

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2025-26		FY 2026-27	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	\$1,477,476		\$784,285	
CASH FUNDS	\$60,000	\$60,000	\$60,000	\$60,000
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$1,537,476	\$60,000	\$844,285	\$60,000

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

LB 602 is the Data Elimination and Limiting Extensive Tracking and Exchange Act (the Delete Act).

Section 2 provides definitions.

Section 5 requires a data broker that maintains an Internet website or mobile application to post a conspicuous notice on the website or application that: 1) states that the entity is maintaining the website or application as a data broker, 2) is clear, not misleading, and readily accessible by the general public, including individuals with a disability, and 3) contains language required for inclusion in the notice by the Secretary of State.

Section 6 requires a data broker conducting business in this state to develop, implement, and maintain a comprehensive information security program that meets certain standards and requirements.

Registration information provided in the act shall be publicly accessible on the Secretary of State's website.

Section 9 requires data brokers to register with the Secretary of State, pay a registration fee in an amount not to exceed three hundred dollars (\$300) and provide certain information with the registration.

Section 10 requires the Secretary of State to establish an accessible deletion mechanism on or before January 1, 2028. The mechanism shall implement and maintain reasonable security procedures, allow consumers to request that data brokers maintaining any personal data about the consumer delete the personal data, and other similar items.

LB 602 allows the Attorney General to bring an action to collect any civil penalty imposed under the act, seek injunctive relief for any violation, and recover reasonable attorney's fees and costs incurred.

The Attorney General estimates the need for 1.0 Senior Assistant Attorney General to address the provisions of LB 602. Currently, the Attorney General's Office does not have a dedicated position for data privacy issues. This field is specialized and merits an experienced attorney with a technical background. In addition, the Attorney General estimates the need for experts to testify on matters. These fees are estimated to be \$100,000 per year.

The Attorney General's total estimate is \$267,326 in fiscal year 2025-26 and \$271,470 in fiscal year 2026-27. There is no basis to disagree with these estimates. They are included as General Funds in this fiscal note.

Section 11 allows the Attorney General to recover reasonable attorney's fees and costs incurred. Presumably, Cash Fund revenue will be received under the Delete Act. Depending on the amount collected, these funds could be used in future years. The amount collected cannot be determined at this time, therefore, no Cash Fund expenditures are provided in this fiscal note.

The Secretary of State estimates the need for 3.0 FTE to administer the Delete Act. In addition, the Secretary of State estimates a cost of \$1,000,000 in fiscal year 2025-26 to contract with an IT vendor to develop, implement, and maintain the online data broker registration software. Beginning in fiscal year 2026-27, the ongoing cost for this contract is estimated to be \$300,000. These estimates are based partially on similar legislation introduced in California.

The Secretary of State estimates \$60,000 per year of revenue from fees that are provided for in LB 602. The balance of funding to administer the program is attributed to the General Fund.

There is no basis to disagree with these estimates.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 602	AM:	AGENCY/POLT. SUB: Secretary of State	
REVIEWED BY:	Jacob Leaver	DATE: 1/30/2025	PHONE: (402) 471-4173
COMMENTS: No basis to dispute the Secretary of State's estimated fiscal impact as a result of LB 602. The amount of data brokers referenced may be overstated.			

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

2025

LB⁽¹⁾ 602 Amended

FISCAL NOTE

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

Prepared by: ⁽³⁾ Bebe Strnad Date Prepared: ⁽⁴⁾ 402-471-2687 Phone: ⁽⁵⁾ 402-471-2687

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2025-26</u>		<u>FY 2026-27</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	<u>267,326</u>	<u> </u>	<u>271,470</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>267,326</u></u>	<u><u> </u></u>	<u><u>271,470</u></u>	<u><u> </u></u>

Explanation of Estimate:

LB602 requires the Attorney General to handle data privacy matters, conceivably against any business subject to these new obligations. While on its face the bill gives the Attorney General discretion, the Secretary of State will need help enforcing these new data privacy rules. The Attorney General does not have a dedicated or funded data privacy practice. Every year, the Attorney General’s data privacy duties grow without funding being allocated for a proper data privacy practice. The Attorney General requires at least one full-time attorney to manage its growing data privacy duties and mandates. As data privacy is a specialized field, this attorney should have data privacy experience and a technical background. If the Attorney General is unable to hire a specialized attorney, the office may have to hire an outside firm at an hourly fee. This bill also does not allow the Attorney General to seek to recover costs or fees, meaning any enforcement work done under this bill will be conducted at a loss. Accordingly, the Attorney General will need funding for its enforcement efforts, which could amount to hundreds of matters based on the volume of comparable data privacy matters and often requires costly expert testifiers. For context, expert fees in technical lawsuits that go to trial often well surpass \$100k in expert fees alone.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2025-26</u>	<u>2026-27</u>
	<u>25-26</u>	<u>26-27</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Senior Assistant Attorney General	<u>1.0</u>	<u>1.0</u>	<u>120,000</u>	<u>123,600</u>
Benefits.....			<u>47,326</u>	<u>47,870</u>
Operating.....			<u>100,000</u>	<u>100,000</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><u>267,326</u></u>	<u><u>271,470</u></u>

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

2025

LB⁽¹⁾ 602

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Secretary of State

Prepared by: ⁽³⁾ Joan Arnold Date Prepared: ⁽⁴⁾ 1-27-2025 Phone: ⁽⁵⁾ 402-471-2384

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2025-26</u>		<u>FY 2026-27</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	\$1,210,150		\$512,815	
CASH FUNDS	\$60,000	\$60,000	\$60,000	\$60,000
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	<u>\$1,270,150</u>	<u>\$60,000</u>	<u>\$572,815</u>	<u>\$60,000</u>

Explanation of Estimate:

LB602 requires the Secretary of State to perform the following new duties:

- Provide a data broker registration and review such registrations for omissions or materially incorrect information (Section 9)
- Establish an accessible deletion mechanism to allow consumers to request data deletion from brokers (Section 10)
- Select independent third-party compliance auditors to report on data broker compliance with the deletion requests at least once every three years and review such audits upon request (Section 10)
- Receive registration fees, deletion mechanism access fees, and civil penalties (Sections 9 & 10)
- Provide a public website to allow for online access to the data broker registration and deletion mechanism (Section 8)
- Provide language to be included in a required notice on all data broker websites and mobile applications (Section 5)
- Adopt and promulgate rules and regulations related to these requirements (Section 12)

In order to perform the aforementioned new duties, there would be additional costs to contract with an IT vendor to develop, implement, and maintain the online data broker registration software as well as the accessible deletion mechanism. Based on similar legislation introduced in California, it is estimated that the IT vendor costs would be \$1,000,000 in the first year and approximately \$300,000 each year ongoing.

Additionally, it is anticipated that an additional three FTE's would be needed; to include, an IT Coordinator, Attorney, and Administrative Support Staff. The salaries, benefits, equipment, supplies, and technology costs for these three additional FTE's is estimated to cost approximately \$265,000 per year ongoing.

Based on the estimated 500 data brokers registered in California and 230 registered in Texas, it is anticipated that Nebraska could have 200 data brokers register. In order to offset the ongoing costs of this new legislation, the Secretary of State would need to charge the maximum \$300 annual registration fee (estimated at \$60,000 annually), plus a \$2,575 annual deletion mechanism access fee (estimated at \$515,000 annually beginning in FY2029). As the majority of this estimated annual revenue of \$575,000 would not begin being received until FY2029, much of the cost for the first three years would require the use of general funds.

As a technical note, we believe statute § 84-512 would also need to be amended to authorize revenues and expenses related to the Data Elimination and Limiting Extensive Tracking and Exchange Act (or the Delete Act) to flow through the Secretary of State Cash Fund.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

POSITION TITLE	NUMBER OF POSITIONS		2025-26	2026-27
	<u>25-26</u>	<u>26-27</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Information Technology Business Systems Analyst/Coordinator	1.0	1.0	\$80,000	\$84,000
Attorney I	1.0	1.0	\$65,000	\$68,250
Administrative Technician	1.0	1.0	\$46,000	\$48,300
Benefits.....			\$66,850	\$70,190
Operating.....			\$1,003,300	\$302,075
Travel.....				
Capital outlay.....			\$9,000	
Aid.....				
Capital improvements.....				
TOTAL.....			\$1,270,150	\$572,815