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Appropriations Committee
February 06, 2008

[LB1109 LB1150 LB1161]

The Committee on Appropriations met at 1:30 p.m. on Wednesday, February 6, 2008, in Room 1003 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on agency budgets and LB1150, LB1161, and LB1109. Senators present: Lavon Heidemann, Chairperson; Lowen Kruse, Vice Chairperson; L. Pat Engel; Tony Fulton; John Harms; Danielle Nantkes; John Nelson; John Synowiecki; and John Wightman. Senators absent: None. []

SENATOR HEIDEMANN: Seeing no one else wanting to testify on Agency 54, Nebraska State Historical Society, we'll close the public hearing on that agency and we're going to open up the public hearing on LB1150. Senator Langemeier. [LB1150]

SENATOR LANGEMEIER: Thank you, members of the Appropriations Committee. My name is Chris Langemeier, and it's C-h-r-i-s L-a-n-g-e-m-e-i-e-r. This is my first time before Appropriations, matter of fact, my first time in this room. This is the most state-of-the-art room I think we have in the Capitol, huh? (Laugh) [LB1150]

SENATOR KRUSE: Yes. Yeah, it's to be envied. [LB1150]

SENATOR LANGEMEIER: Pretty snazzy. I got my own calculator and a laptop if I needed it. But anyway, thank you for this opportunity to introduce LB1150. It is a request for additional funding to put into the Nebraska Resource Development Fund. I know we've talked on this on many occasions and, however, I think this fund requesting \$7 million, they're going to handout, the testifiers behind me, the breakup of where that would be spent in the '08-09 year. There's projects out there that have...are pending funding that tune to about \$10.3 million. I think it was crucial to make this request for only those projects that have been partially funded already and are in the system already, not to look expanding out to further approve projects. So that's why the cap was set at the \$7 million or, as they're going to pass out on a worksheet, \$6.96605 million. The crucial thing about this funding is it's tied to so many federal and local dollars that are out there to be matched, taking, for example, as they talked, the Antelope Creek Project, getting that project done, the Lake Wanahoo at Wahoo. The local entities have already spent \$4.2 million buying the ground for that project and so it's crucial to keep these funds available, to get these projects to continue. It's a \$29 million project with...it will end up being \$9 million from this fund over the next four years, if you fund it, and then the balance is federal money plus \$4 million on the local level. So these dollars are good investments to projects across the state because they're so heavily leveraged against federal money and local funds out there. So I think it's the best bang for our buck for dollars spent. And with that, I'm going to conclude, unless there's questions. We're going to let the experts testify on each of the individual projects and how they affect many of your districts and the state of Nebraska. [LB1150]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

SENATOR HEIDEMANN: The \$7 million, that would take care of a lot of the projects that need to be done? [LB1150]

SENATOR LANGEMEIER: The NRDF fund has two levels of projects. Yes, there's two, four, six, there's seven projects that are either partially funded and approved, and so that would take care of those. There are 11 other projects that are requesting approval and funding, but they're not approved to this level. So to include those, you'd need another \$3.4 million. But I think those that are approved and started, we need to look at funding, and not those that haven't begun construction. [LB1150]

SENATOR HEIDEMANN: So in the next biennium budget, would there be a need for continuation of \$7 million or could it fall back to, say, \$3.5 would be the...? [LB1150]

SENATOR LANGEMEIER: As long as...yeah, it steadily goes down. And they're going to handout a worksheet behind me that's going to show that it's...it will show you the funding. You'll get that in the next worksheet. I guess I could have handed it out, but I'm going to let the next testifier hand it out. It slowly goes down. It doesn't go at that rapid of a rate, though. [LB1150]

SENATOR HEIDEMANN: Okay. [LB1150]

SENATOR LANGEMEIER: It gets down to \$1.7 million in '12-13 for these projects. [LB1150]

SENATOR HEIDEMANN: You don't think there would be other projects that would come up and fill... [LB1150]

SENATOR LANGEMEIER: There's always going to be wanted new projects, but my concern is let's get some of these that are already out there and approved on the federal level and federally funded. Let's get those done. The others can worry about getting their federal funds first. [LB1150]

SENATOR HEIDEMANN: Senator Fulton. [LB1150]

SENATOR FULTON: You asked my question. [LB1150]

SENATOR HEIDEMANN: Senator Engel. [LB1150]

SENATOR ENGEL: I might want to ask this to someone else, but like in NRDs now, have they exercised their limit for taxing, their taxing authority, you know, that...? [LB1150]

SENATOR LANGEMEIER: Some have; some haven't across the state at that cap of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

.45. Some NRDs are there; some aren't. Some that have bigger projects, like Lake Wanahoo, have. Out in the west they do smaller projects so they're...I think the Upper Niobrara-White is probably the lowest. I could be corrected, but they're going to be one of the lowest on their property taxes, and I don't think they have anything on here, neither does Papio NRD have any projects on this list, so I know that's always a hot topic. [LB1150]

SENATOR ENGEL: Don't they have one up around Hubbard? [LB1150]

SENATOR LANGEMEIER: Pardon me? [LB1150]

SENATOR ENGEL: Papio, don't they have one up around Hubbard? [LB1150]

SENATOR LANGEMEIER: I don't see one on the list, and I could stand to be corrected, but I don't... [LB1150]

SENATOR ENGEL: Well, that's okay. I just... [LB1150]

SENATOR LANGEMEIER: Oh, they do have one clear at the bottom here, Penguin/Jones (sic) Creek. [LB1150]

SENATOR ENGEL: Oh, that's one. [LB1150]

SENATOR LANGEMEIER: Is that the one you're talking about? [LB1150]

SENATOR ENGEL: That could be. Well, that's a different one, but... [LB1150]

SENATOR LANGEMEIER: That might be it. [LB1150]

SENATOR ENGEL: The reason I always ask that question, because of the...if they haven't utilized their taxing authority, I think that should be the first place they go for the money, rather than come here, and because if it's a worthwhile project then it's up to the...we taxpayers in that area, you know? [LB1150]

SENATOR LANGEMEIER: Right. And that's why I was willing to bring this, because I have personal experience with Antelope Creek and Lake Wanahoo and there's so much local funding that was put into that to match the federal funding, and then with this funding is crucial to complete these projects because of that. [LB1150]

SENATOR HEIDEMANN: Senator Wightman. [LB1150]

SENATOR WIGHTMAN: On the two projects, Chris, that you're familiar with, are they exercising their maximum authority or could they still tax more within their natural

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

resource district? [LB1150]

SENATOR LANGEMEIER: I believe Lake Wanahoo is there and I'm guessing but I'm pretty sure Lower Platte South NRD is at their max, too, and I think they're going to testify behind me, I'm saying correct me if I'm wrong, but I think those two are. [LB1150]

SENATOR WIGHTMAN: I think, following up on Pat's question, even if they're exercising it, if some of them are up against their maximum and some of them aren't, we ought to treat them all somewhat equally, and I don't know how that falls out until he talks (inaudible). [LB1150]

SENATOR LANGEMEIER: I can tell you most of the NRDs that take on these size projects that request this type of funding are up there. The ones that don't have a high taxing authority really aren't doing much. The Sandhills NRDs, there's not a lot out there. It's grass, conservation; it's a little different mind-set than it is to this end of the state. [LB1150]

SENATOR WIGHTMAN: Thank you. [LB1150]

SENATOR HEIDEMANN: Are there any other questions? I appreciate you bringing this in, Chris. This is one of the few bills that I actually signed on to this year, so I do appreciate you bringing it in. Are you going to stick around for closing? [LB1150]

SENATOR LANGEMEIER: I think I'm going to go back. I have another one to do, so I'm going to do that. And I just...I think this is, for a bang for your buck, the dollar matched federally is phenomenal. So thank you. [LB1150]

SENATOR HEIDEMANN: Thanks, Chris. [LB1150]

DAN WATERMEIER: (Exhibits 2 and 3) Thank you, Chris. Chairman Heidemann, members of the committee, Appropriations, my name is Dan Watermeier, D-a-n W-a-t-e-r-m-e-i-e-r. I have two handouts to hand out. If I forget to answer the question that's in regard to the levy limits, be sure and remind me before I leave. [LB1150]

SENATOR ENGEL: Okay. [LB1150]

DAN WATERMEIER: I'm from Syracuse, Nebraska. I'm a farmer. I'm an elected official to the Nemaha NRD and I'm appointed to the Nebraska Natural Resources Commission, which is what I'm serving in today and that's why I'm here today, in regard to the request of the funding. The main thing that you're going to want to look at is in that last handout that the page is going to hand out in regard to the funding, and the different thoughts that are going to come to mind here is, Senator Heidemann, I don't think that we're going to have a chance to reduce that funding after just one year. We're

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

looking at \$7 million this year, but I believe it actually could be looked at in \$10 million for the next five to six years, and then decline after that. And one of the things that puts the commission and all the NRDs into a bind is an appropriation which is an allocation and an obligation cap, and it's a confusing thing but right now we have \$18.5 million, which is a cap between the difference in what we can allocate to a project and what we can actually get funded with what you give us in obligating of funds. And it's a confusing thing and it came up in Senator Langemeier's discussion there, but that's one of the reasons why things are limited by actually how many things we can have on the table. So if I forget to address that at the end of the discussion, please ask it as well. I just have a few things in general that I just really want to bring up and hopefully I won't say something before I thought of it, but I'm here today to ask for increasing funding in the Resources Development Fund. And if you think of the Development Fund, made back in 1975, as a development fund, it's to develop for the future, as far as I'm concerned. Whether it's a small business, big business, even a government agency, everybody needs to invest for the future. Whether it's roads, infrastructure or just the future of education in what you're doing, I believe you need to invest in the future and this is the best thing that I could imagine in the state, is to develop for flood control, you know, and all the issues that are involved with water conservation. Another fund...name me another fund in this state that has a 3 percent guaranteed rate of return on investment. That wasn't dedicated or that wasn't legislated by the Legislature that we have 3 percent return of investment on this fund. Inside the commission, the guideline was set that funds won't be appropriated to these projects unless they can show a positive return on investment of 3 percent. The other thing that Senator Langemeier did mention is the matching fund issue. On general, and I don't want to generalize too much, but for every dollar invested in the Resources Development Fund, it's matched two to two and a half times with either federal money through the Corps of Engineers, Department of Roads, or local funds through the NRD. The city and the counties have all pitched in money. So every dollar that does come through the Resources Development Fund can be matched at least two to two and a half times through the project, as it's completed. Another question that's come up in the past is some of these projects will benefit a private developer and I've thought about this a lot and this has come up from discussion with the Governor and with Senator Heidemann here in the last couple weeks. One of the things that I would be cautious about stating that, let's not do it because of that reason, is where do you want the control of these projects at? Do you want the control of the water in the hand of a private developer, or do you want to get your arms around these things before they ever get to that point and get the proper things put in place? I mean, I just don't see a better place for these projects to be done than to have a sponsor come to the Resources Development Fund and we get in front of these projects, up front. I mean I just think it's an overall picture to that question about who's going to benefit from these funds. I mean, obviously, developers do, but I just think in the big picture, we want to be in front of these projects and not behind them on the back side of it. So in general, if you look at about three or four things, you have a positive return of investment of 3 percent for every dollar that goes in here. We won't fund a project unless it's got a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

positive return of investment. The other thing is the matching funds. Every year we let these go, it gets more and more expensive with fuel costs, land acquisitions. If we could have done these projects that are on the table today, we could have avoided huge land acquisition cost increases that have happened in the last 36 months. The last thing is, is ask yourself what other fund in the state has an opportunity to either catch a drop of water, conserve a drop of water from flooding? And who knows, there may be...water may be a big issue to the state someday. [LB1150]

SENATOR FULTON: Maybe so. [LB1150]

SENATOR HEIDEMANN: It already is a big issue. (Laugh) [LB1150]

DAN WATERMEIER: I hear that. Now I probably said some things there that I hadn't actually thought about. I don't have anything written down. I would use this as a guideline, and the first two pages of that, and I think John Miyoshi behind me and another member of the commission is going to talk about that. The deficit spending that we're asking for today is not going to go away. I mean we're going to...we're asking for \$7 million for the next fiscal, and I think after that it's going to be realistic to think if we want to get these projects pushed through the system it's going to be that higher or higher in the future. But I really don't think you can ask anything more of another fund in the state that's got a positive return on investment. (Microphone feedback) Is that me buzzing? Is that my time limit, Senator? [LB1150]

SENATOR HEIDEMANN: We've never had that before. [LB1150]

SENATOR KRUSE: It's a sound from on high. [LB1150]

DAN WATERMEIER: I have said too much. [LB1150]

SENATOR HEIDEMANN: Well, we'll just have to continue on. [LB1150]

DAN WATERMEIER: It's not my mike. [LB1150]

SENATOR HEIDEMANN: It is in the sound system, but we have to keep it running. Turn it off for a second and put it right back on. [LB1150]

DAN WATERMEIER: I did miss a point. I did miss a point. The question that has come up with Senator Langemeier and the tax levy, one of the main points that I forgot...(Recorder Malfunction--Some Testimony Lost) [LB1150]

SENATOR HEIDEMANN: Go ahead and get started. We're not up to full capacity, but we're going to be able to record and that's what we have to do. So we're going to go ahead and get started and if you could kind of start over where you was at when we

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

encountered this problem, we would appreciate it. [LB1150]

DAN WATERMEIER: This is almost a luxury to be able to restart all over. Everybody is going to forget what I said to start with then? I can say it over right? [LB1150]

SENATOR ENGEL: We already have. [LB1150]

DAN WATERMEIER: Yeah, I was afraid of that too. [LB1150]

SENATOR ENGEL: No, I'm just... [LB1150]

DAN WATERMEIER: How far back? My name? [LB1150]

SENATOR HEIDEMANN: No, no, no, no, no. (Laughter) No, no, no, no. Just... [LB1150]

SENATOR KRUSE: No, just the last paragraph. [LB1150]

SENATOR HEIDEMANN: Yeah, just way last there. [LB1150]

DAN WATERMEIER: Okay. Yeah. In the summary, just summarizing what I was saying? Far enough? [LB1150]

SENATOR HEIDEMANN: I think you was talking about the levies. [LB1150]

DAN WATERMEIER: Okay. I had summarized what I was going to...yeah, and I went back to the question about the levy. About two and three years ago, we started getting backlogged so much with our Resources Development Fund applications and proposals and we had hard decisions to make then which ones we were even going to try to bring under our wing but knew we were limited by how much was appropriated by the Legislature, and so the cap went from \$12 million to \$18.5 million, and now you throw a \$9 million project in there, that's what really messes up our cap work, I mean how we're trying to manage those funds. Well, anyways, getting along back to the point is that in our discussions on how to take which project is more important than the other, we decided to sit down and rank and prioritize each application as it comes in, and it comes and it's ranked twice. It's ranked once in a big picture look so that the sponsor, whether it's an NRD or a city or somebody else coming to us for money, they can get a real quick picture as to how they might rank compared to others. And in this ranking system is a look, is as a value put to a sponsor, especially if it's an NRD, that is up to their levy. And if they're up to their levy they're awarded a few more points, if I remember how it works. And that ranking system is, I think, ten categories and that's something brand new that we even haven't put to the test yet but we will put to the test this next fiscal year in the next spring. So we address that, and that's a big thing for us because there have been NRDs that have...or sponsors, I should say, that have come to the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

Resources Development Fund and then not use their full authority yet. And so we didn't want to really reward that, but we felt like we needed to recognize it, because you do and we're working for you. The agency that I'm in is right under your control. [LB1150]

SENATOR HEIDEMANN: Senator Synowiecki. [LB1150]

SENATOR SYNOWIECKI: Thanks for your testimony. I appreciate what you just said about private development. Talk to me philosophically about providing General Fund appropriation to a project that there's no public access to, philosophically. [LB1150]

DAN WATERMEIER: I'd be speculating a little bit and John Miyoshi, who's going to talk behind me here, could probably say that better. But philosophically, to me, the benefit in what we're trying to do in the Resources Development Fund, whether it's on private land or it's on land that the Game and Parks keeps or the NRD keeps, what we're trying to do is to capture this water and prevent the flood damage or the crop damage or the street or the utilities or the bridges, can be done and somebody else still own them. And I know it's difficult in the fact that someone else may have a visual benefit from that, that they've maybe developed it and made more money or all of a sudden it looks better than my property just because it has water on it. But if you step back from that and you philosophically say we're catching that water, we're preventing the flood damage, I don't have a problem with that, as a commission member. Now if it happens to me next year in my backyard, I may have a problem with it. It may look funny to me. But what we're trying to do here is the benefit of the state, you know, use these matching funds that were just...we just can't capture these matching funds fast enough because we just can't get the dollars through the system. Then I'm okay with that, using General Funds in that regard, as a taxpayer. I'm just speaking as a taxpayer there, not as a commission member. [LB1150]

SENATOR HEIDEMANN: Senator Harms. [LB1150]

SENATOR HARMS: That was one question I was going to ask that John brought up. You know, when we were talking, you know, basically off mike (inaudible) how does a private developer fit into this (inaudible) state dollars, federal dollars, and local dollars, and is in the mix between that. And isn't it the developer that sells lots, purchases and sells lots, builds homes on it, and financially comes out really well in the process. How do we justify doing this? I think that's the issue for me. I have a lot of people, you know, not a lot, I've just had people mention that to me in the process. I couldn't give them an answer because I didn't know (inaudible). [LB1150]

DAN WATERMEIER: If I were to guess how that would happen, think about how the development process would happen. A developer buys a piece of property at ground zero. He's going to have to invest in all the things that we're going to do. We're going to force him to do the flood control. We're going to force him to do the utility improvements.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

But if we come in and do these things, he still has this basis that he's going to have an improvement on, but he's going to start out at a higher level, much higher level and, I mean, that's the thing that I'm going to have to hang my hat on, is that he's going to have that basis improvement, whether it starts out at zero or he has improvements that we help him do. And, I mean, I'm just okay with that as I've seen how the system has worked. I mean, I know it's unfortunate and it gets the press and it gets in the papers and it gets the coffee shop talk working, but it's just something we got to live with. I'm willing to live with it. [LB1150]

SENATOR SYNOWIECKI: And... [LB1150]

SENATOR HEIDEMANN: Go ahead. [LB1150]

SENATOR SYNOWIECKI: John, do you have a follow-up? [LB1150]

SENATOR HARMS: No, that's fine, John. Go ahead. [LB1150]

SENATOR SYNOWIECKI: You know, I understand and appreciate, you know, your mission, what you need to do as on the commission and so forth, but I hope you are equally appreciative of our position with General Fund tax dollar money going to these projects, as John indicated, and then the public being denied access to the resulting project, whether that be fishing, waterskiing or whatever activities that might entail. And another follow-up question I have, is eminent domain procedures used for a lot of these projects? [LB1150]

DAN WATERMEIER: Not a lot of them. They are there and I think...not the threat of them is there, but it just has to be a part of the process that we live with. They are there. I need to back up and answer your first question, and repeat it for me, though, please, as far as your statement, what you said. [LB1150]

SENATOR SYNOWIECKI: It really wasn't a question, just...you know, we have to be responsible when we afford General Fund appropriations. [LB1150]

DAN WATERMEIER: Oh, yeah, what you... [LB1150]

SENATOR SYNOWIECKI: I think the public mind... [LB1150]

DAN WATERMEIER: No, what you had mentioned about not having public access to the recreation or the wildlife, whatever it is. [LB1150]

SENATOR SYNOWIECKI: Yeah. [LB1150]

DAN WATERMEIER: If those projects are built for public access, they're much higher

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

expensewise. And so typically, some of the projects you're talking about would have recreational benefit to just that landowner or the wildlife benefit just to that landowner, but that's a much cheaper project to build. [LB1150]

SENATOR SYNOWIECKI: On these approved projects, is there any way you can denote which ones utilized eminent domain procedures and which didn't? [LB1150]

DAN WATERMEIER: Yeah, we could do that. [LB1150]

SENATOR SYNOWIECKI: Do you have that knowledge? [LB1150]

DAN WATERMEIER: I wouldn't have it off the top of my head. I don't know if John would either. Well, obviously the top one Antelope Valley, that's JAVA right down through Lincoln here. [LB1150]

SENATOR SYNOWIECKI: I mean, you don't have to go through them now. [LB1150]

DAN WATERMEIER: Okay. That would have had it, I'm sure. [LB1150]

SENATOR SYNOWIECKI: I mean I think it might be in our best interest to know which of these projects utilized eminent domain procedures and which didn't. [LB1150]

SENATOR HARMS: Mr. Chairman, could I piggyback off of that? [LB1150]

SENATOR HEIDEMANN: Sure, Senator Harms. [LB1150]

SENATOR HARMS: When you do that, could you also indicate with that where we had private developers involved? That would tie us into our questions we're asking about it. [LB1150]

SENATOR SYNOWIECKI: Uh-huh. [LB1150]

DAN WATERMEIER: And these would come back to this committee, as far as just questions, to the Chair? [LB1150]

SENATOR HEIDEMANN: Yes. It's coming back and we can distribute it out. [LB1150]

DAN WATERMEIER: Okay. The private developer issue would be very...I mean, I would say would be very small, but they catch all the headlines; very small. [LB1150]

SENATOR HEIDEMANN: Senator Fulton. [LB1150]

SENATOR FULTON: (Inaudible.) [LB1150]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

SENATOR HEIDEMANN: Are there any other questions? Seeing none, thank you for coming in today, Dan. [LB1150]

DAN WATERMEIER: Thank you. [LB1150]

MYRON LEMBKE: My name is Myron Lembke, M-y-r-o-n L-e-m-b-k-e. I am speaking on behalf of the Nebraska Natural Resources Commission. I am testifying in support of the LB1150, which is to increase the present level of funding from \$3,373,000 to the \$7 million. The reason for asking for the additional funding is to make it possible to complete the present projects that have been approved by the commission in a reasonable amount of time. The primary purpose of these projects are for flood control. At the present time, six projects have been approved and partially funded. An additional \$18,271,802 has been obligated to those six projects, as the funds become available for spending. At the present level of funding, it will take approximately five to six years to complete the projects, barring no major overruns. Those projects, if you have the photo here, are listed in the front, and I'm talking about the Antelope Valley, Lake Wanahoo, Leigh Dam, Little Sandy Creek, Lower Turkey Creek, and Upper Prairie/Silver/Moores. For us to complete those projects, we still need \$18 million-plus to do that. At this time, at the present level of funding, it will take approximately five to six years to complete the projects, barring no major overruns. With the increase in LB1150 to the Resources Development Fund, to the funding level of \$7 million, these same projects would take three to four years to be completed. All the projects have a projection of a 3 percent or greater rate of return to the local and state economy. At the present time, there is 11 additional projects pending at a cost of an additional \$63 million. As you can see, if the Reserve (sic) Development Fund was funded at the level of \$7 million, it would take a total of 11 to 12 years to complete all projects that are on the table at this time. In closing, I would like to thank the Appropriations Committee and the Chair for providing this opportunity to testify in favor of LB1150. I would like to leave the following thought with you. It is wiser to spend money to prevent a disaster than to wait for the disaster to happen and then spend the money. If you have any questions, I would try to answer them. [LB1150]

SENATOR HEIDEMANN: Senator Harms. [LB1150]

SENATOR HARMS: I don't even have any water in western Nebraska (inaudible). (Laughter) [LB1150]

MYRON LEMBKE: You're right. [LB1150]

SENATOR HARMS: (Inaudible.) What projects are out in that area? I don't...none of the names sound...ring a bell for me. [LB1150]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

MYRON LEMBKE: The last one that I know that was done out there, was it done in Gering,... [LB1150]

SENATOR HARMS: Okay. [LB1150]

MYRON LEMBKE: ...on flood control under that canal. [LB1150]

SENATOR HARMS: Okay. [LB1150]

MYRON LEMBKE: I do not believe the Ensin (phonetic) Drain had any of these funds used in that project. [LB1150]

SENATOR HARMS: So right now it's really not a worry, is it? [LB1150]

MYRON LEMBKE: No. Sidney had it, the flood control down through Sidney down there along the track area, but those are the only programs out...projects that's been out there. You will notice, if you turn...we was talking about cost share, if you will turn over to page 21 on the South Fremont Levee Project, we was talking about the different funds, U.S. Army Corps of Engineers is there with \$16.9 million, the Nebraska Resources Development Fund was \$5,500,000, Lower Platte NRD put in \$1,800,000. Most of the projects that are funded by the NRDs, they do spend quite a bit of money on it and the majority of them will have the tax levy up to the max. Thank you. [LB1150]

SENATOR HEIDEMANN: Senator Fulton has a question. We've got a couple more questions, if you have time. [LB1150]

MYRON LEMBKE: Oh, I do. [LB1150]

SENATOR FULTON: Could you explain a little bit more what you mean by 3 percent return on investment? [LB1150]

MYRON LEMBKE: Okay. When they write these programs or the proposal, it has to be built in there to show us that there will be a 3 percent return for the local or state revenue come from it. Some of them will be as high as 5.8. When you look through here, you'll find some it's right close to 6 percent. [LB1150]

SENATOR FULTON: So is that...can we, as the Appropriations Committee, look at this and say if we put \$10 into this project does that mean the state treasury receives \$30 back, or does that mean the local economy receives \$30? [LB1150]

MYRON LEMBKE: The local and the state economy would. [LB1150]

SENATOR HEIDEMANN: Senator Engel. [LB1150]

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Transcriber's Office

Appropriations Committee
February 06, 2008

SENATOR ENGEL: (Inaudible) 3 percent of (inaudible). (Laughter) [LB1150]

MYRON LEMBKE: Right. I'd like to get that much, but that was about 30 percent, I think. [LB1150]

SENATOR ENGEL: (Inaudible.) [LB1150]

SENATOR KRUSE: I like that return. [LB1150]

SENATOR ENGEL: When you approve all these projects, you say you've got \$64 million worth of projects to approve, when you first approve (inaudible), how do you anticipate funding? [LB1150]

MYRON LEMBKE: Right now... [LB1150]

SENATOR ENGEL: And when do you start them, before the money comes or...I'm just curious, is all. [LB1150]

MYRON LEMBKE: The 11 projects that I'm saying that's in the chain or in the line, they have been approved as a project that's eligible. We have not approved them for the money part of it at this point. There's no money obligated at this point and there wouldn't be until money became available. That's one of the bad parts about this, is basically, under the present, even with the \$7 million, 12 years from now before really a new project could be approved for what's already been asked for this morning. And the thing is, when you do, once they start the project, it might be three years before there will be any funds approved for it, because they usually come and ask, is this a project that could be considered, and we'll say yes or no. And then they do the feasibility study and everything. It just keeps the process going. And you'll notice in some of these there's actually a time line in the first six how long they've been in the process. [LB1150]

SENATOR ENGEL: Thank you. [LB1150]

SENATOR HEIDEMANN: Senator Wightman. [LB1150]

SENATOR WIGHTMAN: I had the same question Senator Fulton had, and a follow-up question to that. When we talk about a 3 percent return, you stated that that was partly to the local economy. (Inaudible) recreation value included that calculation? [LB1150]

MYRON LEMBKE: Recreation value would be included. [LB1150]

SENATOR WIGHTMAN: How do you value something like recreation value? [LB1150]

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Transcriber's Office

Appropriations Committee
February 06, 2008

MYRON LEMBKE: (Laugh) I knew you was going to ask that. There's been a lot of discussion on that because right now there is, and I can't answer exactly, it's been built into the plan. For every recreational day there's so much value put into the project and, like I said, I can't really answer that right off the top of my head. [LB1150]

SENATOR WIGHTMAN: The recreation could be a big part on some of these projects. [LB1150]

MYRON LEMBKE: Yes, some of these projects recreation is a big part. [LB1150]

SENATOR WIGHTMAN: And that's justifiable. [LB1150]

MYRON LEMBKE: And game and fish. Usually if there's recreation, it's involved in a game and fish, and Game and Parks have been involved in it. They're putting in some money to do it. [LB1150]

SENATOR WIGHTMAN: So the state really shouldn't count on any revenue on these that are primarily recreational? (Inaudible.) [LB1150]

MYRON LEMBKE: You're probably right in that part. [LB1150]

SENATOR WIGHTMAN: Okay. [LB1150]

MYRON LEMBKE: Game and fish is going to get it. [LB1150]

SENATOR HEIDEMANN: Senator Harms. [LB1150]

SENATOR HARMS: I just want to go back to the private developer for a minute. Can you tell me, how do you choose the private developer? Do you put out a request for proposal? How do I...say I would like to be a part of it? How can you do that? I mean how (inaudible)? [LB1150]

MYRON LEMBKE: I do not know. I haven't been involved in it. John might be able to answer that when he comes up because he's more...works more in that area with it. [LB1150]

SENATOR HEIDEMANN: Are there any other questions? Senator Nelson. [LB1150]

SENATOR NELSON: Looking at the projected needs, this table here where you've got the pending projects, just so I understand this, you've got your subtotals there. You know, they range from \$2,400,000, '08-09, on up to 10, 12 and 13. Now if I understand you correctly, you've determined what you will be able to contribute to these various projects once the funding becomes available, and you're saying this additional \$3.5

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

million here will permit you to complete...permit the completion of those within eight or nine years or...? [LB1150]

MYRON LEMBKE: To basically complete everything on that page, it'd be right at 12 years. [LB1150]

SENATOR NELSON: Twelve years, if you get the additional funding. [LB1150]

MYRON LEMBKE: Uh-huh. Otherwise, it's about 20 years. [LB1150]

SENATOR NELSON: All right. But it's just a one-time funding or, just so I'm clear on this, you want to be at a \$7 million level each year thereafter? [LB1150]

MYRON LEMBKE: If we want to complete it, and I don't know if that would be...you know, you guys have got a tough decision to make. [LB1150]

SENATOR NELSON: To achieve that in eight or nine years. [LB1150]

MYRON LEMBKE: Right. [LB1150]

SENATOR HEIDEMANN: Any other questions? Thank you for coming in today, Myron. [LB1150]

MYRON LEMBKE: Thank you. [LB1150]

JOHN MIYOSHI: (Exhibit 4) Chairman Heidemann and members of the Appropriations Committee, my name is John Miyoshi, J-o-h-n M-i-y-o-s-h-i. I'm the general manager of the Lower Platte North NRD, located in Wahoo, Nebraska. Today my testimony represents that of my NRD along with the official position of the Nebraska Association of Resources Districts, which support LB1150. As you're all aware, the NRDs are unique in that we are the only state in the union which has adopted a regional authority to handle our natural resource needs. In most states, construction of public benefit water projects are planned, funded, and constructed by the state. In 1975, three years after the NRDs began business, it became apparent that the state funding assistance was needed if Nebraska wished for these local units of government to assume responsibility for construction of these public benefit projects. Today the NRDs continue to take the lead in providing benefit to citizens in Nebraska by wisely investing in these projects. Listed below are discussion points in the efficient use of the fund. The NRDF is a fund of last choice, meaning project sponsors are required to look for other funding sources prior to applying for these funds. Projects are required to have a 3 percent rate of return, and I know of no other state-funded program with this type of requirement. Projects are funded on a cost-share basis with the state contributing up to 60 percent. On federally funded projects the state cost is often in the 20 to 35 percent range. Most projects are

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

multipurpose, so benefits from a single project may include flood control, ground water recharge, recreation, wildlife habitat, environmental restoration, roads or other purposes. Because these are state funds, extra requirements are put on project sponsors as far as appraisals, purchases, sales, use of eminent domain, and environmental regulations. The Natural Resources Commission who administers these funds has a new project scoring system to ensure that the highest priority projects are funded first. Most of the projects funded by the NRDF would not have been constructed without this state assistance. Demand for these limited funds is at an all-time high. The public is demanding a larger safety net from flood damages, more environmental opportunities, and additional choices in a state starved for water-based recreation. We also have three federal U.S. Army Corps of Engineer projects at or near construction which is bringing over \$30 million to Nebraska. On page 3 of the handout, you can see there is over \$10 million of needs per year for the next five years. At Lower Platte North NRD we are entering our largest construction year, with the Corps of Engineers having two construction contracts and the NRD one on our Lake Wanahoo Project. This \$29 million project will have one-third of the funding coming from the federal government, one-third from the state, and one-third from other sources. The project sponsors include the NRD, Saunders County, the city of Wahoo, with additional funds coming from the Environmental Trust, U.S. Fish and Wildlife Service, NDEQ, and NDOR. Details on each of the projects and breakdowns of funding sponsors can be found on the supplied handouts, and again that second or the middle part of that large handout will have that breakdown. This legislative bill is extremely important to us and there would be more representation here today if not for a host of resource issues which include: a scheduled meeting of the Nebraska Natural Resources Commission, a board meeting for the Nebraska Association of Resources Districts, and five other legislative bills being discussed at committees this afternoon. I hope you will choose to invest in increasing the safety and economic stability of our citizens by boosting the Nebraska Resources Development Fund this legislative session. We appreciate the tools you have provided in the past, and look forward to working with you in the future. I might add the question came up about eminent domain. Any time we use public funds, and especially when we use the power of eminent domain, those lands are treated differently. We cannot go out and sell those to a private individual, to a developer. We can't cut deals like that. When public money is used, when eminent domain is used, the only way we can dispose of purchased land is either put them to a public benefit, such as Game and Parks or the NRD continue to operate them as a recreation area, or put them out for open bid. And state statutes are very clear in that. We can't cut any deals for development. One of the examples people often look at is the lake near Bennington. In that particular case, all of that land was purchased on a willing buyer, willing seller case. The NRD had previously planned a flood control structure at that site. If they would have built that flood control structure on their own, it would have been about a \$7 million investment. They did cut a deal with the developer. They paid the developer \$3.5 million, received all the flood control benefits that they would have if they would have invested the \$7 million, so they got quite a bargain on the flood control that they have present now. A lot has been

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Transcriber's Office

Appropriations Committee
February 06, 2008

made about the dams north of Omaha, many of those being in Washington County and the controversy there. I hope everybody realizes the purpose for those dams--Papio Watershed. We have people living in that watershed, homes, there's levees in places. As that watershed has continued to be developed north of there, it's going to increase the peak runoffs in that watershed. You either need to store some of that water up at the top or you're going to start flooding homes and requiring flood insurance on homes in the lower part of that watershed, which today do not have that requirement. [LB1150]

SENATOR HEIDEMANN: Senator Wightman. [LB1150]

SENATOR WIGHTMAN: I have a couple of questions. What qualifies a particular project for federal funding? I assume there's guidelines. [LB1150]

JOHN MIYOSHI: (Laugh) Boy, federal funding is tough. Our Lake Wanahoo Project, we started work with the federal government in 1997. Our first construction contract was let late in 2007. So that's 11 years we worked to start construction on that project. So it's a big investment by the local sponsor. We have about \$1 million invested in that project up front before we fully know if we're going to get funded and get that project built. So a lot of work by the NRDs. If you don't have a project that's in excess of \$5 million, it's probably not worth the extra work to try to get it federally funded. [LB1150]

SENATOR WIGHTMAN: Some of these projects, I assume, have recharge as a benefit in some parts of the state. Other parts I assume they do not. Is that correct? [LB1150]

JOHN MIYOSHI: Well, you know, despite what the engineers say, every dam leaks and there will be recharge. But there are larger benefits in some parts of the state than others. Our Lake Wanahoo Project that we're building north of Wahoo, near what's called the Todd Valley, a tremendous amount of water, ground water, in storage there. It's not a problem. But out west, yes, definite benefits to recharge. [LB1150]

SENATOR WIGHTMAN: Which sometimes the benefit, and sometimes in the form of seepage, is a detriment to surrounding lands, but... [LB1150]

JOHN MIYOSHI: Well, if...yes, if you own a house right below where a dam is going in, it's definitely a detriment. And that's why when those dams are purchased, sometimes wonder...people wonder why that extra land is purchased below the dam, and that's the reason. Like... [LB1150]

SENATOR WIGHTMAN: Sometimes fairly large tracts of agricultural land are affected, too, aren't they, by seepage? [LB1150]

JOHN MIYOSHI: Yes. [LB1150]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

SENATOR WIGHTMAN: Maybe smaller projects not so much, but I know Central Nebraska Public Power's canal system, you know, has both benefits and detriments from that. [LB1150]

JOHN MIYOSHI: That's right. If subirrigation is what you want then that seepage is good, but if you have a house there, it is not good, or crops that it's tough to get in those fields sometime. [LB1150]

SENATOR WIGHTMAN: One additional question on eminent domain. I assume when you go out to deal with a landowner to see if you can acquire land, you can either acquire just the land or a very minimal amount of land, and he's left with surrounding land, or you may try to acquire a larger tract, particularly if recreation is a part of it. Is that a correct statement? [LB1150]

JOHN MIYOSHI: Yeah, if recreation is one of the purposes for our district, of course we'll go out and purchase the entire piece. A lot of the small flood control dams, though, that we've constructed we have easements on. And when we go out with those...and negotiate with those landowners, right up front we ask, do you want us to take an easement or do you want to sell the entire tract of land. We always give them that option, and most of them take the easements. I can tell you, financially they'll come further ahead if they take the easements, and those easements are based on the value of the land before and after for the current highest and best use. [LB1150]

SENATOR WIGHTMAN: But there is some potential if they take by...under threat of eminent domain, which you may not even call it that, you may be out negotiating a transaction to buy some of this with a particular landowner. If he keeps the rest of his land, he may get some benefits as far as some recreational, I would assume. [LB1150]

JOHN MIYOSHI: Or higher resale on the land that's out there. [LB1150]

SENATOR WIGHTMAN: Right. [LB1150]

JOHN MIYOSHI: Yes, you're correct. When we take those easements, all of our flood control structures will have a permanent pool and then, above that, a temporary storage for flood protection. We will have no build easement within that temporary storage area. Above that they're free to do whatever they want. And then the day-to-day recreation, you know, if you have a 30-acre, 50-acre pond out there, there's a lot of recreation that will take place. [LB1150]

SENATOR WIGHTMAN: Thank you. [LB1150]

SENATOR HEIDEMANN: Are there any other questions for John? Seeing none, thank you for coming in today. [LB1150]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

JOHN MIYOSHI: Thank you. [LB1150]

SENATOR HEIDEMANN: Is there anyone else wishing to testify in support of LB1150? (See Exhibits 5 and 6) Is there anybody wishing to testify against LB1150? Is there anybody wishing to testify in the neutral position on LB1150? Seeing none, we'll close the public hearing on LB1150, and open up the public hearing on LB1161. Senator Karpisek. [LB1150]

SENATOR KARPISEK: Thank you, Chairman Heidemann and members of the Appropriations Committee. Think this is the first time I've got to come, try to beg, borrow or steal some money out of you folks. [LB1161]

SENATOR NANTKES: Welcome. [LB1161]

SENATOR KARPISEK: Well, thank you. LB1161...my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k, and I represent the 32nd Legislative District. LB1161 proposes that funds in the amount of not more than \$100,000 be appropriated to the Department of Natural Resources from the General Fund to contract for an environmental study to consider the impact of placement of a flood control dam on the Big Blue River north of Crete, Nebraska. The study shall be completed by December 1, 2008, and a report of the study findings shall be provided to the Legislature and the Governor. This past interim I heard a lot of shouts about dam the Platte to try to make some flood control, irrigation help, and so here's my proposal to dam the Blue. The city of Crete, Nebraska, signed a resolution to get this in process so I put in the bill to try to get that working. Although on the Blue River we don't have near the problems that they have out in the Republican Basin, this is an early step to see what we can do so we don't end up in the situation that they are in, which could happen. And with that, I would take any questions of the committee. [LB1161]

SENATOR HEIDEMANN: What size of a lake are they thinking about? [LB1161]

SENATOR KARPISEK: Well, there will be people behind me with...the engineers that can share more of that information with you. I've heard numerous, since this is in the early stages, numerous different acres and feet, but it will be good size. [LB1161]

SENATOR HEIDEMANN: And where would the money come from to fund this? [LB1161]

SENATOR KARPISEK: We'd hope that we'd get federal funds and probably some private, and probably we'd want some state money, too, I suppose. [LB1161]

SENATOR HEIDEMANN: Are you trying to tell us something? (Laugh) [LB1161]

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Transcriber's Office

Appropriations Committee
February 06, 2008

SENATOR KARPISEK: Hmm. (Laughter) Well, you know I like to try to be funny. [LB1161]

SENATOR HEIDEMANN: I think Senator Harms. [LB1161]

SENATOR HARMS: Senator Karpisek, I guess I'm not really familiar with the Blue River. Can you tell me what the issues are there, the flooding potential? Like I said, I don't understand that for sure so... [LB1161]

SENATOR KARPISEK: We do have some flooding issues that we have a lot of in Crete, especially, that houses, businesses, the business district is in a floodplain, as I understand. So new construction is a problem and, of course, flood insurance is a problem. We've had a lot of trouble through DeWitt and through there. That's mainly Turkey Creek, Swan Creek, and they have done some work on those that that has gotten better. But again, the main issue is to try to make sure that we don't end up in the spot that we are in out west. And again, this is just a very preliminary shot to see what can be done, what can't be done, if it is a good idea or not a good idea. Thank you. [LB1161]

SENATOR HEIDEMANN: Senator Wightman. [LB1161]

SENATOR WIGHTMAN: Senator Karpisek, I'm wondering what's the total cost of the funding for the study and what other sources are you looking to for the study? [LB1161]

SENATOR KARPISEK: The total study is \$100,000, not to exceed. [LB1161]

SENATOR WIGHTMAN: Do you know whether the NRD there has used up all of its taxing authority? [LB1161]

SENATOR KARPISEK: I do not know that, Senator Wightman, and we have people from the NRD here also. [LB1161]

SENATOR WIGHTMAN: Thank you. [LB1161]

SENATOR KARPISEK: Thank you. [LB1161]

SENATOR HEIDEMANN: Senator Nelson. [LB1161]

SENATOR NELSON: Well, I have pretty much the same question, but just help me understand it. Is this the Lower Blue NRD? [LB1161]

SENATOR KARPISEK: This is the Lower Blue, but it would push water back on the

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Transcriber's Office

Appropriations Committee
February 06, 2008

Upper Blue also. [LB1161]

SENATOR NELSON: You're asking for, for instance, from the Department of Natural Resources. I'm just curious as to why the NRD wouldn't pay for the cost of this study. [LB1161]

SENATOR KARPISEK: Well, I think it's a little bit out of maybe what they can come up with. Again, they're behind me and you can ask them that question. [LB1161]

SENATOR NELSON: All right. I will. [LB1161]

SENATOR KARPISEK: Thank you, Senator. [LB1161]

SENATOR HEIDEMANN: Are there any other questions? You going to stick around for closing? [LB1161]

SENATOR KARPISEK: I will stick around for awhile. I don't...I'll see how long it gets. [LB1161]

SENATOR HEIDEMANN: Okay. Thanks for bringing this before us. [LB1161]

SENATOR KARPISEK: Thank you. [LB1161]

SENATOR HEIDEMANN: Is there anyone else wishing to testify in support of LB1161? [LB1161]

TOM CRISMAN: Mr. Chairman, committee, thank you. My name is Tom Crisman, T-o-m C-r-i-s-m-a-n, and I am the mayor of the city of Crete. We've talked to Senator Karpisek about this. And he had mentioned of the floodplain. Fifty percent of my town is in the floodplain. My entire downtown is in the floodplain. Crete is an old town. To revitalize our downtown area is virtually impossible under floodplain standards. A large portion of our residential area is also in the floodplain, which is a high cost of flood insurance for people trying to purchase this property. We also have the communities below us are affected by this. Wilber, DeWitt, Beatrice is...are also affected by the same problems that Crete has dealing with the floodplains and development. We also feel that this dam could have...possibly have statewide...become a statewide recreational attraction. It would also be an attraction for new businesses in sales and service in this area of the state. This could possibly also help the state with the regulation of water that we need to release to Kansas from this river district. And in short, we're just asking for the means to start this study to see if this is even feasible. Is there any... [LB1161]

SENATOR HEIDEMANN: Senator Fulton? Is there anybody that would like to ask questions of Tom? Senator Wightman. [LB1161]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

SENATOR WIGHTMAN: I'm assuming the NRD or the Crete City Council or somebody held some public hearings about this or haven't they? [LB1161]

TOM CRISMAN: And we had talked to the NRD originally and they had told us this is where we needed to start. [LB1161]

SENATOR WIGHTMAN: Did you have objection from landowners? I know that's a frequent situation. [LB1161]

TOM CRISMAN: We're not even to the point of talking to the landowners yet. [LB1161]

SENATOR WIGHTMAN: You haven't. Okay. [LB1161]

TOM CRISMAN: We don't even know if this is feasible. [LB1161]

SENATOR WIGHTMAN: Okay. [LB1161]

TOM CRISMAN: You know, this may turn out to be something that is not doable. I mean the study could show that we would be better off channelizing and diking. I mean, we just don't know. [LB1161]

SENATOR WIGHTMAN: So that notice to landowners is probably going to be something that maybe comes about during your study. [LB1161]

TOM CRISMAN: Very true, sir. [LB1161]

SENATOR WIGHTMAN: Thank you. [LB1161]

SENATOR HEIDEMANN: Has there been a lot of work done on the tributaries with small dams and things like that to try to help the problem? [LB1161]

TOM CRISMAN: No. Not to my knowledge, no. The only one that I know of that's been dammed was Walnut Creek to the north and east of Crete. They have done some work in DeWitt to help alleviate their problems, but it still doesn't help them with their flood plain problems. [LB1161]

SENATOR HEIDEMANN: When is the last time you've had any major flood problems in Crete then? [LB1161]

TOM CRISMAN: It's been a few years since we have had a major flood, but it's been a few years since we've had any decent rain. You know, growing up in Crete... [LB1161]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

SENATOR ENGEL: (Inaudible.) [LB1161]

TOM CRISMAN: ...I've fished in my folks'..the street in front of my folks' house. I've seen motorboats running up and down the streets. You know, I have seen this as a time. But it has been awhile since we have had any major flooding. But that still, you know, talking to FEMA and the Corps of Engineers about the floodplain, that doesn't seem to bother them any, whether the water is high at the present time or if it ever will be again. [LB1161]

SENATOR HEIDEMANN: And at this time, you really don't have any idea what size of lake you're looking at. [LB1161]

TOM CRISMAN: There's been several different sizes thrown out. There's been nothing definitive. The last I had heard is it would be larger than Branched Oak. [LB1161]

SENATOR HEIDEMANN: Okay. Are there any other questions? Seeing none, thank you for coming in to day and testifying. [LB1161]

TOM CRISMAN: Thank you, Senators. [LB1161]

SENATOR HEIDEMANN: Is there anyone else wishing to testify on LB1161, in support of? (See Exhibit 13) Is there anyone wishing to testify in opposition of LB1161? Would anybody like to testify in the neutral position on LB1161? Would Senator Karpisek like to close? We see a waive on the close. We will close our public hearing on LB1161, and open the public hearing on LB1109. Senator Erdman. [LB1161]

EASE []

SENATOR HEIDEMANN: Welcome to the Appropriations Committee, Senator Erdman. [LB1109]

SENATOR ERDMAN: Thank you, Senator Heidemann. What is today, the 6th? [LB1109]

SENATOR HEIDEMANN: I believe so, yes. [LB1109]

SENATOR ERDMAN: It's whatever day you tell me it is. [LB1109]

SENATOR KRUSE: Anything you want. We're not precise on figures. [LB1109]

SENATOR HEIDEMANN: If you told us...if we told you the 6th, you'd probably argue with us so just go ahead and...(laugh). [LB1109]

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Transcriber's Office

Appropriations Committee
February 06, 2008

SENATOR ERDMAN: No. That was a blank check. That was a blank check and I took a shot for being open. How about that? Well, I'm Phil Erdman, Philip is actually my legal name, Philip Erdman, representing the 47th Legislative District, here to introduce LB1109, a small technical bill, but generally aren't they all? LB1109 would eliminate the current earmarks of cigarette tax revenues other than those which have been bonded against, and deposits them into the state General Fund. This would not prevent the current recipients of cigarette tax funds receiving state funding. It merely requires that they participate in the biennial appropriations process. The exception provided for recipients was because of the beating that I took last year from Lincoln and Omaha. No, the real reason was, is that we were going to offer...I was going to offer the legislation that would have eliminated all of the earmarks, but recognizing that that's been bonded against, and we'll probably hear other testimony today about some of the other encumbrances that different entities have regarding that fund, there may be other rationale I generally couldn't distinguish. Here's why we're doing it, or at least here's why I'm proposing it. If you go back to 2001-2002, we as a Legislature had a great deal of discussion about the money that was available and what the priorities of the state of Nebraska are. I have no doubt, and in fact I look forward to hearing all of the wonderful things that many of these organizations that have either contacted me directly or have had their supporters contact me directly, about how vital their services are. I'm not disputing that one bit. This day actually provides us two opportunities, as I see it. One is to hear from a lot of them. At least from my perspective, I think that's healthy. As they don't go through the budgeting process, as is typical, sometimes we lose sight of some of the programs and funding that's in place, at least I do. I recognize you have great responsibility the year-round. But it also provides us an opportunity to analyze our process. I have no idea and I pray that we never have to go through what we've gone through in the past this decade regarding budget decisions. However, if we do, is it appropriate or is it the responsibility of the Legislature to ensure that we have the opportunity to make those priorities to fund the programs that we see fit, which again very well could include the ones that are sitting here today that are current recipients? Or does there need to be the opportunity for evaluation of the effectiveness of the programs? And I tend to think that if a program is worthy that you, as the committee, will recommend it. And whether or not I vote for it ultimately or not, generally it happens. So I recognize that there is a responsibility. I recognize that having or being required to come to the Appropriations Committee every two years and work for an appropriations is a lot harder than just having it sent to you, but I also recognize that as we continue to evaluate the priorities of the state, the responsibilities that we have and the great responsibility that you have in providing direction to the Legislature on the budget, whether or not this needs to be a consideration for us. And, you know, again, I'm not here to say that the people that are getting the funds don't need to get them. That's not the intent at all. It simply would put them in line with everybody else in the appropriations process to ensure that we're appropriating the right funds to the right programs with the greatest return. And if Senator Redfield were still here, I'd make her introduce it because we were going to both do it one year, but she's gone and so here

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Transcriber's Office

Appropriations Committee
February 06, 2008

we are. But I do think it's a worthy discussion. I recognize that your job is monumental. Maybe you don't want to have to deal with this; maybe you do. I don't know, but it just seems logical to me that, aside from the State Fair receiving the lottery funds annually, nobody else is guaranteed money, except for the individuals who get the cigarette earmarks, by appropriation. Everybody else has to come through this process, whether it's higher education, whether it's state aid to schools. Even though there are formulas in place, there still has to be some appropriations or there's the opportunity to adjust. Do we want that or not? And if you don't want to then, congratulations, you can kill the bill. If you think it's worthy of consideration, we can discuss it further. What I really wanted to do was give you another bill that you could try to raise the cigarette tax on, like you did last year with my bill, and this was the best way that I knew how to do that. [LB1109]

SENATOR HEIDEMANN: I will point out... [LB1109]

SENATOR ERDMAN: But as the primary introducer, I reserve the right to control the bill, so just remember that. Yes, Mr. Chairman. [LB1109]

SENATOR HEIDEMANN: I will point out, like when we deal with TEEOSA, that literally comes before us, Phil, and we say, well, that's what we owe, and we will appropriate \$800 million just like that. So there are things that we don't get the opportunity to have any oversight over whatsoever. [LB1109]

SENATOR ERDMAN: I can appreciate that. However, we do generally set the public policy on that formula and it's done through the normal course, and the budget that we set is effective prospectively, even though we're in the middle of a budget cycle and things are being forced upon us because of what the formula provides. We will probably be in the middle of some great discussion this legislative session about the state aid formula and that may or may not affect the next budget and the certified aid numbers affect how much is appropriated. There's a different process there that is even more involved than what's contemplated here. We simply say, here's a cent, see you later, or maybe not see you later. It's whenever you decide that you want to change it or the Legislature decides we're going to change that earmark we'll look at it again, but even on state aid, Mr. Chairman, we at least look at that. We see what it looks like, the programs. We see the benefits of a lot of these programs in which I candidly support a lot of them, as far as I know what they do. It's, again, a matter of the process, not a matter of the quality of the program. [LB1109]

SENATOR HEIDEMANN: Senator Wightman. [LB1109]

SENATOR WIGHTMAN: Senator Erdman, when this fund was originally set up, wasn't the idea that most of it, if not all of it, would be used for health funding? [LB1109]

SENATOR ERDMAN: Well, now, if you asked Bob Devaney, they built Devaney Center

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

out of the cigarette tax, and now you can't smoke there. So just so that we're clear, this deals with the state tax on cigarettes. This doesn't deal with the Health Care Cash Fund, which was a settlement that the states received from the tobacco companies, which is a...annuity is not the word, it's a trust fund. We collect the interest. We pay...excuse me, we spend the interest and maintain the principle, so annuity. So it's a different beast. This is the 60-some cents that we directly levy or tax as Nebraskans on the purchase of every cigarette pack sold in Nebraska or other tobacco products. [LB1109]

SENATOR WIGHTMAN: We've usually tried to sell that tax so...the idea of that tax with the idea that we're going to use it for healthcare, cessation of smoking and such things as that. [LB1109]

SENATOR ERDMAN: Well,... [LB1109]

SENATOR WIGHTMAN: That's been a consideration. [LB1109]

SENATOR ERDMAN: I think that some have offered that. Senator Johnson has an idea of trying to spend 10 cents of cigarette tax to fund mental health professionals. There's money in here for Game and Parks. There's money in here to develop, as Senator Wickersham referred to it as, the mudflats and the ditch. I don't know how you can sell the public on those ideas as being public health or smoking cessation related, but there are two separate programs and we spend \$2.5 million a year on smoking cessation which comes out of that Health Care Cash Fund that is the result of the settlement. It doesn't come out of the cigarette tax of 60-some cents that we levy in Nebraska. [LB1109]

SENATOR WIGHTMAN: Thank you. [LB1109]

SENATOR HEIDEMANN: Senator Fulton. [LB1109]

SENATOR FULTON: Thank you, Senator Erdman. I have a question of debate and philosophy I'd like to throw out and see how you respond to it. As I understand it, the Task Force for Building Renewal gets some of its...well, gets its funds through here. If we created...and I'm not saying that's how the task force was created necessarily, but if we at one point had the Legislature create a program such as the task force with the assumption that it's going to be tied to the cigarette tax, what do we do by way of policy in undoing a decision that was...that may well have been paramount in deciding whether or not that particular program comes into existence? Is that...do we militate against one of our own decisions? Granted, now I'm not speaking personally here because I wasn't here at the time, but corporately, as a Legislature, are we not vacillating? [LB1109]

SENATOR ERDMAN: I'm sure we are. We'll oscillate like that fan on a regular basis but,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

I mean, I think I know what you're asking. There is a number of reasons why legislation is introduced or is proposed, and there's a lot of things that are generally leveraged against that. Whether or not the money for the 309 Committee comes out of the cigarette tax, or whether it comes out of the General Fund is irrelevant if the money that was previously given to them, came from cigarette taxes, went to the General Fund. It's not a matter of...I don't know that you can make the argument that the reason people supported something was because it came from the cigarette tax. I think it was an easy target for folks and they said, well, these people, who cares if they're opposed to it, they smoke, we don't like them anyway so let's just tax them. That's been a philosophy of some. I don't know that that's a sound public policy. My philosophy is that if we levy a tax, let's put it in the General Fund and let's appropriate it. And then from that standpoint, let's set the priorities of the state of Nebraska to reflect whatever it is. And so maybe I don't understand your question, but if the decision is made to go away from cigarette taxes for the 309 Committee, so what? We are here today. We're going to make a decision about what we believe is in the best interest of Nebraska. And just as somebody did years ago regarding the cigarette tax for the 309 Committee, we may have a different opinion. A hundred and seven years ago somebody thought the State Fair should be within three miles of the State Capitol, and there's a great deal of people in Lincoln that would like to see it on 84th Street. That's a sincere change in philosophy as well. Again, I think we're capable of discerning that. What I'm proposing to you isn't are the programs currently funded worthy. I think that's stated. It's a question of what's the process we should utilize to authorize their funding. And if I completely didn't answer your question, then ask again. I'd like...the TV is on, I'd like to see something. That's pretty cool. [LB1109]

SENATOR HEIDEMANN: I've got a quick question. How serious are you with this?
[LB1109]

SENATOR ERDMAN: It depends on how serious you are, Mr. Chairman. [LB1109]

SENATOR HEIDEMANN: Well,... [LB1109]

SENATOR ERDMAN: I don't mean that flippantly. I do because I recognize that I'm not here to tell you how to do your business and I hope that's not what it comes across as. I'm simply taking the experience that I've had, as a member of the Legislature, when we get into the debate on the floor of saying we have a choice between funding this and this, or raising taxes; well, why can't we do this? Well, because it's obligated this way. I don't know. When I write checks out of my checking account, I know what I'm obligated for, but I still have the opportunity to allocate. And so if I have to pay the car payment, the house payment, insurance, whatever, none of that is obligated directly to that but I have that responsibility still in place. But that was something that I agreed to do but I have all resources available to meet that obligation. So if you feel it's a worthy consideration for the committee as you go forward in trying to plan the future that you

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

see, especially as we potentially face a downturn or a prolonged--"prolonged" maybe not the word--a lessening of the growth, is it something to consider? Maybe it is. We generally don't get the opportunity, as I've been here, to think ahead about what contingencies do we want in place, whether it's this program, whether it's Medicaid, whether it's anything, and the opportunity to at least plan for some of those, whether we would ever do them or not, I think has great value to ensuring that we have the options on the table we think are in the best interests of Nebraskans to solve the problem. So it is up to you, and if you don't want to address it then so be it. I'm simply offering it as experience that I've had as a member of the Legislature. [LB1109]

SENATOR HEIDEMANN: And I don't know what the bill exactly all does here. I just was reading the fiscal note. Would you...I think it would be better for us, if we would ever think about kicking this bill out, is to put an amendment on it and actually, if you're not going to fund them out of the cash fund, actually say that is it our intent to then fund them in the '08-09 year out of General Funds and then we'll start your discussion in the next biennium budget. [LB1109]

SENATOR ERDMAN: And I believe, Mr. Chairman, that's the way that it is written. It begins...the earmarks go away in January...June 30 of '09, so the people that are receiving the funds will continue to receive the funding until the next budget cycle, at which the committee would then have to appropriate the funds, the Legislature would have to approve it, and then they would then have the opportunity for the Governor's say as well. But it's my understanding and I'm reading through page 3, talks about beginning in July 1 of '09, this doesn't affect the current biennium. It affects future bienniums. And then they would have to be included in any budget that would have intent language, as we currently do. [LB1109]

SENATOR HEIDEMANN: Yeah, I get it now. There was a question mark in the '08...'09-10 year. [LB1109]

SENATOR ERDMAN: And if it's not clear, that's what we intended and I thought we had addressed that, but if not, it's not my intention to affect existing appropriations but to, rather, examine whether the process of...existing earmarks, but whether or not we should be appropriating this fund in future budgets as opposed to what we're currently doing. [LB1109]

SENATOR HEIDEMANN: Senator Kruse first. [LB1109]

SENATOR KRUSE: You raise an intriguing point, Senator. [LB1109]

SENATOR ERDMAN: Just one? [LB1109]

SENATOR KRUSE: And we...(laugh) it's something we certainly should talk about.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

Since I've observed that you have a great interest in legislative conflict,... [LB1109]

SENATOR ERDMAN: Mediating it. [LB1109]

SENATOR KRUSE: ...I mean, you know, the legislative process... [LB1109]

SENATOR ERDMAN: Okay. That's better. [LB1109]

SENATOR KRUSE: ...of being consistent within it, you have a great interest in this, bring it to the floor well. I sense a conflict in legislative process here in that I remember bills that passed with a strong argument that this would be a cigarette tax. Whether that helped it pass or not, who knows, but that was...that was the argument. And if we were to do this, then the Appropriations Committee would be second-guessing the intent of the floor as we go along at a later time, and that raises an interesting challenge to me. I see in this (laugh) a little chance for a shell game, and that would be a negative term, a little shuffle. Could that be more neutral? In other words, if we really want to get up the cigarette tax and it's well known to everybody I would love to do that. [LB1109]

SENATOR ERDMAN: And I've given you the opportunity again. [LB1109]

SENATOR KRUSE: I've tried to do that. Jim Jensen and I tried and tried and tried. Maybe what we should have done was call for 5 cents to go for motherhood and then, as soon as that's through, then come along later and say, well, just throw it over into General Fund. [LB1109]

SENATOR ERDMAN: Did you get rid of motherhood? [LB1109]

SENATOR KRUSE: And motherhood can certainly have appealed to... [LB1109]

SENATOR ERDMAN: I would be opposed to that because I'm in favor of motherhood. I have been a recipient of those services and am a partner...am a partner of those services within my own family, and I would be opposed to any elimination of motherhood. [LB1109]

SENATOR KRUSE: Well, there's some golden issues that we could have that would really appeal, and I, like I say, I'm of a devious mind. I've learned most of it from you and I (laughter) I would love to pick out a golden issue and get it...get a product that is greatly undertaxed up to where it's dealing with some of the costs that we have for it. (Laugh) At any rate, I invite you to respond. It's the same question Senator Fulton had, except that he is so erudite that you were missing part of his question. [LB1109]

SENATOR ERDMAN: Yeah, I wasn't...I'm a dirt farmer from western Nebraska. I had a hard time following, so I gave him the chance to respond but he gave me the thumbs

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

up. So I, you know, any time something happens in the Nebraska Legislature there's a chance to change it. [LB1109]

SENATOR KRUSE: I'll grant that. [LB1109]

SENATOR ERDMAN: We don't do that lightly. Whether or not it's an amendment on the floor on public policy which you have done regarding the issues of alcohol, anything that ever happens on the floor of the Legislature can be amended. We have a process to do that. I'm simply asking us whether or not the reasons we did what we've done still make sense, not whether or not the programs still the funding, but it's the how. And I don't know. The only reason that I know of or at least the experience that I've drawn as to why we use the cigarette or alcohol or other sin taxes to propose something is because most people can get away with voting for it without getting beat up. So we say, well, we want to fund this, but let's just tack on an extra 5 cents on the cigarette tax because who cares if we tax smokers. Well, we generate \$60-some million, it's a little less than a million a year I guess or right around that, and there's 64 cents a pack. We generate a lot of money. And if the argument was originally that we should only use that money, as Senator Wightman was making the allusion to earlier, for health-related things, we wouldn't have passed any of these things, including the mudflats, the ditch, whatever. Again, the philosophy that I approach this from is let's set the priorities of the state. The funding that comes into the state of Nebraska-- and I'm not a member of the Appropriations Committee and that's why I bring it to you--should be appropriated, plain and simple. And whether we have tied our hands in other areas or whether we have limited our ability to be responsive, we still have to appropriate the funds. We don't do that here. So whether or not something was sold one way and now we're changing, that's why we're having a hearing on a legislative bill. These folks are going to tell you to leave it alone because they get the money, and maybe they're right. I'm simply analyzing this long term and saying I went through this; those of you that are going to be here, do you want this? And those of you that are leaving, do you even agree with me that this should be something we should consider? And again, if you don't, that's fine. But we can't bind future Legislatures. So no matter what previous Legislatures have done, whether they were well meaning or not, it's somewhat irrelevant, other than the fact that we should use it as a basis to understand why they did it in trying to figure out what they were trying to accomplish. [LB1109]

SENATOR KRUSE: Thank you. [LB1109]

SENATOR HEIDEMANN: Senator Nantkes. [LB1109]

SENATOR NANTKES: Senator Erdman, thanks for joining us here this afternoon and I guess I'm just a little confused about the intent for this legislation, and I've heard you mention that, you know, maybe it's about the philosophical direction and appropriateness of earmarks in general, or maybe it's about cigarettes and smoking

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

policy, or even our more broad tax policy in some respects. But then I've also heard you say on numerous occasions this afternoon that it's really about process. And I guess, as a member of the Appropriations Committee, I'm sitting here thinking what within the current process would preclude this committee from making adjustments to the funds as they currently exist. I guess the necessity of this legislation, I think, seems questionable to me. It seems to me that it would be within the province of this committee's jurisdiction to address these issues if members saw fit or for any member of the greater body to address during a budget debate or otherwise. And so I guess maybe it is a combination of different things you're trying to address and maybe I'll let you just speak for yourself as to your intent, but I was wondering, I'm just confused about, it seems to me that process would be kind of a repetitive reason to bring a piece of legislation like this. [LB1109]

SENATOR ERDMAN: Well, Senator Nantkes, as you know from your previous experience working with or against the Legislature, depending upon how smart we were, there may or may not be options on the table. This bill or these bills have never come to the Appropriations Committee because they're a tax. This is a tax, if you read through, is directly allocated to those entities, and in order to change that, you would have to introduce legislation, go through the Revenue Committee or what I am doing, and that is requiring that the revenue that's collected not go to these entities that are going to be here but, rather, are deposited in the General Fund. So you don't, as I understand the process, have the flexibility to appropriate this fund now. It is...you get a...you can go through here and read, so-and-so will get a cent until this date, so-and-so will get a cent until this date or they will...you know, you can go through this process. This is different because of the way that it's being done, and that's the process side. My intention, as I have said today, and whether the members of the committee want to believe it or not, is not to say that these people shouldn't have their money. It's simply the fact of the process. And that's why I bring it to you. There was...you know, you learn a lot about the process, whether you're trying to amend the budget on the floor as a floor amendment or whether you're trying to work with other members to try to figure out how to get the state out of a financial crisis, you learn a lot about the process. And one of the things that we learned was, here was a pot of money that wasn't appropriated that was outside the reach, and the way that we would change the place that the money goes is by changing the law, not by the budget process. So you would literally, as Senator Kruse and Senator Jensen and others have tried to do, you would introduce legislation, you would go before the Revenue Committee to add the tax. The reason this bill is in front of the committee is because it puts it into the General Fund and then the committee would appropriate it. That's the only reason that it's here. So it is somewhat different, as I understand it, than what you would have the ability otherwise to do. If you kill LB1109, you have, as I understand it, no direct ability to limit or reduce this funding, because they're specifically given X cents per tax in law. So whatever that amount is, they get that. And if I'm not understanding that I'd be happy to be corrected, but that's how I understand the process to be. That's why it, to me, is about process, not about the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

folks or the recipients. [LB1109]

SENATOR NANTKES: Right, and I appreciate that clarification. But, you know, as you mentioned in your opening where there was another piece of legislation that was utilized as a vehicle for increasing cigarette taxes and otherwise, I mean, we do transfers from different funds to the General Fund, and etcetera, at various times during the budget process, but I'm not arguing. I'm just trying to figure out, you know, if indeed we have that flexibility or not. I think we do, but I would appreciate some more information in that regard. [LB1109]

SENATOR ERDMAN: And whether or not you have the ability on the appropriations side of limiting the utilization of those funds by your budget is, again, something I will leave in your purview. But, you know, when you read through here, they're depositing the direct revenue into a fund without going through an appropriation process. It simply, for example, Senator Fulton's question or Senator Fulton's example is on page 5: Beginning October 1, 2002, and continuing until the purposes of the Deferred Building Renewal Act have been fulfilled, the State Treasurer shall place the equivalent of 7 cents of such tax into the Building Renewal Allocation Fund, period. Otherwise, you would reallocate it. Now I don't know if you have the ability to go in and take the money out of that fund and reappropriate it somewhere else. That's something that, again, maybe this bill is irrelevant and maybe it's just a reflection of a healthy conversation about these folks that evidently believe that if you pass this bill they won't get the money every year like they're currently getting, and I think they would be interested to know that too. But I'm not...I have no intentions otherwise of what it is I'm here for, and that's simply to provide you a discussion or an option and if you want it, great; if you don't, kill it. I won't be here. It won't matter to me. But I plan to be a Nebraskan and I would like to think that the process that we have left behind or that the process that all Nebraskans are under is reflective of the priorities that I think Nebraskans would like to see. [LB1109]

SENATOR NANTKES: Thank you. [LB1109]

SENATOR HEIDEMANN: Just a second. I'm talking to the Fiscal Analyst here. I believe what Phil is saying is right. We could not reappropriate this money, and I want Phil to make sure I'm saying this right. We would have to literally introduce a bill to undo what's in statute. Is that correct, Phil? [LB1109]

PHIL HOVIS: Well,... [LB1109]

SENATOR NANTKES: It couldn't be part of our broader budgetary authority? [LB1109]

PHIL HOVIS: A couple of technical points: Yes, indeed, the dollars are earmarked and flow...or the dollars are earmarked to flow to multiple funds, General Fund included.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

There are statutory provisions regarding funds that very expressly provide provisions that say the Legislature may transfer amounts from this to the General Fund, at its discretion. There are...I've heard two arguments expressed up on the floor, one being that since there is no express authority granted in statute saying that we can transfer amounts from a given cash fund to the General Fund, then we can't do it. Alternatively, it's been expressed that the Legislature can do what it chooses and an appropriations bill or another vehicle that may not be a piece of substantive law, it is an act of the Legislature and it can do it. So that's, you know, somewhat in question, I guess. [LB1109]

SENATOR NANTKES: No, that's helpful, I think. [LB1109]

PHIL HOVIS: And I guess the other technical point is that, yes, indeed, they flow to funds alternative to the General Fund; however, without appropriation authority, those dollars cannot be expended and the dollars that are expended from those funds are appropriated. [LB1109]

SENATOR HEIDEMANN: I think Senator Engel was first, and then Senator Synowiecki. [LB1109]

SENATOR ENGEL: I don't have a lot to say but I was here through all that, too, Phil, when we...way back when, when they designated a certain amount of cigarette tax to remodel the Civic Center in Omaha, and that was a one-time project. (Inaudible) money reverted back to the...supposed to revert back to General Fund. And that's one thing you're going to lose now with term limits as far as some of the institutional memory. Now some people have selective memory, I know that, you know, and...because there's several in here at the same time I was that didn't remember those things that I happen to remember. And of course, that was diverted to, as to the...you referred to the ditch, but Antelope Creek and the (inaudible)... [LB1109]

SENATOR ERDMAN: Mudflats. [LB1109]

SENATOR ENGEL: ...waterfront... [LB1109]

SENATOR ERDMAN: Yeah. [LB1109]

SENATOR ENGEL: ...waterfront mudflats you referred to. I think that was referred to on the floor by Senator Wickersham. [LB1109]

SENATOR ERDMAN: I think that's right, which I really enjoyed that debate. [LB1109]

SENATOR ENGEL: But that's how the process...that's how the process works, as you know. I mean any Legislature can undo or redo whatever any other Legislature has ever

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

done before. And the situation in here, too, with cigarette taxes, you know, all the effort we made for smoking cessation, and then you're depending...and this is a cent here and 2 cents here, 3 cents there, and if we're successful in that endeavor, which everybody wants nobody...anybody to smoke, you're not going to have any money in any of these accounts, you know. So actually, when we do these things, we speak with forked tongue--quit smoking, but keep buying cigarettes. You know what I mean? (Laughter) And... [LB1109]

SENATOR ERDMAN: Well said, because I'm not going to attempt to repeat that. [LB1109]

SENATOR ENGEL: No, no. Well, I hope I pronounced it correctly. But anyhow (laugh) but like you say, right now the dependency, you know like, well, Game and Parks, for instance, you know, they've had that since 19...30-40 years for that 1 cent and that's for maintenance and several things like that, so they are dependent on that. And of course the General Fund, they have (inaudible) some General Funds, but there's a lot of self-supporting so...I think it's...your...I like...your idea is good, but, you know, whatever we did, the next one can just turn around and say, well, let's start tapping it again. Then you've got (inaudible). Anyhow, that's my comment for the day. [LB1109]

SENATOR ERDMAN: And they can do that anyways, as we have already well established. But, you know, there are funds that are currently being earmarked from the cigarette tax that do go towards general or more logically connected to healthcare related. There's cancer research being done. There are similar programs. Ironically, if you read the cigarette tax, none of the money goes to smoking cessation, so at least we're not speaking with that forked of a tongue that we don't want to directly use the tax to get you to stop smoking so you don't buy more cigarettes so that you still get taxed. But there is the \$2.5 million that comes out of a different pot. But it is nothing more, at least in my opinion, of a decision about process and whether or not we appropriate a cash fund, as we have to do, whether they're federal or...appropriate funds whether they're federal or cash funds, and the fact that they're General Funds isn't anything special other than that they're generally collected from sales and income tax. It's not a specialized tax somewhere where it's not a fee-based fund that still has to be appropriated. So to the extent that, I guess as I've always thought of it, the way that I rationalize it in my mind, we appropriate funds, in other words we give the funds, but we authorize the spending of cash funds. And without the authorization, any of this money couldn't be spent. That part is definitely well known. Whether or not you can change that, again, depends on whose interpretation and how big the law firm is that's going to represent one of these folks that you took their money from when the statute says they're entitled to it. [LB1109]

SENATOR HEIDEMANN: Senator Synowiecki. Senator Nelson. [LB1109]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

SENATOR NELSON: Senator Engel was talking about moving from one cash fund to another. Does that have to be done by a bill on the floor that is referred to a committee? And does that come through this committee if it...? [LB1109]

SENATOR ENGEL: I think that was mentioned by Phil here. [LB1109]

SENATOR SYNOWIECKI: Well, that's kind of what I was going to mention,... [LB1109]

SENATOR NANTKES: We do that all the time. [LB1109]

SENATOR SYNOWIECKI: ...is when we went through the hard time, we raided about every fund that we had available. [LB1109]

SENATOR ENGEL: Oh yeah. [LB1109]

SENATOR SYNOWIECKI: So that's why... [LB1109]

SENATOR NELSON: You just did that here in the Appropriations Committee? [LB1109]

SENATOR SYNOWIECKI: Yeah. Yeah. [LB1109]

SENATOR ENGEL: Yeah, we do it. We could, yeah. [LB1109]

SENATOR SYNOWIECKI: Yeah, we...all these cash funds we go through, John, we just went in, if they had any balance whatsoever that we could take, we took. Now I don't know, I don't recall specifically if any of these were... [LB1109]

SENATOR NELSON: And a second... [LB1109]

MIKE CALVERT: If I may, the instance of where the committee did move money from a cash fund to another destination, such as the General Fund, there was explicit statutory authority that said here's the purpose of the fund, to do this, this and this, and transfers also may be made by the Legislature by an act of the Legislature. So there's statutory authority to move those funds from fund A to fund B. Otherwise, generally, you cannot. [LB1109]

SENATOR ERDMAN: And if you want to do that instead of what I'm proposing, then just you could add that language so that it's clear that you could do that in a time of need. That's simply what the philosophical discussion I'm trying to facilitate is. [LB1109]

SENATOR NELSON: And a second question is, if the tax revenue eventually goes down and decreases, these 1-cent earmarks or whatever they are, they stay the same, but it's the General Fund that takes the hit. Is that right? It's less (inaudible). [LB1109]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

SENATOR HEIDEMANN: All the funds...all the funds would take a hit. Because... [LB1109]

SENATOR NELSON: If...I read the fiscal note to say that the equivalent of 1 cent of cigarette tax receipts is allocated to such and such, so that's a set amount. [LB1109]

SENATOR HEIDEMANN: That's correct. So the less cigarettes are smoked or are bought would mean less money going into those funds. Is that correct? [LB1109]

MIKE CALVERT: On a per penny basis. [LB1109]

SENATOR HEIDEMANN: Per penny basis. [LB1109]

MICHAEL CALVERT: Now there may be a floor, Phil, correct me if I'm wrong, but I think generally there is a hold harmless floor for most, if not all, of those earmarks. Is that correct, or is there an exception? Okay. I think they all have floors. So to the extent that per penny generates more than the statutory floor, yes, it would decline. Once it hits that floor, it stays at that point and then the hit is taken on the General Fund side. But I don't know where all the earmarks are relative to the floor for those, each earmark. [LB1109]

SENATOR HEIDEMANN: Are there any other questions? I will say your bill has brought up a lot of discussion here. [LB1109]

SENATOR ERDMAN: And I'll probably stick around to take my beating, so (laughter) we'll see how it goes. [LB1109]

SENATOR HEIDEMANN: You want to close then? [LB1109]

SENATOR ERDMAN: We'll just see. [LB1109]

SENATOR HEIDEMANN: Okay. Just out of curiosity, there's a lot of people in the room, how many people plan on testifying in support of this bill? [LB1109]

SENATOR ERDMAN: I misled the (inaudible). (Laughter) [LB1109]

SENATOR HEIDEMANN: Anybody going to testify in a neutral position? Anybody testifying in opposition? Not as many as I thought, so we just ask that it doesn't get too repetitive. So at this time I need to call, though, does anybody want to testify in support of this bill? Does anybody want to testify in opposition of LB1109? [LB1109]

JAMES CAVANAUGH: (Exhibit 7) Mr. Chairman, members of the Appropriations Committee, my name is James Cavanaugh. I'm an attorney and registered lobbyist for

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Transcriber's Office

Appropriations Committee
February 06, 2008

Creighton University. I have a handout I'd like to give to the committee. On behalf of Creighton University, I appear in opposition to LB1109. I feel like an old guy sometimes because when a lot of these allocations were added, I was around and I worked on them and followed it over the years. And it was interesting to read the very excellent fiscal note that Mr. Hovis provides the committee. You'll never get a better "CliffsNotes" of the history of cigarette tax in Nebraska than you've got right there, because it pretty much gives you an idea of where we were, what we did and how we got to where we are. The part of the cigarette taxes that's dedicated to cancer research is allocated in a process that was devised by the Legislature in the early nineties to ensure that we enhanced as much cancer research in as many appropriate research centers as possible in Nebraska. And since that time, the funds that Creighton University has received, the funds that UNMC has received have multiplied many, many, many times over in terms of attracting talented researchers doing groundbreaking work, and some of that is outlined in the materials that I give you, but also dollars. For instance, the monies that Creighton has received since the passage of the original allocation in LB595 has generated more than \$38 million of federal funding alone that came in as a result of your investment. That's more than 223 percent return on just the portion that Creighton University received from essentially 1 cent of the cigarette tax allocation dedicated to cancer research. And I don't think anybody would argue that the public policy rationale for putting cigarette tax dollars to work on cancer research is pretty unassailable. One thing that I would agree with Senator Erdman on, a number of times during his testimony he said this provides a vehicle for the increase in cigarette tax in Nebraska, and we would wholly endorse that. The allocation for cancer research has not increased at all since the first allocation was made in the early 1990s. And certainly if it has the effect of deterring some people from smoking, well, so be it. The whole question regarding earmarks or, as they're more appropriately termed, allocations or dedications of these fundings I think should be viewed in its entirety. We do a lot of this as a state on a much greater scale than what we're talking about in this bill. And the idea that, oh my God, we don't get to debate the programs that are contained in the allocations in this bill kind of takes me aback a bit when you consider that just one program, the Highway Tax Fund, of more than a quarter of a billion dollars per year, which is set up by an act of the Legislature, a dedicated tax straight from the gas pump to the highway department, a quarter of a billion dollars every year and it's been that way for as long as I've been around here. That's just one example of how you do this on a grand scale. And I suppose the rationale could be applied that, you know what, we should really sit in this room and debate every mile of road, every culvert, every bridge that the state is going to build every year with those gasoline taxes, but some wise fathers of our state determined long ago, after doing it just that way for about a hundred years, that that might not be the best way to do it; that we've got competent people that we trust at the highway department to do these things; we'll dedicate some funds to them and get on with it. In cancer research, if we were to come back from this committee and tell our researchers, who we've attracted from all over the world to Omaha, Nebraska, that, listen, every two years we're not sure if your funding is going to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

be there, they'd all leave; and I think the UNMC researchers, they'd all leave. Because you can't run a research program any more than you can run, effectively, a highway department on a short-term leash like that. These people are prized researchers. They're sought after all over the world and they come to places with secure funding sources. If you were to go back and review the debate of the original enactment of the cancer research bill, LB595, you'd see there's a massive legislative history on just this point; that we're going to set up a long-term research project with dedicated funds so that we can bring people in and money in from all over the world to do cancer research in Nebraska. And you know what? It worked. It worked at Creighton to the tune of \$38 million that we wouldn't have had coming into this state from federal sources alone, a 223 percent increase on our investment just at Creighton, and I don't think it will work at...I think it's worked just as well, if not better, at UNMC. So I think that what you've got here is a situation where, for very good reasons, you set this program up to have a long-term impact in selected fields. It's had that impact, it's worked, and there's no really good reason to destroy it, which in effect this bill would do. We would be happy to see it expanded and every few years revisited to maybe enhance the funding, but to uncouple it and have people come down here every two years would be to destroy your two premier cancer research facilities in the state, and I don't think that's Senator Erdman's intention and I don't think that's your intention, don't think that's the Legislature's intention. But that's what would happen under this bill. So I'd be happy to answer any questions you might have. [LB1109]

SENATOR HEIDEMANN: Senator Fulton. [LB1109]

SENATOR FULTON: Thank you. I'll do some devil's advocate here; just want to flush out some debate. [LB1109]

JAMES CAVANAUGH: Sure. [LB1109]

SENATOR FULTON: If we were to enact this legislation as a body and have it become law, do you anticipate losing funding? [LB1109]

JAMES CAVANAUGH: Losing funding? [LB1109]

SENATOR FULTON: Yeah, the funding that presently exists through the process we have in place, the cigarette tax. If we were to change this and adopt Senator Erdman's idea to move that money into the General Fund such that the appropriation process is the mechanism by which you're funded... [LB1109]

JAMES CAVANAUGH: Right. [LB1109]

SENATOR FULTON: ...do you anticipate losing funding or do you...I understand the argument that you make about attracting top talent... [LB1109]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

JAMES CAVANAUGH: Uh-huh. [LB1109]

SENATOR FULTON: ...which I'm going to...I get a... [LB1109]

SENATOR HEIDEMANN: Are you talking about federal funding or state funding?
[LB1109]

SENATOR FULTON: State funding. I mean do you anticipate...if one were to assume the tenets behind this bill, put this into the General Fund process, then it would be a competitive situation and 309 Task Force or this cancer research I think would have a pretty good chance anyway of winning funding every couple years, but I want to hear what...do you anticipate the loss of funds or, I guess, what is it that...what is the motivating or animating factor behind your presence here? Is it anticipation of losing funds; or is it the process itself, you don't want to see it changed; is it a little of both? (Inaudible.) [LB1109]

JAMES CAVANAUGH: Okay. And I think I understand the question. What I would anticipate is we would go from a situation that exists now and has since the early nineties where funds are allocated, dedicated, however you want to phrase that, to particular projects, long term. That's why you do it this way. That's why we don't come in every two years and ask for these funds. Because there is an element of that long-term funding that's important to the project itself in research. There's no cancer research project that I'm aware of on earth that lasts two years. Researchers dedicate their lives to it. Dr. Lynch, who you'll see in here, started his genetic research I think in the seventies and now he's a world-recognized leader in genetic causes of cancer, world recognized and sitting in Omaha, Nebraska, using these funds. He's only there because he knows the Nebraska Legislature thinks so much of this cancer research project that we've got and that UNMC has got that they've dedicated a long-term funding source to it, so I'll stay and I'll bring other doctors from around the world to come and join me. Well, if that's uncoupled, he knows, and researchers all over are very sensitive to funding sources, that now there's no guarantee of long-term funding. A fiscal crisis could occur. The state could lose all of its reserves and we could be scrambling to keep the lights on in the Capitol; ding, your funding is gone. You know, we do the same thing in...with the monies that were realized out of the tobacco settlement. This committee and this body decided uniquely in America that we're going to dedicate a good portion of those funds to biomedical research, and we did. These are funds that the tobacco industry gave to us because they had inflicted so much damage on people over the years by selling their product that they were compelled to. [LB1109]

SENATOR FULTON: And I understand that component of your argument. I guess I'm...if one were to look at that component of your argument from a different vantage, if I'm sitting here as a senator and I know that we have the top research scientists in the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

world here,... [LB1109]

JAMES CAVANAUGH: Uh-huh. [LB1109]

SENATOR FULTON: ...I'm less likely not to fund it. So how do you...how do you (inaudible) argue against that? If it's worthy, if the program itself is worthy such that we attract worldwide talent then that would also be a rationale as to how we could better fund this in the future. If it's a General Fund appropriation that we're recognizing benefit to the state from, then it seems to me that having more (inaudible) better talent in the world here, we'd be the mechanism by which you can persuade me. I don't know if I'm for it or against it here, but you could use that to persuade me to allocate or appropriate more General Funds, much more easily than would be the case of having to change the statute to get more cigarette tax monies. [LB1109]

JAMES CAVANAUGH: Well, I understand what you're saying but, I mean, there's an element of reliability of funding here that maybe I'm not being clear about. The reliability of long-term funding is very important to the retention of high quality researchers. They're linked. The more reliable your long-term funding is, the more high quality researchers you're going to be able to attract and keep. If you depart from this, which is viewed in the research industry as reliable long-term funding, to a two-year biennial review, then you're going to lose people. I mean there's an element of uncertainty there. I'm not saying that I couldn't come in here and make a case, and I hope to sit here on another day and make a case for you to increase this allocation, but it will have an adverse effect on the research institution's personnel and you'll lose people. You don't want to do that that, I don't think. [LB1109]

SENATOR HEIDEMANN: Are there any...Senator Wightman. We've got business at transaction. [LB1109]

JAMES CAVANAUGH: I didn't know you actually got the money out at the table here, but... (Laughter) [LB1109]

SENATOR HEIDEMANN: We needed a pop over here. (Laugh) Sorry about that. [LB1109]

SENATOR WIGHTMAN: Could you tell us whether or not you could look for long-term federal grants? Are your federal grants annual or are some of them a long-term federal grant? [LB1109]

JAMES CAVANAUGH: Well, normally, they wouldn't be annual, and I believe you've got personnel from UNMC that would be probably better informed on that, but you know the researchers in general, funding sources for research in general tend to be longer than, you know, what we operated on in our two-year biennial for housekeeping purposes.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

[LB1109]

SENATOR WIGHTMAN: Well, one of the problems I see with you coming in every year, I know various members of this committee say, well, we've got \$500 million or \$700 million requests for funds and all of them are worthy causes and that's where I get with Senator Fulton's argument... [LB1109]

JAMES CAVANAUGH: Uh-huh. [LB1109]

SENATOR WIGHTMAN: ...(inaudible) a point that he made is that all of a sudden you're in there competing for these funds, and it is true, it could result in more, but you would have a hard time counting on it, I think. [LB1109]

JAMES CAVANAUGH: That's right, Senator Wightman. And, you know, another point, and this goes to the legislative history and the institutional memory of this place, is these arguments have been made. Look in the legislative history of LB595 for all the arguments that we're talking about here today, because other senators sat in these same seats, entertained these same questions and said, our best judgment is to do it this way. Now, you know, I know it's not exactly like a court precedent but, you know, the legislative history of what came before here is very important. Because if every program is just going to be reviewed because we weren't around here when it was argued to the nth degree a long time ago, you're going to have a lot of time spent in these kinds of discussions. And maybe that's not a bad thing. But the precedence should stand for something. The arguments that went before you were by reasoned people trying to do exactly what you're trying to do and I think they'd be informative to these kinds of issues. [LB1109]

SENATOR WIGHTMAN: Thank you. [LB1109]

SENATOR HEIDEMANN: Senator Harms. [LB1109]

SENATOR HARMS: I just wanted to ask a question of Phil. Do we get any kind of a report back in regard to the dollars there that we...that we sent to them and what they've accomplished? Is there any way that we can? I think what Senator Erdman has asked is a pretty good question. He said he's not asking that we take away the funds, but he's brought some things forward that have stimulated my interest about how are we being accountable of these dollars--how are you spending these dollars; you tell us what you've accomplished. Do we do anything like that at all in any of these, ask for any kind of reports? [LB1109]

PHIL HOVIS: Well, not comprehensively all in one place; however, I think that there is documentation in terms of the cancer research earmark. There is documentation on the part of Game and Parks over the 1 cent for the Nebraska Outdoor...NORDA for their

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

(inaudible) and the... [LB1109]

SENATOR HARMS: So what kind of...so what kind of documentation is that? [LB1109]

PHIL HOVIS: Pardon me? [LB1109]

SENATOR HARMS: What kind of documentation is that? [LB1109]

PHIL HOVIS: I could... [LB1109]

SENATOR HARMS: And how do you judge whether or not they're meeting the intent of what we've tried to establish here? [LB1109]

PHIL HOVIS: Well, in the case of the 1 cent earmark for the Nebraska Outdoor Recreation Development Act, it's limited in terms of its authorized use to development and improvement of state park areas. So they're able to provide us a listing of everything that they have expended the dollars for, for a given fiscal year, that relate to how it was expended as it relates to state park development and improvement, much the same in terms of the earmarked dollars for the 309 Task Force. You know, it's just a matter of me getting on the phone and saying could you give me a summary of fiscal year '06-07 allocations, what buildings and facilities across the state have we allocated dollars for in terms of deferred building repair to utilize those dollars. [LB1109]

SENATOR HARMS: Well, I would definitely have an interest and I'd kind of like to know what they've accomplished and what's really occurring with the dollars. I mean, it's a lot of money, you know. I'm not debating whether or not it should be. I'd like to know how it is being used. And I think what Senator Kruse brought forth is something that we really need to discuss about, you know, is it being used appropriately. And if it isn't, then we should, we need to have the courage, as he's brought forth, to address the issue. I don't know. I couldn't address the issue because I don't know. I don't know. Mr. Chairman, I don't know, what are your thoughts on this? Is this asking something that we shouldn't? [LB1109]

SENATOR HEIDEMANN: I will tell you personally that Senator Erdman's bill has got me to thinking a little bit, too, and I'm not...there's a lot of good people out here that...and they do a lot of good things, and I'm not saying that we should take the money away from them, but I am...I most agree with you that sometimes there are reports made but maybe we don't access them enough as a committee to see what exactly what is being done. And probably a lot of that then would be our own fault. [LB1109]

SENATOR HARMS: And see, I agree with you. I think that we have to begin to look at the accountability here. And I'm not saying here it's going to be, it's wrong what they're doing, but I'd sure like to be able to defend that. If I go back to, a couple years from

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

now, I go back home and Phil Erdman is sitting out in the audience and he starts asking me for it, I'd like to be able to give him an answer because he's going to drill me pretty hard. So... [LB1109]

SENATOR HEIDEMANN: That is scary. (Laugh) Senator Kruse. [LB1109]

SENATOR KRUSE: Just responding to that, I get a lot more information than what I can process or maintain but, Jim, you've watched us for a long time around here and this whole question raises a different kind of a question in my mind. I'm assuming that the Appropriations Committee could not increase that designated amount, or decrease it, as presented in a regular budget thing. If that was set by...if that's in statute, wouldn't we have to go back to statute to? [LB1109]

JAMES CAVANAUGH: Well, for instance, you could take this vehicle, LB1109, strike the changes that are in it, go back in, increase the percent amount per different categories and put it out to the floor, much like LB595 was done in the first place. I mean this is certainly a vehicle that could be used for that very purpose. And when Senator Erdman noted, I brought you a vehicle for a cigarette tax increase, I think that's exactly what he was saying, is you could do that using LB1109, if you wanted to. [LB1109]

SENATOR KRUSE: Yeah. But you're talking about a bill and I'm just saying within the committee, which was kind of suggested that the committee would just kind of look over all these things and approve or disapprove them. But we couldn't be doing that. [LB1109]

JAMES CAVANAUGH: Well, here's how it works now. This kind of came up when somebody was asking a question about the, you know, the floors that were set in with, I think, '96-97 fiscal year floors and what happens, and that money is made up out of the General Fund. Well, it's kind of made up out of the General Fund lapse within this tax. If you'll look at the fiscal note, the front end of this tax and the bulk of it is already lapsed into the General Fund. Only a minority of the amount of your cigarette tax is allocated, if I'm reading that fiscal note right. And so the lapse...the decrease in the yield of a penny of cigarette tax, primarily due to the decrease of people smoking, led to the installation of those floors so that you could have reliable funding levels. You know, it's not going to go from...I think it started off at almost \$1.8 million and now it's down to, like, \$1.2 million, and those big waves wouldn't happen. If you just said, okay, we're going to take a bunch of it and lapse it into the General Fund but if these things fall below a certain level, we'll tap into that and we'll lapse a little bit less into the General Fund. Well, you can lapse the whole thing into the General Fund, as Senator Erdman is basically saying, and then everybody comes back to you as just a General Fund appropriation program, agency whatever, and they're here, you know, asking for dollars like everybody else is. Well, that's going to be very bad for research in Nebraska if that happens on the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

researching. I don't know what the parks and rec people can do, but research, it would have a very bad effect. [LB1109]

SENATOR KRUSE: I appreciate that, and that was not what I was asking. I was just saying the Appropriations Committee doesn't have the authority to go and mess around with these figures without... [LB1109]

JAMES CAVANAUGH: Without changing the... [LB1109]

SENATOR KRUSE: ...without going through a bill. [LB1109]

JAMES CAVANAUGH: ...allocation, that's correct. Yeah. [LB1109]

SENATOR HEIDEMANN: Are there any other questions for Jim? Seeing none, thank you for coming in. [LB1109]

JAMES CAVANAUGH: Thank you. [LB1109]

KEN COWAN: (Exhibits 8 and 9) I do have handouts. My name is Dr. Kenneth Cowan, C-o-w-a-n. I'm director of the Eppley Cancer Center at the University of Nebraska Medical Center. I am representing the University of Nebraska today in opposition to LB1109. I provided you a written testimony which provides background on the importance of cancer in Nebraska and the United States. I won't read that whole testimony. I'll just go to the last three pages, which gives you a report on the use of those funds and what they've contributed to the Eppley Cancer Center. I came to Nebraska in 1999 from the National Cancer Institute, where I spent 21 years of my career at the National Cancer Institute. Three years after coming to Nebraska and working with the Eppley Cancer Center, actually I was appointed by President Bush to serve on the National Cancer Advisory Board. In fact, I returned home early from a meeting that we were having yesterday and today of this board of the National Cancer Institute which actually does provide the President every year an annual report of the national cancer program and we actually provide a budget to the President for his consideration for funding for the national cancer program in America through the National Cancer Institute. So I am fully prepared to deal with some of the questions you have about budgets and research. Today I'm here to report to you that Nebraskans have greatly benefited from two important bills, LB506 and LB595, which provide support from cigarette sales tax for cancer research. Both of these landmark legislative bills would be severely impacted by the passage of LB1109. LB506 was passed in the seventies and provides one-half million dollars a year for 28 cancer research faculty members at the Eppley Institute for Cancer Research at the Medical Center. The 28 faculty at the Eppley Institute--over half of them were actually recruited in the last eight years since I've come here--now have research grants totalling \$13 million a year which come from the federal government and cancer research foundations to Nebraska to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

support the cancer research mission at the University of Nebraska. LB506 also separately provides about \$600,000 a year annually for one-year competitive pilot grants to fund research in tobacco-related diseases by scientists at UNL, UNO, UNMC, and Creighton University. These grants are awarded on a competitive basis and are reviewed by scientists from outside the state of Nebraska. Nobody from inside the state of Nebraska reviews these grants. It's run through the Department of Health and Human Services. But these pilot funding of about \$600,000 a year--it comes out in about \$50,000 per grant, per year, per investigator--enables the researchers from Nebraska then to obtain preliminary research data each year which is then incorporated into much larger federal grant applications. Over the past five years, 70 Eppley Cancer Center members have received about \$2.8 million in pilot funds from this...separately from the LB506 legislation through the competitive process, and these 70 faculty have subsequently been awarded \$14 million in research funding from the federal government and cancer research foundations as a consequence of that particular funding. The second bill, LB595, was passed in the 1990s and provides \$1.3 million annually to the Eppley Cancer Center from cigarette sales tax. These funds are used by the Eppley Cancer Center to recruit new faculty and, in fact, over 90 new faculty have been recruited to Nebraska to the Eppley Cancer Center over the last eight and a half years. It also supports the research infrastructure of the cancer center, including a statewide clinical trials office that we offer in the Eppley Cancer Center to promote clinical trials in cancer across the entire state, from Omaha to Scottsbluff, and to provide pilot grants in translational bench to bedside research. Over the past eight years, \$4.27 million in LB595 funds have been used to recruit 31 of the faculty that I mentioned of the 90 to the Eppley Cancer Center, so they specifically allocated money to recruit them, and as of this year these 31 faculty have already brought in \$35 million in grant funding to the state of Nebraska. In addition, approximately \$900,000 of LB595 funds have been awarded in pilot grants that the Eppley Cancer Center has actually given to cancer center members and, in turn, these monies have been successfully used to compete for grants and now bring in \$20 million in federal grants and cancer research organizations. So return on investment is significant. Now getting back to reports, which was addressed earlier, on my page 7, the Eppley Cancer Center submits an annual report to the state Department of Health and Human Services, I assumed that the State Legislature also gets that, on the use of LB595 funds. It's a 200-page report annually that we draft and send to the State Legislature. In addition, every four to five years the Health and Human Services Department has an outside scientific review body, from outside the state of Nebraska, come and review the use of LB595 funds by the Eppley Cancer Center, and also separately goes to Creighton University and reviews them. We prepare a 1,000-page document for that every four or five years and we have a site visit for that team on the premises. Those reports are also provided, not only our report but the report from the outside review team is provided to the state Health and Human Services Department. I assume that a report could be provided easily to the State Legislature as well. In conclusion, Nebraskans can actually take pride in the fact that their state was among the first in the nation to understand the importance of biomedical

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

research and to pass landmark legislation, LB506 and LB595, to provide cigarette sales tax money to support cancer research. Monies provided by this legislation have been vital to the success of the Eppley Institute and the Eppley Cancer Center, and it was vital for us in obtaining National Cancer Institute designation for our cancer center. There are only 63 National Cancer Institute designated cancer centers. This is a program that was established in the National Cancer Act of 1971 by the federal government. There are 63 National Cancer Institute designated cancer centers. In Nebraska, the Eppley Cancer Center has been one of these since 1983. It's a competitive process. We've competed for this successfully in large part because of the significant state support for the cancer center and also the success of our individual scientists as well. In summary, in the past five years the Eppley Cancer Center members have received over \$2.8 million in pilot funding from LB506, and this resulted in \$14 million in grant funding from the federal government, and \$4.27 million were received from LB595, and this has been able to recruit 31 new faculty, which in turn now bring in, as of today even, \$35 million in grant funding to Nebraska. Over all, the Eppley Cancer Center has grown in research from \$18 million a year in research funding from the federal government and foundations coming to Nebraska to support Eppley Cancer Center research in 1999, to today over \$55 million come to the Eppley Cancer Center outside the state of Nebraska to be spent on research in the state of Nebraska through the Eppley Cancer Center. This is used to hire over 1,000 people to work in the laboratories at the University of Nebraska and also to buy supplies and services, so that simply translates at least into about a \$110 million economic benefit to the state. In addition, we have several statewide clinical trials programs going across the state to offer clinical research, clinical trials, clinical screening to patients across the state of Nebraska. We have numerous outreach, education promotion, educational programs run through the Eppley Cancer Center, and we're very grateful for the support of the state. And we actually welcome the opportunity that this legislation presented by Senator Erdman presents to actually present to this board an update on the state of the cancer research in Nebraska and at the Eppley Cancer Center. So thank you very much, Senators. Any questions? [LB1109]

SENATOR HEIDEMANN: Senator Synowiecki. [LB1109]

SENATOR SYNOWIECKI: Doc, thanks for coming in. Appreciate it. It's pretty compelling testimony. Jim was speaking about the sustainability and the reliability of these funds and how that plays a critical role in securing additional federal monies. I dabble in grants a little bit, but not on this scale, in my other life, and is that what this money is kind of used for, is the matching requirement and that sort of thing? [LB1109]

KEN COWAN: Not matching. Not matching at all. These are not matching funds. [LB1109]

SENATOR SYNOWIECKI: Okay. Can you enlighten me a little bit on... [LB1109]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

KEN COWAN: Yes. Yes. [LB1109]

SENATOR SYNOWIECKI: ...on how this is used to enhance the federal funding coming to the state? [LB1109]

KEN COWAN: Right. Right. We use it for two major purposes. One is we recruit new faculty to come to the state of Nebraska and we use some of these funds to support their recruitment. Just in the last year...I told you there have been 90 new faculty recruited to the Eppley Cancer Center in the last nine years, 90, of which 31 have been supported by LB595 funds to some extent. So we recruit these faculty. Just in the last three months, we recruited three faculty, two from Northwestern and one from Roswell Park Cancer Institute. These were three of the leading cancer researchers in the country. They bring in eight individual grants, totalling about \$3 million in grant funding, with them to Nebraska from the places they are. Without us being able to recruit them with money from both LB506, actually predominantly LB506, LB595, and also we appreciate the cigarette sales...the tobacco tax legislation which provides the university with some funds that we also can sometimes use to support this as well. So one is recruitment dollars to bring faculty here. The second one is these pilot funds that LB506 does, and that's done on a competitive basis. That does not come to the Eppley Cancer Center or to Creighton University. It goes to the Department of Health and Human Services and they award an RFA every year, asking individual researchers to apply for a grant for one year of use for \$50,000 to support research. These people win on a competitive basis, and, again, those are reviewed by scientists outside the state of Nebraska. A study section is formed. The grants are all sent to that study section. They reviewed it and reward it to the top list of grant applications, just like any other grant funding. In one year, the faculty then take that money and do pilot studies to get preliminary data. In order to be competitive for an NIH or federal grant, you have to have a 26-page grant application of which you have to propose five years worth of research, of which the first year of which has to already have been done, and the money from LB506 is that pilot money we use to do the first year of research. [LB1109]

SENATOR SYNOWIECKI: I see. [LB1109]

KEN COWAN: You cannot be competitive to get federal funds unless the first year work is already done, even though you're asking for the full five years. So the pilot money is critical for the success of our faculty to then get the money needed to do the first year of work to apply for a competitive basis for a federal grant or a larger grant. [LB1109]

SENATOR SYNOWIECKI: Makes sense. Thank you. [LB1109]

KEN COWAN: It shouldn't be that way. In other words, you shouldn't have to have a year's worth of work done in order to compete for a grant, but that's the way the

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Transcriber's Office

Appropriations Committee
February 06, 2008

federal...it's so competitive. When I...in 1999, when I came here, the federal budget for the National Cancer Institute was just starting to go through a slight increase. Actually, it went through a doubling for over about a five-year period. Grants submitted at that time had a...my board, my (inaudible) signs off on every single grant funded by the National Cancer Institute. That's the purpose of our board. We're the last level of review. In 1999, a person submitting a grant had a one in four or one in five chance of getting that funded. Over the last five years, and this is the difficulty in having to come to a board and asking for money every year, which I'm actually...my university would probably not want me to say this, but I'd welcome the opportunity to try to ask for more funds, but over the last five years our budget from the National Cancer Board that I serve on, to the President, has been denied and we're actually facing deficits in the National Cancer Institute budget. It's actually turned out to be flat, but with inflation we've had to actually, from the National Cancer Institute, actually unaward 2 percent of every grant every year, all the way down to 20 percent, even though they've already been committed. So in other words, you get a five-year grant, the National Cancer Institute now commits your money for the next five years. Well, if the money doesn't come in next year at the same level, they have to take it away from somewhere and they've actually had to reduce everybody's grant. So having to come back to a State Legislature or the federal government, like I do on my other board, and ask for money every year, we always ask for more money but under fiscally difficult times it's very difficult for a board to actually...and for the federal government right now to maintain the National Cancer Institute budget, and we're facing a severe difficulty. Right now, one in ten grants, one in ten grants, is now approved by the federal government, whereas it was one in five, five years ago. This is putting a tremendous crunch on science in America, to tell you the truth. [LB1109]

SENATOR HEIDEMANN: Do you see that as a trend? Because... [LB1109]

KEN COWAN: I hope not, but it... [LB1109]

SENATOR HEIDEMANN: Do you... [LB1109]

KEN COWAN: I'm sorry. [LB1109]

SENATOR HEIDEMANN: Do you see it as a trend, though, because this is the fear that there has been a lot of research money out there but as the federal government seems to be having other obligations, and we won't even go to where that is, but we see pressures on the research money. Do you see that as a trend? [LB1109]

KEN COWAN: It will be for the next few years. Like any other fiscal problem, just like the state problem economically four or five years ago. You go through these times in the state and in the federal government where the budgets can allow you to support different things. So we do see a problem at the federal level with funding will be flat for

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

the next several years. We understand that. It puts a considerably constraint on all the academic institutions who are actually all competing for the same pool of federal dollars, and the federal government is still, by far, the largest source of research funding in the world. Our federal government is still the largest source of research funding in the world. So the total number of grants being awarded has actually been the same. It's just that people are now spending more time writing grants, so our faculty is spending way more time every day writing for more grants in order to continue their laboratories and their competitive research. [LB1109]

SENATOR HEIDEMANN: Are there any other questions? Seeing none, thank you for coming in and testifying today. [LB1109]

KEN COWAN: Thank you. [LB1109]

STAN CARPENTER: Senator Heidemann, members of the committee, my name is Stan Carpenter and I'm the chancellor of the Nebraska state colleges and I'll just talk very briefly about something that's a little more mundane than cancer research, and then I'll get out of your way. What I'm here to chat with you about today is the potential impact that this bill could have on the Building reallocation...Renewal Allocation Fund, commonly known as the 309 Task Force. State buildings in the Nebraska State College System are a strong testament to the forward thinking that not only created the task force back in 1977 but also provided an ongoing and, very importantly, stable and predictable funding which has allowed the task force to strategically go about the business of maintaining the health of the state's capital investments within the State College System. The purpose of the task force basically is to provide funding and consulting oversight for four general areas: deferred repair is one; fire, life and safety is the other; Americans with Disability upgrades; and ultimately for energy conservation. The benefits of this funding are very evident within our system. They maximize the lives of our buildings and they minimize the potential for liability. Let me just chat for a moment about those four areas. The building envelopes and the Nebraska State College Systems are well maintained from a deferred maintenance standpoint, and that's thanks in large part to the funding assistance that we get from the 309 Commission. This has allowed us, in the NSCS, to go about renovating old buildings, reusing those old buildings, rather than building new buildings which are considerably more expensive to do. On the fire, life safety issues, these priorities are identified by the colleges and are prioritized in order of importance by the State Fire Marshal's Office, and that funding has assisted us across the State College System with such projects as fire alarm system upgrades, fire sprinkler systems in state buildings, fire hydrant replacements, and worker safety enhancements. As far as the Americans with Disabilities Act upgrades go, the improvements have been made at multiple locations across the Nebraska State College System in our buildings to provide access to our buildings and to enhance and improve the access options for students and staff and campus guests, whether they are there to attend a public event or whether they're there

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

to attend for educational purposes. And finally, as far as energy conservation is concerned, many of the completed projects have been instrumental in providing cost avoidance enhancements that would be critical in dealing with energy costs and, as you know, energy costs have been escalating at about 9 percent a year for the past four or five years. So generally, these benefits to the State College System and to the state buildings that we have there have been made possible from a solid, strategic planning effort on the part of the task force members and their staff, and partnership, if you will--a word we used a lot yesterday--in partnership, if you will, with our staff. And without a predictable and stable funding source, the outcomes of the task force's efforts in terms of our state buildings could have the potential to be greatly, greatly compromised. Critical building needs will have to compete directly with funding core...funding for core academic and student support needs if we need to come back every year to ask for those funds from a General Fund appropriation. We don't have a lot of deferred maintenance now. We have some maintenance. We'll continue to work on that. In a prior system where I lived and worked, there was deferred maintenance that went back years and years and years and years. When I go across the country and I meet with my colleagues and I describe this 309 Task Force and what it can do for our buildings, people are in awe of it and want to know how they can get one and how was Nebraska so forward thinking in its looking at this kind of maintenance effort. So I would ask you to consider that very carefully as you look at this bill and understand that the state's investment in its buildings is critical for us to maintain those in a way that students want to come, people want to teach there, and our staff want to work there. And I'd be happy to answer any questions you might have. [LB1109]

SENATOR HEIDEMANN: Are there any questions? [LB1109]

STAN CARPENTER: Thank you for your time. [LB1109]

SENATOR HEIDEMANN: I will say that I was on the 309 Task Force when they was down at Pawnee...Peru State College and we was on roofs, in basements, in where they got their heating and cooling from. It was very interesting. I do believe they serve a very useful purpose. [LB1109]

STAN CARPENTER: Absolutely, Senator, and that's the same across the entire system from issues of tuck pointing to roofs, to HVAC, to access issues. It's just very critical for us, as we maintain those buildings in conditions that will, as I said, allow folks to get in and out and make them safe. [LB1109]

SENATOR HEIDEMANN: Thanks for testifying today. [LB1109]

STAN CARPENTER: Thank you very much. [LB1109]

REBECCA KOLLER: (Exhibit 10) I have a handout. Thank you. Mr. Chairman, members

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Transcriber's Office

Appropriations Committee
February 06, 2008

of the Appropriations Committee, my name is Rebecca Koller, that's R-e-b-e-c-c-a K-o-l-l-e-r, and I am the director of facilities planning and management for the University of Nebraska. I am here today to speak in opposition to LB1109, particularly as it relates to the 309 Task Force for Building Renewal. Once you receive the handout that I provided, you will see that state funding for the University of Nebraska has averaged \$14 million per year over the last ten years. Of that funding, 23 percent, or an average of \$3.3 million, per year represents 309 Task Force funding. The point I want to emphasize is the "per year." As you can see from the handout, no funds from the State Building Fund were appropriated to the university in fiscal years 2003 through 2005. The per year emphasis is important because as of June 30, 2007, the university insured 750 buildings, 22 million gross square feet with a replacement value exceeding \$3.3 billion. This represents over 70 percent of the state's capital assets. In addition, the University of Nebraska's 2007-2009 capital budget request contained \$600 million of deferred maintenance requests. That's represents almost 20 percent of the university's capital assets that are in need of repair and renewal. As you know from your own homes, every year you ignore a problem it becomes worse. For this reason it is critical to maintain the dedicated yearly sources of funds from the 309 Task Force, not only to promote your state's university but to protect the state's investment in capital assets. Thank you for the opportunity to testify, and I'd be happy to answer any questions. [LB1109]

SENATOR HEIDEMANN: Do we have any questions? Seeing none, thank you for coming in today. Could I ask at this time, just out of curiosity, how many people are left to testify in opposition? Just one. Okay, thank you. [LB1109]

ROGER KUHN: Hi. My name is Roger Kuhn, it's K-u-h-n. I'm assistant director with the Nebraska Game and Parks Commission. As you have heard about the Task Force for Building Renewal, just to talk about that briefly, but we are also a recipient of assistance from the Task Force for Building Renewal and I just want to say it's a great program. They do a great job. Senator Heidemann talked about the inspections they do. We have a lot of state facilities around, spread out over the state, and you know we rely heavily on that program to maintain the facilities that the state of Nebraska own. And also, with the cigarette tax, we receive one penny of the cigarette tax for what's referred to as NORDA, the Nebraska Outdoor Recreational Development Act you heard mentioned a little earlier, and this has been in place since 1980. And, you know, I would tell the Appropriations Committee, because I've heard the question come up, but every budget cycle we submit in our budget request, item by item, what we plan on spending the funds for, and this committee and the Legislature, and the Governor, for that matter, approve or don't approve that request. And so, you know, I think that's important to note, that you do see during the budget cycle each and every project that we are using the NORDA funds or the cigarette tax funds for, so you certainly can approve or you may not approve that. So I think that's important to note. But since 1980, the cigarette tax, the one penny we receive, you know has fluctuated, depending on the smoking

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

habits of the people, but at an all-time high was about \$1.8 million. Now we get a about \$1.3 million each year and we use that. You heard a little bit earlier testimony about the matching or the leverage you get from that. We certainly use it the same way. We leverage that program to receive federal funds for the development or enhancement of our park system. We also use leverage, with that program or that fund, oftentimes with the different donors or contributors that we work with, and probably many of you are aware we've been fairly successful, like a lot of agencies are, in raising privately donated funds. And oftentimes I'll receive questions from donors about, you know, the state's commitment and so forth, and this is a tool or a vehicle that I use oftentimes to say the state is committed. They've created this program for enhancement and development of the park system and, therefore, are committed to it, and it oftentimes works out as a match. So I think the leverage can't be underemphasized how important that is. Also, you heard a little bit, and we're no different, on the long-range planning. Oftentimes, we build projects over multiple years. We don't...the fund...the cigarette tax doesn't supply us with enough money maybe to do one project in its entirety, so we phase it in our plan over years. And if you don't have this dedicated funding source, you really can't do that effectively. And, you know, an example might be build a campground. You build one portion of the campground. The next budget cycle you come back to the Appropriations Committee and say we'd like to use this cigarette tax money for the next phase of this campground. And generally, because it was approved two years ago, it's approved the next budget cycle. But it's important to note that you can plan long range. I mean, what good is a campground if you don't have the other components--the shower building, rest rooms--to support it? So, you know, it's used in that process as well. But I'll keep it brief and really that's about what I got to say. I mean it's been an important program. Prior to the program, parks just didn't have a funding source to, more or less, bring them out of the mud. We didn't have much of a park system. It was very low developed. This program has really created the park system as it is today and, you know, I think it's something we can be proud of and something that should be continued, so... [LB1109]

SENATOR HEIDEMANN: Thanks for coming in today, Roger. Are there any questions? Seeing none, thank you. [LB1109]

ROGER KUHN: Okay. Thanks. [LB1109]

DON WESLEY: Thank you, Mr. Chairman, members of the Appropriations Committee. I'm Don Wesely, representing Motorola. Did you happen to notice everybody left the room when they found out I was the last one to testify? (Laughter) I've actually had that experience before when I was first in the Legislature, a rookie, and I had a bill on building codes and it was scheduled for a hearing. Ahead of that were bills by Senator DeCamp. One was to allow for the medicinal use of marijuana, including stress relief, and the second one was allowing for condoms to be sold places other than pharmacies. It used to be you could only buy them in pharmacies. So, of course, the press showed

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Transcriber's Office

Appropriations Committee
February 06, 2008

up, the room was filled and everything. We started off with the medicinal use of marijuana and DeCamp comes up and tells me that, as that hearing is closing, that's he's going to do me a favor, as a rookie, and he's going to let my building code bill come ahead of his condom bill. (Laughter) And so, as soon as the medicinal marijuana bill got done, they announced that there was going to be a change and that the building code bill was next, not the condom bill, and the room cleared. (Laugh) There was four people left, the cameras left and everything, and I realized all that DeCamp really wanted was for the room to clear so when his bill came up after mine there would be nobody there because he didn't really want that much attention to it. So we're all learning. But anyway, I've been around for a lot of the stuff you discussed when I was in the Legislature, going back to Roger and the establishment of the Game and Parks. So I've heard a lot of these discussions and, let me tell you, a lot of it...it's interesting to hear now, years later, the success stories that have accomplished that. And part of it is vision. Part of it is thinking in the future and stability and sticking with something and making it work, and so that's one of the reasons to use the cigarette tax. It's a chance to invest. You can bond against it. The Devaney Center was built because you bonded and you were able to build it. The Antelope Valley money was bonded against by the city of Lincoln. There was MIRF money that we bonded against to build the F Street Rec Center. That's why cigarette tax is important. You can bond against it, revenue bonds, and that's the long-term stability factor that's a part of that. I'm not actually here to talk about that. I'm actually here to talk about the public safety communications system of which you approved with LB321 last year. It's the latest of these that have been tied into this and it steps in and the Nebraska Infrastructure Technology Fund was what had gotten the money and then this next year it will divert over to the Public Safety Communications System bill. And so I'm actually representing an entity that doesn't get any of this money. We hope to, but that has happened yet. But if...I think the state of Nebraska deserves a new public safety radio system. We needed one...I can go back, I always remember this moment when the State Patrol came in and talked to me about the Rulo case, which was down in...Senator, that's your district, isn't it? [LB1109]

SENATOR HEIDEMANN: Uh-huh. [LB1109]

DON WESELY: And, of course, that was a horrible case. [LB1109]

SENATOR HEIDEMANN: We're so proud of that. (Laugh) [LB1109]

DON WESELY: That was a...sorry to...I didn't mean it that way. (Laugh) But that was a horrible case and the State Patrol came in and talked about the radio system. They could not talk to each other as they moved in on the farm where this had happened, and they lost communication, and it worked out in the end. But that's over...that's 30 years ago...well, I guess 25 years ago--same system. Time to make a change. So this money by the cigarette tax is a part of a funding package you approved last year. Hopefully we'll move forward. The RFP process is underway. Nobody has been selected. We

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Transcriber's Office

Appropriations Committee
February 06, 2008

don't know the total costs, but this is not a time to back away from it. It's necessary and important and I hope it goes forward and that's why I'm here in opposition to the bill. Thanks. [LB1109]

SENATOR HEIDEMANN: Are there any questions? Thank you. [LB1109]

DON WESELY: Thank you. Take care. [LB1109]

SENATOR HEIDEMANN: Is there anyone else wishing to testify in opposition of LB1109? (See Exhibits 11 and 12) Is anybody wishing to testify in the neutral capacity on LB1109? Seeing none, would Senator Erdman like to close? [LB1109]

SENATOR ERDMAN: I would, Mr. Chairman. Thanks for your attention this afternoon. I'm assuming that it probably wasn't high on your list of things to do this session but there were a lot of other things that happened as well. A couple observations, and I'm probably not going to say what I intended to say because the individual is not here, but there are taxes that are specifically used for specific purposes and to come in here and say that gas tax or similar items that we specifically use directly for the utilization of those facilities, candidly, is irrelevant. I buy gas, I drive on a road; that's where the gas tax goes. That's not what we're doing here. We're not smoking cigarettes and then funding cancer research and that's it. There is \$14 million annually in biomedical research that goes to Creighton and the University of Nebraska Med Center. That has gone up \$2 million over the last couple of years and was originally set out to reach \$14 million and it's there. There's just some very fundamental things that I think need to be pointed out. If 3 cents makes or breaks our cancer research program in the state of Nebraska from the cigarette tax, I find that hard to believe. It probably needs more than that. It needs federal funds. It probably deserves some of that \$14 million. But that's not what we're debating today. That's not even the topic of discussion. The topic of discussion is how do we allocate funds? Fair enough. That's what I brought to you. No one loses money under LB1109. They continue their money until July 1 of 2009. It's up to the Legislature at that point to decide whether they want to appropriate it. And, Senator Fulton, you're right, you could appropriate more, but you can't do it through the cigarette tax unless you change the cigarette tax law. Here are the three options that I see. Oh, and by the way, bonding is not addressed. Anybody that's currently bonding gets to maintain their bonding until the bond runs out. So the city of Lincoln and the city of Omaha get their bond. You have three options. You can kill the bill, keep doing what we've always been doing. That's fine. We've had a healthy discussion. I think it has given a lot of these entities that have other things that they have to do today and probably weren't planning on being responsible to be here for this, but it gave them an opportunity to explain to you what they are doing. I think that's valuable, if nothing else. So you can kill LB1109. You could amend LB1109 and you could amend it to say that the existing law stays as it is but you add the language that Mike Calvert said generally or is always found in other funds where we're allowed to transfer to General Funds. So

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Appropriations Committee
February 06, 2008

you could amend the bill to say all of these earmarks stay in place and you could put in each section of law, instead of they go away in July 1 of '09, you could say that that money may be allowed to be transferred to the General Fund. You would explicitly put that law...that language in the law, because otherwise you don't have that authority. That's option two. Option three is you can advance the bill and you can make it clear that we're not judging the value of these projects, and I'm not. In fact, I mean I listened to the talk about the campgrounds and the things that they're doing. They're doing that at Lake McConaughy and Ogallala from the Game and Parks' side of things. Or I think about Eppley Research and I think about the fact that for the past seven years or so that I've been in the Legislature, I've tried to attend the Cattlemen's Ball, in which that's a great partnership between the Eppley Research Center, and last year it was in my district. I mean the discussion, to me, while I understand the concern, is not are these entities worthy. I think they made a great case as to why they have what they have. Fundamentally, the question that I continue to come back to is, is this the right process going forward? That's up to you, but you could advance the bill and leave it simply up to appropriations. If you kill the bill and Senator Harms comes back to western Nebraska and says, well, we didn't have any options, I'll remind him of it. If you kill the bill and you don't need it, then no harm, no foul. We've at least learned about these entities and the things that they do. But it's this fundamental question of process and I'm of the opinion that we need to have more options on the table, as lawmakers, to try to resolve the issues of the state than less. And that means that at times we're not always consistent, but at least in this area I think there's an opportunity to do what we're doing or possibly more from the existing funds but do it differently, still be as effective if not more effective. But again, you can kill the bill; you can amend the bill to do what Mike says we generally have in every other fund, to be able to transfer funds; or you can send the bill out as it is and see if the Legislature even cares to pass this as part of our law. But I will tell you that if you raise the gas tax, I will kill my own bill, in case you are... [LB1109]

SENATOR FULTON: Cigarette tax. [LB1109]

SENATOR HEIDEMANN: Gas tax? [LB1109]

SENATOR HARMS: Cigarette tax. [LB1109]

SENATOR ERDMAN: If you raise the tax, I said. Did I say gas tax? [LB1109]

SENATOR HEIDEMANN: You said gas tax. [LB1109]

SENATOR WIGHTMAN: You said gas tax, I thought. [LB1109]

SENATOR ERDMAN: Whatever. I don't have that bill. I can't... [LB1109]

SENATOR HEIDEMANN: Do you have other...do you have other things on your mind,

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Transcriber's Office

Appropriations Committee
February 06, 2008

Phil? [LB1109]

SENATOR ERDMAN: I can't kill...I was still on Cavanaugh's pontification, but if it isn't...I mean, if that's the intent of this committee, then I would encourage you to find a bill in the Revenue Committee to do that. Because if you do that, as you tried to do last year with my other bill, which the Speaker wanted to schedule, which I told him not to, then it won't see the light of day either. That's not what this debate is about. I think smoking is ignorant. I don't understand why people do it. I don't see the value of it. But as a state, we collect \$64 million, or pretty much the equivalent of that, to fund these wonderful programs that everybody here generally has no link to smoking. If that's the case, then let's appropriate it out of the General Fund and then you don't have that forked tongue that Senator Engel so eloquently utilized earlier. And I leave it at your pleasure to dispose of how you will. [LB1109]

SENATOR HEIDEMANN: The one thing that happens with this, we'd have to be careful about it, but if anything would ever happen to this, I don't think they should be able to bond off of these funds. Because it sets up an obligation, to me, to future Legislatures to keep funding this. [LB1109]

SENATOR ENGEL: Exactly. [LB1109]

SENATOR HEIDEMANN: And that's where I somewhat have a problem. If you'd ever want to address it, you'd have to be careful. Because I talked to Phil about, you know, the public radio system that is being put in, I think might be bonded. We're not for sure. There might be certain instances when the state uses it, you know, you'd have to watch what you're doing. But I'm not crazy about when these groups are able to go out and bond and then set us up for future obligations. [LB1109]

SENATOR ERDMAN: Well, and I agree. I mean it ties our hands. Just as that ties our hands there, I think the existing statute ties our hands in regards to the funding of priorities of the state of Nebraska. They are similar. The fact that they're utilizing these funds to bond further ties our hands. And I mean, granted, they can bond any revenue sources that they have, but they're specifically counting on these. And depending upon your community, whether or not you continue to get those funds that you're bonding, or your entity, if you can't offset that revenue somewhere else then your bonds are in trouble and that's not a good situation, and you'll find yourself spending a lot more than what it would have cost to simply do what we were doing. But those are the options, as I see it. And again, it's designed to be a discussion about the process. And I guess I've learned, since I've been here, that some of this forward thinking or planning for the inevitable, which I think this committee is concerned about regarding the cash reserve and trying to hold the line on spending, different things like that, I think which tools you have, not to demolish and continue to use the same example but I will, the tools you have in your toolbox are going to need to be the right ones to solve the problems. And if

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Transcriber's Office

Appropriations Committee
February 06, 2008

this is part of it, great. Again, if not, I think you at least got some great information from these folks about what they currently do. There may be an opportunity and they may support an idea for being a part of the solution if we come into a shortfall, maintaining the existing earmarks but saying in each of those funds that we are going to authorize the transfer of those funds to the General Fund, if necessary, to provide so that it's clear that that fallback is there. That would be, at least in my opinion, a contingency that should be considered, maybe in place of LB1109, but it's the same idea. We give ourselves options as opposed to backing ourselves into a corner. [LB1109]

SENATOR HEIDEMANN: I'd say, if nothing else today, you kind of probably opened our eyes up to a little bit of the process a little bit and maybe where some of this money went to. Because I'm not for sure, to be right truthful, that we all realize where it did go to and how much and what for. Are there any other questions? [LB1109]

SENATOR ERDMAN: Appreciate your time. [LB1109]

SENATOR HEIDEMANN: With that, we'll close the public hearing on LB1109. [LB1109]

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Transcriber's Office

Appropriations Committee
February 06, 2008

Disposition of Bills:

LB1109 - Held in committee.

LB1150 - Held in committee.

LB1161 - Held in committee.

Chairperson

Committee Clerk