

PREPARED BY: Nikki Swope
 DATE PREPARED: January 25, 2021
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LB 649

Revision: 00

FISCAL NOTE
 LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2021-22		FY 2022-23	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS	\$263,466		\$251,916	\$15,000
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$263,466		\$251,916	\$15,000

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

LB 649 would adopt the Nebraska Financial Innovation Act to create digital asset depository intuitions and to stipulate the Department of Banking as the designee for chartering, operating, supervising, and regulating of such institutions.

To fulfill the requirements as outlined by the bill, the Department of Banking requires additional resources. It is estimated that there will be a need for three FTE; an Attorney III, Examiner Specialist, and an Administrative Assistant II. The Department estimates receiving two charter applications per year. The bill does not authorize the director to set an application fee; therefore, the Department does not expect revenue from the applications.

The Department estimates these requirements will require an initial outlay of capital of \$11,550 in FY22 and personnel and other operational costs would be continual and are estimated to be \$251,916 in both FY 22 and FY23.

Once an application for a digital asset depository intuition is approved, the entity provides a fee to the Department of \$1.50 for each \$1000 of capital. The Department estimates charter fee revenue as \$15,000 (\$7500 x 2) for FY 22-23.

There is no basis to disagree with these estimates.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 649	AM:	AGENCY/POLT. SUB: Department of Banking & Finance
REVIEWED BY: Neil Sullivan	DATE: 2/1/2021	PHONE: (402) 471-4179
COMMENTS: The Department of Banking & Finance assessment of fiscal impact from LB 649 appears reasonable. Resulting unsustainability of the revenue stream may result in a future General Fund impact.		

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2021

LB⁽¹⁾ 649

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Department of Banking and Finance

Prepared by: ⁽³⁾ Margo Sawyer Date Prepared: ⁽⁴⁾ 1/28/21 Phone: ⁽⁵⁾ 402-471-4954

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2021-22</u>		<u>FY 2022-23</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	<u>263,466</u>	_____	<u>251,916</u>	<u>15,000</u>
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	<u>263,466</u>	_____	<u>251,916</u>	<u>15,000</u>

Explanation of Estimate:

LB 649 would adopt the Nebraska Financial Innovation Act to create digital asset depository institutions and provide for charter, operation, supervision, and regulation of such institutions. The Department of Banking and Finance (“Department”) is designated as the chartering and supervisory agency under the Act.

LB 649 would require the Department to:

- Establish licensing standards, registration standards, renewal procedures, change of control and merger procedures, and related forms, and adopt rules and regulations.
- Issue and update standards and operational expectations of the issuance of digital assets.
- Issue and update standards relative to digital asset exchange, staking, lending, and borrowing.
- Develop review parameters relative to the character and fitness of control persons and executive officers of the entities, which will require background reviews and development of a process for change in management.
- Develop policy and related processes to design, educate, collect, and review periodic call reports reflective of financial, transaction, and in-house- digital asset performance, breach reporting and regulatory compliance.
- Develop examination procedures of compliance and operational safety and soundness. Conduct examinations of sufficient depth and frequency to measure adequacy of reserves, ability for the company to provide service, unwind, safety and soundness, transactional sampling for money service business, related federal anti-money laundering compliance, and compliance with mandated policies.
- Establish and maintain processes for pledged securities, capital, minimum net worth, methods of addressing depositor contributions to offset risk, various types of insurance and bonds, and addressing consumer complaints regarding creation, storage, and transfer of digital assets.
- Establish or participate with other states to establish digital asset discussions; formulate joint rules and regulations, policies, and interpretations; and develop common systems and procedures.
- Develop and implement reciprocity procedures with other states related to digital assets.
- Investigate unlicensed and unregistered activity; investigate violations of the Act by licensees and registrants; take administrative action, including cease and desist orders and orders of suspension or revocation, issue civil money penalties.
- Establish guidelines for state-chartered banks to invest in digital asset depository institutions and for bank holding companies to hold these institutions.

The Department is unable to meet these requirements with existing resources. To accomplish these duties, the Department estimates the need for an additional three FTE, an Attorney III, Examiner Specialist, and an Administrative

Assistant II.

The Department estimates it will receive 2 charter applications in FY 22-23. Section 13(3) of the bill provides that each application for a charter shall be accompanied by a fee established by the Director pursuant to Section 8-602. However, Section 8-602 does not contain the authority for the Director to establish fees, and the bill does not set an application fee for this type of application. As such, the Department does not estimate any revenue resulting from application fees.

Section 12 of the bill requires that these institutions have minimum paid-in capital of \$5,000,000. Once an application for a digital asset depository institution is approved, a charter fee is required. Section 37 of the bill amends Section 8-602(3) and provides that the charter fee is \$1.50 for each \$1,000 of capital. The Department estimates charter fee revenue as \$15,000 (\$7,500 x 2) for FY 22-23. The long-term fiscal impact is unsustainable within the current revenue stream and the slight increase in revenues generated from this bill.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2021-22</u>	<u>2022-23</u>
	<u>21-22</u>	<u>22-23</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Attorney III	1	1	70,354	70,354
Examiner Specialist	1	1	62,624	62,624
Administrative Assistant II	1	1	39,439	39,439
Benefits.....			51,725	51,725
Operating.....			23,274	23,274
Travel.....			4,500	4,500
Capital outlay.....			11,550	
Aid.....				
Capital improvements.....				
TOTAL.....			263,466	251,916