

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

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES</b> (See narrative for political subdivision estimates)				
	<b>FY 2023-24</b>		<b>FY 2024-25</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>	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 Medicinal Cannabis Act. The Cannabis Enforcement Department (department) is created and charged with regulation and enforcement of the Medicinal Cannabis Act. The bill does not clarify under which state agency the Cannabis Enforcement Department would function under. Nebraska State Patrol states that if the department would be a division of their agency the costs would be much higher than their fiscal note states.

The seven-member Medicinal Cannabis Board is created. Travel and operating costs for the board are estimated to be \$21,000 in FY 2024 and \$14,000 in FY 2025. By November 1, 2024, up to three dispensaries and ten producers may be registered in each Congressional District. The initial and annual registration fee is \$25,000 for dispensaries and not more than \$5,000 for producers.

The department is authorized to collect an annual fee from producers to cover the costs of regulating and inspection not to exceed:

- \$40,000 from the highest tier of producer,
- \$5,000 from a producer not in such tier,
- \$5,000 from a processor performing solvent-based extraction using water, glycerin, propylene glycol, vegetable oil, or food grade ethanol,
- \$40,000 from a processor performing additional solvent-based extraction,
- \$25,000 from a dispensary and,
- \$15,000 from a laboratory.

Each employee of a producer, processor, dispensary, or laboratory is required to undergo a criminal history check at the expense of the employee. As a condition of registration, a producer must agree to begin supplying cannabis to processors and dispensaries on or before May 1, 2025 unless extended by the Medicinal Cannabis Board. A mandatory patient registry will be created.

Only patients with the following qualifying conditions are allowed to enroll in the registry:

1. Amyotrophic lateral sclerosis;
2. Autism with frequent or severe self-injurious or aggressive behavior;
3. Cancer;
4. Crohn's disease or ulcerative colitis;
5. Epilepsy or epileptic seizures;
6. Glaucoma;
7. Hepatitis C that causes moderate to severe nausea or cachexia;
8. HIV or AIDS;
9. Huntington's disease;
10. Parkinson's disease;
11. Spinal cord injury or disease with residual neurological deficits
12. Terminal illness with a probable life expectancy of under one year;
13. Tourette's syndrome;
14. A serious medical condition, or the treatment of a serious medical condition, that causes severe nausea or cachexia;
15. Severe and persistent muscle spasms caused by multiple sclerosis, spinal cord injury, or muscular dystrophy; or

16. Severe or chronic pain lasting longer than six months that is not adequately managed, in the opinion of a health care practitioner, despite treatment attempts using
  - a. conventional medications other than opioids or opiates or
  - b. physical interventions.

If the Cannabis Enforcement Department 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 office of the Attorney General indicates this would cost \$130,594 in FY24 and \$132,667 in FY25. 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.

As stated previously, the bill does not clarify within what state agency the Cannabis Enforcement Department would function under. Because of this, it is important to recognize that the following totals underestimate the anticipated expenditures. Revenue from sales tax on cannabis, initial and annual registration fees for dispensaries, laboratories, producers, and processors, and background check fees for employees therein are unknown. Total costs provided by Nebraska State Patrol, the Attorney General's Office, DHHS, and expenses for the Medical Cannabis Board, without any estimated costs for the actual Cannabis Enforcement Department, amount to approximately \$4 million in FY24 and \$1.6 million in FY25.

<b>ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY &amp; POLT. SUB. RESPONSE</b>			
LB:	588	AM:	AGENCY/POLT. SUB: Nebraska Attorney General
REVIEWED BY:	Ann Linneman	DATE:	1-19-2023 PHONE: (402) 471-4180
COMMENTS: No basis to disagree with the Nebraska Attorney General's assessment of fiscal impact.			

<b>ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY &amp; POLT. SUB. RESPONSE</b>			
LB:	588	AM:	AGENCY/POLT. SUB: Nebraska Department of Health & Human Services
REVIEWED BY:	Ann Linneman	DATE:	2-7-2023 PHONE: (402) 471-4180
COMMENTS: The Nebraska Department of Health and Human Services' analysis and estimate of fiscal impact to the department appears reasonable.			

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

**2023**

**LB<sup>(1)</sup> 588**

**FISCAL NOTE**

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

Prepared by: <sup>(3)</sup> Josh Shasserre Date Prepared: <sup>(4)</sup> 1-18-23 Phone: <sup>(5)</sup> 402-471-2687

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

	<u>FY 2023-24</u>		<u>FY 2024-25</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>130,594</u>	<u>                    </u>	<u>132,667</u>	<u>                    </u>

**Explanation of Estimate:**

Section 78 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>2023-24</u>	<u>2024-25</u>
	<u>23-24</u>	<u>24-25</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>40,594</u>	<u>40,867</u>
Operating.....			<u>                    </u>	<u>                    </u>
Travel.....			<u>                    </u>	<u>                    </u>
Capital outlay.....			<u>                    </u>	<u>                    </u>
Aid.....			<u>                    </u>	<u>                    </u>
Capital improvements.....			<u>                    </u>	<u>                    </u>
TOTAL.....			<u>130,594</u>	<u>132,667</u>

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

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

Prepared by: (3) John Meals

Date Prepared 2-7-2023

Phone: (5) 471-6719

	<u>FY 2023-2024</u>		<u>FY 2024-2025</u>	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
<b>GENERAL FUNDS</b>	\$2,277,670	\$0	\$794,839	\$0
<b>CASH FUNDS</b>	\$0	\$0	\$0	\$0
<b>FEDERAL FUNDS</b>	\$0	\$0	\$0	\$0
<b>OTHER FUNDS</b>	\$0	\$0	\$0	\$0
<b>TOTAL FUNDS</b>	\$2,277,670	\$0	\$794,839	\$0

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

LB 588 adopts the Medicinal Cannabis Act; it provides civil and criminal penalties, creates a fund, and changes provisions relating to controlled substances, the Prescription Drug Monitoring Program (PDMP), and taxation.

The Medicinal Cannabis Regulation fund is created with funds from contracts or fees under the Medicinal Cannabis Act. The fund is to be used for the purposes of regulation and administration of the Act.

The Cannabis Enforcement Department and the Medicinal Cannabis Board are also created under LB588. The department and board are to govern and regulate the production, sale, and administration of medicinal cannabis. The Department is charged with developing and maintaining a voluntary registry for patients and caregivers. The Board requires the Chief Medical Officer of the Department of Health and Human Services (DHHS) to be a nonvoting member.

LB 588 requires a daily record of cannabis dispensation to be submitted to the Prescription Drug Monitoring Program (PDMP).

PDMP statute 71-2454 requires submission of the drug’s National Drug Code (NDC) number to be entered into the system and the record cannot be accepted without this number. However, due to cannabis being a Schedule I substance under federal law, an NDC cannot be assigned to it. Additionally, strength and form of the cannabis will need to be addressed as they are treated differently than in the current Schedule II-V and non-scheduled drugs.

Therefore, to adhere to LB 588’s daily recording requirement, substantial changes to the PDMP system would be necessary, as well as extensive education, training and planning work for reporting and use of the PDMP system with cannabis included for viewing.

To onboard new dispensaries and provide training to all providers using the PDMP on the additional PDMP component, additional FTE support would be needed.

- 1 IT Business Analyst
- 1 Project Manager
- 1 Informatician
- 1 Program Coordinator

The informatician is a classification that doesn’t currently exist within the State of Nebraska. The fiscal note assumes the Health Information Manager classification, but this position could be a contractual relationship.

The PDMP vendor provided an estimate on the system updates needed to be completed for the initial development and implementation: approximately \$1,500,000. Up to 2 years for development and full implementation. Annual maintenance and operations (M&O) for the system would be approximately \$350,000

to \$400,000 for each year of operation. The fiscal note assumes development for FY24 and FY25 and a separate budget request would be entered for FY26 and forward for ongoing maintenance and operations costs. Should the development be completed prior to FY26, the department may need the M&O appropriation in FY25.

There will be additional implementation and M&O costs to ingest the daily dataset to DHHS Nexus, develop support for self-service reports, and provide a backup copy of all the data housed in the PDMP. (Back-up copy of the data is for department analysis and continuity of operations if there were issues with the system or in the case of a full system failure.) Depending on full scope of work, IT costs would be approximately \$434,280. This includes partial FTE hours by a Project Manager, Business Analyst, Data Architect, Data Integration Lead, Data Developer, and Quality Assurance Tester.

<b>MAJOR OBJECTS OF EXPENDITURE</b>				
<b>PERSONAL SERVICES:</b>				
POSITION TITLE	NUMBER OF POSITIONS		2023-2024	2024-2025
	23-24	24-25	EXPENDITURES	EXPENDITURES
IT Business Analyst	1.0	1.0	\$49,883	\$52,377
Project Manager	1.0	1.0	\$59,369	\$62,338
Informatician	1.0	1.0	\$50,981	\$53,530
Program Coordinator	1.0	1.0	\$52,129	\$54,735
Benefits.....			\$74,327	\$78,043
Operating.....			\$1,990,981	\$493,816
Travel.....			\$0	\$0
Capital Outlay.....			\$0	\$0
Aid.....			\$0	\$0
Capital Improvements.....			\$0	\$0
<b>TOTAL.....</b>			<b>\$2,277,670</b>	<b>\$794,839</b>

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

**2023**

**LB<sup>(1)</sup> 588**

**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> 2/3/2023 Phone: <sup>(5)</sup> 402-471-4545

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

	<u>FY 2023-24</u>		<u>FY 2024-25</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	\$1,610,320		\$681,034	
CASH FUNDS	\$18,100	\$18,100	\$6,788	\$6,788
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>	<u>\$1,628,420</u>	<u>\$18,100</u>	<u>\$687,822</u>	<u>\$6,788</u>

**Explanation of Estimate:**

LB 588 adopts the Medicinal Cannabis Act. Under this bill a Cannabis Enforcement Department is formed. The bill does not define where the Cannabis Enforcement Department will be housed. Accordingly, this fiscal note has been drafted without any of the costs that would be incurred with conducting the duties of this department. If the Cannabis Enforcement Department becomes a division within the State Patrol, the fiscal impact would be much larger. It is important to note that if additional law enforcement duties become the responsibility of the State Patrol as a result of the provisions of this bill, additional fiscal costs will be incurred and will need to be considered.

Note that the cost to replace 10 police service dogs has been included, as the State Patrol's existing dogs will no longer be able to be used as a result of their training.

The bill will also have a significant impact to the Nebraska State Patrol Crime Laboratory. LB 588 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, topical formulations, or tinctures (cannabis products as defined in LB 588), so an additional method would require validation in order to test all types of substances identified as medicinal in LB 588.

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, 4 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 LB588. The 4 Gas Chromatographs have been included in the Fiscal Note at a cost of \$180,000. The 4 Gas Chromatographs/Mass Spectrometers are reflected at a cost of \$600,000. 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 \$79,430

beginning in the second year. The cost to establish and furnish workstations and to set-up the laboratory space has been estimated at \$26,400. Laboratory supplies have been included based upon an estimated 1,500 cases @ \$80.00 per case for consumables/supplies, for a total of \$120,000. Actual cases could be more or less and could range from 500-1,500, although the actual amount that will be received is unknown.

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 2021 (LB474) had a similar fiscal note as the one being provided for in 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 in June 2021.

Note that construction of the crime lab facility expansion will be required before permanent space is available for added staff or equipment. Construction will extend beyond the first fiscal year, and possibly beyond the second. Accordingly, carryover of funding into subsequent fiscal years would be necessary. The currently planned facility expansion would allow space for this additional staff however, this would result in minimal space being available for expected normal growth and increase in controlled substances case submissions for analysis.

Additionally, information technology costs have also been included in the fiscal note. IT costs include costs related to a contractor to make adjustments to databases for purposes of capturing the additional volume of background checks that will result from this bill.

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”). 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 \$6,787 in year 2 of the biennium. In order to process this added volume of background checks, the wages and benefits for 1 additional Administrative Technician have been included, as well as one-time capital outlay costs for computer equipment and office furniture and ongoing operational costs. Note that the revenues received by the Nebraska State Patrol Cash Fund do not equal the expenses associated with the work performed by the Criminal Identification Division. Therefore, the shortfall has been included in the estimated amount of General Funds that would be needed to pay all of the additional expenses of the division due to the added duties of this bill.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2023-24</u>	<u>2024-25</u>
	<u>23-24</u>	<u>24-25</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
Administration Technician	1	1	\$33,983	\$33,983
Benefits			\$127,862	\$127,863
<b>Operating.....</b>			<b>\$272,362</b>	<b>\$223,480</b>
<b>Travel.....</b>				
<b>Capital outlay.....</b>			<b>\$891,717</b>	
<b>Aid.....</b>				
<b>Capital improvements.....</b>				
<b>TOTAL.....</b>			<b>\$1,628,420</b>	<b>\$687,822</b>