

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

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)</b>				
	<b>FY 2022-23</b>		<b>FY 2023-24</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS				(\$515,000)
CASH FUNDS	See below	See below	See below	See below
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	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.**

LB979 would create the Remanufacturing Pilot Project Act.

The act would create a tax credit for each ton of municipal solid waste recycled or composted each tax year in excess of the amount recycled or composted during the base year, or disposed of in a solid waste disposal area during the base year. The per-ton credit would be based upon the per-ton tipping fee averaged across the state.

NDEE would be authorized to carry out the following: 1) Determine the average annual statewide tipping fee; 2) accept applications for the program; 3) determine base year tonnage and amounts; 4) authorize tax credits within program limits; and 5) certify to the Department of Revenue the amount of tentative tax credits reserved for the applicant.

LB979 would establish the Recovered Resource Income Tax Credit Fund. Income tax credits would be allocated based upon the amount available in the fund. The Tax Commissioner would annually certify the amount of tax credits used and funds would be transferred from the Recovered Resource Income Tax Credit Fund to the General Fund. LB979 provides that 10% of the funds available in the Waste Reduction and Recycling Cash Fund and 10% of the funds available in the Litter Reduction and Recycling Incentive Fund would be used to provide funding for income tax credits. Assuming that the intent of LB979 is to transfer 10% of the fee collection in each fund to the Recovered Resource Income Tax Credit Fund, approximately \$534,000 would be available annually for the tax credit program.

The Department of Environment and Energy estimates that 1 FTE and associated operating costs totaling \$86,876 Cash Funds would be required in FY22-23 to establish the program and conduct research to develop base year data. NDEE estimates that .50 FTE and associated operating costs totaling \$40,939 Cash Funds would be required to operate the program on an annual basis for the remainder of the program. Administrative costs would be paid from the Waste Reduction and Recycling Incentive Fund. There would be fewer grants funded from the Litter Reduction and Recycling Incentive Fund and the Waste Reduction and Recycling Cash Fund as a result of the 10% set-aside for income tax credits under LB979 and related administrative expenses. There would be no overall increase or decrease in expenditures in NDEE, because existing program would be reallocated to LB979.

No basis to disagree with the Department of Revenue's estimates.

The act would sunset on January 1, 2027.

<b>ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY &amp; POLT. SUB. RESPONSE</b>		
LB: 979	AM:	AGENCY/POLT. SUB: Department of Environment & Energy
REVIEWED BY: Neil Sullivan	DATE: 2/28/2022	PHONE: (402) 471-4179
COMMENTS: No basis to disagree with the Department of Environment & Energy assessment of fiscal impact from LB 979.		

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

LB: 979                      AM:                      AGENCY/POLT. SUB: Department of Revenue

REVIEWED BY: Neil Sullivan                      DATE: 3/1/2022                      PHONE: (402) 471-4179

COMMENTS: No basis to disagree with the Department of Revenue assessment of fiscal impact from LB 979.

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

**2022**

**LB<sup>(1)</sup> 979**

**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

	<u>FY 2022-23</u>		<u>FY 2023-24</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	\$86,876	_____	\$40,939	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	<u>\$86,876</u>	_____	<u>\$40,939</u>	_____

**Explanation of Estimate:**

The DEE estimates it will take 1.0 FTE the first year, and 0.5 FTE the remaining years until December 31, 2027 to implement the program described in this proposal. The FTE and other administrative expenses will be funded from the Waste Reduction and Recycling Incentive Fund.

Section 3 of LB979 requires the DEE to annually determine a statewide average tipping fee for solid waste disposed. DEE assumes it would need to collect information on the total tonnage and fees for solid waste disposed of in the state in the prior calendar year at each of its permitted disposal areas.

Section 4 of LB979 requires the DEE to determine a base-year tonnage amount, set the tax-year tonnage amount, determine the tentative tax credit, and authorize a tax credit to applicants. Performance of these activities will require the DEE to review records to verify the validity of each the tax credits claimed by each of the applicants. Some level of on-site auditing or inspection may be necessary for larger applications.

Section 14 of LB979 allocates ten percent of the funds in the Nebraska Litter Reduction and Recycling Fund on an annual basis for use to fund the tax credit provided for in the proposal. For purposes of this fiscal note, the DEE assumes that the intent is that ten percent of the fee revenue deposited in the fund during one fiscal year would be allocated to fund the tax credit. Based on fee revenue from July 1, 2020 to June 30, 2021 the DEE estimates approximately \$253,900 annually would be available from this fund for the tax credit.

Section 18 of LB979 allocates ten percent of the funds in the Waste Reduction and Recycling Incentive Fund on an annual basis for use to fund the tax credit provided for in the proposal. For purposes of this fiscal note the DEE assumes that the intent is that ten percent of the fee revenue deposited in the fund during one fiscal year would be allocated to fund the tax credit. Based on fee revenue from July 1, 2020 to June 30, 2021 the DEE estimates approximately \$404,700 annually would be available from this fund for the tax credit.

It is not clear how funds are transferred from either the Nebraska Litter Reduction and Recycling Fund or the Waste Reduction and Recycling Incentive Fund to the Recovered Resource Income Tax Credit Fund established by LB979.

Any funding used for tax credits will reduce the amount available annually for grants from the Waste Reduction and Recycling Program and the Litter Reduction and Recycling Program.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**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>
Environmental Specialist II	1.0	0.5	\$47,830	\$23,915
Benefits.....			\$14,349	\$7,175
Operating.....			17,697	\$8,849
Travel.....			2,000	1,000
Capital outlay.....			5,000	
Aid.....				
Capital improvements.....				
TOTAL.....			\$86,876	\$40,939

**State Agency Estimate**

State Agency Name: Department of Revenue		Date Due LFO:	
Approved by: Tony Fulton		Phone: 471-5896	
Date Prepared: 2/28/2022			

	<u>FY 2022-2023</u>		<u>FY 2023-2024</u>		<u>FY 2024-2025</u>	
	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>
General Funds		\$ 0		(\$ 515,000)		(\$ 67,000)
Cash Funds		\$ 0		\$ 0		\$ 0
Federal Funds						
Other Funds						
Total Funds		\$ 0		(\$515,000)		(\$ 67,000)

LB 979 creates the Remanufacturing Pilot Project Act (Act). For taxable years beginning on or after January 1, 2023 and before January 1, 2026, the Act will provide a refundable recovered resource income tax credit (credit) to taxpayers up to a maximum of \$25,000. Taxpayers must apply for the credit with the Department of Environment and Energy (DEE) at any time on or after the taxable year for which the credit will be claimed. No tax credit is allowed unless an application is filed and approved. The Act will end on December 31, 2027.

Taxpayers earn the credits under the Act based on each ton of municipal solid waste recycled or composted in Nebraska during the taxable year by the taxpayer in excess of the amount of the same type of municipal solid waste that is: (a) recycled or composed in Nebraska during the base year by the taxpayer; or (b) disposed of in a solid waste disposal area in Nebraska during the base year by the taxpayer. No credit is allowed if the applicant fails to meet or exceed the tax-year tonnage amount established during the application process.

A credit allowable to partnerships; LLCs; subchapter S corporations; a cooperative, including cooperatives exempt under IRC § 521; a limited cooperative association; or an estate or trust may be distributed to partners, members, shareholders, patrons, or beneficiaries in the same manner as income is distributed for use against income tax liabilities. This credit is allowable to individuals under Neb. Rev. Stat. § 77-2715.07, estates or trusts under § 77-2717; and corporate taxpayers under § 77-2734.03.

The base year is the calendar year immediately preceding the year during which an application for tax credit was submitted to DEE. The municipal solid waste recycled or composted must be generated by the taxpayer. The per-ton credit equals the statewide average tipping fee, which is the average fee charged per ton for disposal of waste at a municipal solid waste disposal area in Nebraska in the most recently completed calendar year as determined by DEE.

The Act also provides the following definitions: (a) Recycle means separating, cleaning, treating and reconstituting waste or other discarded materials for the purpose of recovering and reusing the resources contained therein. (b) Municipal solid waste means household waste or the combination of household waste with industrial

**Major Objects of Expenditure**

<u>Class Code</u>	<u>Classification Title</u>	<u>22-23 FTE</u>	<u>23-24 FTE</u>	<u>24-25 FTE</u>	<u>22-23 Expenditures</u>	<u>23-24 Expenditures</u>	<u>24-25 Expenditures</u>
	Benefits.....						
	Operating Costs.....						
	Travel.....						
	Capital Outlay.....						
	Capital Improvements.....						
	<b>Total</b> .....						

and commercial solid waste. It does not include construction and demolition waste. (c) Construction and demolition waste means waste which results from construction projects or from land clearing and the demolition of buildings, roads, or other structures, including, but not limited to, fill materials; wood, including painted and treated wood; land clearing debris other than yard waste; wall coverings, including wallpaper, paneling, and tile; drywall, plaster, non-asbestos insulation; roofing shingles and other roof coverings; plumbing fixtures; glass; plastic; carpeting; electrical wiring; pipe; and metals. (d) Construction and demolition waste does not include friable asbestos waste, special waste, liquid waste, hazardous waste, and waste that contains polychlorinated biphenyl, putrescible waste, household waste, industrial solid waste, corrugated cardboard, appliances, tires, drums, and fuel tanks.

Applications are considered by DEE in the order received, except applications that include partnerships between the taxpayer and a nonprofit organization, school district, community college area, village, city, county, or natural resources district receive priority. If the application meets the requirements of the Act, DEE must approve the application, determine the base-year tonnage amount, set the tax-year tonnage amount used to determine the tentative tax credit, authorize a tentative tax credit to the application within the limits set by the Act, and certify to the applicant and DOR the amount of tentative tax credit reserved for the applicant. Taxpayers who applied for tax credits under the Act are ineligible to receive funds under the Waste Reduction and Recycling Fee Act and the Nebraska Litter Reduction and Recycling Act for the year in which the credit application is approved.

The bill creates the Recovered Resource Income Tax Credit Fund (Fund). DEE may approve applications under the Act up to the amount available in the Fund for the calendar year. An application for a taxable year other than a calendar year must be applied against the limit for the calendar year during which the taxable year of the applicant ends. No further applications can be approved once the approved applications for credits totals the available amount in the Fund. Credits must be prorated among the approved applications filed on the day the limit is exceeded.

Before January 1, 2027, the State Treasurer will credit to the Fund about 10% of the balance of the litter fee under Neb. Rev. Stat. § 81-1561, tire fee under Neb. Rev. Stat. § 81-15,162, and the Waste Reduction and Recycling fee under § 81-15,163. The remaining 90% of (1) the litter fee will be credited to the Nebraska Litter Reduction and Recycling Fund; (2) the tire fee will be credited to the Waste Reduction and Recycling Incentive Fund; and (3) the Waste Reduction and Recycling fee to the Waste Reduction and Recycling Incentive Fund. On and after January 1, 2027, the Act provides that 100% of above fees will be credited to the corresponding funds. The remitted tire fee that is credited to the Waste Reduction and Recycling Incentive Fund in excess of \$1.5 million are available for grants to political subdivisions.

The Fund will reimburse the General Fund for the credits under the Act; for costs in administering the Act; and for one-time expenses relating to the Act. The Tax Commissioner must certify the amount of credits used each year. Within 10 days after certification, the State Treasurer must transfer the certified amount from the Fund to the General Fund. Any funds reserved for tentative credits not claimed must be returned to the original fund source in the same proportion as originally remitted to the Fund. The Director of Environment and Energy may accept grants, contributions, or other funds from any private, federal, state, or public source for use as permitted by the Act and to be credited to the Fund.

The bill extends the Nebraska Litter Reduction and Recycling Act five years, to end on September 30, 2030. The bill amends Neb. Rev. Stat. § 81-1558 to provide that the Nebraska Litter Reduction and Recycling Fund includes the proceeds of the fees imposed under §§ 81-1559 to 81-1560.02 pursuant to 81-1561.

DOR and the Environmental Quality Council may adopt and promulgate rules and regulations to carry out the Remanufacturing Pilot Act, including such that permit verification of the validity of any claimed under the Act.

LB 979 is estimated to have the following fiscal impacts:

Fiscal Year	General Fund Revenues	Recovered Resource Income Tax Credit Fund	Nebraska Litter Reduction and Recycling Fund	Waste Reduction and Recycling Incentive Fund
FY2022-23	\$ -	\$ 286,000	\$ (133,000)	\$ (153,000)
FY2023-24	\$ (515,000)	\$ 578,000	\$ (268,000)	\$ (310,000)
FY2024-25	\$ (67,000)	\$ 589,000	\$ (273,000)	\$ (316,000)
FY2025-26	\$ (12,000)	\$ 601,000	\$ (276,000)	\$ (325,000)
FY2025-26	\$ (12,000)	\$ 304,000	\$ (141,000)	\$ (163,000)
FY2025-26	\$ 606,000	\$ -	\$ -	\$ -

It is estimated that there will be minimal cost to the DOR to implement LB 989.