

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2025-26		FY 2026-27	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	\$239,738		\$250,744	
CASH FUNDS	\$67,922	\$1,301,000	\$70,868	\$3,901,000
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$307,660	\$1,301,000	\$321,642	\$3,901,000

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

LB607 would make the following amendments to the Integrated Solid Waste Management Act:

- Adds and amends definitions;
- Exempts manufacturing processes of manufacturing facilities from rules and regulations promulgated under 13-2034;
- Allows for grants made from the Waste Reduction and Recycling Incentive Fund to be awarded to private businesses;
- Amends the disposal fee from \$1.25 per six cubic yards of uncompacted waste and \$1.25 per three cubic yards of compacted waste to the following fee schedule:
 - o Beginning 1/1/2026, \$2.25;
 - o Beginning 1/1/2027, \$3.25; and
 - o Beginning 1/1/2028, \$4.25.
- Places responsibility for proper disposal of all post-use polymers or recovered feedstocks into manufacturing facilities. Recovered feedstocks stored on the premises of such manufacturing facilities are to be properly disposed of within 60 days of ceasing manufacturing operations; and
- Subjects manufacturing facilities to applicable rules and regulations under the Integrated Solid Waste Management Act.

NDEE estimates approximately \$1,300,000 in cash fund revenue in FY25-26 and \$3,900,000 in FY26-27 which is split evenly between the Integrated Solid Waste Management Cash Fund and the Waste Reduction and Recycling Fund. Agency estimates appear reasonable.

LB607 would create the Environment Stewardship of Batteries Act, which does the following:

- Declares findings of the Legislature;
- Sets definitions, unless the context otherwise requires, under the act;
- Sets administration within the Department of Environment and Energy (NDEE);
- Requires the following, starting January 1, 2027:
 - o Requires producers selling, making available for sale, or distributing covered batteries or battery-containing products in or into the state of Nebraska to participate in an approved Nebraska State battery stewardship plan through organization and participation in and appropriate funding of a battery stewardship organization (BSO);
 - o Restricts producers which do not participate from selling covered batteries or battery-containing products covered by the act;
- Requires the following, starting July 1, 2027 for portable batteries and July 1, 2029 for medium format batteries:
 - o Restricts retailers from selling, offering for sale, distributing, or otherwise making available for sale a covered battery or battery-containing product unless the producer of the covered battery or battery-containing product certifies to the retailer that the producer participates in a BSO whose plan has been approved by the department and lists exemptions;
 - o Requires BSOs to make available to retailers' certain information;
 - o Restricts retailers from charging a fee to consumers to cover the cost of administrative or operational costs relating to being in a BSO;
- Requires the following, starting July 1, 2026 or within six months of adoption and promulgation of rules and regulations (whichever is later):
 - o BSOs to submit a plan for covered portable batteries to NDEE;
 - o Within 24 months after the date of initial rules and regulations adoption/promulgation requires Battery Stewardship Organizations to submit a plan for covered medium format batteries for approval to NDEE;

- Requires NDEE to review and permits approval, lists conditions for approval;
- If required by NDEE, requires battery stewardship organizations to submit a new plan for approval, requires conditions for submitting plan amendments;
- Requires new plan submissions after five years from initial approval;
- Enumerates the requirements of battery stewardship plans;
- Requires BSOs to ensure adequate funding is available to implement approved battery stewardship plans, enumerates plan aspects;
- Places requirements of fee development and collection by BSOs among its members;
- Makes BSOs responsible for costs relating to covered battery collection, transportation, processing, education, administration, agency reimbursement, recycling, and end-of-life management;
- Requires reimbursement of local governments by BSOs, lists conditions and exceptions;
- Requires BSOs implementing a battery stewardship plan to provide for the collection of all covered batteries on a free, convenient, visible, and accessible basis and provides exceptions;
- Requires BSOs implementing a battery stewardship plan to ensure statewide collection opportunities for all covered batteries, defines minimums of statewide collection opportunities;
- Places requirements on BSOs for use of collection sites;
- If a local government opts to collect batteries, places requirements on the local government;
- Allows for BSOs to terminate a collection site that does not adhere to collection site criteria in an approved plan or poses an immediate health or safety concern;
- List exceptions to BSO battery collection requirements;
- Places requirements on BSOs for management of collected batteries;
- Requires BSOs to carry out promotional activities, enumerates requirements;
- Requires BSOs to submit annual reports to NDEE beginning 6/1/2028, lists report requirements, allows for confidentiality;
- Allows NDEE to promulgate rules and regulates and set a fee to cover the cost of administration of the act, sets duties of NDEE, and allows NDEE beginning 1/1/2032 to increase the minimum recycling efficiency rule;
- Allows BSOs implementing an approved plan to bring a civil action or actions, lists the types of civil actions;
- Allows NDEE to levy a civil penalty of \$1,000 per day per violation on violators of the act;
- Allows NDEE to levy a civil penalty of \$10,000 per day on persons engaging in repeated violations of the act;
 - Details the process and exemptions for imposing penalties;
- Creates the Responsible Battery Management Fund (RBMF) and describes the fund sources and use;
- Places restrictions on certain batteries being sold or distributed beginning January 1, 2028, adds new restrictions beginning January 1, 2030;
- Creates disposal requirements for certain batteries beginning July 1, 2027, expands the disposal requirements on July 1, 2029;
- Requires NDEE to complete an assessment of the opportunities and challenges associated with end-of-life battery management of batteries that are not covered batteries by July 1, 2027, details the assessment;
- Requires NDEE to submit a report to the Legislature containing the findings of the assessment;
- Grants BSOs immunity from state laws relating to antitrust, restraint of trade and commerce, for the limited purpose of planning, reporting, and operating a battery stewardship program; and
- Clarifies that nothing in the act is to restrict local collection of solid waste or recyclables.

NDEE estimates of General Funds for administration totaling \$119,869 in FY25-26 and \$125,387 in FY26-27 appears reasonable. We assume that in the out-years the legislation would be self-funded via fees as LB607 would establish.

LB607 would create the Extended Producer Responsibility Data Collection Act (EPRDCA). The act would do the following:

- Set definitions under the act;
- Sets administration within the NDEE;
- Beginning January 1, 2026, requires producers under the act to register with NDEE, describes registration;
- Requires annual reporting to NDEE beginning April 1, 2027, describes the report;
- Requires NDEE to post the information on its website, allows for confidentiality;
- Allows NDEE to promulgate rules and regulations under the act, allows for NDEE to conduct audits and investigations for compliance;
- Requires NDEE to publish an annual list of registered producers on their website;
- Beginning annually on January 31, 2026, requires NDEE to prepare a workload analysis for public comment that identifies the costs it expects to incur to administer and implement the act;
- Requires producers under the act to submit a fee of \$1,000 annually beginning April 1, 2026, allows NDEE to adjust the fee to cover costs. The fee remits to the Waste Reduction and Recycling Incentive Fund;
- Creates a process of producers out of compliance, allows NDEE to assess a penalty of up to \$1,000/day for a violation of the act and creates an appeals process;
 - Remits penalties to the State Treasurer for distribution under Article VII, Section 5, of the Nebraska Constitution;
- Amends the Waste Reduction and Recycling Incentive Fund to be used for the administration of this act.

No basis to disagree with the agency's estimate for administrative cost under this legislation, however we assume that Waste Reduction and Recycling Incentive Funds will be used. \$67,922 Cash funds in FY2025-26 and \$70,868 Cash funds in FY2026-27. No

basis to disagree with the Department of Environment and Energy's estimate for \$1,000 in Cash Fund revenues per fiscal year under this section.

LB607 would create the Minimum Recycled Content Act (MRCA), which would do the following:

- Set definitions under the act;
- Sets requirements and effective dates for the requirements for manufacturers of covered products to meet annual minimum postconsumer recycled content percentages on average for the total quantity of covered recycled content products, by weight, that are sold, offered for sale, or distributed in or into the state;
- Sets standards by which compliance will be determined under the act;
- Allows for waivers and sets the waiver process;
- Requires registry with NDEE within three years after the operative date of the act and annually thereafter with a payment of \$1,000 each year;
- Allows NDEE to modify the fee to cover costs of the act;
 - o Creates exemptions to the fee;
- Requires NDEE to establish a registration process on its website;
- Places requirements for the registration;
- Requires third party certification of the postconsumer recycled content of covered products under the act beginning January 1, 2028 and annually thereafter;
- Allows NDEE to make adjustments to the postconsumer recycled content requirements of the act, states conditions under which such adjustments may be made;
- Beginning January 1, 2027, requires manufacturers to submit an annual report to NDEE and describes the report contents and availability, allows for confidentiality;
- Allows for NDEE to participate in a multistate clearinghouse to assist in carrying out the requirements of the act;
- Requires NDEE to assess a civil penalty on a per-pound basis for each pound of virgin material that is used by a manufacturer in its products where recycled material is required pursuant to the act, the penalty is set at \$.25/lb for the first year;
- Beginning January 1, 2029, allows for NDEE to develop a formula and methodology for calculating the per-pound penalty for each resin type that is, over the average of the previous six months, greater than the market price differential between postconsumer resin and virgin resin varieties according to one or more national price indices as selected by the NDEE;
- Remits penalties to the State Treasurer for distribution under Article VII, Section 5, of the Nebraska Constitution;
- Allows for a reduction in penalties, states conditions;
- Creates a process for notification for out of compliance, creates a civil penalty for each day of violation in an amount not to exceed one thousand dollars;
- For each pound of postconsumer resin purchased from a source in this state or in adjacent regions, as determined by NDEE, for use in manufacture of covered recycled content products with recycled plastic postconsumer material in compliance with the act, NDEE shall credit the certifying manufacturer with having used one and two-tenths pounds of consumer resin toward compliance with the requirements of the act; and
- Requires NDEE to promulgate rules and regulations under the act.

Sec. 48(1) creates an annual registration fee of \$1,000 under the act, states the act is to be used for registration, however the act does not create a cash fund for the fee to remit and have appropriations from. In absence of a cash fund, we assume the fee will be remitted to the General Fund. NDEE provides no estimate for revenue in the first two fiscal years, the Act provides for collection to occur three years after the date of the act.

No basis to disagree with the Department's estimates for administration under this act, \$119,869 in FY25-26 and \$125,387 in FY26-27. It is assumed that this legislation would be fee funded within three years of its operation.

NDEE estimates that Sec. 19-58 of LB607 will require .5 FTE IT business systems analyst which is reasonable.

LB607 Adds, amends, and strikes definitions under the Environmental Protection Act.

LB607 sets the operative date of the act to January 1, 2026.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 607	AM:	AGENCY/POLT. SUB: Department of Environment and Energy	
REVIEWED BY: Joe Massey		DATE: 1/30/2025	PHONE: (402) 471-4181
COMMENTS: Department of Environment and Energy assessment of fiscal impact from LB 607 appears reasonable using the assumptions provided.			

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2025

LB⁽¹⁾ 607

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Department of Environment and Energy

Prepared by: ⁽³⁾ Kevin Stoner Date Prepared: ⁽⁴⁾ January 29, 2025 Phone: ⁽⁵⁾ 402 471-2186

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2025-26</u>		<u>FY 2026-27</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	\$306,660		\$320,642	
CASH FUNDS	\$1,000	\$1,301,000	\$1,000	\$3,901,000
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$307,660	\$1,301,000	\$321,642	\$3,901,000

Explanation of Estimate:

LB607 has many different parts to the bill that are fiscally unrelated to each other. Below is a table outlining the sections that have fiscal impacts.

	FY25-26 Expenditures	FY25-26 Revenue	FY26-27 Expenditures	FY26-27 Revenue
Section 16		\$1,300,000		\$3,900,000
Sections 19-37	\$119,869		\$125,387	
Sections 38-41	\$67,922	\$1,000	\$70,868	\$1,000
Sections 42-58	\$119,869		\$125,387	

Section 16 changes the fee for disposal of solid waste to NDEE. The current fee of \$1.25 would increase to \$2.25 beginning January 1, 2026, increase to \$3.25 beginning January 1, 2027, and increase to \$4.25 beginning January 1, 2028. NDEE received approximately an average of \$3.25M each year for FY22-23 and FY 23-24. NDEE estimates that this will be an increase of approximately \$1.3M in FY26 and an increase of approximately \$3.9M in FY27. 50% of the fees go to Integrated Solid Waste Management Cash Fund and 50% goes to the Waste Reduction and Recycling Fund.

	FY25-26 Expenditures	FY25-26 Revenue	FY26-27 Expenditures	FY26-27 Revenue
Section 16		\$1,300,000		\$3,900,000

Sections 17 and 18 requires manufacturers to be responsible for proper disposal of all post-use polymers or recovered feedstocks according to applicable NDEE rules and regulations. NDEE does not believe there is a fiscal impact on these sections.

Sections 19-37 is the Environmental Stewardship of Batteries Act. This act is to encourage the recovery and reuse of materials, such as metals, that replace the output of mining and other extractive industries. Beginning July 1, 2027, for portable batteries and July 1, 2029 for medium format batteries, a retailer may not sell, offer for sale, distribute, or otherwise make available for sale a covered battery or battery-containing product unless the producer certifies participation in a battery stewardship organization whose plan has been approved by NDEE. By July 1, 2026, or within six months after the adoption of NDEE's promulgating rules and regulations, each battery stewardship organization shall submit a plan for covered portable batteries to NDEE for approval. Within 24 months after the adoption of rules and regulations, each battery stewardship organization shall submit a plan for covered medium format batteries to NDEE for approval. NDEE shall review and may approve a plan based on whether it contains many of the components listed in the act. If required by NDEE, a battery stewardship organization must submit, at a minimum but no less than every five years, a new plan for approval if they meet certain criteria. As part of a quarterly update, a battery stewardship organization shall

notify NDEE after a producer begins or ceases to participate in a battery stewardship organization. Each plan shall include performance goals that measure on an annual basis the achievements of the program. A battery stewardship organization must reimburse local governments for demonstrable costs as defined by the rules adopted by NDEE. During the first year of program implementation and every five years thereafter, each battery stewardship organization shall carry out a survey of public awareness regarding the requirements of the programs and share the results with NDEE. By June 1, 2028, and each June 1 thereafter, each battery stewardship organization shall submit an annual report to NDEE that includes several items outlined in the act. NDEE shall adopt and promulgate rules and regulations as necessary for the purpose of implementing, administering, and enforcing the Environmental Stewardship of Batteries Act. NDEE shall establish fees by rules and regulations, to be paid annually by a battery stewardship organization that are adequate to cover NDEE's full costs of implementing, administering, and enforcing the act. The act includes the responsibilities of NDEE some of which include reviewing and approving/denying stewardship plans and plan amendments, reviewing annual reports, maintaining a website making available to the public the plans and annual reports, provide technical assistance to producers and retailers, and every five years possibly increase minimum recycling efficiency through rules and regulations. NDEE may administratively impose a civil penalty on a person who violates the act up to \$1,000 per violation per day. NDEE may administratively impose a civil penalty of up to \$10,000 per violation per day on a person for repeated violations of the act. Any penalties collected shall be remitted to the State Treasurer. This act creates the Responsible Battery Management Fund that will consist of all receipts from fees paid under this act. Only the Director of NDEE or their designee may authorize expenditures from the fund. Money in the fund may be used solely by NDEE for administering, implementing, and enforcing the requirements of the act. Beginning January 1, 2028, a producer or retailer may only sell, distribute, or offer for sale in or into Nebraska a large format battery, covered battery, or battery-containing product that contains a battery that is easily removable from the product. NDEE may amend by rules and regulations the requirements of large format batteries to maintain consistency with the labeling requirements or voluntary standards. By July 1, 2027, NDEE must complete an assessment of the opportunities and challenges associated with the end-of-life management of batteries that are not covered batteries. NDEE must consult with interested stakeholders when completing the assessment. By October 1, 2027, NDEE must submit an electronic report to the Legislature containing the findings of the assessment. It is unknown to how many battery stewardship organizations there may be and as such how many plans/reports there may be to review. NDEE estimates it will take an additional one FTE to implement this act. There would also be some additional time needed for information technology staff. There is no funding with this act to develop the program, provide outreach, have stakeholder involvement, and promulgate rules and regulations. There may be some revenue in the FY27, but it would not be known until the rules and regulations were developed and adopted. Additional funding would be needed to accomplish these tasks.

	FY25-26 Expenditures	FY25-26 Revenue	FY26-27 Expenditures	FY26-27 Revenue
Sections 19-37	\$119,869		\$125,387	

Sections 38-41 is the Extended Producer Responsibility Data Collection Act. Beginning January 1, 2026, a producer that offers for sale, sells, or distributes covered products in Nebraska shall register with NDEE individually or through a third-party representative registering on behalf of a group of producers. Beginning April 1, 2027, each producer will submit an annual report as prescribed by and to NDEE. NDEE is required to post the information reported on their website. It states NDEE shall adopt and promulgate rules and regulations as necessary to administer, implement, and enforce the Extended Producer Responsibility Data Collection Act. NDEE may conduct audits and investigations to ensure compliance with the act. NDEE must annually publish a list of registered producers of covered products and associated brand names, compliance status, and other information the department deems appropriate on their website. By January 31, 2026, and every year thereafter, NDEE must prepare an annual workload analysis for public comment that identifies the annual costs it expects to incur to implement, administer, enforce, and carry out this act. By April 1, 2026, and every year thereafter, producers must submit a fee payment of \$1,000 to be deposited in the Waste Reduction and Recycling Incentive Fund and the NDEE may adjust this fee as needed to cover the costs. NDEE may assess a penalty not to exceed \$1,000 for each day for a violation of the act which would be remitted to the State Treasurer. It is unknown to how many producers there may be and as such how many reports there may be to review. NDEE estimates it will take an additional one-half FTE to implement this act. There is no funding with this act to prepare the first annual workload analysis or develop the program, provide outreach, have

stakeholder involvement, and promulgate rules and regulations. It is unknown how many producers there may be, so NDEE is estimating a revenue of \$1,000 each FY. There would also be some additional time needed for information technology staff. Additional funding would be needed to accomplish these tasks.

	FY25-26 Expenditures	FY25-26 Revenue	FY26-27 Expenditures	FY26-27 Revenue
Sections 38-41	\$67,922	\$1,000	\$70,868	\$1,000

Sections 42-58 of this act is the Minimum Recycled Content Act. This act requires manufacturers to comply with the postconsumer recycled content plastic by weight. A manufacturer may apply for a temporary waiver to NDEE for compliance from the requirements of this act. There are many things a manufacturer must demonstrate for the waiver and pay a waiver fee of \$1,000 to NDEE. NDEE may adjust this fee to reflect the costs to administer, monitor, and enforce the waivers. Beginning three years after the date of this act and annually thereafter, a manufacturer must register with NDEE and pay an annual registration fee of \$1,000 which can be adjusted to cover the costs to implement, administer, monitor, and enforce this act. NDEE must establish an electronic registration process on their website. Beginning January 1, 2028, and annually thereafter a producer shall include proof of third-party certification included in the registration to NDEE. NDEE may adjust any of the postconsumer recycled content requirements established in the act. In making the adjustment many items are outlined in the act of what should be considered. Beginning January 1, 2027, a manufacturer shall submit an annual report to NDEE that outlines several requirements in the act. This report must be posted on NDEE's website. NDEE may participate in the establishment and implementation of a multistate clearinghouse to assist in carrying out the requirements. NDEE may assess a penalty of twenty cents per pound of virgin material that is used by a manufacturer in its products where recycled material is required. After January 1, 2029, NDEE may develop a formula and methodology for calculating a per-pound penalty. All penalties collected shall be remitted to the State Treasurer. It is unknown to how many manufacturers there may be and as such how many plans/reports there may be to review. NDEE estimates it will take an additional one FTE to implement this act. There is no funding for the first two fiscal years of this act. In that time NDEE must develop an electronic registration process, review annual reports, and investigate/participate in the establishment of a multistate clearinghouse. There would also be some additional time needed for information technology staff. Additional funding would be needed to accomplish these tasks.

	FY25-26 Expenditures	FY25-26 Revenue	FY26-27 Expenditures	FY26-27 Revenue
Sections 42-58	\$119,869		\$125,387	

For Sections 19-58 an additional one-half FTE is needed in information technology.

Section 59 changes, clarifies, and expands definitions of the Environmental Protection Act. NDEE does not believe there is a fiscal impact with this section.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

POSITION TITLE	NUMBER OF POSITIONS		2025-26	2026-27
	25-26	26-27	EXPENDITURES	EXPENDITURES
Environmental Specialist III	2.5	2.5	\$151,320	\$158,886
IT Business Systems Analyst	.5	.5	\$27,514	\$28,889
Benefits.....			\$56,780	\$59,619
Operating.....			\$69,228	\$71,430
Travel.....			\$2,818	\$2,818
Capital outlay.....				
Aid.....				
Capital improvements.....				
TOTAL.....			\$307,660	\$321,642