

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES *				
	FY 2012-13		FY 2013-14	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
TRUST FUNDS	See Below	See Below	See Below	See Below
TOTAL FUNDS				

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

LB 1084 requires the Board of Educational Lands and Funds (BELF) to require that all land owned by the board be open to the public for hunting, fur harvesting and fishing beginning October 1, 2012. On such date, as old leases expire and new leases are entered into these provisions shall be included as part of the lease.

Revenues: Lessees of school lands currently have control over all hunting, fur harvesting and fishing rights. BELF indicates the control over these rights is a major reason why many individuals lease school lands. The removal of the rights will presumably make the leasing of a lot of the land less attractive since the majority of school land is pasture rather than crop land.

BELF estimates there will be lost lease revenue for 129 tracts of land that are classified as recreational parcels. The board also projects that the other parcels of land classified as non-recreational will also be less valuable in terms of rentals pursuant to the bill. It is difficult to estimate the loss in rental revenue that will occur for leases of non-recreational land. BELF assumes the loss to be about \$3.26 per acre for about 50% of the school lands leased. This is based upon the amount the Game and Parks Commission pays landowners per acre for public hunting. BELF also manages trust land for higher education institutions. It is assumed the revenue loss per acre will be similar to the loss for other school lands as projected by the board. The following table shows estimated revenue losses pursuant to the bill. It is assumed the loss in revenue will be phased in over an eleven year period as leases expire and are renewed.

	# Of Acres/Tracts	Estimated Revenue Loss
Leases of:		
Recreational Land	129 Tracts	(125,000)
- Bonuses		(62,000)
Non-recreational Land	641,152 Acres	(2,090,000)
Higher Ed. Lands	10,062 Acres	(26,700)
		(2,303,700)

The reduction in rental income for the school land trust decreases annual revenue school districts receive as state appointment. A reduction in resources for school districts increases the amount of state aid allocated through the school aid formula, two years after the revenue decrease occurs.

Expenditures: BELF estimates there will be increased expenditures related to bill. Since it will take eleven years for current leases to expire, the board anticipates the need to post signs on school land indicating whether public hunting, trapping and fishing is prohibited. Projected expenses for signs for 1.3 million acres could be significant. It could be argued that lessees may incur the expenses for the signs if they want to make the public aware that hunting, trapping and fishing is not allowed on a particular parcel of school land.

There may also be additional expenditures by the board or land lessees related to the cost of giving the public access to school lands. Expenses could be related to trash clean-up, parking areas, broken fences, crop damage, etc. Any expenditure by BELF to maintain school land will decrease the school land trust and reduce revenue for school districts.

DAS Comments
LB 1084

DEPARTMENT OF ADMINISTRATIVE SERVICES

REVIEWED BY	William Scheideler	2/17/12	PHONE 471-2526
COMMENTS			
BOARD OF EDUCATIONAL LANDS AND FUNDS – Concur with agency analysis.			

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

LB⁽¹⁾ 1084 FISCAL NOTE

LEGISLATIVE FISCAL

State Agency OR Political Subdivision Name: (2)

Board of Educational Lands and Funds – Division 1

Prepared by: (3) Cindy S.H. Kehling

Date Prepared: (4) January 26, 2012

Phone: (5) 402 471-2014

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2012-2013		FY 2013-2014	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
K-12 TRUST FUNDS	\$1,000,000	(\$2,277,298)	\$ 400,000	(\$2,277,298)
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:

PLEASE SEE ATTACHED EXPLANATION PROVIDED

MAJOR OBJECTS OF EXPENDITURE

Personal Services:

POSITION TITLE	NUMBER OF POSITIONS		2012-2013	2013-2014
	12-13	13-14	EXPENDITURES	EXPENDITURES
Benefits.....				
Operating.....			\$1,000,000	\$ 400,000
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
TOTAL.....				

Explanation of Estimate:

The Board of Educational Lands and Funds, (herein "The School Trust"), serves as Trustees of the School Land Trust. As Trustees, the Board is required to perform in accordance with the fiduciary duty required of all trustees. In fulfilling this fiduciary duty the Board is required to "avoid unnecessary risks of loss and at the same time maximize the returns of the trust estate..." Pettijohn v. State Board of Educational Lands and Funds, 204 Neb. 271, 275. In maximizing its income, the Board must set its rents at the highest reasonable values based upon a determination of the going rental rates in the ag rental market.

This fiscal note will focus on the adverse effects of LB 1084 upon the income of the school trust. The lessees of School Trust land are now given exclusive control over all hunting, etc. rights. Thus, this ability to own and control such activities of their leased property is a major factor in attracting prospective lessees to School Trust land. Taking these rights away from School Trust lessees will reduce the value of School Trust leases for several reasons. First, the Board leases 129 tracts of land which are classified as "recreational." They are so classified because they have strong hunting, fishing or fur gathering potential. These recreational leases bring in an average of approximately \$125,000 rent each year. This income will likely all disappear if LB 1084 becomes law.

In addition, over the last twelve years bonuses on these recreational leases have totaled \$745,700. This results in an average potential bonus loss of \$62,142 per year. The loss of these recreational rentals and bonuses, as a result of allowing free hunting, etc. on School Lands, will result in an annual loss of income of \$187,142 (\$125,000 plus \$62,142).

The next question is: how do we calculate expected income losses on our other ag land which, although often suitable for excellent hunting, etc., is not classified as recreational land. Examples are fall stubble fields and shelter belts for pheasants and quail, duck and goose hunting ponds, wooded areas for deer and turkey, and fishing ponds. For example, a late 2011 lease auction of school land in Seward County contained 281 acres of mostly farm ground; about 14% of the acres were waste (non farmable trees). The successful bidder on the lease paid a \$171,000 bonus for the lease, telling us that part of his motivation for paying so much in bonus was his desire to acquire and control the hunting rights on the property. Prior to the lease auction, there were eight deer stands located on this "non recreational" property.

The 2012 annual agricultural rental on 1,282,304 acres of School Land (mostly classified as non-recreational) is \$31,513,367 (excluding trust income from bonus, oil and gas, wind, uranium and other minerals). Passage of this legislation would require a reduction in agricultural rentals charged on these lands and will significantly reduce bonuses received. How can these losses be calculated? Data from other governmental ag-rental areas show remarkably lower ag rentals than rental for school land. It can be argued that this is partly due to open hunting. For example, information from Halsey National Forest, which allows public hunting, supports the fact that such free hunting lands must charge remarkably lower rental rates than the Lessee- controlled hunting rights on Nebraska's School Lands. Halsey Forest acres rent for only \$0.45 per acre for grass. In comparison, average grass rent on School Lands in Thomas County, the county where Halsey is located, is \$13.08 per acre.

The Nebraska Game and Parks Commission pays private landowners an average of about \$3.26 per acre to allow public hunting. This \$3.26 per acre figure would seem to reasonably estimate the value of foregoing control over hunting rights by any landowner. An extremely conservative assumption would be that only half of the School Lands (641,152 acres) would qualify for such payments. This assumption would result in a value of the hunting rights given up by the School lands of \$2,090,156 (641,152 acres times \$3.26 per acre). In an attempt to be conservative in this calculation, loss of bonuses are not included in the calculation.

There are other costs which are extremely difficult to accurately estimate. For example, it will take 11 years for all of these leases to cycle. In order for the public to know which school lands are available for public hunting during this 11 year period, 'No Hunting' signs will need to be posted on all of these Leases at an initial year cost in excess of one million dollars, plus estimated maintenance costs for years 2-10 totaling in excess of an additional \$1,000,000. Also, who is responsible for loss of cattle, broken fences, crop damage and trash clean up? These would all be additional expenses the Trust would have to absorb and the Field Representatives would have to patrol. Since all expenses directly affect the amount of income distributed to the school districts, net income to the school districts would be further reduced by these miscellaneous expenses. Minimum miscellaneous costs: \$2,000,000.

Besides the K-12 school trust lands, the Board manages trust lands for the State College Board, the University of Nebraska and the University of Nebraska-Agricultural College. These 57 leases on 10,062 acres have annual rental of \$257,354. The income and bonuses for these entities will also be affected as rental schedules are established by statute on a countywide basis and these acres would also have the lower rental rate applied.