

Revised to reflect additional agency response

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2024-25		FY 2025-26	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	See Below		See Below	
CASH FUNDS	\$222,053		\$225,295	
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	See Below		See Below	

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

LB1366 amends state statute to define what a good faith offer means when using eminent domain. It disallows political subdivisions from using eminent domain to purchase property outside of their boundary without a vote of the governing body where the property is located.

The bill prohibits the use of eminent domain by a private entity for the use of a pipeline without approval from the Public Service Commission or a governing body of the county, city or village where the property is located.

The bill also allows for the return of the property if it is no longer necessary for public use.

The Public Service Commission indicates the cost of implementing this bill at close to \$1,500,000 per fiscal year based on being required to approve an estimated 5 pipelines a year and not having the ability to charge for those approvals. It is clear pipeline route approval will have a cost; however, it is unclear how often the Commission will be providing this service as the bill also allows approval through a separate process of local government approval

The Nebraska Department of Transportation estimates the need for 2 FTE Appraiser III to handle the anticipated 250 additional tract appraisals. These positions would require \$222,053 in FY2024-25 and \$225,295 in FY2025-26. This estimate appears to be reasonable.

The Nebraska Association of County Officials expects minimal fiscal impact to the county governments.

The total fiscal impact is unknown.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 1366	AM:	AGENCY/POLT. SUB: Real Property Appraiser Board	
REVIEWED BY: Ryan Walton	DATE: 1/22/2024	PHONE: (402) 471-4174	
COMMENTS: The Real Property Appraiser Board's assessment of no fiscal impact from LB 1366 appears reasonable.			

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 1366	AM:	AGENCY/POLT. SUB: Department of Environment and Energy	
REVIEWED BY: Ryan Walton	DATE: 1/22/2024	PHONE: (402) 471-4174	
COMMENTS: The Department of Environment and Energy's assessment of no fiscal impact from LB 1366 appears reasonable.			

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 1366	AM:	AGENCY/POLT. SUB: Nebraska Association of County Officials (NACO)
REVIEWED BY: Ryan Walton	DATE: 1/25/2024	PHONE: (402) 471-4174
COMMENTS: The NACO assessment of fiscal impact from LB 1366 appears reasonable.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 1366	AM:	AGENCY/POLT. SUB: Department of Administrative Services (DAS)
REVIEWED BY: Ryan Walton	DATE: 1/30/2024	PHONE: (402) 471-4174
COMMENTS: The DAS' assessment of no fiscal impact from LB 1366 appears reasonable.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 1366	AM:	AGENCY/POLT. SUB: Public Service Commission
REVIEWED BY: Ryan Walton	DATE: 1/31/2024	PHONE: (402) 471-4174
COMMENTS: The Public Service Commission's assessment of fiscal impact from LB 1366 appears reasonable.		

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

2024

LB⁽¹⁾ 1366

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Dept. of Administrative Services – State Building Division

Prepared by: ⁽³⁾ Sarah Skinner Date Prepared: ⁽⁴⁾ 1/24/2024 Phone: ⁽⁵⁾ 402-419-4229

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2024-25</u>		<u>FY 2025-26</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
REVOLVING FUNDS	_____	_____	_____	_____
TOTAL FUNDS	=====	=====	=====	=====

Explanation of Estimate:

LB 1366 proposes revisions to the use of eminent domain to clarify negotiations “in good faith” prior to authorization to enter land for purposes related to potential condemnation proceedings. Evidence of negotiations conducted in good faith would include an appraisal shared with the owner at the time of negotiations. Property shall not be condemned for economic development purposes. LB 1366 proposes changes to condemnation by political subdivisions and terms for a majority vote of the governing body and also establishes conditions for private entities to use eminent domain. Condemned property not used or no longer necessary for public use could be returned to the condemnee.

There is no fiscal impact to the Department of Administrative Services.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2024-25</u>	<u>2025-26</u>
	<u>24-25</u>	<u>25-26</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____

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2024

LB⁽¹⁾ 1366

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Department of Environment and Energy

Prepared by: ⁽³⁾ Kevin Stoner Date Prepared: ⁽⁴⁾ January 19, 2024 Phone: ⁽⁵⁾ 402 471-2186

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2024-25</u>		<u>FY 2025-26</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:

LB 1366 proposes to change provisions relating to the use of eminent domain. There is no fiscal impact to NDEE.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2024-25</u>	<u>2025-26</u>
	<u>24-25</u>	<u>25-26</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____

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

2024

LB⁽¹⁾ 1366

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Nebraska Association of County Officials (NACO)

Prepared by: ⁽³⁾ Elaine Menzel Date Prepared: ⁽⁴⁾ 1/23/2024 Phone: ⁽⁵⁾ 402.434.5660

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2024-25</u>		<u>FY 2025-26</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:

LB 1366 would change provisions relating to the use of eminent domain. The bill would include showing a property owner an appraisal for the purpose of providing evidence of attempts to negotiate in good faith. LB 1366 would not allow a political subdivision of this state to take property through the use of eminent within the State of Nebraska outside of the boundaries of such county unless a majority vote of the county board of the county where the property is located approves such taking.

A condemner that is a private entity shall not take property through the use of eminent domain

- a) For use of pipelines unless all pipeline routes are approved by the Public Service Commission; or
- b) Within the State of Nebraska unless a majority vote of the governing body of the county, city, or village where the property is located approves such taking.

The fiscal note is unknown for counties but expected to be minimal.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2024-25</u>	<u>2025-26</u>
	<u>24-25</u>	<u>25-26</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____

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2024

LB⁽¹⁾ 1366

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Nebraska Real Property Appraiser Board

Prepared by: ⁽³⁾ Tyler Kohtz Date Prepared: ⁽⁴⁾ January 19, 2024 Phone: ⁽⁵⁾ 402-471-9025

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2024-25</u>		<u>FY 2025-26</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS				
CASH FUNDS	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

Explanation of Estimate:

This bill will have no fiscal impact on the Nebraska Real Property Appraiser Board.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2024-25 EXPENDITURES</u>	<u>2025-26 EXPENDITURES</u>
	<u>24-25</u>	<u>25-26</u>		
Benefits.....			<u>0</u>	<u>0</u>
Operating.....			<u>0</u>	<u>0</u>
Travel.....			<u>0</u>	<u>0</u>
Capital outlay.....			<u>0</u>	<u>0</u>
Aid.....			<u>0</u>	<u>0</u>
Capital improvements.....			<u>0</u>	<u>0</u>
TOTAL.....			<u>0</u>	<u>0</u>

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

2024

LB⁽¹⁾ 1366

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Nebraska Department of Transportation (NDOT)

Prepared by: ⁽³⁾ Jenessa Boynton Date Prepared: ⁽⁴⁾ 1/30/2024 Phone: ⁽⁵⁾ 402-479-4691

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2024-25</u>		<u>FY 2025-26</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	<u>222,053</u>	_____	<u>225,295</u>	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	<u>222,053</u>	_____	<u>225,295</u>	_____

Explanation of Estimate:

LB1366 proposes changes to provisions related to eminent domain. The bill would update §76-701.01 to require an appraisal which is shared with the owner at the time of negotiations to be included as evidence of attempts to negotiate in good faith with the property owner when a petition is filed.

If LB1366 is enacted, NDOT anticipates 250 new tract appraisals would be required. The additional appraisals would require hiring of two additional Appraiser III full-time employees (FTEs). In FY2024 – 26 an annual salary of \$69,738 plus benefits per FTE is estimated with an increase of two percent in FY2025 – 26 over the FY2024 – 25 base salary. Operating expenses, such as computer, phone, IT site support, printing, postage, training, etc. will be incurred for the two additional FTEs and is estimated at \$5,000/year per FTE. In addition, travel will be required for the two positions and is estimated at a cost of \$1,800/year per FTE.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2024-25</u>	<u>2025-26</u>
	<u>24-25</u>	<u>25-26</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Appraiser III	<u>2</u>	<u>2</u>	<u>\$139,476</u>	<u>\$142,266</u>
Benefits.....	_____	_____	<u>\$68,977</u>	<u>\$69,429</u>
Operating.....	_____	_____	<u>\$10,000</u>	<u>\$10,000</u>
Travel.....	_____	_____	<u>\$3,600</u>	<u>\$3,600</u>
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	<u>\$222,053</u>	<u>\$225,295</u>

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

2024

LB⁽¹⁾ 1366

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Nebraska Public Service Commission

Prepared by: ⁽³⁾ Laurie Casados Date Prepared: ⁽⁴⁾ 1/26/2024 Phone: ⁽⁵⁾ 402-471-0252

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2024-25</u>		<u>FY 2025-26</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	1,492,589		1,499,227	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	1,492,589	0	1,499,227	0

Explanation of Estimate:

LB 1366, as written, requires approval of the route of a proposed pipeline by the Commission or a local body, prior to a private entity having the authority to utilize eminent domain for the pipeline project. The bill makes no distinction for size, type, location, or product proposed to be carried through the pipeline. LB 1366, as written, would include all pipeline projects, oil, gas, natural gas, carbon dioxide, and possibly other private chemical and water pipelines, of all diameters and lengths, and would include both intrastate and interstate pipelines. Further, the bill contains no specifics nor details regarding what type of approval process is contemplated to be conducted by the Commission. Currently, the Commission has routing approval only for Major Oil Pipelines (See Neb. Rev. Stat. § 57-1401 - 57-1413, Major Oil Pipeline Siting Act (MOPSA)). Without additional guidance, the Commission must assume the bill contemplates a route approval process similar to that contained in MOPSA for all other pipelines. Therefore, the Commission has estimated the resources and cost for approving routes of pipelines based on the one application that has been adjudicated under MOPSA. This one application review proceeding had a total cost of approximately \$470,000.

The Natural Gas department would require additional staff to fulfill the requirements of this bill as written. When the one MOPSA pipeline application came before the Commission the agency had to divert significant resources temporarily from other departments, which could not be done on an ongoing basis. As written, LB1366 would likely cause a substantial increase in the workload of the department. To handle the number of pipeline routes that could come before the Commission for approval, the Commission would need to hire an Assistant Director, Staff Attorney, an Administrative Assistant, and utilize shared services of administrative staff.

The Commission would also need to employ consulting services to advise on specialized matters. The Commission would need to contract for professional services and expert assistance, including but not limited to,

engineers, environmental experts, hydrogeologists, economists, and specialized accountants and attorneys. Consultant services would be necessary to conduct required reviews, including things like environmental impact studies, soil analysis, water table and water way/body reviews, engineering reports and reviews, cultural engagement with indigenous peoples and others regarding historically significant sites along the route, endangered fish and wildlife habitat analysis and impact, and economic studies, to name a few. Required contractual services costs were approximately \$175,000 for the one MOPSA pipeline application brought before the Commission. Using this as a basis for an estimate, the Commission would estimate that ongoing contractual service costs have increased at least 20% since 2017 and would estimate that 5 to 6 applications could be filed for approval in any given fiscal year. In addition, for the one MOPSA application the Department of Environmental Quality had already completed an environmental review of the project route, that would not be the case for applications submitted under this bill, so the amount for required reviews of a given route would likely be greater than what was experienced with that one application in 2017. The Commission estimates the costs of required contractual services at \$1,137,500 per year.

LB1366 does not give the Commission the express authority to bill applicants for costs of their application filings, which MOPSA does allow. The Commission does not have a current fund that could be used for these expenses and would require general fund appropriation under program 792 to administer the requirements set forth in this bill.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2024-25</u>	<u>2025-26</u>
	<u>24-25</u>	<u>25-26</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Assistant Director	1	1	85,000	89,250
Attorney	1	1	70,000	73,500
Administrative Assistant	1	1	45,000	47,250
Shared Services			26,086	27,390
Benefits.....			109,232	111,177
Operating.....			1,157,271	1,150,660
Travel.....			0	0
Capital outlay.....			0	0
Aid.....			0	0
Capital improvements.....			0	0
TOTAL.....			1,492,589	1,499,227