PREPARED BY: DATE PREPARED: PHONE: Jeanne Glenn January 28, 2020 402-471-0056

LB 905

Revision: 00

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT - STATE AGENCIES (See narrative for political subdivision estimates)								
	FY 202	0-21	FY 2021-22					
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE				
GENERAL FUNDS	\$347,086 to \$534,500	\$3,800,000 to \$5,100,000	See below	See below				
CASH FUNDS	\$1,200,000 to \$1,900,000	\$1,200,000 to \$1,900,000	See below	See below				
FEDERAL FUNDS								
OTHER FUNDS								
TOTAL FUNDS	\$1,547,086 to \$2,434,500	\$5,000,000 to \$7,000,000	See below	See below				

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

LB 905 would establish a 5 cent fee to be assessed upon single-use plastic checkout bags, beginning January 1, 2021. The fee would be assessed by the retailer at the time of purchase, based upon the number of checkout bags provided to the customer. Each store would be required to report fees collected and remit the fees at the same time as sales tax assessments. The 5 cent assessment would be divided as follows: 1) One cent retained by the retailer; 2) three cents to the General Fund; and 3) one cent to the Plastic Bag Reduction Fund. The fiscal impact of LB 905 is shown below:

<u>Plastic bag fee revenue</u>: The FY20-21 revenue would be based upon a January 1, 2021 effective date. Based upon the estimates of the Department of Revenue and the Department of Environment and Energy, total state revenue could range from \$5,000,000 to \$7,000,000 in FY20-21. Of that amount, \$1,200,000 to \$1,900,000 would be deposited in the Plastic Bag Reduction Fund in the Department of Environment and Energy. The remaining amount would be deposited in the General Fund, and is estimated to range from \$3,800,000 to \$5,100,000.

The actual amount of funding received in FY20-21 and in subsequent years will be based upon how rapidly consumers opt to not use single-use plastic checkout bags. It is estimated that revenue could drop significantly within one to two years. The state of Connecticut established a single-use plastic bag fee in 2019 that was initially expected to result in over \$20,000,000 in revenue, and but after the implementation of the fee, projected fee revenue has dropped to \$7,000,000. The reduced revenue is believed to be a result of a change in consumer use of one-use plastic bags, resulting in some retailers ceasing to offer plastic bags as a packing option.

<u>Department of Revenue collection expenses</u>: The Department of Revenue notes that it will incur one-time programming expenses to set up a tracking system for the new fee category, and would hire temporary staff and a half-time position to process the returns. This portion of the agency's estimate would total approximately \$225,300. The agency also notes that it would add two Revenue Agents to assist with and enforce collection of the fee. This cost would total \$109,200, resulting in a total cost of \$334,500 in FY20-21. FY 21-22 costs would drop to \$121,700 to fund the 2 FTE Revenue Agent positions.

There is no basis to disagree with the agency estimate for programming costs and temporary and part-time staff in FY20-21. It is not clear if the addition of 2 FTE Revenue Agents would be required in future years if the amount of the fee collected drops rapidly. Costs would come from the General Fund.

Plastic Bag Reduction Fund expenses and DEE administrative costs: The Department of Environment and Energy would administer the Plastic Bag Reduction Fund and create a program to provide reusable checkout bags to the public. It is estimated that \$1,200,000 to \$1,900,000 would be spent for this purpose in FY20-21, with a potentially lower amount of revenue to distribute in FY21-22 and subsequent years. The agency estimates \$121,786 administrative costs in FY20-21 and approximately \$200,000 in costs in FY21-22 to hire 2 FTE to administer the program. Costs would come from the General Fund.

While the Department would incur expenses to establish the program and coordinate the printing and distribution of reusable checkout bags, it is not clear that 2 FTE would be required in both fiscal years, based upon the potential of rapidly declining revenue in the Plastic Bag Reduction Fund.

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

LB: 905 AM: AGENCY/POLT. SUB: Nebraska Department of Environment and Energy

REVIEWED BY: Claire Oglesby DATE: 1/28/20 PHONE: (402) 471-4174

COMMENTS: LB 905 establishes a new fee that will begin January 1, 2021. Retail stores will charge a fee of five cents for each single-use checkout bag provided to a customer.

Nebraska Department of Environment and Energy's fiscal note statement appears reasonable based on the assumptions provided.

LB ⁽¹⁾ 905				FISCAL NOTE
State Agency OR 1	Political Subdivision Name: (2)	Environment and I	Energy (084)	
Prepared by: (3)	Dennis Burling	Date Prepared: (4)	01/21/2020 Phone:	(5) 402-471-4214
	ESTIMATE PROV	IDED BY STATE AGEN	NCY OR POLITICAL SUBDIV	ISION
	<u>FY</u> EXPENDITURES	2020-21 REVENUE	<u>FY 20</u> EXPENDITURES	<u>21-22</u> REVENUE
GENERAL FUN				
CASH FUNDS		\$676,033	\$1,014,050	\$760,538
FEDERAL FUN	DS			
OTHER FUNDS				
TOTAL FUNDS	\$123,786	\$676,033	\$1,014,050	\$760,538

Explanation of Estimate:

Under LB 905, The Department of Environment and Energy is required to create a program to provide reusable checkout bags to the public, and may adopt rules and regulations to carry out provisions of this requirement. The bill allows the director to enter into agreements for the design, creation and distribution of the checkout bags. The department also administers the Plastic Bag Reduction Fund which is funded by one cent of a five cent fee stores charge to customers on certain single-use plastic bags at the point of sale.

The following represents the assumptions used for this fiscal note:

- According to US Census statistics there are 845,042 housing units in Nebraska.
- If 10 reusable bags were provided for each housing unit, 8,450,420 bags would need to be produced
- The estimated cost of a reusable bag with recycled content is \$0.74 retail
 - Using \$0.50 as a per bag cost estimate to produce and acquire bags in volume, it will cost \$4,225,210 to produce the number of reusable bags estimated above
- It is assumed the revenue projections for the Plastic Bag Reduction Fund are to be based on a declining revenue stream. The more reusable bags in use, the less single-use plastic bags will be used at retail stores, potentially ending with little to no revenue collected.
- It is estimated that each housing unit uses 10 single-use plastic bags per store visit each week
- LB 905 requires fee collection to begin on January 1, 2021.
 - Using the assumptions above, the revenue collected for the six months of FY2020-21 would be \$2,028,101. If the first receipt of revenue to the Plastic Bag Reduction Fund is in late February/early March, the estimated revenue available in FY2020-21 would be \$676,033.
 - By FY2021-22, single-use plastic bag consumption at retail stores may be down by as much as 75 percent. If only 25 percent of the initial estimate of single-use plastic bags are used, the revenue available would be \$760,538.

LB 905 provides no direction to the department regarding the process of distribution of the reusable bags to retail stores across the state.

• To estimate the costs for program operation and development, the department based its calculations on a percentage of the total cost to produce the reusable bags. Using a value of 20% of the production amount, \$845,042 is necessary to support the design, creation, shipping, handling, and storage of the bags.

- The department estimates will take two staff positions to develop and implement a program that distributes nearly 8.5 million reusable bags to retail stores across the state. The two positions would begin in January 2021 during the last six months of FY 2020-21.
- The first year program costs will require General Funds to support staffing and operation costs. Cash funds can be used as the Plastic Bag Reduction Fund grows.

Since expenditures greatly exceed the revenue to provide 10 bags per housing unit, the department is projecting the following expenditures based on beginning distribution of bags in FY22.

- Projected Use of Cash Funds to Support Program in FY22
 - Produce 1-2 reusable bags per housing unit or 1,444,130 bags at the cost of:
 - o \$722,065 to produce bags
 - o \$144,413 for operational expenses
 - o \$122,572 for two staff positions
 - o \$25,000 for travel

BREAKD	OWN BY MA.	JOR OBJECTS O	F EXPENDITURE		
Personal Services:					
	NUMBER OF	F POSITIONS	2020-21	2021-22	
POSITION TITLE	<u>20-21</u>	<u>21-22</u>	EXPENDITURES	EXPENDITURE	
Program Specialists	2	2	\$47,143	\$94,286	
Benefits			\$14,143	\$28,286	
Operating	••		\$50,000	\$866,478	
Travel			\$12,500	\$25,000	
Capital outlay					
Aid	. .				
Capital improvements					
TOTAL			\$123.786	\$1.014.050	

LB 905 Fiscal Note 2020

		State Agen	cy Estimate				
State Agency Name: Department		Date Due LFA:					
Approved by: Tony Fulton	Date Prepared:			Phone: 471-5896			
	FY 2020	FY 2020-2021		FY 2021-2022		FY 2022-2023	
	Expenditures	Revenue	Expenditures	Revenue	Expenditures	Revenue	
General Funds	\$334,500	\$3,680,000	\$121,700	\$7,120,000	\$124,600	\$5,370,000	
Cash Funds		\$1,230,000		\$2,370,000		\$1,790,000	
Federal Funds							
Other Funds							
Total Funds	\$334,500	\$4,910,000	\$121,700	\$9,490,000	\$124,600	\$7,160,000	

LB 905 requires retailers to charge a fee of five cents for each single-use checkout bag provided to a customer at the point of sale. Fees collected under this provision will be excluded from gross receipts for sales tax purposes. Each retailer must report and remit fees collected under this provision to the Tax Commissioner at the same time and in the same manner as required under \$77-2708. Each retailer will deduct and withhold one cent of each fee remitted as reimbursement for the cost of collecting the fee. Any fees due and unpaid will be subject to penalties and interest pursuant to \$77-2701.04.

LB 905 establishes the Plastic Bag Reduction Fund to be administered by the Department of Environment and Energy (DEE). The State Treasurer will credit three cents of each fee to the General Fund and one cent of the fee to the Plastic Bag Reduction Fund. The DEE will use the Fund to create and provide reusable bags to the public.

The initial estimate is based on national data collected by the Center for Biological Diversity. However it is assumed that consumer behavior will change over time because of the fees on plastic bags. As a result, the Department assumes that receipts from the fees will decline sharply in future years. It is estimated that LB 905 will increase General Fund revenues and Plastic Bag Reduction Fund as follows:

Fiscal Year	G	eneral Fund	Plastic	Bag Reduction Fund	Total
FY2020-2021	\$	3,680,000	\$	1,230,000	\$ 4,910,000
FY2021-2022	\$	7,120,000	\$	2,370,000	\$ 9,490,000
FY2022-2023	\$	5,370,000	\$	1,790,000	\$ 7,160,000
FY2023-2024	\$	3,600,000	\$	1,200,000	\$ 4,800,000

LB 905 will require a one-time programming charge of \$162,900 for OCIO web and mainframe development costs as well as contracting OCIO staff to add this tax as a new tax category in GPS. In addition, DOR will also require 4 SOS staff for three months, 0.5 FTE ROA II to process the returns, and 2.0 FTE Revenue Agents to assist with collection of fees and penalties for the noncompliance with this bill.

The operative date for this bill is January 1, 2021.

Major Objects of Expenditure							
		20-21	21-22	22-23	20-21	21-22	22-23
Class Code	Classification Title	FTE	FTE	FTE	Expenditures	Expenditures	Expenditures
X29222	Revenue Agent	2.0	2.0	2.0	\$76,500	\$75,300	\$77,100
R29112	Revenue Operations Clerk II	0.5	0.5	0.5	\$16,500	\$16,200	\$16,600
Benefits	Benefits		\$30,700	\$30,200	\$30,900		
Operating Costs				\$200,800	\$0	\$0	
Travel							
Capital Outlay					\$10,000	\$0	\$0
Capital Improvem	ents						
Total					\$334,500	\$121,700	\$124,600