

**FISCAL NOTE**  
 LEGISLATIVE FISCAL ANALYST ESTIMATE

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

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

LB 923 is the Nebraska Buy American Act (NBAA).

Section 4 (1) requires each contract for the construction, reconstruction, alteration, repair, improvement, or maintenance of a public works made by a state agency to contain a provision that the iron, steel, and manufactured goods used or supplied in the performance of the contract or any subcontract thereto shall be manufactured in the United States.

Section 4 (2) provides three exceptions:

1. Subsection (1) is inconsistent with the public interest;
2. Materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality;
3. The inclusion of such materials and products will increase the overall project contract by more than ten percent (10%)

Under the bill's provisions, it is possible that every such contract will cost up to ten percent more than it would otherwise cost. A sampling of agency responses is attached to this fiscal note to provide examples of possible costs.

The University of Nebraska estimates ten percent cost increases to be approximately \$4,500,000 to \$6,500,000 per year. This is based on approximately 30% to 40% material costs for ongoing projects of \$150,000,000. In addition to the material costs, \$2,000,000 per year is estimated to address staffing and inventory costs associated with the bill's provisions.

Administrative Services estimates personnel costs of approximately \$60,000 per year with material costs in a range of \$850,000 to \$1,700,000 per year.

The Department of Roads estimates approximately \$2,000,000 per year for material costs.

The estimates provided for this fiscal note are not an exhaustive accounting of the impact on state agencies. They are a sampling. It is impractical to survey all state agencies.

The full impact of the bill's provisions cannot be determined at this time.

DEPARTMENT OF ADMINISTRATIVE SERVICES

REVIEWED BY	Gary Bush	DATE	1/19/12	PHONE	471-2526
COMMENTS					
ADMINISTRATIVE SERVICES – MATERIEL–309 TASK FORCE: No basis to disagree. Agency's estimate appears to be reasonable. NEBRASKA DEPARTMENT OF EDUCATION: No basis to disagree with agency's estimate. NEBRASKA DEPARTMENT OF ROADS: Agency's revised estimate of impact appears to be reasonable. NEBRASKA STATE COLLEGE SYSTEM: No basis to disagree with estimate of impact. UNIVERSITY OF NEBRASKA: Agency's estimate of impact appears to be reasonable.					

# 2012 Legislative Bill Proposal Fiscal Note

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LEGISLATIVE FISCAL

Bill #: 923

State Agency: Administrative Services – Materiel – 309 Task Force

Prepared by: Brenda Pape, Steve Hotovy

Date Prepared: 1/12/2012

Phone: 402-471-0970

Approved by:

402-471-3511

## Estimate of Fiscal Impact – State Agencies

	FY 2012-13		FY 2013-14	
	Expenditures	Revenue	Expenditures	Revenue
General Funds				
Cash Funds				
Federal Funds				
Other Funds	61,407	61,407	59,906	59,906
Total Funds	61,407	61,407	59,906	59,906

### Explanation of Estimate:

LB923 provides for the Nebraska Buy American Act with preference for iron, steel, and manufactured goods produced in the United States in all contracts for the construction, reconstruction, repair, improvement, or maintenance of public works. Waivers are included in this bill with additional responsibilities and justification for such waivers.

This legislation has the potential to add to the cost of the goods. There is no way to project actual increased costs. An assumption was made that this legislation would increase the cost of these types of goods by 5%. Based on this assumption and FY 2010-11 expenditures of \$420,000, this would cost agencies an additional \$21,000. This assumption is based on purchases required to be processed through Materiel Division. Using an assumption of a 10% increase would mean an additional cost to state agencies of \$42,000 per year. This figure does not include road or building construction as these areas are covered by other statutes and are not processed through Materiel Division. The estimated increased costs were allocated by fund type using FY 2010-11 operating expenditures only. See the table below.

	FY 2012-13		FY 2013-14	
	5%	10%	5%	10%
	Expenditures	Expenditures	Expenditures	Expenditures
General Funds	7,770	15,540	7,770	15,540
Cash Funds	6,300	12,600	6,300	12,600
Federal Funds	4,830	9,660	4,830	9,660
Revolving	2,100	4,200	2,100	4,200
Total Funds	21,000	42,000	21,000	42,000

The bill allows up to a 10% increase in total project costs (iron, steel and manufactured goods) for American made goods before the agency director can waive the requirement. Assuming that the bill requirements would apply to virtually all components of building upgrades and following the example above, with annual revenue and interest of about \$17 million that can be allocated to 309 Task Force projects per year, the 5% fiscal impact would be \$850,000 and at 10% would be \$1,700,000. See the table below.

	FY 2012-13		FY 2013-14	
	5%	10%	5%	10%
	Expenditures	Expenditures	Expenditures	Expenditures
General Funds				
Cash Funds	850,000	1,700,000	850,000	1,700,000
Federal Funds				
Revolving				
Total Funds	850,000	1,700,000	850,000	1,700,000

The bill, as written, requires Materiel Division to include in its procurement policies to allow for Buy America. The bill also requires language to be included in all contracts for the purchase of steel and iron or used in the manufacturing of products that includes these components, and then makes a determination if the additional cost of Buy America is more than 10%. If an agency director determines this isn't in the best interest of the public or the products aren't readily available, then there is a requirement to advertise on the Materiel website, agency website, and/or a newspaper of statewide circulation and others as necessary, the justification waiving the Buy America requirements. This would require one additional staff for Administrative Services – Materiel to conduct and/or assist with the notice of waivers, updating procurement policies, update training documents, develop language to be included in contracts, etc.

Estimated costs for the additional FTE are \$61,407 in FY2012-13 and \$59,906 in FY2013-14. These costs include salary and benefits (health insurance is budgeted using the State's current share of the highest cost family plan), ongoing annual operating costs (communication/data processing, printing/publication, supplies and rent/depreciation surcharge). There would also be a onetime cost in FY2012-13 for the purchase of new equipment and set up costs of \$2,500 for the new employee.

The increased program costs would result in the need for additional appropriation and an increased Materiel – Purchasing Assessment to State Agencies.

The table below summarizes the impact by fund type of the increased statewide Materiel – Purchasing Assessment. The allocation by fund type is based on total FY2011 operating expenditures.

	<b>FY2012-13</b>	<b>FY2013-14</b>
	<b>Expenditures</b>	<b>Expenditures</b>
General Funds	22,720	22,165
Cash Funds	18,422	17,972
Federal Funds	14,124	13,778
Revolving	6,141	5,991
<b>Total Funds</b>	<b>61,407</b>	<b>59,906</b>

### Major Objects of Expenditure

**Personal Services:**

<b>Position Title:</b>	<b>Number of Positions</b>			<b>2013-13</b>	<b>2013-14</b>
	<b>12-13</b>	<b>13-14</b>		<b>Expenditures</b>	<b>Expenditures</b>
Staff Assistant I	1	1		28,720	29,295
Benefits				25,812	26,236
Operating				4,375	4,375
Travel					
Capital Outlay				2,500	0
Aid					
Capital Improvements					
<b>TOTAL</b>	<b>1</b>	<b>1</b>		<b>61,407</b>	<b>59,906</b>

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**LB(1) 923 FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> Nebraska Department of Education

Prepared by: <sup>(3)</sup> Brian Halstead Date Prepared: <sup>(4)</sup> 1/11/12 Phone: <sup>(5)</sup> 402 471 0732

**ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION**

	FY 2012-2013		FY 2013-2014	
	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:**

The Nebraska Department of Education does not have any "public works" under LB 923 and therefore unable to provide any fiscal impact for LB 923.

**MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

POSITION TITLE	NUMBER OF POSITIONS		2012-2013	2013-2014
	12-13	13-14	EXPENDITURES	EXPENDITURES
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____

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LB<sup>(1)</sup> 923 FISCAL NOTE

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State Agency OR Political Subdivision Name: (2) NEBRASKA DEPARTMENT OF ROADS

Prepared by: (3) Marilyn Hayes Date Prepared: (4) 1-23-2012 Phone: (5) 402-479-4692

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2012-2013		FY 2013-2014	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS			\$1,980,000	
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS			\$1,980,000	

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

Explanation of Estimate:

===== REVISED as of January 23, 2012 =====

LB 923 Adopt the Nebraska Buy American Act which applies to iron, steel, and manufactured goods. This Act covers public works including highways and bridges.

Current FHWA criteria requires a Buy America specification in all federal aid projects for iron and steel manufactured items that are permanently incorporated into the construction project. The Department of Roads utilizes these requirements in all projects, including state funded projects.

For materials currently not covered under the existing federal criteria, the fiscal impact is as follows:

- \$1,500,000 = Additional cost for material items not currently covered under the Federal Buy America rules
- \$ 420,000 = Industry administrative cost to certify and insure compliance
- \$ 60,000 = Additional FTE for Department of Roads certification and compliance
- \$1,980,000 Total Fiscal Impact if applied to materials permanently incorporated into the construction project

This bill has several issues that are unclear that could have a significant additional fiscal impact.

1. Page 4, lines 5-9, the distinction between components and subcomponents is not defined.
2. Page 4, lines 10-15, "goods used . . . in the performance of the contract". The phrase, "performance of the contract" is not defined. Could mean the hammer that is used, or the crane utilized by the construction worker. This is inconsistent with federal criteria which are only for materials which are permanently incorporated into the project.
3. Page 5, lines 17-20, no due process is defined.
4. Effective date of this legislation. If this was to become law, could affect existing contracts which would have significant impact on current construction projects, as well as the equipment currently owned by the contractor that is used on many projects.

**MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2012-2013</u> <u>EXPENDITURES</u>	<u>2013-2014</u> <u>EXPENDITURES</u>
	<u>12-13</u>	<u>13-14</u>		
Materials Certification Engineer		1		48,000
Benefits.....				12,000
Operating.....				
Travel.....				
Capital outlay.....				1,920,000
Aid.....				
Capital improvements.....				
<b>TOTAL.....</b>				<b>\$1,980,000</b>

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**LB<sup>(1)</sup> 923 FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> Nebraska State College System (NSCS)

Prepared by: <sup>(3)</sup> Carolyn Murphy Date Prepared: <sup>(4)</sup> 1/23/2012 Phone: <sup>(5)</sup> 402-471-2505

**ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION**

	<u>FY 2012-2013</u>		<u>FY 2013-2014</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	<u>Undetermined</u>	_____	<u>Undetermined</u>	_____

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

**Explanation of Estimate:**

Current bidding procedures do not require the standards provided for in in LB 923. Because of that, the NSCS has no way to determine the fiscal impact such a requirement would have. LB 923 also notes that the requirements will not apply if the head of the agency finds that the requirements increase the cost of the overall project contract by more than ten percent. Therefore, we would anticipate that the cost of public works projects would not increase more than 10%.

**MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2012-2013</u>	<u>2013-2014</u>
	<u>12-13</u>	<u>13-14</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	<u>Undetermined</u>	_____

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**LB<sup>(1)</sup> 923 FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> University of Nebraska

Prepared by: <sup>(3)</sup> Michael Justus Date Prepared: <sup>(4)</sup> January 18, 2012 Phone: <sup>(5)</sup> 402 472 2191

**ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION**

	FY 2012-2013		FY 2013-2014	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	2,000,000		2,000,000	
CASH FUNDS	4,500,000		4,500,000	
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>	<b>6,500,000</b>		<b>6,500,000</b>	

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

**Explanation of Estimate:**

The Nebraska Buy American Act (NBAA) would create a significant fiscal impact for University.

First, such projects would incur higher costs for materials. Materials amount to about 30-40% of a construction contract. If we estimate that material costs are increased about 10% (the decision tipping point identified in the proposed bill) and estimate ongoing projects of \$150 million covered by the bill, this could translate into increased costs of \$4.5 to \$6 million annually.

Second, NBAA would create significant increases in accounting requirements (origin of products and components of products, costing to assure it does not exceed 10%, etc). Our experience with such requirements among grants indicates this can consume as much as twice the effort.

Another consideration is physical inventory. Our warehouse would need to be segregated into "NBAA" and "non-NBAA" sectors. The same materials with different countries of origin cannot be comingled. NBAA would necessitate separate inventory for any item that could be used in a public works project. In addition to paying more for materials, we would have existing inventory not made in the USA that we may no longer be able to use, assuming no phase-in period.

It is difficult to determine how much additional effort the accounting and inventory efforts would require. Our campuses have estimated numbers in a wide range between \$200,000 and \$3,000,000.

**MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

POSITION TITLE	NUMBER OF POSITIONS		2012-2013	2013-2014
	12-13	13-14	EXPENDITURES	EXPENDITURES
Various (Accountants, Inventory, Project Managers, Clerical, etc)			1,500,000	1,500,000
Benefits.....			450,000	450,000
Operating.....			50,000	50,000
Travel.....				
Capital outlay.....			4,500,000	4,500,000
Aid.....				
Capital improvements.....				
<b>TOTAL.....</b>			<b>6,500,000</b>	<b>6,500,000</b>



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LB<sup>(1)</sup> 923 FISCAL NOTE

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

Prepared by: (3) Patrick H. Cole Date Prepared: (4) January 23, 2012 Phone: (5) (402) 471-5523

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2012-2013		FY 2013-2014	
	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:

The proposed legislation would require a preference for the procurement of iron, steel, and manufactured goods produced in the United States in all contracts for the construction, reconstruction, repair, improvement, or maintenance of public works. Public works is defined as any structure, building, highway, waterway, street, bridge, transit system, airport, or other betterment, work, or improvement, whether of a permanent or temporary nature and whether for governmental or proprietary use.

Only a few of the items identified as public works are thought to relate to the work of the Commission, namely structures, buildings, waterways, streets and bridges. Many of the smaller projects are done by agency personnel rather than by contract. The agency has not routinely asked for origin of manufacture for products or components on agency or contracted projects, nor has that information been generally provided, thus it is difficult to assess the current compliance with the legislative intent. The agency has followed the federal Buy American Act requirement for those federally funded projects related to work on the Cowboy Trail.

It is thought that even though the legislation provides for the head of the agency to make some exceptions, the overall costs of projects will see some increase. The amount of increase will depend on the size and scope of the project. Some clarification is needed as to whether projects that are not contracted out to outside entities are covered or not. It is also thought that a minimum project size threshold (e.g. projects > \$75,000) would mitigate some cost increases.

MAJOR OBJECTS OF EXPENDITURE

Personal Services:	NUMBER OF POSITIONS		2012-2013	2013-2014
	12-13	13-14	EXPENDITURES	EXPENDITURES
POSITION TITLE	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____