

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	
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	See Below		See Below	

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

The provisions of the bill would potentially increase the costs of some agency projects throughout the state, however, an agency is restricted by their appropriation. Should passage of the bill occur without an increased appropriation for each agency, the number of projects an agency is able to complete will potentially decrease without an increase in the agencies applicable capitol construction program appropriation. See below for details of the bill and related agency impacts.

LB220 amends the Building Construction Act to define State Agency and provides that state agencies are required to comply with local building and construction codes, to the extent that such codes meet or exceed the standards of the state building code. The effective date of the new requirement is January 1, 2022. Further, a building or structure owned by the state or any state agency for which the construction or repair is completed in phases shall be deemed constructed or repaired on the date the first phase of construction or repair begins. Lastly, any fees for services which monitor a state agencies application of local building and construction codes is authorized to be negotiable between the state agency and the county, city, or village which is monitoring compliance. Fees charged by a county cannot exceed actual expenses incurred.

The **Department of Transportation** and **Game and Parks Commission** do not identify definitive estimates of direct fiscal impacts associated with LB220, but generally indicate that provisions of the bill represent prospective increases in the time associated with monitoring and compliance with local codes which may lead to extended project delivery timeframes. Additional expenses for any fees are expected to be absorbed within existing agency appropriations.

The **Department of Administrative Services** (DAS) addresses LB220 fiscal implications as they relate to (1) the Task Force for Building Renewal, (2) the State Capitol heating, ventilating, and air conditioning (HVAC) systems replacement project for which amounts are appropriated for the 2020-21 biennium and for which the Legislature has committed to future appropriations through the 2023-25 biennium, and (3) the State Building Division.

- (1) Based on assumptions identified in the agency’s fiscal note, costs for building renewal projects for which the Task Force for Building Renewal allocates amounts from the (a) State Building Renewal Allocation Fund and (b) State Building Renewal Assessment Fund (both cash funds) are estimated to increase 3% as the result of local building and construction code compliance to be required under LB220. This translates to annual increases of \$645,438 for FY22 and \$710,821 for FY23 as compared to a FY21 building renewal project base level of \$19,535,646 noted In the DAS fiscal note. Amounts annually accruing to the State Building Renewal Allocation Fund from a statutory earmark of state cigarette tax receipts are effectively fixed at a static dollar level. Amounts accruing to the Building Renewal Assessment Fund result from depreciation charges included as a component of occupancy charges assessed to state agencies which occupy facilities operated/administered by State Building Division. The rate of these depreciation charges is established biennially by DAS. Revenue available to the Task Force for Building Renewal from this source has historically been relatively static. To the extent the agency’s estimate of local building and construction code compliance costs under provisions of LB220 is accurate, these increased costs may diminish the extent of building renewal projects that can be accomplished with relatively static levels of Task Force for Building Renewal funding resources.
- (2) The agency indicates the OCC would incur additional costs associated with the fees charged by local entities related to the Capitol HVAC project. However, this would not be accurate as the bill provides an exception to meeting the local building codes that exceed the state building code for projects completed in phases where the initial phase is deemed to be the start date for the project. The Capitol HVAC project meets this exception.

- (3) Estimates of increased costs for projects relating to State Building Division facilities relate to projects supported by funding allocated to the division by the Task Force for Building Renewal. See item (1) above relating to Task Force for Building Renewal capital project funding. The division also estimates that, given the volume of capital facilities projects it plans/undertakes (estimated to be 100 projects), it would require 1.0 FTE additional architect position to conduct needed research, draft local permit applications, manage local inspections, and negotiate municipality fee rates. State Building Division estimates costs (Revolving Fund-supported) for the position and related non-personnel expenses at \$102,420 for FY22 and \$104,044 for FY23.

The **University of Nebraska** estimates provisions of LB220 will necessitate addition of a 0.5 FTE staff position to review and apply building code provisions for various localities in which University facilities are located and for which capital projects are planned and undertaken. Additionally, the University estimates the bill would result in increased fees to be incurred for project design contractual services due to variances in local building codes across locations of University facilities. Finally, the University estimates it will incur increased costs relating to municipal inspection and other fees relating to capital projects if LB 220 were to be enacted. In summary, the University estimates the following increased costs associated with provisions of LB95 and allocation of costs by sources of funds:

Item	FY22	FY23
0.5 FTE	\$51,600	\$51,600
Capital Project Design Fees	\$150,000	\$150,000
Municipal Fee's	\$550,000	\$550,000
Total	\$751,600	\$751,600

Fund Source	FY22	FY23
General Funds	\$469,135	\$469,135
Cash Funds	\$282,465	\$282,465
Total	\$751,600	\$751,600

Other Agencies

The agencies discussed below were not asked to provide a fiscal note, however they had provided responses for a previously bill (LB95 – 2019) that was nearly identical. The assumption is being made the responses remain accurate and applicable.

The **Department of Health and Human Services** previously indicated that any related impact would result from pass-through costs associated with relevant capital projects that may be assessed by the Department of Administrative Services – State Building Division relating to facilities administered by DAS-SBD and occupied by DHHS.

The **Department of Correctional Services** and **Nebraska State College System** previously indicated that there are prospective increases in capital project costs with respect to locally required project design and certification, local fees for project permit applications and inspections, and other expenses that may be imposed by local governments, but did not identify a direct and definitive fiscal impact.

The **State Fire Marshal** and the **Department of Labor** have previously indicated the no fiscal impact to the respective agencies is present.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 220	AM:	AGENCY/POLT. SUB: Game & Parks Commission
REVIEWED BY: Neil Sullivan	DATE: 1/22/2021	PHONE: (402) 471-4179
COMMENTS: No basis to disagree with the Game & Parks Commission estimate of minimal fiscal impact from LB 220.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 220	AM:	AGENCY/POLT. SUB: Department of Administrative Services
REVIEWED BY: Neil Sullivan	DATE: 1/22/2021	PHONE: (402) 471-4179
COMMENTS: The Department of Administrative Services assessment of fiscal impact from LB 220 appears reasonable.		

Please complete ALL (5) blanks in the first three lines.

2021

LB⁽¹⁾ 220 building code changes

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Nebraska Game and Parks Commission

Prepared by: ⁽³⁾ Patrick H. Cole Date Prepared: ⁽⁴⁾ 1/20/2021 Phone: ⁽⁵⁾ (402) 471-5523

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	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	=====	=====	=====	=====

Explanation of Estimate:

The proposed legislation would require state agencies to comply with local building and construction codes to the extent such codes meet or exceed state building codes in the construction or repair of any building or structure. Fees assessed by the county, city or village that monitors the state agency's application of local codes shall be negotiable between the state and the local entity. While no significant direct fiscal impact is anticipated based on assessed fees or meeting local codes, there is some concern on the potential effects of increased time associated with increased monitoring and the rate at which a project can be completed in a timely fashion..

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>
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____

Please complete ALL (5) blanks in the first three lines.

2021

LB⁽¹⁾ 220

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Department of Administrative Services (DAS) State Building Division, Task Force for Building Renewal (TFBR), and Office of the Capitol Commission ((OCC))

Prepared by: ⁽³⁾ Doug Hanson
Michelle Potts
Bob Ripley

Date Prepared: ⁽⁴⁾ 1/13/2021

Phone: ⁽⁵⁾ 402.471.2662
531.207.9029
402.471.0419

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	\$390,000		\$330,000	
CASH FUNDS	\$645,438		\$710,821	
REVOLVING FUNDS	\$19,823	\$19,823 ⁽¹⁾	\$21,832	\$21,832 ⁽¹⁾
REVOLVING FUNDS	\$102,420	\$102,420 ⁽²⁾	\$104,004	\$104,004 ⁽²⁾
TOTAL FUNDS	\$1,157,681	\$122,243	\$1,166,657	\$125,836

⁽¹⁾ Increase in rental revenue to offset increased costs.

⁽²⁾ See the table below for total revenue impact by fund type.

Explanation of Estimate:

LB 220 will require all state agencies, boards, and commissions, including State Colleges and the University, to comply with local building and construction codes when they meet or exceed the standards of the state building code.

Passage of LB 220 would have a fiscal impact on the Department of Administrative Services (DAS) State Building Division (SBD), Task Force for Building Renewal (TFBR), and the Office of the Capitol Commission (OCC) as the result of higher construction and project costs. Although there would be additional costs at the design level for compliance due to the impact of local building and construction codes, it is difficult to determine those additional costs. Project costs would increase for expenses associated with negotiated permit fees, inspections, and other regulatory expenses imposed by local governments. Construction costs could also increase as a result of local building codes that exceed the requirements of the state building code, such as local ordinances, overlay districts, and other local code stipulations, such as requiring masonry facades, landscaping, lighting, and other unforeseen conditions.

Although LB 220 provides for the negotiation of permit fees and inspections, it is anticipated the fees charged will be consistent with the local governments published rates. Local government permit fees are typically assessed on a 'base' fee amount plus a scaled dollar value of the construction cost. For example, local building permit fees for a \$1,000,000 construction project could add \$1,150 to the project (e.g. \$100 base fee plus \$1.050 per \$1,000 of construction costs). In addition to building permit fees, each construction project would require plan reviews and building code inspections by local building officials. Local building officials typically conduct separate inspections for foundations, framing, plumbing, HVAC, electrical, decks, fencing, and sidewalks, as well as final inspections prior to occupancy. Fees for each type of inspection are assessed by the local government, which add to the cost of each project. Furthermore, project completions for state projects could be significantly delayed as the result of the permitting and inspection processes by the local governments.

Building permit and inspection fees imposed by local governments vary widely throughout the state. Some municipalities impose very high building permit and inspection fees while some do not impose any. Since there are approximately 530 municipalities and 93 counties, determining an accurate cost for LB 220 is most difficult. For some guidance, ERS Means Building Construction Cost Data estimates a range from 0.50% to 2.0% for permit fees.

For commercial building construction, local government permit and inspection could easily range from 2.0% to 4.0% for State of Nebraska construction projects. The fee range depends on the size and complexity of each project.

Task Force for Building Renewal (TFBR)

The DAS TFBR’s fiscal impact estimate is based on the following assumptions: In FY2019-20 (the most recently completed fiscal year), the TFBR provided funding in the amount of \$17,738,714 for state agency construction contracts. To account for inflation, the DAS SBD’s 2018 average rate for inflation was 10.13% per year is used to project the following total construction cost values, and an average of 3.0% is used to estimate the additional local government building permit and inspection fees.

Fiscal Year	Projected Project Cost (Increase of 10.13%)	Estimated Additional Fees (increase of 3.0%)	Type of Fund Impacted
FY20-21	\$19,535,646		
FY21-22	\$21,514,607	\$645,438	Cash Fund
FY22-23	\$23,694,036	\$710,821	Cash Fund

LB 220 provides for fee negotiations between the state agency and the local government. At this time, negotiations have not taken place and the estimates provided do not consider lower negotiated permit and inspection fees.

Office of the Capitol Commission (OCC)

The OCC does not routinely administer projects that would be affected by this change in legislation. However, OCC is currently administering the Capitol HVAC renovation project that totals approximately \$106,000,000 over eight years (8), with the project’s funding provided in phases. An average of 3% is used to estimate the additional local government build permit and inspection fees.

Fiscal Year	Phase Funding	Estimated Additional Fees (increase of 3.0%)	Type of Fund Impacted
FY21-22	\$13,000,000	\$390,000	General Fund
FY22-23	\$11,000,000	\$330,000	General Fund

The project would also incur additional design costs that cannot be determined at this time but would be incurred in the next biennium.

State Building Division (SBD)

SBD is already required to comply with numerous building codes pursuant to Neb. Rev. Stat. § 71-6403, et seq. These codes include, but are not limited to, the state building code, Uniform Plumbing Code (UPC), National Electrical Code (NEC), 2010 ADA Standards for Accessible Design, Nebraska State Fire Code and National Fire Prevention Association (NFPA) code, and other building and construction codes.

SBD completes numerous non-TFBR funded projects annually. The estimate for these projects is \$600,000 per year. Using the average rate of inflation at 10.13% per year and the impact of 3.0% for the additional local government building permit and inspection fees, we estimate the following:

Fiscal Year	Projected Project Costs (increase of 10.13%)	Estimated Additional Fees (increase of 3.0%)	Type of Fund Impacted
FY20-21	\$600,000		
FY21-22	\$660,780	\$19,823	Revolving Fund
FY22-23	\$727,717	\$21,832	Revolving Fund

The above hard costs would be in addition to the indirect and unknown cost of complying with local government construction trends or material preferences, the costs of delay for plan applications, approvals, inspections and negotiations on permits and costs.

The estimated increase in project cost could require an offsetting increase in rental rates (additional revenue) due to the increase in project costs.

The addition of multiple local building codes will require continual research, review, and negotiation of each state

project to verify compliance – thereby increasing each project’s delivery timeline and internal staff time. This could reduce the number of projects that could be managed each year. SBD typically manages over 100 projects per year that would require building permits. Estimating an average of 20 hours per major project annually for local code related efforts, SBD anticipates the additional number of hours in staff time at 2,000 hours (100 projects x 20 hours/project). Therefore, DAS-SBD would require one (1) additional FTE – Architect with substantial construction and municipal code compliance training and experience. It would be cost prohibitive to engage external consultants to conduct the needed research, draft local permit applications, coordinate local inspections, and complete final occupancy.

The estimated cost for this FTE is \$102,420 in FY21-22 and \$104,004 in FY22-23. These costs include salary and benefits (health insurance is based on the State’s share of the highest cost family plan); ongoing annual operating costs (OCIO expenses including computer leasing costs, printing/publication, rent/depreciations surcharge, and other supplies. There would also be a one-time cost of \$1,500 in FY21-22 for set up costs and the purchase of new non-capitalized equipment (monitors, furniture, etc.).

The DAS-SBD architectural and engineer costs are covered by the rental rates that are charged for space in the state’s office buildings, 24/7 facilities, etc., and there would be a need to increase those rental rates. These additional costs also would result in the need for additional revolving fund appropriation. The FY21-23 biennial rental rates have already been published and would need to be adjusted, impacting all agencies, boards and commissions in state-owned property.

The table below summarizes the estimated impact by fund type of any increase in rental rates. The allocation by fund type is based average of rental expenditures over a four-year period (2017-2020).

	FY21-22 Expenditures	FY22-23 Expenditures
General Funds	\$32,888	\$33,855
Cash Funds	\$17,006	\$17,506
Federal Funds	\$18,780	\$19,332
Revolving Funds	\$53,569	\$55,143
Total Funds	\$122,243	\$125,836

Any increases to costs incurred by other DAS divisions can impact the enterprise due to possible increases in rates charged to other agencies for DAS goods and services.

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>21-23</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
New FTE Only - Architect	1	1	\$60,099	\$61,300
Benefits.....			\$36,077	\$37,960
Operating.....			\$6,244	\$4,744
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
TOTAL.....			\$102,420	\$104,004

Please complete ALL (5) blanks in the first three lines.

2021

LB⁽¹⁾ 220

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Nebraska Department of Transportation

Prepared by: ⁽³⁾ Jenessa Boynton Date Prepared: ⁽⁴⁾ 2/4/2021 Phone: ⁽⁵⁾ 402-479-4691

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	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	=====	=====	=====	=====

Explanation of Estimate:

LB 220 will require all state agencies to comply with local building and construction codes and pay applicable fees in the construction or repair of any building or structure beginning January 1, 2022. The Department of Transportation expects to see extended project delivery time to new construction and repairs to its building in complying with local codes which may differ from location to location and require additional research and cost to ensure compliance.

Additional expenses are anticipated but can be accomplished with existing appropriation.

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>
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____

Please complete ALL (5) blanks in the first three lines.

2021

LB⁽¹⁾ 220 Corrected

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ University of Nebraska

Prepared by: ⁽³⁾ Michael Justus Date Prepared: ⁽⁴⁾ January 22, 2021 Phone: ⁽⁵⁾ 402-472-7109

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	469,135		469,135	
CASH FUNDS	282,465		282,462	
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	<u>751,600</u>		<u>751,600</u>	

Explanation of Estimate:

1) The permit fee the University uses is based on the Uniform Building Code fee calculator. It is a simple graduated percentage of the value of the work, including a 30% plan review fee. All inspected work is covered under one fee. Municipalities' fees include permit and plan review fees, mechanical, plumbing, electrical, fire alarm, fire suppression, energy, inspection, and other fees. The method of calculating the fees varies from municipality to municipality. (Websites of Lincoln and Omaha are included for reference: <https://lincoln.ne.gov/city/build/codes.htm> <https://permits.cityofomaha.org/fees#Building>)

2) While difficult to compare various fee structures, UNL/UNO/UNK averaged \$125M of construction over the last two years. Permit fees to the City of Lincoln could have cost up to \$500K/year. Total actual permit costs for the University were approximately \$400K/year. The University averaged \$150M of construction FY15-FY17. Assuming the same costs for all campuses, the increased cost would have been \$550K/year. The projected expenditures assume 1/3rd auxiliary (cash) construction.

3) A dedicated half-FTE will be required to review, and update amendments adopted by Omaha, Lincoln, Scottsbluff, Kearney, and North Platte and other cities.

4) Design firms would incur more costs by having to research several different code sets. We anticipate an additional 1% cost or \$150K. Note: No indirect costs such as zoning, environmental, signage or yearly inspections, etc. are included as they cannot be estimated, but are anticipated to add an additional \$100-250K per year.

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>
Code Official	0.5	0.5	40,000	40,000
Benefits.....			11,600	11,600
Operating.....			700,000	700,000
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
TOTAL.....			<u>751,600</u>	<u>751,600</u>