Fund revenues by 5.25 cents out of 5.50 cents. The other 0.25 cents out of 5.50 cents is distributed to the Highway Allocation Fund and State Highway Capital Improvement Fund. LB 110 would transfer the entire 5.50 cents of sales tax to the newly created Medical Cannabis Regulation Funds, hence the higher expenditures than revenues.

LB 110 will require a one-time programming charge of \$23,000 paid to the OCIO for mainframe development and web development. All other costs to the Department will be minimal.

Major Objects of Expenditure

Class Code	Classification Title	19-20	20-21	21-22	19-20	20-21	21-22
		FTE	FTE	FTE	Expenditures	Expenditures	Expenditures
	Benefits.....						
	Operating Costs.....				\$23,000		
	Travel.....						
	Capital Outlay.....						
	Capital Improvements.....						
	<b>Total.....</b>				<b>\$23,000</b>		