

Updated to reflect all amendments adopted to date.

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2022-23		FY 2023-24	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS	\$3,280,311		\$3,166,759	
OTHER FUNDS				
TOTAL FUNDS	\$3,280,311		\$3,166,759	

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

LB 1144, as amended, changes provisions of statute related to discontinuance or abandonment of service by a telecommunications company that provides intrastate interexchange service or basic local exchange service.

Section 2 allows the Public Service Commission (PSC) to create and maintain an official Nebraska location fabric broadband access map. The PSC may contract with private parties to create, improve, and maintain the map. Any recipient of support from the Nebraska Telecommunications Universal Services Fund (NUSF), Nebraska Broadband Bridge Act, or federal broadband funding administered by the PSC, shall comply with the provisions of section 2. After the Federal Communications Commission completes the national Broadband Serviceable Location Fabric and accompanying National Broadband Availability Map, the PSC shall annually evaluate whether continued maintenance of any annually updated Nebraska location fabric broadband access map is necessary. Section 2 specifies that the PSC shall utilize funding provided by the federal Broadband Equity, Access, and Deployment Program authorized under the federal Infrastructure Investment and Jobs Act to carry out this section.

Section 4 allows for telecommunications carriers to petition the PSC if a railroad carrier does not respond to a completed crossing application within thirty days.

Section 6 amends section 86-1304 (under the Nebraska Broadband Bridge Act). Under that section, applicants shall provide matching funds equal to fifty percent of the total development costs, if the project is located outside a high-cost area. The match requirement is twenty-five percent if the project is located inside a high-cost area. Matching funds shall not apply to any portion of a grant comprised of federal funds.

Section 9 amends the Nebraska Broadband Bridge Act by requiring applicants and their successors to agree to offer broadband Internet service in the project area for fifteen years after receipt of grant funding. Additionally, applicants and successors shall commit to maintaining minimum speed capabilities of one hundred megabits per second for downloading and uploading in all locations for which support is received.

Section 10 adds new material to the Nebraska Broadband Bridge Act stipulating that nothing in the Act shall be construed to authorize the PSC to regulate Internet Services as prohibited by subdivision (1)(d) of section 86-124.

Sections 11 to 16 create the Precision Agriculture Infrastructure Grant Act.

Section 12 provides definitions.

Section 13 creates the Act and provides purposes of:

- Propelling Nebraska agricultural producers to lead the nation in precision agriculture connectivity, sustainability, traceability, and autonomy to accelerate rural economic development; and
- Provide high-speed Internet service to farm sites as defined in section 77-1359

The PSC shall administer the program and may utilize funds provided to the state through the federal Broadband Equity, Access, and Deployment Program, not to exceed two million dollars per year.

Section 14 allows providers, agricultural cooperatives, agronomists, or agricultural producers to apply to the PSC for grants under the program. Grants shall be awarded up to one-half of the available grant funds for the purposes described in subdivision (2)(a) and one-half for the purposes described in subdivisions (2)(b), (c), and (d) of the section.

As amended by AM2757 on Select File, any political subdivision of the state that allocates funds received under ARPA for eligible broadband infrastructure projects may coordinate with the PSC by mutual consent to administer such funds in a manner consistent with the Nebraska Broadband Bridge Act.

The Public Service Commission estimates the need for 3.0 additional FTE to administer the provisions of LB 1144 as amended. These FTE will address all new functions charged to the PSC under LB 1144. In addition, the PSC estimates the cost to contract with a third-party provider to address Broadband speed test requirements and assess quality of service issues to be \$600,000 in the first year and \$500,000 per year thereafter.

The PSC estimates the potential need for 3 FTE due to the added provisions of AM2757. In order to adequately address the coordination issues in this amendment, the PSC estimates the possible need for 1 attorney, 1 analyst and 1 auditor. These 3 positions add a total of \$324,875 to the prior fiscal year 2022-23 amount and \$316,738 to the prior fiscal year 2023-24 amount. There is no basis to disagree with this estimate.

There is no basis to disagree with the PSC's estimates.

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2022

LB⁽¹⁾ 1144, AM2107, AM2428, AM2757, ER161

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Nebraska Public Service Commission

Prepared by: ⁽³⁾ Laurie Casados Date Prepared: ⁽⁴⁾ 4/11/2022 Phone: ⁽⁵⁾ 402-471-0252

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2022-23		FY 2023-24	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	<u>3,280,311</u>	<u>3,280,311</u>	<u>3,166,759</u>	<u>3,166,759</u>
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	<u>3,280,311</u>	<u>3,280,311</u>	<u>3,166,759</u>	<u>3,166,759</u>

Explanation of Estimate:

This bill, as amended, 1) allows the Commission to create and maintain a location fabric broadband access map showing broadband availability and quality of service for all serviceable locations in Nebraska; 2) makes changes to the abandonment or discontinuation of service requirements for telecommunications carriers 3) allows telecommunications carriers to petition the Commission for an expedited wire crossing permit across railroad rights-of-way; 4) makes modifications to the Broadband Bridge Act; 5) creates the Precision Agriculture Infrastructure Grant Act to be administered by the Commission and 6) allows for the Commission to administer federal American Rescue Plan Act (ARPA) funds, by mutual consent, for any political subdivision of the state that receives ARPA funds for broadband infrastructure projects.

Section 1 of this bill, related to broadband mapping, provides the Commission with the option to contract with a third party to create, improve, and maintain the map. Carriers that receive support from the Nebraska Universal Service Fund, the Broadband Bridge Act grant program, are Eligible Telecommunications Carriers (ETCs), or that wish to participate in those programs as challenging parties or otherwise, as well as recipients of any federal grants administered by the Commission, are required to participate in the data collection process. To enact the mapping provisions of the bill, the Commission would contract with a third party, which would be entered into after issuing an RFP. Given the technical nature of what is required through this bill, we anticipate that a third-party contractor would be necessary. Some of the data elements required for this project already exist, such as an address point layer and statewide parcel data. However, one primary duty for the development of this map would be the collection of information from existing broadband providers. The third-party contractor would be analyzing collected data, connecting it to existing data sources, and designing user-friendly interfaces for the broadband access map. In addition, we interpret Section 1, subsection (1) of the bill to require speed test information to be collected in order to determine quality of service. An additional third-party contractor may be required for fulfilling any speed test requirements to assess quality of service. The costs of such a contract to fulfill both the mapping and testing requirements of this bill can only be estimated at this time. We estimate the cost of a third-party contract for the mapping and testing requirements to be \$600,000 the first year and \$500,000 for each year thereafter.

Section 2 of the bill provides for an updated process by which telecommunications companies can discontinue or abandon services in a local exchange area. The updated process would allow the

Commission to determine if a hearing is necessary upon receipt of an application for abandonment or discontinuation of service. The bill also sets in place criteria the Commission would use to determine if comparable services are available.

Section 3 of the bill makes modifications to the process of wire crossing agreements between railroad carriers and telecommunication carriers requesting to place a line, wire or cable across a railroad right-of-way by adding a process for requesting an expedited wire-crossing permit. It adds in an expedited approval process if an application by a telecommunications carrier is not acted on in good faith by the railroad carrier.

Sections 4 through 10 of the amended bill makes several modifications to the Broadband Bridge Act. It puts in place a lower match percentage requirement for grants awarded through the program if the project area of the application serves high-cost areas. It provides updated language regarding the rate comparability of the grant area and the carrier's offerings in their other territories. It also allows the Commission to require speed tests as part of a challenge to a grant application. Grant recipients would also be required to provide service for 15 years after receiving a grant, and adds some language to the requirements of a grant recipient.

Sections 11 through 16 create the Precision Agriculture Infrastructure Grant Act that provides up to two million dollars per year to be awarded for precision agriculture connectivity, on-farm traceability solutions that satisfy food supply stakeholder demand, products that improve soil health and water management, and products that use autonomous solutions in agricultural machinery. (*see technical note*). Section 11, as amended, also allows for the Commission to administer ARPA funds, in a manner consistent with the Nebraska Broadband Bridge Act, for any political subdivision of the state that receives ARPA funds for broadband infrastructure projects, and that decides to engage the Commission for that purpose.

To fulfill the requirements in Sections 1 and Sections 11 through 16, the Commission would require three additional staff. One full FTE for a staff analyst that would be responsible for managing the broadband mapping data requests, answering and responding to issues, providing technical expertise to broadband providers that need assistance, and working with the third-party contractor to make sure objectives are met. The staff analyst would also assist with the creation of an application and program management for the Precision Agriculture Infrastructure Grants. The Commission would require an additional FTE for an attorney, the responsibilities of which would include developing the RFP(s) for the broadband mapping and testing program, managing contractual obligations, managing the data collection cycles through the normal Commission docketing process, and overseeing the collection and dissemination of data, and monitoring federal mapping processes and developments. The additional staff attorney would also assist with the Commission docketing process for the Precision Agriculture Infrastructure Grants. The Commission would also require a full FTE for an administrative assistant to work with the director, analyst and attorney on administrative duties related to the management of the broadband mapping and testing program and the Precision Agriculture Infrastructure Grant Program. The Commission would also require additional administrative support for procurement and the processing of program aid payments.

To fulfill the requirements of Section 11 amended by AM2757, should the Commission be asked and consent to administer ARPA funds for another political subdivision the Commission estimates at this time that it would require three additional staff. One full FTE for a staff analyst that would be responsible for working with political subdivisions for administration of funding, including applications, award metrics and assisting the director and staff attorney with administering project awards. The Commission would require an additional FTE for an attorney that would assist with the Commission docketing process for the award of federal ARPA funds, and working with the political subdivision on legal requirements. The Commission may additionally require a staff auditor if any of the substantial

federal reporting requirements for ARPA monies falls to the Commission for these agreements, or at a minimum would be responsible for working with the political subdivisions on federal reporting requirements for awards of funding. Total estimated cost for possible administration of ARPA funding agreements would be \$324,875 for FY2022-2023 and \$316,738 for FY2023-2024, which includes PSL costs of \$194,400 for FY2022-2023 and \$198,288 for FY2023-2024.

Appropriate staffing to support the requirements for LB1144, as amended, will be required through at least 12/31/2027.

Technical Note: This fiscal note assumes that the grants laid out for the Precision Agriculture Infrastructure Grant will be considered an allowable use of BEAD funds. However, the specific allowable uses of this federal funding will not be published until May of 2022.

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>
Analyst	2	2	131,036	133,657
Attorney	2	2	135,200	137,904
Administrative Assistant	1	1	40,000	40,800
Auditor	1	1	61,282	62,507
Administrative Support Allocation	1	1	44,594	45,485
Benefits.....			205,610	206,926
Operating.....			662,589	539,480
Travel.....			0	0
Capital outlay.....			0	0
Aid.....			2,000,000	2,000,000
Capital improvements.....			0	0
TOTAL.....			3,280,311	3,166,759