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 DATE PREPARED: January 25, 2022  
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**LB 978**

Revision: 01

# FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

Revised to include an updated response from the agency

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES</b> (See narrative for political subdivision estimates)				
	<b>FY 2022-23</b>		<b>FY 2023-24</b>	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	\$720,527			\$938,468
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>	<b>\$720,527</b>			<b>\$938,468</b>

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

LB978 would give NDEE many of the powers associated with the Army Corps of Engineers 404 Program, which oversees dredging and fill of waters. As LB978 creates the Dredge and Fill Cash Fund for the purpose of collecting fees to offset the cost of administering the program.

NDEE estimates that \$1,658,995 in General Funds are needed to begin the program and that approximately \$2.5 million in fees will need to be collected to offset program costs. We have no basis to disagree. As such we reflect a General Fund expenditure of \$720,527 in FY22-23 and a General Fund expenditure of \$938,468 in FY23-24 with an assumption that the program will be a self-sustaining cash-funded program beginning in FY24-25.

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2022

LB<sup>(1)</sup> 978 REVISED

FISCAL NOTE

State Agency OR Political Subdivision Name: <sup>(2)</sup> Department of Environment and Energy

Prepared by: <sup>(3)</sup> Kevin Stoner Date Prepared: <sup>(4)</sup> January 19, 2022 Phone: <sup>(5)</sup> 402 471-4214

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

	FY 2022-23		FY 2023-24	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	\$720,527		\$938,468	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$720,527		\$938,468	

**Explanation of Estimate:**

LB 302 in July of 2019 granted the DEE the authority to investigate assumption of the Federal 404 Dredge and Fill program currently operated by the Corps of Engineers for Waters of the United States. The DEE has completed the evaluation of State assumption of the Federal 404 Program and this evaluation is being used to support this document. Sustainable funding is a requirement of a CWA Section 404 program application to EPA. The current funding for the federal 404 program does not transfer to DEE to take over the administration of the 404 program. Dredge and fill permit fees sufficient to cover the direct and indirect cost to administer the assumed 404 program is necessary. DEE has estimated the total direct and indirect cost to administer the assumed 404 program when fully operational at \$2,585,157 annually.

DEE will initially require six FTE in FY22-23 to start developing the assumed program application and will gradually increase staffing and capacity to eleven FTE starting in July 2023 to complete the program application process and start training through June 2024. In July 2024 DEE will bring on the rest of the program staff to support the technical, managerial, and administrative needs of the program. DEE has determined a total of 31 (30.7) FTE are needed to administer the 871 permit actions per year for the state assumed 404 program. Of the 31 FTE required, we currently have 3 FTE therefore 28 would need to be added to DEE. The majority of staff needed will be Permit Writers which account for about eighteen FTE. The assumed 404 program will operate with approximately one Supervisor, six Inspectors, three Engineers and three Wetland Biologists.

DEE will require additional office equipment such as computers, phones, desks, and chairs for each new staff member. A total of 4 automobiles will be required for inspections and compliance work. Additional technology is required as an electronic permitting software program will need to be developed.

A total of \$1,658,995 is needed from general funds over the next 2 fiscal years to develop the state 404 program.

FY 2022-2023 12 months of 6 FTE (\$720,527)  
 FY 2023-2024 12 months of 11 FTE (\$938,468)

A total of \$2,585,157 per year is needed from cash funds via permit fees collected from 404 program applicants when fully operational.

FY 2024-2025 Program is assumed and running at full capacity with 31 FTE

Department FTE Model	Direct Cost	Benefits	Indirect rate	Direct+Indirect	Total FTE Cost	Administration Cost
	Provided	33% of Direct	37% of Direct	D+I	D+B+I Costs	((D+I) * 4) / 3
		0.33	0.37			
Average FTE w/ Management	\$ 56,160.00	\$ 18,532.80	\$ 20,779.20	\$ 76,939.20	\$ 95,472.00	\$ 102,585.60
Average FTE w/o Management	\$ 45,760.00	\$ 15,100.80	\$ 16,931.20	\$ 62,691.20	\$ 77,792.00	\$ 83,588.27
Program Calculations	# Managers	# Staff		Direct+Indirect	Total TFE Cost	Administration Cost
Assumed 404 Program	1	29.7		\$ 1,938,867.84	\$ 2,405,894.40	\$ 2,585,157.12

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**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

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**Personal Services:**

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2022-23</u>	<u>2023-24</u>
	<u>22-23</u>	<u>23-24</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Section Supervisor	1	1	\$56,160	\$56,160
Environmental Specialist II	5	10	\$228,800	\$457,600
Benefits.....			\$94,037	\$169,541
Operating.....			\$131,435	\$235,091
Travel.....			\$10,095	\$20,076
Capital outlay.....				\$15,000
Aid.....				
Capital improvements.....			\$200,000	
TOTAL.....			\$720,527	\$953,468