

AMENDMENTS TO LB 4

(Amendments to Standing Committee amendments, AM13)

Introduced by Flood

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

3           Section 1. The Legislature finds that:

4           (1) The State of Nebraska is responsible for protecting  
5 its natural resources, agricultural resources, aesthetics, economy,  
6 and communities through reasonable regulation for the common good  
7 and welfare. As such, the state is responsible for ensuring  
8 that an oil pipeline proposed to be located within, through,  
9 or across Nebraska is in compliance with all state laws, rules,  
10 and regulations relating to water, air, and wildlife under the  
11 Constitution of Nebraska and state law;

12           (2) Public policy should reflect this responsibility  
13 while simultaneously recognizing the necessity for energy use and  
14 the economic benefits to Nebraska of transporting oil within,  
15 through, or across the state, the need for economic development  
16 in Nebraska, and the opportunities for jobs and revenue that new  
17 development brings to the state;

18           (3) The United States has the important ability to work  
19 with foreign suppliers of crude oil to meet our overall energy  
20 needs and to further our national security interests; and

21           (4) The economic benefits of oil pipeline construction  
22 projects are important to the state, including the creation of

1 jobs. Nevertheless, the benefits of any proposed oil pipeline  
2 project must be weighed against any concerns brought by the  
3 residents of Nebraska.

4 Sec. 2. For purposes of sections 1 to 3 of this act:

5 (1) Department means the Department of Environmental  
6 Quality;

7 (2) Oil pipeline means a pipeline which is larger than  
8 eight inches in inside diameter and which is constructed or  
9 operated in Nebraska for the transportation of petroleum, or  
10 petroleum components, products, or wastes, including crude oil or  
11 any fraction of crude oil, within, through, or across Nebraska, but  
12 does not include in-field and gathering lines; and

13 (3) Pipeline carrier means an individual, a company, a  
14 corporation, an association, or any other legal entity that engages  
15 in owning, operating, or managing an oil pipeline.

16 Sec. 3. (1) The department may collaborate with a federal  
17 agency or agencies in a review under the National Environmental  
18 Policy Act involving a supplemental environmental impact statement  
19 for oil pipeline projects within, through, or across the state.  
20 Prior to entering into such shared jurisdiction and authority with  
21 a federal agency or agencies, the department shall enter into a  
22 memorandum of understanding with such federal agency or agencies  
23 that sets forth the responsibilities and schedules that will lead  
24 to an effective and timely review under the National Environmental  
25 Policy Act involving a supplemental environmental impact statement.

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. The department may contract with outside vendors in  
8 the process of preparation of a supplemental environmental impact  
9 statement. The department shall make every reasonable effort to  
10 ensure that each vendor has no conflict of interest or relationship  
11 to any pipeline carrier that applies for an oil pipeline permit.

12 (3) In order for the process to be efficient and  
13 expeditious, the department's contracts with vendors pursuant to  
14 this section for a supplemental environmental impact statement  
15 shall not be subject to sections 73-301 to 73-306 or 73-501 to  
16 73-509.

17 (4) After the supplemental environmental impact statement  
18 is prepared, the department shall submit it to the Governor. Within  
19 thirty days after receipt of the supplemental environmental impact  
20 statement from the department, the Governor shall indicate, in  
21 writing, to the federal agency or agencies involved in the review  
22 as to whether he or she approves any of the routes reviewed in the  
23 supplemental environmental impact statement.

24 Sec. 4. Section 73-307, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 73-307 Sections 73-301 to 73-306 shall not apply to the  
27 Nebraska Consultants' Competitive Negotiation Act or section 3 of

1 this act.

2           Sections 73-301 to 73-306 shall not be construed to  
3 apply to renewals of contracts already approved pursuant to or  
4 not subject to such sections, to amendments to such contracts,  
5 or to renewals of such amendments unless the amendments would  
6 directly cause or result in the replacement by the private entity  
7 of additional permanent state employees or positions greater than  
8 the replacement caused by the original contract.

9           Sec. 5. Section 73-507, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           73-507 (1) Subject to review by the Director of  
12 Administrative Services, the materiel division shall provide  
13 procedures to grant limited exceptions from the provisions of  
14 sections 73-504, 73-508, and 73-509 for:

15           (a) Sole source and emergency contracts; and

16           (b) Other circumstances or specific contracts when any  
17 of the requirements of sections 73-504, 73-508, and 73-509 are not  
18 appropriate for or are not compatible with the circumstances or  
19 contract. The materiel division shall provide a written rationale  
20 which shall be kept on file when granting an exception under this  
21 subdivision.

22           (2) The following types of contracts for services are not  
23 subject to sections 73-504, 73-508, and 73-509:

24           (a) Contracts for services subject to the Nebraska  
25 Consultants' Competitive Negotiation Act;

26           (b) Contracts for services subject to federal law,  
27 regulation, or policy or state statute, under which a state

1 agency is required to use a different selection process or to  
2 contract with an identified contractor or type of contractor;

3 (c) Contracts for professional legal services and  
4 services of expert witnesses, hearing officers, or administrative  
5 law judges retained by state agencies for administrative or court  
6 proceedings;

7 (d) Contracts involving state or federal financial  
8 assistance passed through by a state agency to a political  
9 subdivision;

10 (e) Contracts with direct providers of medical,  
11 behavioral, or developmental health services, child care, or child  
12 welfare services to an individual;

13 (f) Agreements for services to be performed for a state  
14 agency by another state or local government agency or contracts  
15 made by a state agency with a local government agency for the  
16 direct provision of services to the public;

17 (g) Agreements for services between a state agency and  
18 the University of Nebraska, the Nebraska state colleges, the  
19 courts, the Legislature, or other officers or agencies established  
20 by the Constitution of Nebraska;

21 (h) Department of Insurance contracts for financial  
22 or actuarial examination, for rehabilitation, conservation,  
23 reorganization, or liquidation of licensees, and for professional  
24 services related to residual pools or excess funds under the  
25 agency's control;

26 (i) Department of Roads contracts for all road and bridge  
27 projects; and

1 (j) Nebraska Investment Council contracts; ~~and-~~

2 (k) Contracts under section 3 of this act.

3 Sec. 6. Original sections 73-307 and 73-507, Reissue  
4 Revised Statutes of Nebraska, are repealed.

5 Sec. 7. Since an emergency exists, this act takes effect  
6 when passed and approved according to law.

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