

AMENDMENTS TO LB 1161

Introduced by Natural Resources

1           1. Strike the original sections and insert the following  
2 new sections:

3           Section 1. Section 57-1101, Reissue Revised Statutes of  
4 Nebraska, as amended by section 1, Legislative Bill 1, One Hundred  
5 Second Legislature, First Special Session, 2011, is amended to  
6 read:

7           57-1101 Any person engaged in, and any company,  
8 corporation, or association formed or created for the purpose of,  
9 transporting or conveying crude oil, petroleum, gases, or other  
10 products thereof in interstate commerce through or across the  
11 State of Nebraska or intrastate within the State of Nebraska, and  
12 desiring or requiring a right-of-way or other interest in real  
13 estate and being unable to agree with the owner or lessee of  
14 any land, lot, right-of-way, or other property for the amount of  
15 compensation for the use and occupancy of so much of any lot, land,  
16 real estate, right-of-way, or other property as may be reasonably  
17 necessary for the laying, relaying, operation, and maintenance  
18 of any such pipeline or the location of any plant or equipment  
19 necessary to operate such pipeline, shall have the right to acquire  
20 the same for such purpose through the exercise of the power of  
21 eminent domain, except that for any major oil pipeline as defined  
22 in section 5 of this act to be placed in operation in the State of  
23 Nebraska after the effective date of this act, any such person,

1 company, corporation, or association shall comply with section 3,  
2 Legislative Bill 4, One Hundred Second Legislature, First Special  
3 Session, 2011, and receive the approval of the Governor for the  
4 route of the pipeline under such section, or beginning January  
5 1, 2013, shall apply for and receive an order approving the  
6 application under the Major Oil Pipeline Siting Act, prior to  
7 having the rights provided under this section. The procedure to  
8 condemn property shall be exercised in the manner set forth in  
9 sections 76-704 to 76-724.

10           Sec. 2. Section 3, Legislative Bill 1, One Hundred Second  
11 Legislature, First Special Session, 2011, is amended to read:

12           Sec. 3. (1) The purposes of the Major Oil Pipeline Siting  
13 Act are to:

14           (a) Ensure the welfare of Nebraskans, including  
15 protection of property rights, aesthetic values, and economic  
16 interests;

17           (b) Consider the lawful protection of Nebraska's natural  
18 resources in determining the location of routes of major oil  
19 pipelines within Nebraska;

20           (c) Ensure that a major oil pipeline is not constructed  
21 within Nebraska without receiving the approval of the commission  
22 under section 9 of this act;

23           (d) Ensure that the location of routes for major oil  
24 pipelines is in compliance with Nebraska law; and

25           (e) Ensure that a coordinated and efficient method for  
26 the authorization of such construction is provided.

27           (2) Nothing in the Major Oil Pipeline Siting Act shall be

1 construed to regulate any safety issue with respect to any aspect  
2 of any interstate oil pipeline. The Major Oil Pipeline Siting Act  
3 is intended to deal solely with the issue of siting or choosing the  
4 location of the route aside and apart from safety considerations.  
5 The Legislature acknowledges and respects the exclusive federal  
6 authority over safety issues established by the federal law, the  
7 Pipeline Safety Act of 1994, 49 U.S.C. 60101 et seq., and the  
8 express preemption provision stated in that act. The Major Oil  
9 Pipeline Siting Act is intended to exercise only the remaining  
10 sovereign powers and purposes of Nebraska which are not included in  
11 the category of safety regulation.

12 (3) ~~The Major Oil Pipeline Siting Act shall not apply to~~  
13 ~~any major oil pipeline that has submitted an application to the~~  
14 ~~United States Department of State pursuant to Executive Order 13337~~  
15 ~~prior to the effective date of this act.~~ The Major Oil Pipeline  
16 Siting Act shall not apply to any major oil pipeline that, prior to  
17 January 1, 2013, has submitted an application to the United States  
18 Department of State pursuant to Executive Order 13337 or, prior to  
19 January 1, 2013, has applied for or is granted international border  
20 crossing authority pursuant to federal law.

21 Sec. 3. Section 3, Legislative Bill 4, One Hundred Second  
22 Legislature, First Special Session, 2011, is amended to read:

23 Sec. 3. (1)(a) If any pipeline carrier has submitted an  
24 application to a federal agency or agencies seeking international  
25 border crossing authority pursuant to federal law or executive  
26 order, the ~~The~~ department may collaborate with a federal agency  
27 or agencies in a review under the National Environmental Policy

1 Act involving a supplemental environmental impact statement for oil  
2 pipeline projects within, through, or across the state. Prior to  
3 entering into such shared jurisdiction and authority with a federal  
4 agency or agencies, the department ~~shall enter into a memorandum of~~  
5 ~~understanding~~ may collaborate with such federal agency or agencies  
6 ~~that sets and set forth~~ the responsibilities and schedules that  
7 will lead to an effective and timely review under the National  
8 Environmental Policy Act involving a supplemental environmental  
9 impact statement.

10 (b) If no application has been submitted as described in  
11 subdivision (a) of this subsection, the department may conduct a  
12 study similar to a review or study under the National Environmental  
13 Policy Act of the environmental impact of an oil pipeline route  
14 within, through, or across the state. Such study may be provided  
15 upon request by a pipeline carrier for use in an application to a  
16 federal agency or agencies. If a pipeline carrier requests access  
17 to the study and subsequently files an application with a federal  
18 agency or agencies for an oil pipeline with a route that is within,  
19 through, or across the state but does not incorporate the study  
20 into its application, the department may seek reimbursement for the  
21 cost of the study from the pipeline carrier. The department may  
22 conduct a joint review or study as described in this subdivision  
23 with a federal agency or agencies and may enter into an agreement  
24 that sets forth the responsibilities and schedule that will lead to  
25 an effective and timely review or study.

26 (2) Since the objectives of the process are to ensure  
27 adequate information gathering, full and careful agency and public

1 review, objective preparation of a supplemental environmental  
2 impact statement, adherence to a defined schedule, and an  
3 appropriate role for a pipeline carrier which avoids the appearance  
4 of conflicts of interest, it is the intent of the Legislature that  
5 the state fully fund the process of preparation of a supplemental  
6 environmental impact statement ~~and that no fees will be required of~~  
7 ~~an applicant.~~ or study conducted pursuant to subdivision (1)(b) of  
8 this section. The department may contract with outside vendors in  
9 the process of preparation of a supplemental environmental impact  
10 statement or study conducted pursuant to subdivision (1)(b) of  
11 this section. The department shall make every reasonable effort to  
12 ensure that each vendor has no conflict of interest or relationship  
13 to any pipeline carrier that applies for an oil pipeline permit.

14 (3) In order for the process to be efficient and  
15 expeditious, the department's contracts with vendors pursuant to  
16 this section for a supplemental environmental impact statement or  
17 study conducted pursuant to subdivision (1)(b) of this section  
18 shall not be subject to the Nebraska Consultants' Competitive  
19 Negotiation Act or sections 73-301 to 73-306 or 73-501 to 73-509.

20 (4)(a) After the supplemental environmental impact  
21 statement is prepared pursuant to subdivision (1)(a) of this  
22 section, the department shall submit it to the Governor. Within  
23 thirty days after receipt of the supplemental environmental impact  
24 statement from the department, the Governor shall indicate, in  
25 writing, to the federal agency or agencies involved in the review  
26 as to whether he or she approves any of the routes reviewed in the  
27 supplemental environmental impact statement.

1           (b) The department shall notify the Governor if a  
2 pipeline carrier has requested access to the review or study  
3 conducted under subdivision (1)(b) of this section. The Governor  
4 shall, within thirty days after such notice, indicate in writing  
5 to the department and to any federal agency or agencies involved  
6 in such review or study or any other appropriate federal agency or  
7 body as to whether he or she approves any of the routes reviewed  
8 in such review or study. The department shall not provide access to  
9 the review or study to the pipeline carrier without the Governor's  
10 response.

11           Sec. 4. Original section 57-1101, Reissue Revised  
12 Statutes of Nebraska, as amended by section 1, Legislative Bill  
13 1, One Hundred Second Legislature, First Special Session, 2011,  
14 section 3, Legislative Bill 1, One Hundred Second Legislature,  
15 First Special Session, 2011, and section 3, Legislative Bill 4,  
16 One Hundred Second Legislature, First Special Session, 2011, are  
17 repealed.

18           Sec. 5. Since an emergency exists, this act takes effect  
19 when passed and approved according to law.