

PREPARED BY: Clinton Verner  
 DATE PREPARED: February 4, 2021  
 PHONE: 402-471-0056

**LB 456**

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		See below		See below
CASH FUNDS	See below	See below	See below	See below
FEDERAL FUNDS	See below	See below	See below	See below
OTHER FUNDS				
TOTAL FUNDS	See below	See below	See below	See below

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

LB 456 would create the Nebraska Enhancing Broadband Program within the Department of Economic Development. The Program distributes money from the created Nebraska Enhancing Broadband Fund to an applicable provider, cooperative, regional government, or an Indian Tribe, to develop broadband internet infrastructure. Funds are to be distributed on the basis of current service and sets definitions for underserved areas. Funds are to be paid on a 50% grant or are to be used to match 25% of a loan. The legislation provides that the Department of Economic Development may request assistance from the Public Service Commission in adopting, promulgating, and reviewing challenges to rules set by the Department of Economic Development in the carrying out of this legislation. The bill will place a significant administrative burden on DED, and we have no reason to dispute the Department’s estimates. The legislation provides that the Auditor of Public Accounts may audit any program grant or loan receipt.

The legislation includes intent to appropriate \$10 million annually into the newly created Cash Fund, beginning in FY 21-22. However, we concur with DED’s assessment of the technical issues relating to the fund sources in the bill. LB 456 does not specify from which fund money would be transferred into the Cash Fund, and in an absence of such language, we assume the money would be transferred from the General Fund and that such transfer would be made to carry out the intent.

DED has also indicated that a separate federal fund is needed to avoid comingling of state and federal funds for this grant program. We have no basis to dispute this assessment.

The cooperation on behalf of the Public Service Commission and the Auditor of Public Accounts is left to the discretion of those agencies, and will have no fiscal impact.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 456	AM:	AGENCY/POLT. SUB: Department of Economic Development	
REVIEWED BY: Neil Sullivan	DATE: 2/4/2021	PHONE: (402) 471-4179	
COMMENTS: The Department of Economic Development assessment of fiscal impact from LB 456 appears reasonable. Concur with the assessment of technical issues.			

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 456	AM:	AGENCY/POLT. SUB: Public Service Commission	
REVIEWED BY: Neil Sullivan	DATE: 2/3/2021	PHONE: (402) 471-4179	
COMMENTS: No basis to disagree with the Public Service Commission assessment of fiscal impact from LB 456.			

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2021

LB<sup>(1)</sup> 456

FISCAL NOTE

State Agency OR Political Subdivision Name: <sup>(2)</sup> Nebraska Department of Economic Development

Prepared by: <sup>(3)</sup> Anthony Goins Date Prepared: <sup>(4)</sup> 2/1/2021 Phone: <sup>(5)</sup> 402-471-3777

**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		(\$10,000,000)		(\$10,000,000)
CASH FUNDS	\$10,000,000		\$10,000,000	
FEDERAL FUNDS	(See Below)	(See Below)	(See Below)	(See Below)
OTHER FUNDS				
TOTAL FUNDS	<u>\$10,000,000</u>	<u>(\$10,000,000)</u>	<u>\$10,000,000</u>	<u>(\$10,000,000)</u>

**Explanation of Estimate:**

LB456 adopts the Nebraska Enhancing Broadband Act. The bill creates the Nebraska Enhancing Broadband Program, administered by DED, whose purpose is to facilitate and fund the development of broadband networks in unserved and underserved areas.

A provider, cooperative, political subdivision, or an Indian tribe may apply to the department for a grant, a loan or combination of the two for a qualifying project. To apply, a political subdivision or a tribe must be part of a public-private partnership with a broadband Internet service provider. A qualifying project would require broadband upload and download speeds of 100 megabits per second, and that the project is completed within 18 months from the time the grant or loan is awarded. The contents of an application would include the project area to be served. For each application, matching funds equal to 50% of the grant or 25% of the loan would be required.

Within three days after the application deadline DED would have to publish on its website the proposed projects, areas, and the proposed internet service speeds for each application submitted. Then within 30 days of publication any provider may challenge an application if the challenger provides or has begun construction to provide a broadband network in the proposed project area or the provider provides broadband service close to the project area and commits to completing construction of broadband infrastructure and providing broadband in the project area with internet access speeds to greater than or equal to 100 megabits per second for downloading and 20 megabits per second uploading. If DED finds the challenge credible, the Department shall not award a grant or loan. If the challenge is accepted, and the challenger fails to provide broadband internet service within 18 months of the challenge, that challenger is barred from filing challenges for the next two fiscal years.

LB456 creates the Nebraska Enhancing Broadband Fund within DED to finance grants, loans, and expenses to administer the project. The bill contains intent for the legislature to appropriate \$10 million annually to the fund; however, the bill does not contain language to transfer funds to the new cash fund. The bill also states that the fund should contain any "federal funds received for broadband enhancement purposes." For purposes of this note, DED assumes that there will be a General Fund transfer to the Nebraska Enhancing Broadband cash fund, and no additional federal funds.

LB456 will result in new responsibilities for the Department. DED estimates that it will require the services of a DED Program Manager to oversee the program, a financial packager to distribute grants and loans and tract loan repayments, an attorney II to assist with contracts, loan agreements, research and write rules and regulations for the program and evaluate challenges to applications; and finally a DED business consultant to assist with grant applications, scoring, grant monitoring, and reporting. It is also estimated that DED will need approximately \$225,000 in one-time costs. This includes \$200,000 for developing software for loan

applications and calculating interest payments, and \$25,000 for updates and licensing for the department’s grant management software.

Technical Issues:

- 1) The operative date of the bill is expected to be 10/1/21, the date the first applications are to be accepted, leaving the Department little or no time to hire program staff, or develop rules for the program. Furthermore, although the bill contains intent language to appropriate \$10 million annually to the fund, the transfer of funds—and the timing of the transfer—from the General Fund to the Nebraska Enhancing Broadband Fund is assumed, but not articulated in the bill.
- 2) Section 8 of the bill creates the Nebraska Enhancing Broadband cash fund. The language in that section suggests that state and federal funds would be improperly comingled in this cash fund. Federal funds are typically not received in advance and would not be invested unless there was a specific Cash Management Improvement Act (CMIA) exclusion at the federal level. To avoid this, the bill would require the creation of a cash fund and a federal fund, as state and federal funds need to be maintained separately for federal and CAFR reporting.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

POSITION TITLE	NUMBER OF POSITIONS		2021-22	2022-23
	21-22	22-23	EXPENDITURES	EXPENDITURES
G49550 Econ Dev Manager	0.75	1.0	\$49,660	\$67,860
A49310 Econ Dev Bus Consultant	0.75	1.0	44,570	60,910
A31112 Attorney II	0.75	1.0	50,750	69,350
A49280 Econ Dev Financial Packager	0.75	1.0	44,570	60,910
Benefits.....			75,820	103,620
Operating (Including \$200,000 in OCIO costs)			271,910	63,810
Travel.....			13,880	25,900
Capital outlay.....			34,400	0
Aid.....			9,414,440	9,547,640
Capital improvements.....				
<b>TOTAL.....</b>			<b>\$10,000,000</b>	<b>\$10,000,000</b>

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**2021**

**LB<sup>(1)</sup> 456**

**FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> Nebraska Public Service Commission

Prepared by: <sup>(3)</sup> Laurie Casados Date Prepared: <sup>(4)</sup> 1/25/2021 Phone: <sup>(5)</sup> 402-471-0252

**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>97,305</u>	_____	<u>99,425</u>	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	<u>97,305</u>	_____	<u>99,425</u>	_____

**Explanation of Estimate:**

LB456 would implement the Nebraska Enhancing Broadband Act, to be administered by the Department of Economic Development, to facilitate and fund the development of broadband networks in unserved and underserved areas. The bill allows for the Department of Economic Development to request assistance from the Public Service Commission in the verification of speed tests results submitted by grant or loan recipients. Assistance may also be requested from the Public Service Commission for review of any information filed with the Department of Economic Development as a challenge to any application.

While the new program will largely be administered by the Department of Economic Development, the anticipated request for assistance would be labor intensive assuming there are multiple applications submitted in any given year. The Commission anticipates an additional position may be required to fulfill these additional duties.

Additional salary and benefit costs included in this fiscal note would be funded through the Nebraska Universal Service Fund, Program 686.

**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>
Analyst	<u>1</u>	<u>1</u>	<u>62,998</u>	<u>65,518</u>
Benefits.....			<u>32,507</u>	<u>33,807</u>
Operating.....			<u>1,800</u>	<u>100</u>
Travel.....			_____	_____
Capital outlay.....			_____	_____
Aid.....			_____	_____
Capital improvements.....			_____	_____
TOTAL.....			<u>97,305</u>	<u>99,425</u>