

Including amendments to date

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	712,489		397,089	130,000
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	712,489		397,089	130,000

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

LB 649, as amended, would adopt the Nebraska Financial Innovation Act to create digital asset depository institutions 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 four FTE: an Attorney III, an Examiner Specialist, a Senior Compliance Officer, and an Administrative Assistant II.

In addition to the on-going annual staffing costs of \$360,532 and \$30,532 operating costs, the Department also estimates an initial outlay of \$15,400 in capital and \$300,000 in consulting services in FY 22.

The Department's cash funds for the current biennium are insufficient to fund these expenditures. Section 43 of the bill, pursuant to 8-601, provides for an assessment in an amount that is intended to offset the administrative costs. However, it is anticipated that the assessment will be inadequate to sustain the charter type until FY 2023-24. The amendment includes a provision to transfer funds from the Securities Act Cash Fund to the Financial Institution Assessment Cash Fund to provide for the initial program costs for FY 2021-22 and FY 2022-23.

The Department estimates receiving two charter applications per year. Section 15(4) of the bill provides a fee of \$50,000 per application for a charter beginning in FY 2022-23. (2 x \$50,000= \$100,000)

Section 12 of the bill requires that these institutions have a minimum paid-in capital of \$10,000,000. Once an application for a digital asset depository institution is approved, the entity provides a fee to the Department of \$1.50 for each \$1,000 of capital. The Department estimates charter fee revenue as \$30,000 (\$15,000 x 2) for FY 22-23.

It is anticipated that future revenue will be sufficient to cover ongoing administrative expenses. In the event that future revenue is insufficient to cover these costs, funds will be need to be appropriated from the Department's cash funds or from General Funds.

There is no basis to disagree with these estimates.

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2021

LB⁽¹⁾ 649, AM1018, AM1278

FISCAL NOTE

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

Prepared by: ⁽³⁾ Margo Sawyer Date Prepared: ⁽⁴⁾ 5/11/2021 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	712,489		397,089	130,000
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	<u>712,489</u>		<u>397,089</u>	<u>130,000</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. AM 1018 replaces the original bill. AM 1278 amended AM1018 to provide for transfers from the Securities Act Cash Fund to the Financial Institution Assessment Fund.

LB 649, as amended, 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.

- Establish guidelines for state-chartered banks to charter digital asset depository departments.

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

A consultant who worked with another state in developing regulations and procedures for special purpose depository institutions briefed Senators, banking representatives, and the Department. Information from that briefing was used to estimate the additional \$300,000 in FY 2021-22 for program implementation. The estimated Capital Outlay in FY2021-22 is for the purchase of equipment needed for the additional FTE.

The Department estimates it will receive 2 charter applications in FY 22-23. Section 15(4) of the bill provides a fee of \$50,000 per application for a charter.

Section 12 of the bill requires that these institutions have minimum paid-in capital of \$10,000,000. 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 \$30,000 (\$15,000 x 2) for FY 22-23.

Section 43 of the bill pursuant to 8-601 provides for an assessment in an amount that shall be sufficient to offset the cost of supervision and administration. However, it's anticipated that assessment will be not adequate to sustain supervision of this charter type until FY2023-24.

LB 649 was amended by AM 1018, which was first amended by AM1278. Under the amendment, \$712,489.00 is to be transferred from the Securities Act Cash Fund to the Financial Institution Assessment Fund on or before October 30, 2021, and \$397,089.00 00 is to be transferred from the Securities Act Cash Fund to the Financial Institution Assessment Fund on or before October 30, 2022. These transfers may reduce the amounts available to be transferred to the General Fund.

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	86,316	86,316
Administrative Assistant II	1	1	40,425	40,425
Senior Compliance Examiner	1	1	80,966	80,966
Benefits.....			82,496	82,496
Operating.....			330,532	30,532
Travel.....			6,000	6,000
Capital outlay.....			15,400	
Aid.....				
Capital improvements.....				
TOTAL.....			712,489	397,089