

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 13, 2023
Agency 84 Nebraska Department of Environment and Energy
Rough Draft

CLEMENTS: Welcome to the Appropriations Committee. Has it started? All right. For the hearing today, my name is Rob Clements. I'm from Elmwood. I represent Legislative District 2. I serve as Chair of this committee. We will start off by having members do self-introductions, starting with my far right.

ERDMAN: Steve Erdman, District 47.

LIPPINCOTT: Loren Lippincott, District 34.

VARGAS: Tony Vargas, District 7, downtown/south Omaha.

WISHART: Anna Wishart, District 27.

DORN: Myron Dorn, District 30.

ARMENDARIZ: Christy Armendariz, District 18, northwest Omaha.

CLEMENTS: And those who are not here may be presenting in other committees. And other-- some of us may come and go as time goes on. Assisting the committee today is Tamara Hunt, our committee clerk. To my left is our fiscal analyst, Clint Verner. Our pages today are Amelia from Hastings, a UNL student, and Kate from Kansas, a UNL student. At the entrance you'll find green testifier sheets on the table. If you're planning on testifying today, please fill out a green testifier sheet and hand it to the committee clerk when you come up to testify. If you will not be testifying but want to go on record as having a position on a bill being heard today, there are white sign-in sheets at the entrance where you may leave your name and related information. These sign-in sheets will become exhibits in the permanent record after today's hearing. To better facilitate today's proceeding, I ask that you abide by the following procedures. Please silence your cell phones, electronic devices. For bills, the order of testimony will be introducer, proponents, opponents, neutral, and closing. When we hear testimony regarding agencies, we will first hear from a representing-- representative of the agency. Then we will hear testimony from anyone who wishes to speak on the agency's budget request. When you come to testify, spell your first and last name for the record before you testify. Be concise. We request that you limit your testimony to five minutes or less. Written materials may be distributed to the committee members as exhibits only while testimony is being offered. Hand them to the page for distribution when you come up to testify. If you have written testimony but do not have 12

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copies, please raise your hand now so the pages can make copies for you. With that, we will begin today's hearing, opening the hearing with Agency 84, Department of Environment and Energy. Mr. Director, welcome.

JIM MACY: Good afternoon, Senator Clements and members of the Appropriations Committee. My name is Jim Macy, spelled J-i-m M-a-c-y. I am the director of the Department of Environment and Energy, commonly known as NDEE. The department-- the Nebraska Department of Environment and Energy is tasked with protecting and improving human health, the environment, and energy resources. The department is privileged to work with many Nebraskans who are conscientious stewards of the land. Through this collaboration and the department's regulatory oversight, NDEE strives to preserve air, land, water, and energy resources, both now and for future generations. NDEE supports the Governor's budget recommendation. I come here today to ask you to reconsider three significant budget requests in the committee's preliminary budget. First, the department supports the Governor's recommendation of the \$1 million request for a groundwater quality study. Several places in the state have elevated levels of nitrate in the groundwater, and yet the state of Nebraska has never compiled a comprehensive study of groundwater statewide to analyze the problem. The one-- the \$1 million would be used to hire a third party to collect data and develop a statewide plan to reduce nitrate in groundwater. We would partner with sister agencies across the state to advise on this plan and provide data. The resulting report would provide guidance for the prioritization, implementation of solutions to provide safe drinking water and reduce point source discharges. Second, the department supports the Governor's recommendation for Water Well Standards Program funding. The program was formally transferred to us last year. The current funding for this program is based on fees to license well drillers and register wells. We've discovered the revenue for this program receipt-- that this program receives is not sufficient to fund the program. If this program were to become self-sufficient through increase in fees, that would be exorbitant to accomplish self-sufficiency. This program ensures that all well-- water wells, including domestic, irrigation, and public, are correctly drilled. Further, the program guarantees surface water does not flow into the groundwater through improper or noncompliant casings and scaling of the wellbore. We will use funding for this program to inspect wells, ensure well drillers are doing correct work, provide training, and to issue licenses to qualified professionals.

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Finally, the department supports the Governor's recommendation to include funding for the 404 Program. NDEE received authority in fiscal year 2022 to proceed with the 404 Program from LB809, with the General Funds being appropriated in LB809A. The Clean Water Act, Section 404 authorizes the U.S. Army Corps of Engineers to permit specific dredge and fill activities around designated waters of the United States. The state of Nebraska, under NDEE, is in the process of assuming Section 404 permitting authority from the Army Corps of Engineers. The requested funds will be used to hire additional staff to work on remaining assumption program elements and develop permitting software. Once this program is fully developed, it will be self-sustaining and we will no longer require General Funds. Our constituents have asked for this. Our stakeholders have retained a strong affirmation that this program should quickly proceed. I appreciate the work of the committee and your consideration to return the agency budget as proposed by Governor Pillen. This concludes my comments and I'd be happy to respond to any questions that you might have.

CLEMENTS: Are there questions from the committee? Senator Wishart.

WISHART: Thank you, Director, for being here today.

JIM MACY: Thank you, Senator.

WISHART: For the \$1 million water quality study, if that's advanced, when would that be completed would you estimate?

JIM MACY: It would probably take a year and a half total to get an RFP out on the street and that completed.

WISHART: OK. And this would be statewide.

JIM MACY: Statewide.

WISHART: OK. And then would your-- it would be a third-party consultant?

JIM MACY: Yes.

WISHART: And would they work that in tandem with the Nebraska Natural Resource Districts?

JIM MACY: We would-- we would work with all appropriate state agencies and resource partners.

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WISHART: OK. I have one more question. We granted, as part of ARPA funding, \$4 million for reverse osmosis systems. Director, can you give us an update on that grant program?

JIM MACY: We, we have advertised for people and communities both to apply for those reverse osmosis units, and the program is moving along successfully at this time.

WISHART: OK. Thank you. Do you have more needs than dollars allotted?

JIM MACY: We're not quite finished with that process.

WISHART: OK.

JIM MACY: So I don't know that I can tell you that we haven't used up all the money yet.

WISHART: OK. Thank you.

CLEMENTS: Other questions from the committee? I had, just to clarify, the \$1 million request is fiscal year '24 only, this one fiscal year.

JIM MACY: This year we would--

CLEMENTS: [INAUDIBLE] fiscal year.

JIM MACY: This coming fiscal year.

CLEMENTS: All right. [INAUDIBLE] And the 404 Program, what was the dollar amount of that request? Do we have it in our book? OK.

JIM MACY: Do you have it there?

CLEMENTS: We have \$325,000 in fiscal '24; \$1,409,000 in fiscal '25. He had it.

WISHART: I have one more question.

CLEMENTS: Yes.

WISHART: Director, I do have one more question. It's my understanding that with the, the recently passed legislation on the federal level that there are opportunities for home energy efficiency and electrification assistance that need to be applied through your

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department to draw down those federal dollars. Do you have a-- can you just update us on.

JIM MACY: Well, so there's two areas that those grant funds come from. And so the first area is the Environmental Protection Agency. And if you could bear with me just a second here, I've got a letter here. So we have made application for \$3 million through the Environmental Protection Agency for the climate plan. That is one opportunity area that just came through. So I think that program was announced on the 1st of March. Governor and I talked on the 9th and I made the application before noon on the 10th.

WISHART: OK.

JIM MACY: And I believe if you look at the Federal Register, we're already listed in there.

WISHART: Okay.

JIM MACY: So that's the only one that, that has come forward that's actually had direction and an applications process. The DOE has two of the home rebate programs that you were speaking of. And to this date, neither of those nor any of the other federal programs have been fully-- an application made fully available for us to review. So we will duly review all those applications as they come in, give great consideration to them. But I wanted to let you know right off the bat, correct some inconsistent information that we have made application for that one from EPA.

WISHART: OK. Thank you so much, Director.

CLEMENTS: Just to clarify, the DOE is the federal Department of Energy.

JIM MACY: Department of Energy federal, yes.

CLEMENTS: Just wanted to make sure. Other questions? Senator Lippincott.

LIPPINCOTT: Thank you, sir. Groundwater nitrates, is it trending up, trending down, staying the same?

JIM MACY: That's why we're wanting the study. So we produce reports starting in the mid '80s. We get information from different

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collaborative sources. This is the report that we supplied to the Legislature. This is the 2020 report. And I refer you to this report that you can have access online or we can get you a copy of it if you want. But this starts in 1974 in one part of the state, the central part of the state; '75, it goes west; '76 goes east; next year it goes north; next year it goes south. There's about five pages of this technical information about where these wells are located. But it's all over the state. It's east-west, it's north-south, and there's very little duplicate, duplicate wells that have been sampled over the years. So we think we need to study and make sure that we know where nitrate is increasing, where it's decreasing, and currently it's increasing in some of the bigger wells that do irrigation. It's decreasing in some of the public water supplies. But there's inconsistent data. The data is good quality. It's just not duplicate enough to where we can do statistics on it.

CLEMENTS: Other questions?

DORN: Yeah.

CLEMENTS: Senator Dorn.

DORN: Thank you for being here. Thank you, Senator Clements. Thank you for being here. So groundwater nitrate, what-- I guess what is the study \$1,000,000 for? What, what are you going to do with it or what are we going to use it eventually for the data?

JIM MACY: Look, look and see where problems are increasing that we can have statistics on, develop a plan for getting more data. Currently, there's only 28 private drinking water wells over the last 10 years that have multiple data hits to where we can run some statistics on. So we don't have a lot of access currently to private drinking water wells. We think that's as important as community systems, where we do have great access over a large number of years because the drinking water program requires testing on a monthly basis on that program. So we just wanted to get a whole statewide study of the whole state in one swoop and see where we have more consistent problems. And then maybe we can decide on how we address our resources to correct those problems.

DORN: So when, when you talk private wells, are you-- do you have it mapped out that every so many miles or something you're going to go out for the testing or I guess what's that going to look like?

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JIM MACY: That would be part of the engineering review to, to deliver us a plan on what would be an appropriate amount of private wells to test and figure out how we could make a good determination.

DORN: Thank you.

CLEMENTS: Seeing no more questions, oh, Senator Erdman.

ERDMAN: Sorry, Senator. Thank you, Senator Clements. Thank you for being here. Isn't, isn't this the charge the NRDs are supposed to have since 50 years of work on the nitrates?

JIM MACY: The NRDs do supply us with a lot of this technical information. We are responsible for groundwater quality.

ERDMAN: So what are they responsible for?

JIM MACY: They are responsible for statutory authority to look at where nitrates are increasing in their districts and apply certain rules to, to local landowners on the use of fertilizer on the land.

ERDMAN: So obviously something is disconnected there. They haven't made much progress or these would be going down, right?

JIM MACY: Well, I can't speak to what the NRDs are doing. I can only speak to what we want to do in terms of the Department of Environment and Energy.

ERDMAN: It's pretty easy to draw a conclusion, wouldn't it be? I mean, the NRDs are out there since 50 years and our nitrate level has not improved in 50 years. Somebody is not doing something.

JIM MACY: I understand your question, but nobody's looked at this statewide, so I'd like to have a study to look at it statewide so I can get you specifics.

ERDMAN: The point is they should have been doing something all along under their charge. So thank you for helping them out.

JIM MACY: You're welcome.

CLEMENTS: Seeing no further questions, thank you, Director.

JIM MACY: Thank you.

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CLEMENTS: Are there additional speakers who wish to testify regarding Agency 84, Department of Ener-- Environment and Energy? Seeing none, that concludes the hearing on Agency 84.