

PREPARED BY: Jeanne Glenn
 DATE PREPARED: January 31, 2020
 PHONE: 402-471-0056

LB 1219

Revision: 00

FISCAL NOTE
 LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2020-21		FY 2021-22	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS				

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

LB 1219 would amend section of law governing the Nebraska Hemp Farming Act. It would create definitions of preprocessed, post-processed, consumable and non-consumable hemp and would establish further procedures for the labeling, distribution and sales of hemp and hemp products. The Department of Agriculture states that there would be a minimal impact to implement the provisions of LB 1219.

LB 1219 also establishes the Nebraska Hemp Transportation and Sales Licensing Act. First owners of post-processed hemp or consumable hemp products would be required to pay a \$25 licensing fee to the Department of Revenue. The license would be continuing unless the Tax Commissioner found cause to revoke, cancel or suspend the license. There is no basis to disagree with the Department of Revenue that costs to carry out the licensing would be minimal in nature. Because no fund is created for the licensing fee, it is assumed that the revenue would be deposited in the General Fund. It is estimated that any General Fund revenue increase would be quite minimal in nature.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 1219	AM:	AGENCY/POLT. SUB: Nebraska Department of Agriculture	
REVIEWED BY: Claire Oglesby	DATE: 1/30/20	PHONE: (402) 471-4174	
COMMENTS: Concur with Nebraska Department of Agriculture's fiscal note statement.			

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 1219	AM:	AGENCY/POLT. SUB: Nebraska Department of Revenue	
REVIEWED BY: Claire Oglesby	DATE: 1/31/20	PHONE: (402) 471-4174	
COMMENTS: No basis to disagree with Nebraska Department of Revenue's fiscal note statement.			

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

2020

LB⁽¹⁾ 1219

FISCAL NOTE

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

Prepared by: ⁽³⁾ Patty Richard Date Prepared: ⁽⁴⁾ 1/29/2020 Phone: ⁽⁵⁾ 402-471-6821

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2020-21</u>		<u>FY 2021-22</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:

There will be a minimal fiscal impact from the potential increase in inquiries and administration related to this bill. These costs will be absorbed within budget appropriations.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2020-21</u>	<u>2021-22</u>
	<u>20-21</u>	<u>21-22</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____

State Agency Estimate

State Agency Name: Department of Revenue				Date Due LFA:				
Approved by: Tony Fulton				Date Prepared:				
				Phone: 471-5896				
	FY 2020-2021			FY 2021-2022			FY 2022-2023	
	Expenditures	Revenue		Expenditures	Revenue		Expenditures	Revenue
General Funds	Minimal	Minimal		Minimal	Minimal		Minimal	Minimal
Cash Funds								
Federal Funds								
Other Funds								
Total Funds	Minimal	Minimal		Minimal	Minimal		Minimal	Minimal

LB 1219, Sec. 1 adds Sec. 9 and Sec. 12 to the Nebraska Hemp Farming Act (Hemp Act).

Sec. 2 amends Neb. Rev. Stat. § 2-503 to add a number of defined terms to the Hemp Act as well as modifies some previously defined terms.

Sec. 3 amends § 2-504(1) to limit the lawful cultivation, handling, processing and brokering of hemp in Nebraska and transporting hemp outside of Nebraska, possession, transportation, selling, and purchase of hemp to preprocessed hemp only. It removes the Nebraska heirloom cannabis plant or seed not being cultivated for commercial purposes exclusion from the Hemp Act.

Sections 4, 6, 7, 10, 13, 15 harmonizes provisions in the Hemp Act, Nebraska Criminal Code and Uniform Controlled Substances Act.

Sec. 5 amends § 2-506 to except handling by an approved testing facility from the provision that persons will not process, handle or broker hemp in Nebraska unless they meet certain requirements. From the remainder of § 2-506, LB 1219 removes the exclusion “other than an approved testing facility” from the provisions pertaining to licensure of persons to process, handle and/or broker hemp.

Sec. 8 amends § 2-515 to mandate that any cultivator transporting preprocessed hemp under the Hemp Act must carry with the preprocessed hemp a copy of the cultivator license under which the preprocessed hemp was cultivated and a copy of the related test results. Also the cultivator must conspicuously affix a copy of the license and test results to the outer shipping or packaging preprocessed hemp container. Subsections 2 and 3 apply specifically to preprocessed hemp, post-processed hemp, or consumable hemp products (Hemp Products) as it relates to license and shipping and packaging requirements for process-handlers and any person other than a cultivator or processor-handler. Subsection 2 requires process-handlers to also conspicuously affix a copy of the license and test results to the outer shipping or packaging container. Subsection 3 requires the person other than a cultivator or process-handler to affix a copy of the bill of lading and either the test results or other documentation to the shipping or packaging container. The remainder of Sec. 8 specifies the products discussed relate specifically to Hemp Products. The prohibition against transporting Hemp Products does not apply to nonconsumable hemp products.

Sec. 9 creates a new section and places notification of the Nebraska State Patrol requirements on persons who transport more than one pound of Hemp Products within or into Nebraska. This section does not apply to nonconsumable hemp products. A violation of the section is a Class II misdemeanor.

Sec. 11 amends § 2-517 so that the Nebraska Hemp Commission must have a manufacturer of consumable hemp products or nonconsumable hemp products as a member. It also mandates that the commission will be appointed no later than sixty days after the operative date of this section and conduct its first meeting no later than thirty days after appointment of the commission, instead of the previous September 1, 2019 date.

Sec. 12 creates a new section. It provides that the Hemp Act does not preempt any city, village, or county in Nebraska from enacting, adopting, or enforcing any rule, ordinance, order, resolution, or regulation which restricts, regulates, or prohibits the handling, processing, brokering, sale, transfer, or possession of post-processed hemp or consumable hemp products.

Sec. 14 amends § 28-401 to add definitions for cannabidiol, consumable hemp product, nonconsumable hemp product, post-processed hemp, and preprocessed hemp as defined in § 2-503.

Sec. 16 creates a new section and provides that, with the exception of nonconsumable hemp products, it is a Class I misdemeanor to knowingly sell, offer for sale, advertise, deliver, dispense, or otherwise transfer any quantity of post-processed hemp or consumable hemp products to any person who is under twenty-one years of age.

Sec. 17 creates a new section and provides that it is an infraction if a person under twenty-one years of age will not knowingly or intentionally possess post-processed hemp or a consumable hemp product. This section does not apply to nonconsumable hemp products, or cannabidiol in a drug product approved by the federal Food and Drug Administration (FDA) pursuant to a valid prescription or as otherwise authorized by law.

Sec. 18 creates a new section. It provides that, with the exception of nonconsumable hemp products, post-processed hemp or consumable hemp products sold, offered for sale, advertised for sale, distributed, delivered, dispensed, or otherwise transferred to another person must meet certain packaging and label requirements. Also, with the exception of nonconsumable hemp products, any person who sells, distributes, delivers, dispenses, or otherwise transfers any quantity of post-processed hemp or a consumable hemp product will provide a receipt or proof of purchase delivery, distribution or transfer that meets certain requirements.

With the exception of nonconsumable hemp products, any person who buys, receives, or is in possession of any quantity of post-processed hemp or a consumable hemp product must keep and be able to immediately produce the label from the original packaging and receipt or proof of purchase, delivery, distribution, or transfer until the person is no longer in possession of the product. Violation of this provision is a Class III misdemeanor. Violation of the packaging and label requirements or the proof of purchase, deliver, distribution or transfer requirements is a Class I misdemeanor.

Sec. 19 creates a new section. It is a Class IV felony to manufacture in Nebraska any consumable hemp product that it intended, generally, to be consumed through swallowing, drinking, eating, or ingestion if they product is manufacture with the intent to sell in Nebraska. It is unlawful distribution of consumable hemp products and a Class I misdemeanor to knowingly sell or otherwise transfer, generally, any consumable hemp product that is intended to be consumed through swallowing drinking eating, or ingestion.

Sec. 20 creates a new section. Subsection 1 provides, any person who transfers, generally, more than one pound of post-processes hemp or consumable hemp products must obtain the applicable licenses required by the Hemp Act or a license from the Tax Commissioner as provided in Sec. 25. Subsection 2 provides, any person who generally transfers more than one pound of post-processed hemp or consumable hemp products must possess on their person a valid license under the Hemp Act or license from the Tax Commissioner under Sec. 24 and have a valid and legible copy of the test results pertaining to the products or conspicuously affix a copy of the valid license and copy of the test results to the outer shipping container or packaging of the products. Violation of subsection 2 is a Class I misdemeanor, unless the person can produce the required documents under subsection 2 within 5 business days following the violation.

Sec. 21 creates a new section and provides, it is a Class IV felony for a person with intent to deceive, either forge, falsify, or alter a license under the Hemp Act, a license issued under Sec. 24, a bill of lading, test result or other documentation required under Sec. 20 related to Hemp Products.

Sec. 22 creates the Nebraska Hemp Transportation and Sales Licensing Act (Licensing Act).

Sec. 23 defines terms for the Licensing Act.

Sec. 24 creates a new section. It provides that each first owner of post-processed hemp or consumable hemp products must be licensed by the Tax Commissioner. Sec. 24 details what must be included in the application. A person outside Nebraska that sells, ships, or transports post-processed hemp or consumable hemp products to any person in Nebraska may apply for and be granted a license under this Section. If the license is granted, then the out of state person is subject to the Licensing Act and may act as a licensee.

Sec. 25 creates a new section and provides an application for license is required for each place of business of a first owner. An application fee of twenty-five dollars must accompany the application. The license continues unless it is revoked, canceled, or suspended and the fees are nonrefundable.

Sec. 26 creates a new section and provides, that upon receipt of an application in proper form and payment of the application fee the Tax Commissioner will issue the license. The license allows the applicant to engage in business at the place of business shown on the license. The license is not assignable and is only valid for the person in whose name it was issued.

Sec. 27 creates a new section. It provides that the Tax Commissioner may revoke, cancel or suspend any license for violation of the Licensing Act, The Hemp Act or Sections 16, 18, 19, 20, or 21. If the license is revoked, canceled or suspended, the licensee must immediately surrender the license. A determination of revocation, cancellation, or suspension will not be made until notice is given and a hearing has been held by the Tax Commissioner pursuant to Sec. 29.

Sec. 28 creates a new section and provides that the Tax Commissioner may restore a revoked, canceled or suspended license. The applicant must pay twenty-five dollars for the issuance of a new license after each revocation, cancellation or suspension.

Sec. 29 creates a new section and provides, a licensee may request a hearing within twenty days of receipt of notice of an intention to revoke, cancel or suspend a license.

Sec. 30 creates a new section. It provides it is a Class II misdemeanor for any first owner of post-processed hemp or consumable hemp products to conduct business in Nebraska without a valid license under the Licensing Act. Such person will be denied the issuance of a license for one year following the violation.

Sec 31 provides that Sections 11 and 32 are operative July 1, 2021. The remaining sections become operative on their effective date.

It is estimated that there is minimal costs to the Department to implement this bill. It is estimated that there is a positive minimal General Fund impact as the result of this bill.

Major Objects of Expenditure

<u>Class Code</u>	<u>Classification Title</u>	<u>20-21 FTE</u>	<u>21-22 FTE</u>	<u>22-23 FTE</u>	<u>20-21 Expenditures</u>	<u>21-22 Expenditures</u>	<u>22-23 Expenditures</u>
	Benefits.....						
	Operating Costs.....						
	Travel.....						
	Capital Outlay.....						
	Capital Improvements.....						
	Total.....						