

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

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)</b>				
	<b>FY 2021-22</b>		<b>FY 2022-23</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS				
CASH FUNDS				\$3,088,050
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>	See Below		See below	\$3,088,050

**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. Employees of the agency are required to undergo a criminal records check. The employee must pay the cost. The seven-member Medicinal Cannabis Board is created. By November 1, 2022, up to ten producers and ten dispensaries may be registered in each Congressional District. A voluntary patient registry will be created. 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 which are as shown in the chart below:

**Application Fees:**

Dispensary	\$25,000
Producer	5000 to \$25,000
Processor	\$5,000 to \$2,5000
Laboratory	\$10,000

**Annual fees:**

Producer highest tier annual fee	\$40,000
Producer two lower tiers	\$5,000 to \$40,000
Producer	\$5,000
Dispensary	\$25,000
Laboratory	\$15,000

A nine-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. There would be a one-time cost of \$500,000 to develop the patient registry in FY 22. Contractual costs for legal, financial and security expertise is estimated to be \$100,000 in FY 22 and \$300,000 in FY 23 and annually thereafter. Other operating costs will be approximately \$228,400 in FY 22 and \$240,000 in FY 23.

Staffing costs are shown following chart:

**Error! Not a valid link.**

As there is not a funding source until several months into FY 2023, the first year costs of Cannabis Enforcement Department would be from General Funds. In FY 2023 costs would be from cash funds.

An assistant attorney general is to be available to the Medical Cannabis Board. The cost would be \$107,300 in FY22; \$109,028 in FY 23. It is assumed the Cannabis Enforcement Department would pay for the Assistant A. G. once revenue is available.

The number of referrals for investigation by the Department of Health and Human Services is unknown. It is likely that the workload could be handled within existing agency resources.

The State Patrol estimates 800 criminal background checks will be conducted on designated caregivers and employees of the producers, processors and dispensaries. Total revenue would be \$36,200 annually. Of that amount, \$10,600 would be paid to the FBI.

The State Patrol also indicates the need for twenty-five additional staff including officers, technicians, scientists 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 \$3,873,000 the first year and \$3,084,773 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 2023 (one month of collections) and \$2,695,000 in the years following. The Department of Revenue would incur a one-time General Fund cost of \$23,000 in FY 2023 for programming changes.

The revenue for application and licensing fees would be approximately \$2,950,000 in FY 2023 and could increase to over \$4 million in the following years.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE				
LB:	474	AM:	AGENCY/POLT. SUB: Nebraska Department of Health and Human Services	
REVIEWED BY:	Ann Linneman	DATE:	2-9-2021	PHONE: (402) 471-4180
COMMENTS: No basis to disagree with the Nebraska Department of Health and Human Services' assessment of fiscal impact.				

CONTINUED

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

LB: 474      AM:      AGENCY/POLT. SUB: Nebraska Attorney General

REVIEWED BY: Ann Linneman      DATE: 1-28-2021      PHONE: (402) 471-4180

COMMENTS: No basis to disagree with the Nebraska Attorney General's assessment of fiscal impact.

**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 2-9-2021

Phone: (5) 471-6719

	<u>FY 2021-2022</u>		<u>FY 2022-2023</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
<b>GENERAL FUNDS</b>				
<b>CASH FUNDS</b>				
<b>FEDERAL FUNDS</b>				
<b>OTHER FUNDS</b>				
<b>TOTAL FUNDS</b>	See Below		See Below	

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

**Explanation of Estimate:**

LB 474 allows the Cannabis Enforcement Department to refer violations of a medical practitioner of the Medicinal Cannabis Act to the Department of Health and Human Services (DHHS). The costs associated with any additional investigations conducted by DHHS on the medical practitioner is indeterminable.

**MAJOR OBJECTS OF EXPENDITURE**

PERSONAL SERVICES:	NUMBER OF POSITIONS		2021-2022	2022-2023
	POSITION TITLE	21-22	22-23	EXPENDITURES
Benefits.....				
Operating.....				
Travel.....				
Capital Outlay.....				
Aid.....				
Capital Improvements.....				
<b>TOTAL.....</b>				

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

**2021**

**LB<sup>(1)</sup> 474**

**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> 1-27-21 Phone: <sup>(5)</sup> 402-471-2687

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

	<u>FY 2021-22</u>		<u>FY 2022-23</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	<u>107,300.</u>	<u>                    </u>	<u>109,028.</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>
<b>TOTAL FUNDS</b>	<u><b>107,300.</b></u>	<u><b>                    </b></u>	<u><b>109,028.</b></u>	<u><b>                    </b></u>

**Explanation of Estimate:**

Section 78 of LB474 requires the Attorney General's Office to provide assistant attorney(s) general to the proposed Medicinal Cannabis Board, the costs of which are required to be paid by the Attorney General's Office. The Attorney General's Office projects that at least one additional Assistant Attorney General would be required.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2021-22</u>	<u>2022-23</u>
	<u>21-22</u>	<u>22-23</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Assistant Attorney General	<u>1.0</u>	<u>1.0</u>	<u>75,000.</u>	<u>76,500.</u>
Benefits.....	<u>                    </u>	<u>                    </u>	<u>32,300.</u>	<u>32,528.</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>
<b>TOTAL.....</b>	<u><b>                    </b></u>	<u><b>                    </b></u>	<u><b>107,300.</b></u>	<u><b>109,028.</b></u>

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

2021

LB<sup>(1)</sup> 474

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> 3-07-2021 Phone: <sup>(5)</sup> (402)471-4545

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2021-2022</u>		<u>FY 2022-23</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	<u>\$3,873,000</u>	<u>                    </u>	<u>\$3,048,573</u>	<u>                    </u>
CASH FUNDS	<u>                    </u>	<u>                    </u>	<u>\$36,200</u>	<u>\$36,200</u>
FEDERAL FUNDS	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
OTHER FUNDS	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
TOTAL FUNDS	<u>\$3,873,000</u>	<u>                    </u>	<u>\$3,084,773</u>	<u>\$36,200</u>

Explanation of Estimate:

LB 474 allows for the adoption of the Medical Cannabis Act. The Act provides for the registration of a limited number of producers, processors, and dispensaries by 11/1/2022, with additional registrations occurring thereafter. The Act further specifies that cannabis products must be available for medicinal use on or before 5/1/2023. Accordingly, the operational, personnel and equipment costs noted in this fiscal note are reflected as occurring in the second year of the biennium (FY 22-23). The capital improvement costs are reflected in the first year of the biennium (FY 21-22), as the additional space and renovations will need to occur and be in place prior to the on-boarding of additional personnel that will be needed in FY 22-23.

The State Patrol has not been identified as the Cannabis Enforcement Department, and accordingly, this fiscal note does not contemplate any of the costs of such a Department. 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 Cannabis Enforcement Department. There are several new felonies that are created by the bill. For example, Section 55 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 may be prosecuted for a violation of section 28-416. 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 Cannabis Enforcement Department containing the results of the information check. The State Patrol estimates that 800 record checks will be required. This estimate is based on previous inquiries of other states that have similar legislation. The 800 record checks will result in cash fund revenues of \$36,200. These revenues will be partially offset by FBI fees estimated at \$10,600 that will be incurred as a result of these record checks.

The State Patrol estimates that 11 additional law enforcement employees will be needed to oversee the anticipated increased 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, a Staff Assistant I and a Criminal Identification Records Tech in order to process the additional estimated workload and volume. Equipment and operating costs have been included in the fiscal note which includes the cost of computers (\$41,180), workstations (\$33,000), office supplies (\$600 per year), radios and associated equipment for the sworn personnel (\$70,000), annual auto operating costs for the sworn personnel (\$51,100), and the cost of vehicles (\$208,922). Training and travel costs have been included in the note with specialized training for the 7 additional sworn personnel ( \$74,700) and in-service training based on the changes as a result of the Act for all of the sworn personnel within the

Patrol (\$69,500). Construction costs of \$25,000 have been added in the first year of the biennium for renovations in troop area offices to handle the increased fingerprinting volume that is anticipated. Additionally, 10 new police service dogs (\$100,000 total) will be required in order to modify the law enforcement activities that the current dogs are trained for.

In addition, the Agency estimates an increase in costs that will occur at the State Patrol Crime Laboratory. The Lab estimates that, due to a number of violations specified in LB 474, there will be a very significant increase in the number of samples that will be required to be tested. Data and information support that THC concentration testing takes at least 4 times as long as identification testing, and costs roughly 6 times more. The Crime Lab anticipates that if no mitigation of testing requirements exists, 5 additional forensic scientists will be needed for the testing of substances. The equipment needed for these scientists will include 5 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 2 additional forensic scientists in this section have been included in the fiscal note. The equipment needed for these 2 scientists include 1 Immuno-Assay Screening instrument and 2 Gas Chromatographs/Mass Spectrometers, as well as space to house these added personnel and equipment. 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. The fiscal note includes the cost of this added personnel, as well as the space needed for the increase in evidence storage and to house the employee.

The current Crime Lab facility is at full capacity. Accordingly, the capital improvement reflected for the expansion of the facility that will be required to house the added personnel has been reflected in the first year of the biennium at a cost of \$3,848,000. The facility will need to begin construction as quickly as possible, in order to make space for the additional equipment, personnel and storage. It is likely that the construction of the facility will extend beyond the first fiscal year, and possibly even beyond the biennium. Accordingly, funds that have not been expended related to the facility would need to be encumbered and/or allowed to be carried over into the subsequent fiscal years if the construction project is not completed within the first or even second year of the biennium.

As described above, multiple pieces of lab equipment will be required to be purchased in the second year of the biennium. The 5 Gas Chromatographs have been included in the Fiscal Note at a cost of \$175,000. The 5 Gas Chromatographs/Mass Spectrometers are reflected at a cost of \$600,000. The Immuno-Assay Screening Instrument has been included at a cost of \$70,000. Maintenance contracts for the additional lab equipment is estimated at an annual ongoing cost of \$94,560 beginning in the second year of the biennium. The cost to establish and furnish workstations and to set-up the additional laboratory space has been estimated at a cost of \$32,000.

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.

---

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

---

**Personal Services:**

<b><u>POSITION TITLE</u></b>	<b><u>NUMBER OF POSITIONS</u></b>		<b><u>2021-22</u></b>	<b><u>2022-23</u></b>
	<b><u>21-22</u></b>	<b><u>22-23</u></b>	<b><u>EXPENDITURES</u></b>	<b><u>EXPENDITURES</u></b>
State Patrol Forensic Technician		1		\$31,791
State Patrol Forensic Scientist I		7		\$362,835
State Patrol Investigative Sergeant		1		\$84,872
State Patrol Investigative Officer		6		\$446,959
Staff Assistant I		1		\$30,992
State Patrol Crime Analyst		2		\$80,658

State Patrol Criminal Identification Records Technician		1		\$26,823
Benefits.....				\$388,681
Operating.....				\$336,520
Travel.....				\$71,700
Capital outlay.....				\$1,222,942
Aid.....				
Capital improvements.....			\$3,873,000	
<b>TOTAL.....</b>			<b>\$3,873,000</b>	<b>\$3,084,773</b>