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PREPARED BY: Scott Danigole  
DATE PREPARED: November 04, 2011  
PHONE: 471-0055

Revision: 00

First Special Session

# FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES *				
	FY 2011-12		FY 2012-13	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS	541,687	541,687	542,643	542,643
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	541,687	541,687	542,643	542,643

\*Does not include any impact on political subdivisions. See narrative for political subdivision estimates.

LB 1 is the Major Oil Pipeline Siting Act.

Section 3 provides purposes for the Act. Section 4 provides Legislative findings. Section 5 provides definitions.

Section 6 requires a pipeline carrier proposing to construct a major oil pipeline to be placed in operation in the state after the effective date of the act to file an application with the Public Service Commission (PSC) and receive approval prior to beginning construction. A pipeline carrier proposing a substantive change to the route of a major oil pipeline shall file an application for the proposed change with the PSC prior to beginning construction relating to the proposed change. Such applications shall be accompanied by a written agreement to pay expenses assessed pursuant to section 7 of the Act.

Section 7 requires the PSC to assess the expenses reasonably attributable to the investigation and hearing regarding an application filed under section 6. This assessment shall include expenses billed by agencies filing reports as authorized in subsection (3) of section 8 of the Act and both direct and indirect costs incurred by the PSC, its staff or consultants, to the applicant as agreed under section 6 of the Act. The PSC shall bill the applicant. The applicant shall pay the bill within fifteen (15) days. The payment shall be credited to the Public Service Commission Pipeline Regulation Fund. Section 7 includes language to address issues of non-payment, filing of objections, and further delinquency of payment.

Section 8 addresses the actions that the PSC shall take upon receipt of an application. Subsection (3) requires certain agencies to file a report with the PSC, prior to the hearing on the application, regarding information within the respective agencies' area of expertise. The agencies identified are:

- Department of Environmental Quality
- Department of Natural Resources
- Department of Revenue
- Department of Roads
- Game and Parks Commission
- Nebraska Oil and Gas Conservation Commission
- Nebraska State Historical Society
- State Fire Marshal
- Board of Educational Lands and Funds

The agencies may submit a request for reimbursement of expenses incurred for any consultants hired pursuant to this subsection not to exceed an unidentified amount of dollars. In order for this reimbursement cap to have meaning, such a cap needs to be identified and amended into the bill.

Section 8 (4) requires an application under the Act to be granted if the major oil pipeline is determined by the PSC to be in the public interest. The pipeline carrier shall have the burden of establishing that the proposed pipeline would serve the public interest. This subsection goes on to identify the determining factors that the PSC shall use to make this evaluation.

Section 9 requires the PSC to enter an order granting the application or denying the application within eight (8) months after the receipt of the application. The PSC may extend the time for entry of an order for just cause.

Section 10 provides for appeals by aggrieved parties.

Section 11 creates the Public Service Commission Pipeline Regulation Fund.

Section 12 allows the PSC to contract for professional services and expert assistance to assist with reviewing applications under the Act.

The Public Service Commission has identified certain assumptions in their estimate of fiscal impact. These include:

1. One application per year
2. Three days of hearings at three separate locations
3. Five counties involved
4. Twenty-five municipalities affected
5. PSC staff time totaling 672 hours
6. An estimate of \$500,000 for agency related reports, and consultants providing expertise for the investigation and hearings.
7. The assumption that the PSC will be able to assess the applicant up-front for certain costs prior to their actual occurrence. The PSC would intent to "true-up" with the applicant once actual costs are known.

These underlying assumptions appear to be generally reasonable. However, it should be noted that the assumptions in item number 7 are in a gray area. First, the bill provides for the PSC to assess the applicant. It is not a matter of certainty that this can be done prospectively. If the PSC is not able to assess the applicant based on estimates of future costs, some manner to pay for initial cost must be found. It is likely that this would entail using General Funds. It would be beneficial if the bill's language specified the prospective or non-prospective nature of such assessments. Furthermore, the bill is silent regarding the PSC's authority to "true-up" with an applicant. If this is the PSC's intent and inline with the Legislature's will, the bill should allow for such a provision. In this manner, any overage assessed to an applicant can be refunded if not required to pay for actually incurred costs.

Additionally, assumption number 1 may be questioned. In all likelihood, there will be a single application for pipeline construction under the Act. However, that is not a certainty. By making the assumption of a second year application, the PSC is allowing for the possibility of re-filings or changes under the Act's provisions. While multiple pipeline applications are not anticipated, planning ahead for such scenarios is prudent. If no applications are submitted in the second year, the PSC will have spending authority with no new funds to expend, since funding is not received in absence of an application.

The total PSC estimate of costs is \$541,687 in the first year and \$542,643 for the second year. There is no basis to disagree with these estimates, under their assumptions. Since one of the PSC's underlying assumptions is the ability to prospectively assess the applicant, these costs are identified as Cash Fund expenditures with Cash Fund revenues to offset.

The agencies required to submit reports under section 8 have estimated costs in the following amounts:

Department of Environmental Quality	\$4,000	\$4,000
Department of Natural Resources	\$0	\$0
Department of Revenue	\$0	\$0
Department of Roads	N/A	N/A
Game and Parks Commission	\$0	\$0
Nebraska Oil and Gas Conservation Commission	\$3,450	\$0
Nebraska State Historical Society	\$1,000 per mile	\$1,000 per mile
State Fire Marshal	\$0	\$0
Board of Educational Lands and Funds	\$3,000-\$5,000	\$3,000-\$5,000

With one exception, the agencies listed above have estimated minimal costs associated with the prospect of hiring consultants to address the provisions of LB 1. Under the bill's provisions, these costs may be submitted to the PSC for reimbursement. Since these dollar amounts are so low, it is assumed that the respective agencies have sufficient budgetary authority to address these costs without need for an appropriation increase.

The exception to this is the Historical Society (NSHS). The NSHS estimates the potential need to survey the proposed route of a pipeline. The estimated cost of that is in a range near \$1,000 per mile surveyed. In absence of a proposed route, the cost of such a survey cannot be accurately estimated. It is highly likely that this cost will be significant and require an increase in appropriation authority. At this time, it is assumed that the NSHS will address these costs through the normal budget and/or deficit process. Since these costs cannot be accurately identified, no dollars for this purpose are included in the table on page one of this fiscal note.

Due to the compressed timeframe associated with the special session, the Department of Roads has not had adequate time to submit their response. When that is received, this fiscal note will be updated to include their response.

DEPARTMENT OF ADMINISTRATIVE SERVICES

REVIEWED BY	Lyn Heaton	DATE	11/4/11	PHONE	471-2526
<b>COMMENTS</b>					
<p>BOARD OF EDUCATIONAL LANDS AND FUNDS: Costs for the BELF are expected to be minimal. The BELF can utilize existing personnel and financial resources, subject to laws authorizing use of such resources, to evaluate the impact of any proposed major oil pipeline relative to their area of expertise and jurisdiction. Any cost to evaluate the impact of the proposed pipeline and subsequently prepare the report to the PSC, with the exception of any costs incurred for any required consultants up to an unspecified maximum, will not be reimbursed by the applicant.</p>					
<p>DEPARTMENT OF REVENUE: Concur with the Department of Revenue estimate of minimal fiscal impact. The Department of Revenue can utilize existing personnel and financial resources, subject to laws authorizing use of such resources, to evaluate the impact of any proposed major oil pipeline relative to their area of expertise and jurisdiction. Any cost to evaluate the impact of the proposed pipeline and subsequently prepare the report to the PSC, with the exception of any costs incurred for any required consultants up to an unspecified maximum, will not be reimbursed by the applicant.</p>					

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LEGISLATIVE FISCAL

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LB <sup>(1)</sup> 1 FISCAL NOTE

102nd Legislature - Special Session

State Agency OR Political Subdivision Name: <sup>(2)</sup> Board of Educational Lands and Funds (#32)

Prepared by: <sup>(3)</sup> Cindy S.H. Kehling Date Prepared: <sup>(4)</sup> 11/3/2011 Phone: <sup>(5)</sup> 471-2014

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2011-2012		FY 2012-2013	
	NET INCOME	ASSETS	NET INCOME	ASSETS
SCHOOL TRUST	No Fiscal Impact		No Fiscal Impact	
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	_____	_____	_____	_____

Return by date specified or 72 hours prior to public hearing, whichever is earlier.

Explanation of Estimate:

No anticipated additional internal expenses for the School Land Trust; however, if a consultant needs to be hired for any individual request, an estimated expense of \$3,000-\$5,000 may occur.

MAJOR OBJECTS OF EXPENDITURE

Personal Services:

POSITION TITLE	NUMBER OF POSITIONS		2011-2012	2012-2013
	11-12	12-13	EXPENDITURES	EXPENDITURES
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital Outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____





**FISCAL NOTE                      LB1**  
**State Fire Marshal**

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 LEGISLATIVE FISCAL

Prepared By	Wann, Cathy
Date Prepared	11/3/2011
Prepared Phone	402-471-9479

**Estimate Provided By State Agency or Political Subdivision**

	FY 2011-2012		FY 2012-2013	
	Expenditures	Revenue	Expenditures	Revenue
General Funds				
Cash Funds				
Federal Funds				
Other Funds				
Total Funds				

**Explanation of Estimate:**

There is no fiscal impact to the Agency.

**Major Objects of Expenditure**

Position Title	Number of Positions		FY 2011-2012	FY 2012-2013
	FY 2011-2012	FY 2012-2013	Expenditures	Expenditures
		Benefits		
		Operating		
		Travel		
		Capital outlay		
		Aid		
		Capital improvements		
		Total		

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LB (1) 1 (Special Session) FISCAL NOTE

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

Prepared by: (3) Patrick H. Cole Date Prepared: (4) November 3, 2011 Phone: (5) (402) 471-5523

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

Table with columns for FY 2011-2012 and FY 2012-2013, each with sub-columns for EXPENDITURES and REVENUE. Rows include GENERAL FUNDS, CASH FUNDS, FEDERAL FUNDS, OTHER FUNDS, and TOTAL FUNDS.

Return by date specified or 72 hours prior to public hearing, whichever is earlier.

Explanation of Estimate:

The proposed legislation would qualify the use of eminent domain for major oil pipelines. It establishes the Major Oil Pipeline Siting Act. Under said Act, it provides for a process by which an applicant shall apply to the Public Service Commission (PSC) for approval to construct a major oil pipeline in Nebraska. The identified process provides for an appeal process as well as a reapplication process.

As part of the PSC's review of the applications, several agencies are required to provide a report to the PSC "regarding information within the agencies' area of expertise relating to the impact of the proposed major oil pipeline on any area within the respective agencies' jurisdiction". The Nebraska Game and Parks Commission (NGPC) is one of the nine agencies assigned this task. No other specific direction is provided, nor timeline. The reports are due to the PSC prior to its scheduling of a public hearing on the application. No timeline is established for the public hearing, but the PSC is to grant an order granting or denying the application within eight months after receipt of the application.

MAJOR OBJECTS OF EXPENDITURE

Table titled 'MAJOR OBJECTS OF EXPENDITURE' with columns for POSITION TITLE, NUMBER OF POSITIONS (11-12, 12-13), 2011-2012 EXPENDITURES, and 2012-2013 EXPENDITURES. Rows include Personal Services, Benefits, Operating, Travel, Capital outlay, Aid, Capital improvements, and TOTAL.

NGPC currently reviews projects for potential impact to Nebraska's fish and wildlife resources as prescribed under other State licensing/authorizing legislation. Provided that the time line and scope for the agency's review and report is not significantly different than current reviews, no fiscal impact is expected. It may likely necessitate prioritization of other less time sensitive reviews. If the review is more intense, it's possible that an outside contractor may be necessary to assist. The legislation does provide a possible avenue for the reimbursement of expenses incurred for any consultants hired.



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LB(1) 1 FISCAL NOTE

State Agency OR Political Subdivision Name: Nebraska State Historical Society

(2)

Prepared by: (3) Michelle Furby

Date Prepared: (4) November 4, 2011

Phone: (5) (402) 471-3171

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2011-2012		FY 2012-2013	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS				

Return by date specified or 72 hours prior to public hearing, whichever is earlier.

Explanation of Estimate:

This note addresses the proposed role that may be implied for our agency under LB1§ 8[3]. To properly proceed in evaluating cultural resources that may be affected by a certain undertaking - in this case a pipeline - certain requirements would need to be met. Costs entailed would be as herein.

- Survey:  
Estimated cost per acre of survey: \$20-\$25  
Cost per mile, based on a 300-foot pipeline corridor: \$825-\$1,200
- Final evaluation of resources:  
Staff time: \$500-\$750
- Identification of effect:  
Staff time: \$100-\$300
- Mitigation strategies:  
Architectural recordation, based on one building or structure: \$3,000-\$8,000  
Archeological excavation, based on a single site: \$50,000-\$150,000

MAJOR OBJECTS OF EXPENDITURE

Personal Services:

POSITION TITLE	NUMBER OF POSITIONS		2011-2012 EXPENDITURES	2012-2013 EXPENDITURES
	11-12	12-13		
Field Archeologist	1	1	48,221	49,185

Benefits.....		<u>21,429</u>	<u>21,429</u>
Operating.....		<u>3,560</u>	<u>3,560</u>
Travel.....		<u>6,752</u>	<u>6,752</u>
Capital outlay.....		<u>1,200</u>	<u>1,200</u>
Aid.....			
Capital improvements.....			
TOTAL.....		<u>81,162</u>	<u>82,126</u>

**FISCAL NOTE**  
**Department of Natural Resources**

**LB1**

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Prepared By	Theis, Ronald
Date Prepared	11/3/2011
Prepared Phone	402-471-0577

**Estimate Provided By State Agency or Political Subdivision**

	FY 2011-2012		FY 2012-2013	
	Expenditures	Revenue	Expenditures	Revenue
General Funds	0	0	0	0
Cash Funds	0	0	0	0
Federal Funds	0	0	0	0
Other Funds	0	0	0	0
<b>Total Funds</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Explanation of Estimate:**

The bill requires a report by DNR pursuant to an application. No additional personnel or operating costs are expected by DNR for fulfilling this duty. If consulting costs by the agency are necessary, the bill provides for reimbursement of such costs by Public Service Commission; therefore there is no fiscal impact on DNR budget.

**Major Objects of Expenditure**

Position Title	Number of Positions		FY 2011-2012	FY 2012-2013
	FY 2011-2012	FY 2012-2013	Expenditures	Expenditures
			0	0
			0	0
		Benefits	0	0
		Operating	0	0
		Travel	0	0
		Capital outlay	0	0
		Aid	0	0
		Capital improvements	0	0
		<b>Total</b>	<b>0</b>	<b>0</b>



# FISCAL NOTE LB1

## Public Service Commission

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LEGISLATIVE COUNSEL

Prepared By	Burvainis, John
Date Prepared	11/3/2011
Prepared Phone	402-471-0240

**Estimate Provided By State Agency or Political Subdivision**

	FY 2011-2012		FY 2012-2013	
	Expenditures	Revenue	Expenditures	Revenue
General Funds				
Cash Funds	541,687	541,687	542,643	542,643
Federal Funds				
Other Funds				
<b>Total Funds</b>	<b>541,687</b>	<b>541,687</b>	<b>542,643</b>	<b>542,643</b>

**Explanation of Estimate:**

LB 1 adopts the Major Oil Pipeline Siting Act. Under section 6 of the proposal, a pipeline carrier proposing to construct a major oil pipeline to be placed in operation in Nebraska shall file an application with the Public Service Commission for approval pursuant to section 9 of the bill.

Section 8 provides that the Commission would schedule hearings, and publish notifications of hearings throughout the counties and municipalities where the pipeline will be located. Hearings would be held to receive input from the public and certain state agencies regarding information within the respective agencies' area of expertise relating to the impact of the pipeline.

Section 7 provides that the Commission shall assess the expenses reasonably attributable to the investigation and hearing regarding applications filed under section 6, including expenses billed by agencies filing reports authorized under the act, and both direct and indirect expenses incurred by the Commission or its staff or consultants. Pursuant to this section, if the Commission received an application, a reasonable estimate of the costs would be made and immediately assessed to the applicant. This would eliminate the need for any initial seed money to implement the bill.

Section 11 creates the Pipeline Regulation Fund to be administered by the Commission to carry out the Major Oil Pipeline Siting Act.

Assumptions made for the fiscal note include: (1) one application being filed for the year, with 3 days of hearings being held at 3 separate locations; (2) staff time devoted to the attendance, pre-hearing matters, review of the application, and writing the final order for the application - 672 hours; (3) estimate of 5 counties that are affected, and 25 municipalities; (4) estimated expenses of \$500,000 for the agency reports, and consultants providing expertise for the investigation and hearings. These could include engineers, accountants, attorneys, and economists, to assist in the review process. (5) The Commission would be able to initially assess the applicant for certain costs prior to the time of occurrence, subject to a true-up once the actual costs are known.

**Major Objects of Expenditure**

Position Title	Number of Positions		FY 2011-2012	FY 2012-2013
	FY 2011-2012	FY 2012-2013	Expenditures	Expenditures
Director/Attorney	.32	.32	24,864	25,361
		Benefits	9,448	9,637
		Operating	505,775	506,045
		Travel	1,600	1,600
		Capital outlay		
		Aid		
		Capital improvements		
		<b>Total</b>	<b>541,687</b>	<b>542,643</b>

