

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2024-25		FY 2025-26	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS				
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.

This bill establishes the Cannabis Control Act, the Cannabis Conviction Clean Slate Act, removes cannabis as a controlled substance under the Uniform Controlled Substances Act, and harmonizes related provisions of statute. LB 52 is similar to previous proposals, notably [LB 634 \(2023\)](#). The fiscal note for LB 634 (2023) will be referenced in this estimate.

The Cannabis Control Act sets forth the exclusive means by which a person in Nebraska may engage in the cultivation, manufacture, sale, distribution, transfer, dispensing, testing, possession, and use of cannabis. The Act does not permit the transfer of cannabis to a person under the age of 21 years or allow a person under the age of 21 years to purchase, possess, use, transport, cultivate, or consume cannabis.

Section 65 creates the Nebraska Cannabis Enforcement Commission (Commission) for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, testing, and sale of cannabis in the state. The bill states the Commission shall consist of three commissioners appointed by the Tax Commission based on their experience in public health, law enforcement, social justice, regulation of business or commodities, and matters related to cannabis to be paid an annual salary of \$12,500 plus expense reimbursement. The Commission must meet monthly and may hold special meetings as necessary. No more than two commissioners shall be of the same political party and no more than two commissioners shall be residents of the same congressional district. The commissioners shall appoint an executive director, subject to approval of the Tax Commissioner, who shall conduct the business of the Commission in Lincoln with permission to establish branch offices elsewhere with approval of the Tax Commissioner. The Commission may with the advice and approval of the Tax Commissioner, employ a chief investigator and other investigators to aid in enforcement of the Cannabis Control Act.

The Commission and the Department of Agriculture, Department of Revenue (DOR), and Department of Health and Human Services (DHHS) are to work collaboratively in furtherance of the intent of the Act and to ensure that the cultivation, manufacture, distribution, and sale of cannabis in the state is conducted in accordance with the Act. The Commission is to adopt and promulgate rules and regulations on or before September 1, 2025 and can continue to do so after.

The bill states that the Attorney General shall designate one or more assistant attorneys general to provide legal services to the Commission and that the Commission may request the State Fire Marshal to inspect any licensed premises or premises for which a license is sought for fire safety, for which the Fire Marshal may impose a fee on the license seeker.

Section 98 specifies application fees and initial issuance fees and renewal fees that the Commission shall impose by type of license. The total due at initial application ranges from \$12,000 for a Tier 3 cultivator to \$2,500 for a Cannabis Testing Facility. Total due at renewal ranges from \$4,700 for Transporters to \$1,800 for Cannabis Stores, Tier 1 Cultivators, Extraction-Only Manufacturers, Infusion-Only Manufacturers, and Testing Facilities. The bill specifies when the Commission may increase or waive application fees, specifically the Commission may waive 50% of application or renewal fees if they qualify as a social equity applicant as defined in the bill.

Section 171 creates the Cannabis Control Fund to consist of all funds collected by the Commission under the Cannabis Control Act and specifies that the new fund shall be used for administration and enforcement of the Cannabis Control Act. Transfers from the Fund to the General Fund may be made at the direction of the Legislature.

Section 173 specifies that an excise tax shall be collected on the first sale or transfer of unprocessed cannabis by a cultivator to a products manufacturer, a cannabis store, or unaffiliated cultivator. The tax shall be 25% of either (1) the average market rate of the unprocessed cannabis if the transaction is between affiliated licenses or (2) the contract price for unprocessed cannabis if the transaction is between unaffiliated licensees.

The excise tax shall be in addition to any occupation taxes imposed by Nebraska or any political subdivision. Section 177 specifies that the Commission shall collect the excise tax and shall account for and remit to the State Treasurer at least once each month all money collected pursuant to such tax for credit to the Cannabis Control Fund. After deducting the amounts necessary for the commission to administer and enforce the Cannabis Control Act the State Treasurer shall credit the remaining revenue collected from the excise tax to the Education Future Fund.

The Cannabis Conviction Clean Slate Act specifies qualifying cannabis offenses that will be automatically eligible for clean slate relief beginning January 1, 2025. The Clean Slate Act contains permissive language that allows the State Court Administrator to adopt and promulgate rules and regulations necessary to carry out the Act. For LB 634 (2024), the Supreme Court indicated needed at least \$250,000 in General Funds to implement the Clean Slate Act. This funding would be used to modify the JUSTICE system and processing requests. Revenue to the Supreme Court would also increase due to the provisions that allows the court to charge a filing fee of up to \$40 to recoup the costs of administering the Clean Slate Act. In order for the agency to be able to expend the filing fees the funds would have to directed to a specific cash fund and appropriated to the agency for expenditure.

The bill specifies that using or possessing cannabis shall not be a criminal offense and possession of items related to cannabis shall not be considered drug paraphernalia. The bill clarifies that parental rights including custody, visitation, and parenting time shall not be terminated for actions that are lawful under the Cannabis Control Act without clear, convincing, and articulable evidence that such actions created an unreasonable danger to the safety of a minor child.

Statutes pertaining to Nebraska Rules of the Road are amended to expand the definition of an open container is expanded to include containers of both alcoholic beverages and cannabis products. The Nebraska Clean Indoor Air Act is amended to include cannabis smoke and cannabis vapor within the definitions of smoke and smoking. The bill specifies that edible cannabis products sold under the Cannabis Control Act are subject to the Nebraska Pure Food Act.

Neb. Rev. Stat. § 77-2701.02 is amended to include a 25% sales tax on sales of cannabis under the Cannabis Control Act beginning July 1, 2024 and Neb. Rev. Stat. § 77-27,132 is amended to specify that the proceeds of the sales tax on cannabis shall be credited to the Education Future Fund. The bill harmonizes provisions of Neb. Rev. Stat. § 77-4301 to remove references to marijuana and removes § 77-4303(1)(a) which provides for a \$100 per ounce tax on marijuana.

For the purpose of estimating a fiscal impact, we assume the Cannabis Enforcement Commission would, when fully implemented, incur an equivalent level of expenses as the Liquor Control Commission which expended \$2.5m in the most recent fiscal year. We anticipate the new commission will need approximately \$1m in FY25, \$2m in FY26, and \$2.5m in FY27 and subsequent fiscal years.

The following estimate of increased revenue (combined excise and sales tax) uses data from the Colorado Department of Revenue, adjusted for relative population size, assumes staged implementation of the provisions of the bill, and an initial operational date of January 1, 2025. The revenue from fees for various licenses and fees collected from are not accounted for in this estimate due to uncertainty in number of applications and/or regulation violations. Note that increased numbers of licensee would yield additional revenue which would be used to cover increased operational expenses of overseeing the additional licensees.

	Total Cash Fund Revenue	Cash Fund Expenses for Commission Operations	Trasfers into the Education Future Fund
FY25	\$ 29,535,000	\$ 1,000,000	\$ 28,535,000
FY26	\$ 106,331,667	\$ 2,000,000	\$ 104,331,667
FY27	\$ 127,598,333	\$ 2,500,000	\$ 125,098,333
FY28	\$ 153,116,667	\$ 2,500,000	\$ 150,616,667

The following estimates of expenses would necessitate changes to General Fund appropriations and are based on fiscal impact statements for LB 634 (2023). The Department of Revenue would incur additional expenses to administer the provisions of the bill. Expenses of DOR are front-loaded due to the cost to update systems. We anticipate DOR will need approximately \$1m in FY25 and \$350,000 in FY26 and subsequent fiscal years. The Courts anticipate needing \$250,000 to implement the Cannabis Conviction Clean Slate Act however it is assumed that those costs will not be ongoing therefore the additionally funding would only be necessary in FY25. The State Patrol indicated increased expenses of up to \$3m due to changes to records management, newly trained police K9s, and new equipment for the crime lab. Alternatively, the Cannabis Control Act and Cannabis Conviction Clean Slate Act may yield General Fund savings to court and correctional operations at the State and County level however the estimate of savings due is indeterminable.

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2024

LB⁽¹⁾ 52 S1

FISCAL NOTE

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

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ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2024-25</u>		<u>FY 2025-26</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:

No fiscal impact.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2024-25</u>	<u>2025-26</u>
	<u>24-25</u>	<u>25-26</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____