

Revised due to revised fiscal note from Department of Revenue

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

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES *</b>				
	<b>FY 2010-11</b>		<b>FY 2011-12</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS		(\$ 3,669,180)		(\$ 6,342,565)
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>		(\$ 3,669,180)		(\$ 6,342,565)

\*Does not include any impact on political subdivisions. See narrative for political subdivision estimates.

LB 952, as amended by AM 1945, amends the Nebraska Revenue Act of 1967, Nebraska Revised Statutes Sections 77-2101, 77-2701.04, and 77-2701.16. The bill has an operative date of October 1, 2010.

Proposed:

Section 77-2701.16 is amended to change the definition of gross receipts for utility charges by stating that gross receipts does not include the gross income received by a public utility for water or natural gas infrastructure replacement. The change in definition also requires that such charges are to be stated separately on billings or statements rendered to customers.

Also excluded from gross receipts is the gross income received by a city or public utility for the dedicated purpose of sewer programs dedicated to remedy combined sewer overflow. Those charges are also to be stated separately on billings or statements rendered to customers.

Finally, the bill defines infrastructure replacement to mean the replacement of obsolete or deteriorated piping by new piping pursuant to a planned program of replacement and not for the sole purpose of piping repair.

Fiscal Impact:

AM 1945 clarifies the definition of infrastructure replacement for water and natural gas projects. As amended, the sales tax exclusion is limited to the actual costs of water and gas pipe replacement. The Department of Revenue, using water infrastructure figures based on an American Water Works Association estimate that each household will pay \$6,300 in water infrastructure replacement fees over a 30 year period to replace aging water mains, and census information indicating that 70 percent of Nebraska households are located in municipalities served by public water systems estimates the following fiscal impact to the General Fund:

	<u>Sewer Overflow:</u>	<u>Gas &amp; Water Infrastructure:</u>	<u>Total:</u>
FY10-11:	(\$ 298,000)	(\$ 3,947,000)	(\$ 4,245,000)
FY11-12:	(\$ 919,000)	(\$ 6,087,000)	(\$ 7,006,000)
FY12-13:	(\$ 1,680,000)	(\$ 6,853,000)	(\$ 8,533,000)

When the sewer overflow replacement fee is fully implemented in Omaha, the reduction to the General Fund due to the sales tax exemption provided in LB 952 is expected to reach \$5,074,000 by FY2016-17.

The Department estimates the cost to implement LB 952 is expected to be minimal.

The Legislative Fiscal Office continues to estimate the following fiscal impact to the General Fund:

	<u>Sewer Overflow:</u>	<u>Gas &amp; Water Infrastructure:</u>	<u>Total:</u>
FY10-11:	(\$ 397,880)	(\$ 3,271,300)	(\$ 3,669,180)
FY11-12:	(\$ 918,565)	(\$ 5,424,000)	(\$ 6,342,565)
FY12-13:	(\$ 1,680,000)	(\$ 5,453,700)	(\$ 7,133,700)
FY13-14:	(\$ 2,651,000)	(\$ 5,484,750)	(\$ 8,135,750)

The above figures from both the Department of Revenue and the Legislative Fiscal Office apply statewide. A key element to our estimate is the assumption that the definition of infrastructure replacement in the bill is narrowly constructed to mean only the actual cost of replacing the obsolete or deteriorated pipe and does not include other elements that might also be construed to mean infrastructure.

An example of the fee amounts for these types of charges was provided by the Metropolitan Utilities District which first instituted the infrastructure replacement charges in January 2, 2008 and, according to their annual report, received \$17,345,283 in revenue in 2008. The monthly gas infrastructure replacement charge for 2008 and 2009 was \$3.00 per customer. The monthly water infrastructure replacement charge for the same time period was \$2.00. We assume the total revenue collected from these charges for 2009 was approximate to the amount collected in 2008. In 2010 the monthly water infrastructure replacement charge was increased to \$3.00. The monthly charge for commercial customers is \$17 and \$23, water and gas respectively. The monthly charge for industrial customers is \$500 and \$300, water and gas respectively.

M.U.D. has indicated that the current infrastructure replacement fees will not change in the near future; however, the Omaha-area project for gas and water infrastructure replacement is estimated to cost approximately \$1 billion over a 30-year period. Given that estimate, M.U.D. will need to increase both the gas infrastructure replacement charge and the water infrastructure replacement charge to collect the revenue necessary to provide on-going funding for the project. State General Fund revenue would decrease due to the loss of sales tax revenue as would local revenue received from the local option sales tax.

The bill does apply statewide and there appears to be a number of projects where the proposed sales tax exemption would apply, and while no single project approaches the size and scope of the Omaha metropolitan area project, the number of projects makes for a substantial impact.

IMPACT TO POLITICAL SUBDIVISIONS:

The City of Omaha estimates the following loss of revenue as a result of LB 952:

FY10-11:	(\$ 258,565)
FY11-12:	(\$ 405,260)
FY12-13:	(\$ 617,647)

There would also be a loss of revenue to other political subdivisions utilizing the local option sales tax but that impact is indeterminate.