PREPARED BY: DATE PREPARED: PHONE: Keisha Patent February 23, 2022 402-471-0059

**LB 944** 

Revision: 00

## **FISCAL NOTE**

LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT - STATE AGENCIES (See narrative for political subdivision estimates)								
	FY 202	22-23	FY 2023-24					
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE				
GENERAL FUNDS	See below	See below		See below				
CASH FUNDS		See below		See below				
FEDERAL FUNDS								
OTHER FUNDS								
TOTAL FUNDS	See below	See below		See below				

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

LB 944 amends provisions related to sales tax.

Under LB 944, beginning on July 1, 2023, the sales tax rate levied on the furnishing of electrical services is to be separate from the tax rate on all other transactions, which remains at 5.5%.

The sales tax rate on furnishing electrical services is to be determined by a statewide carbon intensity factor. Carbon intensity factor has the same definition as The Climate Registry's Electric Power Sector Protocol as of January 1, 2022, and statewide carbon intensity factor is the average factor of all providers in the state.

Beginning 2023 and each year after, each provider of electrical services is to calculate and submit their own carbon intensity factor to the Department of Revenue. The Tax Commissioner will then calculate the statewide carbon intensity factor.

The sales tax rate for 2023 will be set at 5.5%. For each year after, the Tax Commissioner shall reassess the statewide carbon intensity factor and compare it to the 2023 factor. The rate will then be set based on the current statewide carbon intensity factor as a percentage of the 2023 factor, as follows:

- Between 80 and 100 percent: 4.5%
- Between 60 and 80 percent: 3.5%
- Between 40 and 60 percent: 2.5%
- Between 20 and 40 percent: 1.5%
- Less than 0 percent: 0%

The bill is operative July 1, 2023.

The Department of Revenue estimates the bill to have a negative, undeterminable impact on General Fund revenue. A portion of the state sales tax is also credited to the State Highway Capital Improvement Fund and the Highway Allocation Fund, pursuant to the Build Nebraska Act, so there will also be a negative, undeterminable impact on Cash Fund revenue and revenue allocated to cities and counties.

The department estimates a one-time cost of \$103,766 to OCIO for programming.

There is no basis to disagree with these estimates.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE						
LB: 944 AM: AGENCY/POLT. SUB: Department of Revenue						
REVIEWED BY: Neil Sullivan DATE: 2/22/2022 PHONE: (402) 471-4179						
COMMENTS: No basis to disagree with the Department of Revenue assessment of implementation impact and indeterminate revenue impact from LB 944.						

LB 944 Fiscal Note 2022

State Agency Estimate								
State Agency Name: Department of	Revenue		Date Due LFO:					
Approved by: Tony Fulton	Date Prepared:	2/22/2022	/22/2022 Phone: 471-5896					
	FY 2022-	FY 2022-2023		3-2024	FY 2024-2025			
	Expenditures	Revenue	Expenditures	Revenue	Expenditures	Revenue		
General Funds	\$103,766	see below		see below		see below		
Cash Funds								
Federal Funds								
Other Funds								
Total Funds	\$103,766	see below		see below		see below		

LB 944 amends § 77-2701.02 to change the sales tax rate imposed on the furnishing of electricity service. Beginning July 1, 2023, the sales tax rate levied on the furnishing of electricity service will be based on the statewide carbon intensity factor. The Tax Commissioner will annually determine the statewide carbon intensity factor and set the sales tax rate.

At least 30 days prior to July 1, 2023, and at least 30 days prior to July 1 of each year thereafter, each provider of electricity service will determine its carbon intensity factor and will submit the factor to the Tax Commissioner in a form and manner prescribed by the Tax Commissioner. Upon receiving the carbon intensity factor from each provider of electricity service, the Tax Commissioner will calculate the statewide carbon intensity factor.

The Tax Commissioner will use the statewide carbon intensity factor calculated to set the sales tax rate that will apply beginning on the immediately following July 1 and will notify each provider of electricity service of the rate. After the initial calculation of the statewide carbon intensity factor in 2023, the Tax Commissioner will set the sales tax rate at 5.5%, and such rate will apply beginning on July 1, 2023. Each year thereafter, the Tax Commissioner will set the sales tax rate based on how the current statewide carbon intensity factor compares to the statewide carbon intensity factor determined in 2023 as follows:

- If the current statewide carbon intensity factor is equal to or greater than the statewide carbon intensity factor determined in 2023, the sales tax rate will be 5.5%.
- If the current statewide carbon intensity factor is at least 80% but less than 100% of the statewide carbon intensity factor determined in 2023, the sales tax rate will be 4.5%.
- If the current statewide carbon intensity factor is at least 60% but less than 80% of the statewide carbon intensity factor determined in 2023, the sales tax rate will be 3.5%.

Major Objects of Expenditure								
Class Code	Classification Title	22-23 <u>FTE</u>	23-24 <u>FTE</u>	24-25 <u>FTE</u>	22-23 Expenditures	23-24 Expenditures	24-25 Expenditures	
D 6								
					\$103,766			
Capital Outlay								
Total								

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• If the current statewide carbon intensity factor is at least 40% but less than 60% of the statewide carbon intensity factor determined in 2023, the sales tax rate will be 2.5%.

- If the current statewide carbon intensity factor is at least 20% but less than 40% of the statewide carbon intensity factor determined in 2023, the sales tax rate will be 1.5%.
- If the current statewide carbon intensity factor is less than 20% of the statewide carbon intensity factor determined in 2023, the furnishing of electricity service will be exempt from sales tax.

LB 944 will have an undeterminable, negative effect on General Fund revenues.

The bill will require a one-time programming charge of \$103,766 paid to the OCIO for mainframe programming Costs, adding a second tax rate, forms changes, and changes to NebFile.

The operative date for this bill is July 1, 2023.

<b>LB</b> (1)	944							FISCAL NOTE			
State Ag	gency OR	Political S	ubdivision Name:	Nebr	Nebraska Department of Transportation						
Prepare	ed by: (3)	Jeness	sa Boynton	Da	te Prepared: <sup>(4)</sup>	2/22/2022	Phone:	(5) 402-479-4691			
		<u> </u>	ESTIMATE PRO	OVIDED B	Y STATE AGEN	NCY OR POLI	TICAL SUBDIV	/ISION			
<u>FY</u> <u>EXPENDITURES</u>				FY 2022-2; RES	<u>3</u> REVENUE	EXPEN	<u>FY 20</u> IDITURES	<u>23-24</u> REVENUE			
GENEI	RAL FUN	DS									
CASH I	FUNDS										
FEDER	AL FUN	DS									
OTHE	R FUNDS	8									
TOTAL	L FUNDS	<b>S</b>		_							
the fur 2023, to determ would baselin date is Accord is direct	nishing of the rate of nined by establish ne a slidi July 1, 2 ling to the ted to S	of electricon the futhe Deporate base ng scale 2023.  The Departate High the Electric Plant 1 and 1 an	city service that irnishing of elect artment of Reveline and in follow tower sales take treat of Revental Ir Build Nebrask	in the five ctricity servenue (DO owing year ax rate will nue, the barprovement a Act.	and one-half prvice would be R) annually as if the current be imposed or ill will have no	ercent rate c based on the outlined in the statewide can furnishing of impact on the OOT and the I	urrently in place "statewide cane bill. Based ourbon intensity of electricity set one quarter of Highway Alloca	ate to be imposed on ce. Effective July 1, urbon intensity factor" on 2023 data, DOR factor is less than the rvice. The operative of 1% of sales tax that ation Fund for cities			
Persona	al Service	es:	<u> </u>								
	POSIT	TION TIT	LE	22-23	OF POSITION  23-24		022-23 NDITURES	2023-24 EXPENDITURES			
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