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Executive Board Committee
January 26, 2011

[LB264 LB326]

The Executive Board of the Legislative Council met upon adjournment on Wednesday, January 26, 2011, in Room 2102 of the State Capitol, Lincoln, Nebraska, to conduct a public hearing on LB264 and LB326. Senators present: John Wightman, Chairperson; John Nelson, Vice Chairperson; Mark Christensen; Deb Fischer; Mike Flood; Russ Karpisek; Chris Langemeier; Steve Lathrop; Rich Pahls; and Lavon Heidemann. Senators absent: None.

SENATOR WIGHTMAN: Well, we want to welcome everybody. We'll be having a public hearing this morning on two bills, LB264 and LB326, and they will be introduced before our committee, the Executive Committee. I want to introduce the members of the committee. To my immediate right is: Janice Satra, the committee counsel; to her right is Senator John Nelson from Omaha; to Senator Nelson's right is Senator Russ Karpisek from Wilber; to Senator Karpisek's right is the Speaker of our Legislature and a member of this committee, Senator Flood from Norfolk; to his right is Senator Christensen from Imperial, Nebraska; and to his right is Senator Heidemann of Elk Creek, Nebraska, wherever that is. To my left, to my immediate left, is Jessica Shelburn, the committee clerk; to her right or to her left is Senator Chris Langemeier of Schuyler, Nebraska; to Senator Langemeier's left, Senator Rich Pahls of Omaha; to Senator Pahls's left is Senator Deb Fischer of Valentine; and to the far right is Senator Steve Lathrop from Omaha. I've always wanted to have you on the far right.

SENATOR LATHROP: I've never heard anybody say that before.

SENATOR WIGHTMAN: (Laughter) And with that, we will go ahead and open our hearing on the first legislative bill, LB264. Senator Heidemann.

SENATOR HEIDEMANN: Senator Wightman, members of the Executive Board, I am Senator Lavon Heidemann, spelled H-e-i-d-e-m-a-n-n, representing District 1 in the southeast corner of the state. I'm here today to introduce LB264. Currently, any gift, bequest, or a devise of real property, structure or improvement proposed to be made available to any state agency, board, or commission shall be reviewed by the State Building Division and the Task Force for Building Renewal. Such review shall include any potential matching of state funds, any plans, specifications, or other construction or other repair documents and any potential maintenance requirements as a condition of acceptance. After such review, the State Building Division and task force are to submit a report to the Governor, Committee on Building Maintenance, and the legislative fiscal analyst with their recommendation. If such gift, bequest, or devise of real property, structure or improvement is in excess of \$10,000, it has to be approved by the Governor and the Legislature prior to acceptance. LB264 would add any acquisition of real property, structure, or improvement--this is the important part right here--that is acquired with the proceeds of a donation, gift, bequest, devise, or grant from any individual,

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organization, or corporation, a foundation, or a similar entity, or from a nonfederal governmental agency to the review and approval process. Just as the Legislature hesitates to take over funding for positions previously financed with federal dollars or grants, we must be concerned about ongoing operating and maintenance costs for land acquisitions that ultimately become the responsibility of the state. I have a bill up next week that transfers a state recreational area to a city in my district because the state can no longer afford its upkeep, and I actually think there's been a couple in previous years and mines not the only bill. I think there's two other ones that are dealing with parks, state parks that will be given back to a local entity. In these tough times, we must consider the ongoing costs of property that is acquired through cash gifts or grants. We can't afford to take care of what we currently have, therefore, we must carefully consider whether to accept more. LB264 will replace land acquisitions that are acquired with the proceeds of cash, gifts, or grants. That's...once again, that's the most important part because that's what LB264 will do, would place land acquisitions that are acquired with the proceeds of cash, gifts, or grants under the same review and approval process as other gifts or donations of land. I'm not suggesting that all land acquisitions be denied. I just believe we must wisely decide whether we can afford the associated costs that come with the land. If you have any questions, I'd be happy to answer them. I don't think it's the intent of LB264 to stop any state agency from acquiring land that I think in the long run would be a good purpose. I think of Game and Parks a little bit when I brought this up. I really believe if they can acquire a piece of land with a cash donation that would be next to Mahoney, I think the Legislature would eventually approve that because in the long run that would be a good purpose. But I probably am going to hesitate a little bit if the Game and Parks Foundation comes up with cash to buy a piece of property that in the long run there could be a lot of operation and maintenance expense. As we were full aware of last year, Game and Parks is struggling and they wanted more of some fee increases with their operating cost. I find it hard to believe that they would try to take on more ground. I don't want to pick on Game and Parks but they just happen to be a good example in this case. And not saying that, you know, in the long run that then acquiring more ground through a cash donation is a bad thing. All this bill will do would make it go through the process that we see it now as if they get...actually have land donated to them, we have to approve that. So all that would do is now we're saying that if it's a cash donation or a cash grant, we still have to approve it. I think it's very prudent when you look at the fiscal times that we're in. I brought this bill because of that. I don't want to see the state burdened with anymore O&M costs than what we can afford. And this will kind of make sure that we don't take on anything that we can't maintain. [LB264]

SENATOR WIGHTMAN: Senator Heidemann, basically all the bill does is go one step beyond the gift of the land itself but the acquisition of land with money that would be given. [LB264]

SENATOR HEIDEMANN: Correct. Absolutely. [LB264]

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SENATOR WIGHTMAN: Senator Lathrop. [LB264]

SENATOR LATHROP: I have a question and that has to do with, if someone makes a bequest...and maybe I'm directing this to the estate lawyers as much as anybody, but if somebody makes a bequest in a will and let's say that they want to leave some land that's a small parcel that will probably end up being more work than it's worth, do we have to as a state if we have a process set up like this, do we have to turn it down within a certain period of time? And will this process be set up so that you can turn it down in a timely manner? [LB264]

SENATOR HEIDEMANN: If the Legislature is in session, the Legislature takes care of that process. If the Legislature isn't in session, the Building Maintenance Committee makes a recommendation to the Exec Board, eventually either approves it or denies it. There is a mechanism there that it will be a timely fashion. We run into this. We ran into this last year where there was...I don't know if he was a rancher or a farmer that wanted to give the Game and Parks a small parcel of land. And there was questions and I believe that the Building and Maintenance had enough concerns with it that it actually started to concern the Exec Committee, but we eventually did approve it. [LB264]

SENATOR LATHROP: Oh, I could see where...the idea is a good one I think. But I'm wondering...and maybe you're not the right person to ask other than I'm wondering about the timeliness of how quickly this process works because is there a period of time that you have to turn down a gift that's a bequest? [LB264]

SENATOR WIGHTMAN: I think that, unless there was something specific in a will, there probably isn't a specific time. I think a reasonable time which as Senator Flood, Senator Nelson, and probably others in here could address, reasonable time probably gets into some question as to how long it would be. But if you let it run on two years, the estate will be closed and so at least normally probably within six months to a year it would be closed. And so if there was no written requirement that it be accepted in a certain time, it would probably remain open until the estate was closed. Senator Nelson. [LB264]

SENATOR NELSON: May I ask a question, Mr. President? [LB264]

SENATOR WIGHTMAN: Sure. [LB264]

SENATOR NELSON: Thank you. So the process works if we get a million dollar cash gift from an estate to Game and Parks or the state of Nebraska, they have to come before us and say, this is what we propose to do with the money to buy the land or whatever it is or add. It doesn't get done first and then we have to approve it. So... [LB264]

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SENATOR HEIDEMANN: We have to approve first. [LB264]

SENATOR NELSON: Okay. So then we've got to determination the maintenance on this is just going to be excessive, so we're going to turn down the gift. We make that decision. [LB264]

SENATOR HEIDEMANN: Whether it would be beneficial for the state or not. [LB264]

SENATOR NELSON: Yeah. Okay. [LB264]

SENATOR WIGHTMAN: There's nothing in here that would keep the gift from being accepted if it was a cash gift unless it had strings attached to it. It's when they want to expend the money, is that correct, Senator Heidemann? [LB264]

SENATOR HEIDEMANN: I would presume so. [LB264]

SENATOR WIGHTMAN: Any other questions? Are any other proponents here? If there are, I didn't mention the fact that we have testifier sheets but I don't know. Is there anybody here going to address this issue, is there? Any opponents? Anybody in a neutral capacity? Senator Heidemann, do you waive closing? [LB264]

SENATOR HEIDEMANN: Actually I just...I would like to see the Exec Board take this up and maybe get it out on the floor if everybody is comfortable with it. And if you're not comfortable with it, get back and see what we can do to make you more at ease. But I'd like to get it out to the full Legislature. [LB264]

SENATOR WIGHTMAN: Thank you, Senator Heidemann. With that, we'll close the public hearing on LB264 and go to the second item, LB326 and Senator Janssen. [LB264]

SENATOR JANSSEN: Chairman Wightman, members of the Executive Board, this is my first time appearing in front of you. I'm Charlie Janssen, C-h-a-r-l-i-e J-a-n-s-s-e-n. I represent the 15th Legislative District, which is Fremont and all of Dodge County. LB326 would eliminate the legislative committee on Intergovernmental Cooperation and the Governor's Committee on Intergovernmental Cooperation. The Legislature's ICC has one specific statutory duty. It shall constitute for the state the Legislative Council of the American Legislators' Association. According to an NCSL on-line publication I came upon last summer, the American Legislators' Association was disbanded and merged into the Council of State Governments in the sixties. The statutory references to both of these ICCs appear to predate our organization as a Unicameral Legislature. They may have served a purpose at one time. I care not to speculate. I've chaired the Legislature's committee for the past two years. Former-Senator Kruse chaired the committee from '07 to '09. In those four years, the ICC committee has met in person as a whole exactly zero

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times. Again, it appears that the intergovernmental cooperation is not a pressing issue for either the Legislature or the Governor's special committee. And I have spoken to the Governor's PRO office about this and they're on board as well. As we pursue ways to reduce the state budget and consolidate government agencies, passage of LB326 could be a small yet symbolic effort by us to reduce committees and pages in statutes. I'd like to thank Senator Fischer for collaborating with me on this bill, Senator Langemeier, who's my newly-appointed Vice Chair of the Intergovernmental Cooperation Committee, (laughter) and for your consideration. Certainly happy to answer questions. And, you know, when I first came down here a couple of years ago, I inherited a LA, Mr. Chris Keetle, who sits behind me who was working for Lowen Kruse at the time. And I asked what these big folders and binders were for, and he said it's for the travel office. I said, oh, well, this is kind of a nice office and as a new senator coming down here, I wouldn't mind having this office, so why don't I run for that chair (laughter) which I did. And Senator Wightman let me know that, no, you're going have to get out of that office, so (laughter). And I said, well... [LB326]

SENATOR KARPISEK: But you got the binders, didn't you? [LB326]

SENATOR JANSSEN: I said, well, that's fine. Here's your binders back, so. (Laughter) That's essentially how it all went down. And I did by the luck of the draw get a good office. [LB326]

SENATOR PAHLS: I love it. That's great. [LB326]

SENATOR WIGHTMAN: Thank you, Charlie. That's a fairly correct statement I think, but I don't think we were quite that blunt but close. [LB326]

SENATOR JANSSEN: Well, he did write a letter. [LB326]

SENATOR WIGHTMAN: Senator Lathrop. [LB326]

SENATOR LATHROP: Is there a reason we don't have the emergency clause? [LB326]

SENATOR JANSSEN: You know, you could certainly put...I was actually (laughter)...I don't think we're going to meet. Next time I meet with my committee, we can discuss that. (Laughter) And I really...it wasn't a pressing issue. I talked to Senator Fischer about it and she said: Well, I'm going to put this in. Does that offend you? And I said: No, I was going to do that too. And I don't care, you know, if it was this year or next year. But right now the only purpose it has is I have it on my stationery and it looks good to say I'm a chairman of something. (Laughter) [LB326]

SENATOR WIGHTMAN: Senator Langemeier. [LB326]

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SENATOR LANGEMEIER: Thank you, Chairman Wightman. As a seven-year member of that committee, I just thought I wasn't getting the meeting notices. (Laughter) I have not had that opportunity for seven years as well. [LB326]

SENATOR JANSSEN: If this committee sees fit to bring it up and get rid of the committee, we should probably have one last hurrah. [LB326]

SENATOR LANGEMEIER: Divvy up the binders, right? [LB326]

SENATOR JANSSEN: Yes. [LB326]

SENATOR FLOOD: Maybe you could have a joint committee with Enrollment and Review. (Laughter) [LB326]

SENATOR JANSSEN: I was the Vice Chair of that the past two years. (Laughter) [LB326]

SENATOR WIGHTMAN: Now you told us when you haven't met, do you know when they did last meet? [LB326]

SENATOR JANSSEN: I don't know if anybody in here has any idea of that. You're probably the longest standing member of the Legislature (laugh) on that, so. And like I said, it was a travel office and I know Chris, as the LA for Senator Kruse, handled pretty much all of that as far as tracking where we went on mileage and whatnot, special trips, which is handled in your office now. [LB326]

SENATOR WIGHTMAN: I see that Section 81-819, which is the one that you said that was combined in the Legislative Council of the State Legislators' Association was combined into the NCSL, and yet in 2000 there must have been a change made in that act. I don't know what it was. [LB326]

SENATOR JANSSEN: Yeah. [LB326]

SENATOR WIGHTMAN: What? [LB326]

JANICE SATRA: It was a housekeeping bill. [LB326]

SENATOR WIGHTMAN: Yes, Senator Nelson. [LB326]

SENATOR NELSON: Thank you, Mr. Chair. How does the Governor's committee tie into this intergovernmental? Do they ever meet or what's that...? [LB326]

SENATOR JANSSEN: I have their full support. In fact, they met me when they found

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out about the bill and said, we're fine with this going away. I met with Larry. [LB326]

SENATOR NELSON: Okay. [LB326]

SENATOR WIGHTMAN: They last met when this committee last met, John, the Governor's committee. I don't know that. Any other questions of Senator Janssen? Thank you, Senator Janssen. Are there any other proponents? Is there any opponents? Anybody in a neutral capacity? If not, we'll close the hearing on LB326. [LB326]