

**FISCAL NOTE**  
**LEGISLATIVE FISCAL ANALYST ESTIMATE**

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)</b>				
	<b>FY 2021-22</b>		<b>FY 2022-23</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS				
CASH FUNDS	See Below		See Below	See Below
FEDERAL FUNDS			See Below	See Below
OTHER FUNDS				
TOTAL FUNDS	See Below		See Below	See Below

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

LB339 would require the Department of Transportation (DOT), metropolitan/primary/first class cities, and counties with more than 25,000 inhabitants to have a utility coordination plan when awarding a contract that exceeds \$50,000, which is for the construction, reconstructing, improvement, maintenance, or repair of a road, street, highway, bridge or other related structure.

Any contractor performing services under a contract may rely on the plan and shall be compensated by the applicable entity involved for any costs or damages associated with any deviation or failure by the entity to follow the plan. Other plan requirements are detailed in the bill.

The DOT provided a fiscal note detailing the impact of the bill. They estimate an increase in costs associated with:

- Construction plans being developed and in the actual construction of highways. This amount is estimated to be \$6 million per year.
- Positions needed for implementing provisions of the bill and for meeting ongoing new requirements. The agency estimates an additional ongoing FTE (Highway Utility Coordinator) will be needed as well as one-time increased costs in FY22 for an Engineer III and 0.5 FTE for an Attorney II. The engineer and attorney positions would be needed to negotiate and develop new master utility agreements and to explain revised agreements and expectations. Costs associated with these three (3) positions are \$255,049 in FY22 and \$94,963 in FY23 for the ongoing position.
- Delays in project lettings leading to inflationary increases in project costs. This amount is estimated to be \$30 million. However, if the agency appropriation remains static, overall expenditures will not increase, rather the number of projects to be completed would decrease. The agency further indicates the delay in projects would risk federal funds as they would be unable to be obligated by the end of FFY21. They estimate this the loss of federal funding to be \$75 million in FY23 and a decrease in federal expenditures that corresponds with the reduction.
- Delays in claims where compensation is paid due to the complexities with utility relocation projects. The DOT estimates this to be \$1-\$5 million annually.

A basis to disagree with DOT estimates is absent.

The Public Service Commission has indicated (see attached) a fiscal impact is absent.

The City of Fremont indicated (see attached) a fiscal impact to the city associated with operational costs for the development of the plan, as well as potential costs for contractor expenses in the event there are damages. A basis to disagree is absent.

The City of Omaha was unable to provide a fiscal note. When provided, the fiscal note will be revised.

The City of Lincoln indicates an estimated increase of \$5.5 million in costs and \$1.5 million in savings for a net cost of \$4 million. The city indicated these figures are based on historical contracting costs that have been inflated to account for what additional work would have needed to be completed under the provisions of the bill.



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

2021

LB<sup>(1)</sup> 339

FISCAL NOTE

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

Prepared by: <sup>(3)</sup> Jenessa Boynton Date Prepared: <sup>(4)</sup> 2/10/2021 Phone: <sup>(5)</sup> 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	\$255,049	_____	\$94,963	_____
FEDERAL FUNDS	_____	_____	(\$75,000,000)	(\$75,000,000)
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	<u>\$255,049</u>	_____	<u>(\$74,905,037)</u>	<u>(\$75,000,000)</u>

Explanation of Estimate:

LB 339 would require the Department of Transportation (NDOT) and cities of the metropolitan, primary and first class, as well as counties with more than 25,000 inhabitants, effective approximately September 1, 2021, to prepare a utility coordination plan for any construction or maintenance contracts exceeding \$50,000. The utility coordination plan is required to identify (a) any utility operator with facilities affected by the construction (b) the facilities affected for each utility in the project area (c) the location and elevation of each of such facilities, and (d) the date or dates such facilities will be relocated or removed. A contractor performing services may rely on the utility coordination plan and shall be compensated by the NDOT or when applicable, a city or county, for any cost or damages associated with deviation or failure to follow the plan.

If LB 339 is enacted, NDOT's cost to develop construction plans and construct all highway projects greater than \$50,000 will increase. Immediately following the passing of LB 339, NDOT would need to begin hiring consultants to start preparing utility coordination plans for future lettings. Additional surveys and utility plan development would cost roughly 1% of the construction program budget or \$6,000,000 per year along with hiring one additional full-time Highway Utility Coordinator II. New master utility agreements would need to be negotiated and developed following utility engagement to explain the revised agreement and expectations. This is estimated to be a one-time increased cost and would require 1.0 FTE Engineer III in NDOT's Utilities Section and a 0.5 FTE Attorney II.

As introduced, LB 339 and its assumed September 1, 2021 effective date will require NDOT to delay project lettings, both for state projects but also for local projects managed by the department, that are scheduled for up to a year following the effective date. Inflation costs to complete these delayed projects is estimated at 5% of the construction program cost or \$30,000,000, which all else being equal would reduce the number of projects which could be let. The delay in construction projects would put at risk a significant portion of NDOT's approximate \$325,000,000 in Federal-aid Highway Program dollars, if the federal funds are not obligated by the end of the Federal fiscal year 2021 following the bill's effective date. This impact on NDOT's ability to obligate federal funds is estimated to reduce Federal revenues by \$75,000,000 during the State's fiscal year 2022-23. These unobligated federal funds would be lost to NDOT and reallocated to other States.

Utility relocation projects are not the type of work that can easily be completed on a rigid timeline. LB 339 will create new risks of loss or claims for NDOT when NDOT may not have the authority to force a public or private utility to adhere to a deadline or provide a precise location. This risk will result in an increase in delay claims from contractors resulting in an estimated additional cost of \$1,000,000 - \$5,000,000 annually, depending on NDOT's analysis of risk and the size of the projects involved.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

<b>POSITION TITLE</b>	<b>NUMBER OF POSITIONS</b>		<b>2021-22</b>	<b>2022-23</b>
	<b><u>21-22</u></b>	<b><u>22-23</u></b>	<b><u>EXPENDITURES</u></b>	<b><u>EXPENDITURES</u></b>
Engineer III	1.0	0.0	\$77,264	0
Attorney II	0.5	0.0	\$33,666	0
Highway Utility Coordinator	1.0	1.0	\$59,136	\$60,319
Benefits.....			\$79,451	\$30,612
Operating.....			\$2,500	\$1,000
Travel.....			\$3,032	\$3,032
Capital outlay.....				
Aid.....				
Capital improvements.....				
TOTAL.....			\$255,049	\$94,963

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2021

LB<sup>(1)</sup> 339

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> 1/14/2021 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	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

Explanation of Estimate:

This bill has no fiscal impact for the Nebraska Public Service Commission.

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.....	_____	_____	<u>0</u>	<u>0</u>



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**2021**

**LB<sup>(1)</sup> 339**

**FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> City of Lincoln

Prepared by: <sup>(3)</sup> James Van Bruggen Date Prepared: <sup>(4)</sup> 1/20/21 Phone: <sup>(5)</sup> 402-441-8301

**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 fiscal impact of this bill is estimated at \$5.5 million in additional costs annually and \$1.5 million in savings for net effect of \$4.0 million additional expenditures.

**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.....	_____	_____	_____	_____