

AMENDMENTS TO LB 1161

(Amendments to Standing Committee amendments, AM2381)

Introduced by Langemeier

1           1. Strike the original sections and all amendments  
2 thereto and insert the following 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

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

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

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

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

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

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

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

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

1           (2) Nothing in the Major Oil Pipeline Siting Act shall be  
2 construed to regulate any safety issue with respect to any aspect  
3 of any interstate oil pipeline. The Major Oil Pipeline Siting Act  
4 is intended to deal solely with the issue of siting or choosing the  
5 location of the route aside and apart from safety considerations.  
6 The Legislature acknowledges and respects the exclusive federal  
7 authority over safety issues established by the federal law, the  
8 Pipeline Safety Act of 1994, 49 U.S.C. 60101 et seq., and the  
9 express preemption provision stated in that act. The Major Oil  
10 Pipeline Siting Act is intended to exercise only the remaining  
11 sovereign powers and purposes of Nebraska which are not included in  
12 the category of safety regulation.

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

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

24           Sec. 3. (1)(a) The department may:  
25           ~~collaborate~~ (i) Collaborate with a federal agency or  
26 agencies in a review under the National Environmental Policy Act  
27 involving a supplemental environmental impact statement for oil

1 pipeline projects within, through, or across the state. Prior  
2 to entering into such shared jurisdiction and authority, the  
3 department shall collaborate with such agencies to set forth  
4 responsibilities and schedules for an effective and timely review  
5 process; or

6 (ii) Evaluate any route for an oil pipeline within,  
7 through, or across the state and submitted by a pipeline carrier  
8 for the stated purpose of being included in a federal agency's  
9 or agencies' National Environmental Policy Act review process. Any  
10 such evaluation shall provide opportunities for public review and  
11 comment and shall include, but not be limited to, an analysis of  
12 the environmental, economic, social, and other impacts associated  
13 with the proposed route and route alternatives in Nebraska. The  
14 department may collaborate with a federal agency or agencies and  
15 set forth the responsibilities and schedules that will lead to an  
16 effective and timely evaluation.

17 Prior to entering into such shared jurisdiction and  
18 authority with a federal agency or agencies, the department shall  
19 enter into a memorandum of understanding with such federal agency  
20 or agencies that sets forth the responsibilities and schedules that  
21 will lead to an effective and timely review under the National  
22 Environmental Policy Act involving a supplemental environmental  
23 impact statement.

24 (b) If a pipeline carrier does not file for a federal  
25 permit that may be required under federal law for an oil pipeline  
26 project or does not use the department's review or evaluation under  
27 subdivision (1)(a)(ii) of this section, the pipeline carrier shall

1 reimburse the department for the cost of the evaluation or review  
2 within sixty days after notification from the department of the  
3 cost.

4           (2) Since the objectives of the process are to ensure  
5 adequate information gathering, full and careful agency and public  
6 review, objective preparation of a supplemental environmental  
7 impact statement, adherence to a defined schedule, and an  
8 appropriate role for a pipeline carrier which avoids the appearance  
9 of conflicts of interest, it is the intent of the Legislature that  
10 the state fully fund the process of preparation of a supplemental  
11 environmental impact statement or an evaluation conducted under  
12 subdivision (1)(a)(ii) of this section and that no fees will  
13 be required of an applicant. The department may contract with  
14 outside vendors in the process of preparation of a supplemental  
15 environmental impact statement or an evaluation conducted under  
16 subdivision (1)(a)(ii) of this section. The department shall make  
17 every reasonable effort to ensure that each vendor has no conflict  
18 of interest or relationship to any pipeline carrier that applies  
19 for an oil pipeline permit.

20           (3) In order for the process to be efficient and  
21 expeditious, the department's contracts with vendors pursuant to  
22 this section for a supplemental environmental impact statement  
23 or an evaluation conducted under subdivision (1)(a)(ii) of  
24 this section shall not be subject to the Nebraska Consultants'  
25 Competitive Negotiation Act or sections 73-301 to 73-306 or 73-501  
26 to 73-509.

27           (4) After the supplemental environmental impact statement

1 or the evaluation conducted under subdivision (1)(a)(ii) of this  
2 section is prepared, the department shall submit it to the  
3 Governor. Within thirty days after receipt of the supplemental  
4 environmental impact statement or the evaluation conducted under  
5 subdivision (1)(a)(ii) of this section from the department, the  
6 Governor shall indicate, in writing, to the federal agency or  
7 agencies involved in the review or any other appropriate federal  
8 agency or body as to whether he or she approves any of the routes  
9 reviewed in the supplemental environmental impact statement or the  
10 evaluation conducted under subdivision (1)(a)(ii) of this section.

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.