

SF3711 - 0 - Internet Service; Adherence to Net Neutrality

Chief Author: **Ron Latz**
 Committee: **Commerce And Consumer Protection**
 Date Completed: **4/3/2023 9:55:00 AM**
 Lead Agency: **Commerce Dept**
 Other Agencies:
 Attorney General

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
 Reductions shown in the parentheses.

State Cost (Savings)		Biennium		Biennium	
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Attorney General					
General Fund	-	(2)	(2)	(2)	(2)
Commerce Dept					
General Fund	-	243	243	243	243
State Total					
General Fund	-	241	241	241	241
Total	-	241	241	241	241
Biennial Total			482	482	

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Attorney General					
General Fund	-	-	-	-	-
Commerce Dept					
General Fund	-	1.5	1.5	1.5	1.5
Total	-	1.5	1.5	1.5	1.5

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karl Palm **Date:** 4/3/2023 9:55:00 AM
Phone: 651-296-6055 **Email:** karl.palm@lbo.mn.gov

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Attorney General						
General Fund	-	(2)	(2)	(2)	(2)	(2)
Commerce Dept						
General Fund	-	243	243	243	243	243
Total	-	241	241	241	241	241
Biennial Total			482		482	
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Attorney General						
General Fund						
Expenditures	-	16	16	16	16	16
Absorbed Costs	-	(16)	(16)	(16)	(16)	(16)
Commerce Dept						
General Fund	-	243	243	243	243	243
Total	-	243	243	243	243	243
Biennial Total			486		486	
2 - Revenues, Transfers In*						
Attorney General						
General Fund	-	2	2	2	2	2
Commerce Dept						
General Fund	-	-	-	-	-	-
Total	-	2	2	2	2	2
Biennial Total			4		4	

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State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
 Reductions shown in the parentheses.

State Cost (Savings)		Biennium		Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026
General Fund	-	243	243	243	243
Total	-	243	243	243	243
Biennial Total			486		486

Full Time Equivalent Positions (FTE)		Biennium		Biennium	
		FY2023	FY2024	FY2025	FY2026
General Fund	-	1.5	1.5	1.5	1.5
Total	-	1.5	1.5	1.5	1.5

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karl Palm **Date:** 3/1/2023 3:15:34 PM
Phone: 651-296-6055 **Email:** karl.palm@lbo.mn.gov

State Cost (Savings) Calculation Details

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Dollars in Thousands		FY2023	FY2024	FY2025	FY2026
					FY2027
General Fund	-	243	243	243	243
Total	-	243	243	243	243
Biennial Total			486		486
1 - Expenditures, Absorbed Costs*, Transfers Out*					
General Fund	-	243	243	243	243
Total	-	243	243	243	243
Biennial Total			486		486
2 - Revenues, Transfers In*					
General Fund	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-

Bill Description

HF2021 would grant the Department new authority to enforce net neutrality and other consumer protections against Internet Service Providers (ISPs). These protections include prohibitions on degrading or impeding lawful internet traffic, interfering with a customer's ability to access lawful internet content or to use the device of their choosing to access such content, and prohibitions on deceptive marketing practices relating to the ISP's net neutrality practices. In addition, the law requires all ISPs doing business in the State to file a certification with the Department stating that it is in compliance with the new net neutrality laws set forth in the statute. The bill would grant the Department authority under Minn. Stat. § 45.027 to enforce these requirements.

Assumptions

Investigating and bringing enforcement action against ISPs based on violations of net neutrality laws would require subject matter expertise in a complex and novel area, including a thorough understanding of how ISP algorithms operate, and how to request relevant data from ISPs. Accordingly, Commerce assumes that investigations into compliance with the law would be complicated, in-depth, and would require significant data collection and analysis. Accordingly, Commerce assumes that the Department would require a Senior Investigator to conduct the work.

Sources indicate that there are over 1,000 ISPs active in the United States. As these entities are not currently required to be licensed by the Department to operate in Minnesota, at any time these entities could begin doing business in the State. Accordingly, Commerce assumes that in addition to requesting and analyzing data from the largest ISPs in the state, the Senior Investigator would also pro-actively investigate many of the smaller ISPs to see if they were operating in the state and, if so, whether their practices comply with the law. At any time, Commerce assumes the investigator would have up to six complex and in-depth investigations, at least one or more that are being litigated, and dozens of smaller investigations. Accordingly, Commerce assumes that the Senior Investigator would work full-time on investigating and enforcing the law.

Commerce also assumes that contested case proceedings and other litigation relating to enforcement of the law is inevitable. In addition, Commerce assumes that the Senior Investigator enforcing the law will need significant support in terms of legal research and analysis into this unique area of law, as well as tracking of similar enforcement actions in other venues. Accordingly, Commerce assumes that a full-time staff attorney will devote 50% of their time to supporting enforcement of the law.

Expenditure and/or Revenue Formula

1 FTE Investigator Senior

.5 FTE Attorney

			FY24	FY25	FY26	FY27
Salary			147,392	147,392	147,392	147,392
Fringe			44,218	44,218	44,218	44,218
Other Personnel Related Costs			51,317	51,317	51,317	51,317
			242,926	242,926	242,926	242,926

Long-Term Fiscal Considerations

The Department anticipates that costs associated with enforcing the law will be ongoing.

Local Fiscal Impact

Unknown

References/Sources

Agency Contact:

Agency Fiscal Note Coordinator Signature: Amy Trumper

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Date: 2/28/2023 5:27:40 PM

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Chief Author: **Ron Latz**
 Committee: **Commerce And Consumer Protection**
 Date Completed: **4/3/2023 9:55:00 AM**
 Agency: **Attorney General**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
 Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Dollars in Thousands					
General Fund	-	(2)	(2)	(2)	(2)
Total	-	(2)	(2)	(2)	(2)
Biennial Total			(4)		(4)

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	-	-	-	-
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Susan Nelson **Date:** 3/31/2023 2:19:08 PM
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State Cost (Savings) Calculation Details

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State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	(2)	(2)	(2)	(2)	(2)
Total	-	(2)	(2)	(2)	(2)	(2)
Biennial Total			(4)			(4)
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund						
Expenditures	-	16	16	16	16	16
Absorbed Costs	-	(16)	(16)	(16)	(16)	(16)
Total	-	-	-	-	-	-
Biennial Total			-			-
2 - Revenues, Transfers In*						
General Fund	-	2	2	2	2	2
Total	-	2	2	2	2	2
Biennial Total			4			4

Bill Description

Section 1 prohibits state agencies and political subdivisions from contracting with or purchasing internet service from internet service providers unless those providers certify with the Commissioner of Commerce that the provider will comply with net neutrality principles. Either the Commissioner or the Attorney General may enforce this provision by filing a civil action.

Section 2 requires internet service providers to comply with net neutrality principles with respect to Minnesota consumers. Either the Commissioner of Commerce or the Attorney General may enforce this provision by filing a civil action.

Assumptions

We assume that there will be two enforcement actions per year under these provisions.

We assume that one of these cases will be an enforcement action brought by the Commissioner of Commerce, and one will be an enforcement action brought by the Attorney General's Office.

We assume that an enforcement action will require approximately 50 hours of work by an attorney in order to draft court filings, review evidence, perform legal research, and prepare for and participate in court hearings. For actions brought by the Commissioner of Commerce, the Attorney General's Office represents Commerce with attorneys from the AGO Administrative Law Division. For actions brought directly by the Attorney General's Office, this work will be performed by attorneys in the AGO Residential Utilities Division. The Attorney General's Office will absorb these costs in either instance.

We assume that each enforcement action will result in a \$1,000 civil penalty that will be deposited in the general fund.

Expenditure and/or Revenue Formula

The Office of the Attorney General uses billing rates to calculate revenue and costs. The billing rates effective from July 1, 2023-June 30, 2025 are \$163/hour for attorneys and \$103/hour for legal assistants (including investigators, paralegals, mediators, financial analysts, and support staff). The billable hour rate reflects the cost of providing legal services. One FTE is 1500 billable hours per year.

	Hourly Billing Rate	Hours	Total Cost to AGO
Attorney, Residential Utilities Division	\$163	50	\$8150
Attorney, Administrative Law Division	\$163	50	8150
<i>Other</i>			
Total	N/A		\$16,300

Long-Term Fiscal Considerations

n/a

Local Fiscal Impact

n/a

References/Sources

n/a

Agency Contact: Laura Sayles

Agency Fiscal Note Coordinator Signature: Laura Capuana

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