

PREPARED BY: Liz Hruska
 DATE PREPARED: February 22, 2022
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LB 1275

Revision: 01

Revised to include an agency response.

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2022-23		FY 2023-24	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	See Below		See Below	

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

This bill establishes the Medicinal Cannabis Act. The Cannabis Enforcement Department is created and charged with regulation and enforcement of the Medicinal Cannabis Act. The Cannabis Enforcement Department is a division of the State Patrol. The seven-member Medicinal Cannabis Board is created. By November 1, 2023, up to five dispensaries may be registered in each Congressional District. The initial and annual registration fee is \$25,000. Each employee of a dispensary is required to undergo a criminal history check at the expense of the employee. A mandatory patient registry will be created. Only patients with the following qualifying conditions are allowed to enroll in the registry: Stage IV cancer, uncontrolled seizures, severe and persistent muscle spasms caused by multiple sclerosis or muscular dystrophy or a terminal illness with a probable life expectancy of under one year. If the agency has reasonable cause to believe a health care practitioner has violated provisions of the act a referral can be made to the Department of Health and Human Services. An assistant attorney general is to be designated to work with the Cannabis Enforcement Department. The Medicinal Cannabis Regulation Fund is created. All proceeds from the sales and use taxes pursuant to the sale of cannabis would be deposited into the fund as well as the regulatory fees.

Federal law prohibits transportation of cannabis across state lines. Since the bill does not provide for producers, dispensers would not have a source for cannabis. No dispensaries are expected to apply for registration and no enforcement activities would be needed.

A seven-member Medical Cannabis Board is established. Travel and operating costs are estimated to be \$21,000 in FY 2022 and \$14,000 in FY 2023. Since there is no revenue source, these costs would be paid from state general funds.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 1275	AM:	AGENCY/POLT. SUB: Attorney General	
REVIEWED BY: Jacob Leaver	DATE: 1/24/2021	PHONE: (402) 471-4173	
COMMENTS: Concur with the Attorney General's estimated fiscal impact to the agency as a result of LB 1275.			

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 1275	AM:	AGENCY/POLT. SUB: State Patrol	
REVIEWED BY: Jacob Leaver	DATE: 2/23/22	PHONE: (402) 471-4173	
COMMENTS: No basis to dispute with the State Patrol's estimated fiscal impact to the agency as a result of LB 1275.			

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

2022

LB⁽¹⁾ 1275

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Attorney General

Prepared by: ⁽³⁾ Josh Shasserre Date Prepared: ⁽⁴⁾ 1-21-22 Phone: ⁽⁵⁾ 402-471-2687

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2022-23</u>		<u>FY 2023-24</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	<u>130,594</u>	<u> </u>	<u>132,667.</u>	<u> </u>
CASH FUNDS	<u> </u>	<u> </u>	<u> </u>	<u> </u>
FEDERAL FUNDS	<u> </u>	<u> </u>	<u> </u>	<u> </u>
OTHER FUNDS	<u> </u>	<u> </u>	<u> </u>	<u> </u>
TOTAL FUNDS	<u><u>130,594</u></u>	<u><u> </u></u>	<u><u>132,667.</u></u>	<u><u> </u></u>

Explanation of Estimate:

Section 67 requires the designation of an Assistant Attorney General to the Medicinal Cannabis Board to provide legal services at the demand of the Board at the expense of the Attorney General. Therefore the Attorney General's Office would need to hire an additional Assistant Attorney General with relevant subject matter expertise.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2022-23</u>	<u>2023-24</u>
	<u>22-23</u>	<u>23-24</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Assistant Attorney General	<u>1.0</u>	<u>1.0</u>	<u>90,000.</u>	<u>91,800.</u>
Benefits.....	<u> </u>	<u> </u>	<u>40,594.</u>	<u>40,867.</u>
Operating.....	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Travel.....	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Capital outlay.....	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Aid.....	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Capital improvements.....	<u> </u>	<u> </u>	<u> </u>	<u> </u>
TOTAL.....	<u> </u>	<u> </u>	<u>130,594.</u>	<u>132,667.</u>

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

2022

LB⁽¹⁾ 1275 REVISED

FISCAL NOTE

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

Prepared by: ⁽³⁾ Carol Aversman Date Prepared: ⁽⁴⁾ 2/15/2022 Phone: ⁽⁵⁾ 402-471-4545

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2022-23		FY 2023-24	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	\$1,983,616		\$934,027	
CASH FUNDS	\$299,350	\$299,350	\$381,788	\$381,788
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$2,282,966	\$299,350	\$1,315,815	\$381,788

Explanation of Estimate:

LB 1275 adopts the Medicinal Cannabis Act. Under this bill a Cannabis Enforcement Department is formed. This Department is identified as a division within the Nebraska State Patrol. The department is tasked with many duties and requirements in the bill including, but not limited to the following: (1) establishing and maintaining a mandatory registry program for registered patients and designated caregivers, (2) developing an application for enrollment in the program, (3) developing a disclosure form which requires the signature of the applicant, (4) developing a registry verification which may be in the form of a registry identification card and provide for the renewal of a patient's registry verification based on the submission of a written certification on an annual basis, (5) provide written notice of denials when applicable, along with the reason for the denial to applicants, (6) adopt and promulgate rules and regulations, (7) develop a written certification form to be used by participating health care practitioners, (8) develop security and record-keeping requirements for the delivery of cannabis from dispensaries to registered patients, (9) revoke registry verification of a registered patient as permitted under the terms of the Act, (10) suspend or revoke a dispensary registration, after investigation, and as permitted under the terms of the Act, (11) maintain a list of former registered patients and caregivers who are prohibited from further participation under the Act, (12) provide for the examination and inspection of any dispensary as provided for in the rules and regulations adopted and promulgated by the department, (13) develop or recommend to the Medicinal Cannabis Board continuing medical education courses for participating health care practitioners, (14) develop or recommend to the Medicinal Cannabis Board training and education courses for dispensary staff and pharmacists, (15) accept petitions to revise the list of qualifying medical conditions for review by the Medicinal Cannabis Board and assist the Board with the consideration of scientific evidence and testimony of patients and health care practitioners, and (16) develop and update for approval by the Board, a scientifically accurate information document for registered patients and caregivers.

Based on a review of the duties outlined in the bill for the Cannabis Enforcement Department, and described above, the State Patrol estimates that four additional employees will be required to comprise the department. Specifically, these would consist of a Physician or Pharmacist, a Registered Nurse, an Attorney III, and an Inspector or Investigator. The Physician or Pharmacist's duties would include the development and recommendation of continuing education courses that are required for health care practitioners and dispensary staff. They would also be responsible for developing scientifically accurate information documents regarding known drug interactions, dosing, warning risks, etc. The Registered Nurse would be responsible for the review of the applicants (patients) to determine if they are eligible to register and would assist in the creation of the application form. The Inspector or Investigator would be responsible for reviewing dispensary registration applications and may be involved in the examination and inspection of the dispensaries. For purposes of this fiscal note the classification of a DHHS Fraud Investigator was used to estimate the salary for this position, as a current job classification does not exist for this position. The Attorney III's duties would include administrative appeals of denials, the creation of the rules and regulations, and hearings related to the revocation of dispensary registrations and patient registry verifications. The personnel (wages and salaries) costs associated with the Cannabis Enforcement Department are estimated at \$508,672 annually.

The Medicinal Cannabis Act also establishes the Medicinal Cannabis Regulation Fund which shall consist of funds from contracts, grants, gifts, or fees under the Medicinal Cannabis Act. Note that the bill provides for the payment of \$25,000 annually for each registered dispensary. Up to 5 dispensaries are allowed in each congressional district. With three

congressional districts in Nebraska, the maximum amount of annual fees would total \$375,000. For purposes of this fiscal note, the assumption has been made that these fees would be available to cover the costs of the Cannabis Enforcement Department. The assumption was also made that 75% of the maximum permitted dispensaries would be registered in year 1, and 100% in year 2 of the biennium.

The bill will also have a significant impact to the Nebraska State Patrol Crime Laboratory. LB 1275 allows for the possession and use of cannabis plant material and cannabis products with delta-9 tetrahydrocannabinol concentrations higher than those specified for hemp. Because visual examination cannot differentiate hemp from marijuana, rather illicit or medicinal, the NSP crime laboratory estimates there could be a very significant increase in the number of samples requiring testing. This estimation is based on the increase that was seen when the hemp bill was enacted. At that time the laboratory validated and began using a semi-quantitative method for plant material samples only. The laboratory does not currently have a validated method for performing this analysis on oil (cannabis products as defined in LB 1275), so an additional method would require validation in order to test all types of substances identified as medicinal in LB 1275.

Data and information support that THC concentration testing takes at least four times longer than identification testing, and costs roughly six times more. The Crime Lab anticipates that if no mitigation of testing requirements exists, four additional forensic scientists will be needed for the testing of substances. The equipment needed for these scientists will include 4 Gas Chromatographs, 3 Gas Chromatographs/Mass Spectrometers, and the space needed to house the added personnel and equipment.

Additionally, the Crime Lab anticipates an increase in driving under the influence submissions which will impact the Toxicology Section. The Crime Lab is currently the only laboratory providing toxicology services in Nebraska, so this impact will require additional resources in this section as well. An estimate of 1 additional forensic scientist in this section has been included in the fiscal note. The equipment needed for this scientist includes 1 Immuno-Assay Screening instrument and 1 Gas Chromatographs/Mass Spectrometer.

The Crime Lab also estimates that the increase in submissions will require 1 Forensic Technician to handle the increase in submissions of evidence and managing that evidence until it can be thoroughly tested and returned to the submitting agency. The fiscal note includes the cost of this added personnel.

As described above, multiple pieces of lab equipment will be required to meet the demands of LB1275. The 4 Gas Chromatographs have been included in the Fiscal Note at a cost of \$154,000. The 4 Gas Chromatographs/Mass Spectrometers are reflected at a cost of \$528,000. The Immuno-Assay Screening Instrument has been included at a cost of \$77,000. Maintenance contracts for the additional lab equipment is estimated at an annual ongoing cost of \$75,648 beginning in the second year. The cost to establish and furnish workstations and to set-up the laboratory space has been estimated at \$24,000. Laboratory supplies have been included based upon an estimated 1,500 cases @ \$76.00 per case for consumables/supplies, for a total of \$114,000. Actual cases could be more or less and could range from 500-1,500, although the actual amount that will be received is unknown.

The salaries and benefits expenses related to the Forensic Scientists and the Forensic Technician positions are reflected as beginning 7/1/22. This will allow training and program development prior to the date that samples may start arriving at the lab for testing.

Similar legislation in 2019 (LB 110) did not have a fiscal note relevant to the NSP Crime Laboratory. In 2019, legislation had not yet been enacted requiring additional testing for THC concentration to differentiate marijuana from hemp. Based on current legislation, testing of suspected marijuana samples requires determination of THC concentration which is considerably more costly and time consuming than previous test methods. Legislation brought in 2020 (LB474) had a similar fiscal note as the one being provided for this LB, the differences in numbers for staff and instrumentation can be accounted for by the recent allocation of 2 additional Forensic Scientists to the controlled substances section.

Note that construction of the crime lab facility expansion will be required before permanent space is available for added staff or equipment. Any construction will extend beyond the first fiscal year, and possibly beyond the second. Accordingly, carryover of funding into subsequent fiscal years would be necessary.

Additionally, information technology costs have also been included in the fiscal note. IT costs will result due to the requirement for the development of a registry to record initial and future renewal patient registrations and certificates. Other IT related costs include (1) the development of a tracking registry for dispensaries, (2) the creation of a written certification form to be used by participating health care practitioners, (3) modifications to existing computer applications for the addition of categories for tracking fingerprint based background checks on dispensary employees for the Criminal Identification Division, and (4) the ongoing IT application maintenance and development costs to maintain and refine all of the applications going forward. These costs are estimated at \$344,085 in the first year and \$93,676 in the second year of the biennium. These costs include IT contractors (the first year of the biennium only), as well as the addition of one full-time Application Developer employee (both years of the biennium).

Due to the requirement in the bill for fingerprint-based background checks for dispensary employees, there are additional costs estimated for the Nebraska State Patrol Criminal Identification Division (“CID Division”). These include the addition of two office technicians (wages and benefits total \$68,890 annually). Other costs associated with the CID Division include the fees charged by the FBI (\$13.25 per applicant). The CID Division estimates that there will be 400 applicants in the first year of the biennium and 150 applicants in the second year of the biennium, with a fee per applicant of \$45.25 being charged to the applicant. This results in estimated revenue in year 1 of \$18,100, and \$6,788 in year 2 of the biennium.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

POSITION TITLE	NUMBER OF POSITIONS		2022-23	2023-24
	<u>22-23</u>	<u>23-24</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Nebraska State Patrol Forensic Scientist I	5	5	\$264,347	\$264,347
Nebraska State Patrol Forensic Technician	1	1	\$38,149	\$38,149
Office Technician	2	2	\$49,920	\$49,920
Applications Developer/Senior	1	1	\$65,672	\$65,672
Physician	1	1	\$186,878	\$186,878
Registered Nurse	1	1	\$71,015	\$71,015
Attorney III	1	1	\$70,354	\$70,354
Inspector/Investigator	1	1	\$40,356	\$40,356
Benefits			\$298,943	\$298,943
Operating			\$414,332	\$230,181
Travel				
Capital outlay			\$783,000	
Aid				
Capital improvements				
TOTAL			\$2,282,966	\$1,315,815