

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

Appropriations Committee
March 09, 2009

[LB12 LB96 LB569]

The Committee on Appropriations met at 1:30 p.m. on Monday, March 9, 2009, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB12, LB96, LB569, Agency 71, Agency 18, Agency 29, Agency 52, and Agency 84. Senators present: Lavon Heidemann, Chairperson; John Harms, Vice Chairperson; Tony Fulton; Tom Hansen; Heath Mello; Danielle Nantkes; John Nelson; Jeremy Nordquist; and John Wightman. Senators absent: None.

SENATOR HEIDEMANN: Welcome to Appropriations Committee. I think we're going to get started. We'll start today by doing some introductions. The committee is pretty much here, but not quite all. Some of them are probably introducing bills at the present time. Starting to my right joining us later will be Senator Jeremy Nordquist from Omaha, District 7; sitting next to his left is Senator Tom Hansen from North Platte, District 42; will be joining us later will be Senator Danielle Nantkes from Lincoln, District 46; sitting next to her left is Senator John Wightman from Lexington, District 36. Fiscal analyst for the present time is Jeanne. I am State Senator Lavon Heidemann from Elk Creek, District 1. Next to my left is Senator John Harms from Scottsbluff, District 48; joining us later will be Senator John Nelson from Omaha, District 6; we have Senator Tony Fulton from Lincoln, District 29; and also with us today is Senator Heath Mello from Omaha, District 5. The committee clerk is Anne Fargen. The page for today is Andy and Courtney. If you need anything, they're great assets. At this time we would like to remind you, if you have cell phones if you could please shut them off, put them on silent or vibrate would be appreciated. Testifier sheets are on the table or near the back doors. We ask that you please fill them out completely and put them on the box on the table when you testify. You do not have to fill out this form if you aren't publicly testifying. (Cough) Excuse me. At the beginning of the testimony, please state and spell your name. Nontestifier sheets are near the back doors if you do not want to testify but would like to record you support or opposition. You only need to fill out this if you will not be publicly testifying. If you have printed materials to distribute, please give them to the page at the beginning of the testimony. We will need 12 copies. We also ask that you please keep your testimony concise and on topic, under five minutes would be appreciated. With that, we will open up the public hearing on bill LB12. Senator Langemeier. [LB12]

SENATOR LANGEMEIER: (Exhibits 1, 2) Chairman Heidemann, members of the committee, my name is Chris Langemeier, it's C-h-r-i-s L-a-n-g-e-m-e-i-e-r. I represent District 23 in the Nebraska Legislature. I'm here to introduce LB12. And LB12...I'm going to hand out some handouts at this point. LB12 is very simple for me, not so much for you. (Laughter) We're requesting that the funding that this body gives to the Nebraska Resource Development Fund through the Department of Natural Resources be increased from its current level at \$3,373,000 to \$7 million. You're going to get two handouts here, and I'm going to give you a little explanation why this is important. First,

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

Appropriations Committee
March 09, 2009

you're going to get a little thicker 30-page handout that shows a number of projects that are out there approved, waiting to be funded. But being in Appropriations, go to the thinner one which is the spreadsheet on the cash. And that's the more important one. The other one shows pretty pictures of what the dams will look like, but let's get to the money. That's why we're here. As you can see on there, we have a number of projects approved and pending. The first group above is Lake Wanahoo, the Leigh Dam, the Little Sandy, and so on. Those are projects that are approved and partially funded. The ones below that are waiting for funding, as you can see, are Battle Creek and there's a number of them there. Total project of \$82 million. So why do we increase it today? First of all, if you flip to the front page on there it talks about to fund all of these projects, we would need about \$15 million a year. And so why seven? We think we're fiscally responsive, as we all are, we put the request in for half of what we really need in relationship to the current climate of finances in the state of Nebraska. Now, why is this so important when you weigh it into all those that are going to request behind me and those that have gone before me? As we start to look to Nebraska and the increase in the fully appropriated designation, and you take in the other one-third of the state of Nebraska, for example, Omaha. Omaha would like to continue to develop and we keep a fully appropriated designation to allow the growth of Sarpy County, Douglas County, even Lancaster County. When we're fully appropriated, any new use of water is going to require offsets. Where do you get offsets? You basically have two choices. You either go retire irrigated acres somewhere in the vicinity or you build impoundment structures like this fund builds. And we retain runoff until a later use when we can release it. That is your offset. So you're going to either have the opportunity to spend money in bigger communities or even small communities across the state as they need to come up with offsets, they're going to have two choices. They're either going to spend money and go buy irrigation and it's going to be costly, it's going to be more than just irrigated acres if you're buying it strictly for the offset. Or you're going to have the opportunity to put money in advance and have the opportunity to create structures that may even have a tourism, economic development potential for your areas. And then you'll have the opportunity to use that water for offsets. So this...a year ago prior to the next one-third of our state going into the fully appropriated, I would not say that was a selling point. As a matter of fact, it probably wasn't the highlight of this. But today as we come into a fully appropriated, it affects our two largest communities with very, very high levels of importance. As the city of Lincoln is pulling out of a fully appropriated, preliminarily fully appropriated designation at Ashland, and MUD is pulling their water source out of a now preliminarily fully appropriated area. So this magnifies the problem here. And so with that, I'm going to conclude because I think I've made my point. And I understand where we sit today within the economic times. I mean, I'm not in my own little world. There are going to be people behind me that are going to go into more detail. They'll talk a little bit about offsets. They'll talk about some of the projects--what's out there, what's being planned--and some of the important things. And at this point, I'd take questions if there are any. [LB12]

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

Appropriations Committee
March 09, 2009

SENATOR HEIDEMANN: Senator Harms. [LB12]

SENATOR HARMS: Senator, can you tell me how do you determine what projects you're going to fund? And what criteria are we using here to determine whether you're on this list or not on this list? [LB12]

SENATOR LANGEMEIER: Through the Governor, the Department of...Resource Development Fund was created. It was created by an appointed task force from the Governor's Office. Most of those members have served on that a long time. They're not...as a matter of fact, I don't know when the last time we actually had a new member to that. But we got a very responsible group. Many of them represent NRDs as well. They have a point system that they go through, and that's why you see these in the order they are. And what happens now is, for example, this year they will come in and put in, if you keep the appropriation the way it is in the budget now, the \$3.373 million, they will start funding Wanahoo. And then as Wanahoo is funded for the year, they will then fund the next project, and so on and so forth. And so that's actually how they fund in that order. And they are ranked by that group by their board. [LB12]

SENATOR HARMS: Do you know how that ranking occurs and what do they take under consideration to choose? [LB12]

SENATOR LANGEMEIER: Actually, the testifier behind me will be very more adept at doing that for you. [LB12]

SENATOR HARMS: Okay. Thank you. [LB12]

SENATOR HEIDEMANN: Are there any other questions? Is there a limit on the amount of money that they can get? I was just looking at like Deadmans Run at \$25 million. [LB12]

SENATOR LANGEMEIER: They all get approved at different levels based on the matching funds they're getting. Lake Wanahoo, as you see on there, the \$11 million, it's also got a very significant...that's your portion of it. Lake Wanahoo has got a federal match of about \$40 million to go with that. [LB12]

SENATOR HEIDEMANN: So the total cost of the structure is... [LB12]

SENATOR LANGEMEIER: Oh, I don't know. I can find that out for you. It's expensive. [LB12]

SENATOR HEIDEMANN: Okay. Any other questions? Seeing none, thank you. Is anyone else wishing to testify in favor of LB12? [LB12]

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

Appropriations Committee
March 09, 2009

RON BISHOP: Mr. Chairman, Senators, my name is Ron Bishop and I'm general manager for the Central Platte Natural Resource District out at Grand Island. I'm here today to testify in favor of LB12 not only for our natural resource district, but for the Nebraska Association of Resource Districts that a lot of these projects that are funded, not all, but a lot of the projects funded through the development fund are sponsored by the natural resource districts. I'd like to follow up a little bit on... [LB12]

SENATOR HEIDEMANN: Could you spell your last name for us first? [LB12]

RON BISHOP: Yes. I'm sorry. Bishop, B-i-s-h-o-p. [LB12]

SENATOR HEIDEMANN: Thank you. [LB12]

RON BISHOP: First name is Ron. Like to follow up just a little bit on something that the senator said, and give you an example of the type of projects that these are...this money is used for. If you look on the pending projects, the fourth one down says Elm Creek flood control and augmentation that's sponsored by our natural resource district. And the project total is \$11 million, but that's about a \$20 million project, so we are asking the development fund for about 50 percent of the cost of that project. That's a good example of a project that will assist not only the Elm Creek area and the Platte Valley of western Buffalo County from flood control, there will also be a recreation and fish and wildlife benefits from that project. And one of the largest benefits from that project is augmentation flows back to the river. The Elm Creek project sits at Elm Creek Reservoir, the largest part of that project sits in a key location right at the start or the head part of the endangered species critical habitat there at Elm Creek west of Kearney about 30 to 35 miles. The idea there is to catch flows that come down Elm Creek and hold them until they're needed in the river, but to also take some water out to the Platte when the flows are higher than are needed for any other surface water project or for those endangered species target flows and hold it. And then release them later to meet Nebraska's commitment, as well as the agreement that we had with the other two states the Department of Interior to increase the flows during certain times of the year for those threatened endangered species to get us off of the need to go through an environmental assessment and go through a Section 7 consultation with Fish and Wildlife over those threatened and endangered species. So it's a very important to not only the area, it's very important to the state and it's very important to the success of that project. And that's only one example of the type of projects that the development fund is used for. You'll notice there's \$82 million worth of approved but not funded. These projects...following up on your question, Senator, these projects have to meet certain criteria and they are ranked. One of the criteria is that they all have to be not only feasible, they have to have a rate of return at least 3 percent in order to qualify and to be on the approved list. So these are projects that are providing benefits, monetary benefits to the state of Nebraska and to the people of the state of Nebraska that are economically feasible. In fact, many of them are extremely economically feasible,

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

Appropriations Committee
March 09, 2009

putting money back in our pockets by way of flood control or the augmentation flows or meeting other commitments or needs across the state. At \$3 million a year that we have been lately, we're losing ground and we're losing ground rather rapidly. As the costs go up, our rate of completing these projects has been static. And so as the senator indicated in his introductory remarks, we would need about \$15 million a year for about six years running just to catch up with these let alone the projects that might come in in the next six years. But because of the times and because of the economic conditions the request is for about half that amount until we can get some of these economic troubles behind us. If any of you have any questions, I'd be glad to try to answer them. [LB12]

SENATOR HEIDEMANN: Senator Harms. [LB12]

SENATOR HARMS: Ron, thank you very much for coming and testifying. How do you determine the rate of return? [LB12]

RON BISHOP: The rate of return, you look at the damages that are conducted...for example, in a flood control project, you look at damages that might occur without the project and you calculate it for different levels of storms. And then the economists can come up with an average annual damage. And then you impose the project on it and look at how much those damages are reduced. Do that comparison over a period of years, and then compare the two to see if the cost of the project are less than the damages that would be created if you didn't build the project. They do that also, then there is a factor to factor in benefits from, say, wildlife or from fishing and boating. There's also a process where you can come to a value for augmentation water. You compare it to what it would cost Nebraska to meet their commitments under the Platte River program by other means, like buying out agricultural water uses or buying out some other use or constructing reservoirs in other areas to do the same type of thing. And then you compare those costs. [LB12]

SENATOR HARMS: I noticed that when I look at the list that you have here of projects they don't go very far west. Is it most of the issues lie within this boundary that we're dealing with now or... [LB12]

RON BISHOP: No. In time, Senator, we're going to see projects...and we have in the past, it just happens that this list maybe doesn't cover some of the areas west, but we have seen projects in the west before and we will see them again as, especially with the programs that are going on and the demands that are going on in the Platte River as well as the Republican and the Niobrara. We're going to see some of those projects tend to move into those basins at the middle and upper ends of those basins. [LB12]

SENATOR HEIDEMANN: Senator Nelson. [LB12]

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

Appropriations Committee
March 09, 2009

SENATOR NELSON: Thank you, Senator. Thank you, Mr. Bishop, for your testimony today. Part of my question, I think, was answered by your just recent response. Rate of return apparently is more in the form of monetary compensation and mitigation of damages than it is replacement of water. Would that be true? [LB12]

RON BISHOP: Generally. That's the easiest way to come up with a rate of return is to put a monetary value on the conditions before the project and the conditions after the project, yes. [LB12]

SENATOR NELSON: Well, in the eastern part of the state, I don't think any water we would release into the rivers is going to help us with the Kansas problem. Would that be correct? That's more western Nebraska and into the Platte and then down in the Republican. So when you're fully appropriated, I'm concerned about getting water back into the groundwater. I realize you can add to the surface water, but when you've got structures, reservoirs, is there much water that goes back down into the groundwater, I mean, just settling and things of that sort? [LB12]

RON BISHOP: It depends, Senator, on the location. In our area, for example, we can build a flood control structure and we can fill that reservoir from a storm or by other means. And in a matter of four or five months, most of that water has seeped back down into the aquifer. Other areas, depend upon the geology, it'll be a little tighter condition. This Elm Creek Reservoir is an exception to our area. The Elm Creek Reservoir has a clay pan under the site. And so the seepage would be minimal out of it, which because of the intent of that project is good. But that's not typical for our area. Typically in our area a lot of the storage water gets back and recharges the aquifer, and some of it then feeds back to the streams and feeds the river. [LB12]

SENATOR NELSON: So in those situations it's more a matter of flood control and preventing damages there and recreation, I suppose then. Yeah. [LB12]

RON BISHOP: Well, some of these projects, yes. Some of these projects are recreation projects, a lot of them are flood control projects. Typically the development fund was a program that carried out a lot of flood control projects, reducing damages to folks out there. But as we get into more current times, we're seeing more and more of the projects that will be doing like flow augmentation back to the river to provide flows in the river to offset new economic activities that go on in the area or to meet the demands of things like the Platte River program. [LB12]

SENATOR HARMS: All right. Thank you very much. [LB12]

RON BISHOP: You bet. [LB12]

SENATOR HEIDEMANN: Senator Wightman. [LB12]

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

Appropriations Committee
March 09, 2009

SENATOR WIGHTMAN: Yes, thank you, Ron, for your testimony. Can you tell me a little about the division of funding? Now, the Elm Creek one I'll use as an example because you're obviously more knowledgeable on that one. It shows \$11 million. Of that \$11 million...if you took the spreadsheet across here it totals \$11 million, I think, but how much of that is coming from the NRD? How much is coming from federal funding? And how much is coming from general appropriations? [LB12]

RON BISHOP: The project total of \$11 million is the development fund share of that project that... [LB12]

SENATOR WIGHTMAN: So that would all come from the state or from... [LB12]

RON BISHOP: Yes. [LB12]

SENATOR WIGHTMAN: Well, what about the NRD? Is the NRD... [LB12]

RON BISHOP: The natural resource district would be putting in a like amount. I think the \$11 million is about 55 percent of the total cost of that project. And so the NRD will be putting in the other 45 percent or about somewhere around \$9.5 or \$10 million. [LB12]

SENATOR WIGHTMAN: So just looking at this list on the first project, Lake Wanahoo, that's already approved but not funded, if we put in \$7 million a year it'll take two years to do even the first project. Is that right? Less than two full years, but somewhere near that if we put in \$7 million a year. I thought it maybe be \$7 million in two years, but. [LB12]

RON BISHOP: My guess is that the commission will try to break that project rather than give all the money to Lake Wanahoo in one year. Say there were \$7 million, rather than give Lake Wanahoo \$6 million, the commission will probably ask Lake Wanahoo if there are phases of that project where they could fund perhaps \$3 or \$4 million of it and still do some of these other projects that are in the approved and partially funded category. [LB12]

SENATOR WIGHTMAN: They're showing \$6 million, I think, for the first year of funding from state funds, so that would leave a little bit to pass down. [LB12]

RON BISHOP: Yeah. [LB12]

SENATOR WIGHTMAN: Perhaps...a couple of other questions. Now, taking the Elm Creek project, again, flood control is some of the issue. I don't know what the division of benefits are. How much of the benefits come from flood control, how much come from recharge, how much come from recreation? Recreation is obviously a pretty nebulous

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

Appropriations Committee
March 09, 2009

figure, I would assume, as far as determining what that benefit is. Is that right? [LB12]

RON BISHOP: Yeah. And some of the benefits that they're assigning to it are figures that were developed a number of years ago and are probably somewhat outdated and somewhat understated as far as the benefits. The major benefits from that Elm Creek project though are flood control to the community of Elm Creek and to the Platte River Valley from Elm Creek down to Kearney. And then the flow augmentation back to the river to provide offsets for new economic activity, as well as meeting some of the needs that Nebraska has agreed to in that Platte River program. [LB12]

SENATOR WIGHTMAN: If these projects were done--if I may continue on with a couple questions. [LB12]

SENATOR HEIDEMANN: Sure. [LB12]

SENATOR WIGHTMAN: These projects just, for example yours, would that increase irrigation? Would it replace some of the well irrigation? What would happen to the reservoir portion of that water? [LB12]

RON BISHOP: The reservoir... [LB12]

SENATOR WIGHTMAN: Would some of that be available for irrigation? [LB12]

RON BISHOP: The way we're looking at that project, yes, there would be really three uses for the augmentation water, which would amount to 7,500 to 10,000 acre-feet of water a year going back to the river at critical times. The way we're looking at it, part of it would be used for offsetting new economic opportunities in our natural resource district area, whether that would be agriculture or commerce or industry or offsetting new uses for the municipalities. That would be a part that would be a third or less of the augmentation flow. Another third, we would propose that the state of Nebraska in their needs and their commitments for getting things back to the 97 level and then getting things back fully appropriated and meeting the needs of the Platte River program, we'd be able to use up to a third of that flow. And then a third of it we would propose that it would be used for the program for flow augmentation to meet the needs of the threatened and endangered species. [LB12]

SENATOR WIGHTMAN: Now, you didn't mention recharge as being one of those three areas. Is there a recharge that results from this? [LB12]

RON BISHOP: Very little recharge in this particular structure, Senator, in that there is a clay pan under that which serves the purpose well because in that area we generally have a relatively high water table. And so we don't want to add to the high water table problems in Elm Creek or the farm community around there, and we do want to hold as

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

Appropriations Committee
March 09, 2009

much water as possible and hold it for as long as possible for that flow augmentation capabilities back to the river, so. [LB12]

SENATOR WIGHTMAN: Is there some possibility that might contribute or cause more high water tables that maybe is damaging to somebody? Is that taken into account at all or... [LB12]

RON BISHOP: It is taken into account, Senator. And part of the project...a big part of the project is the storage reservoir, but another part of the project is to actually construct some dewatering wells so that what little rise there is caused by that project, those water levels are drawn down and can even be drawn down not just to the level caused by the structure, but can be drawn down a little lower so that the folks in Elm Creek and some of that farm community around there have less problems than they do without the structure. [LB12]

SENATOR WIGHTMAN: I remember that being a problem and it probably was less of a problem than was felt by some of the farmers that surrounded that, but nevertheless, it ended up that you had to... [LB12]

RON BISHOP: We have take... [LB12]

SENATOR WIGHTMAN: ...let the water out of dam up on Spring Creek... [LB12]

RON BISHOP: We've taken that into account and intend to make their situation better than it was before as part of this project. [LB12]

SENATOR WIGHTMAN: So you think you can control seepage by these offset wells? [LB12]

RON BISHOP: Yes. The engineers are confident that we can and they even have the...are working on the design for it to assure not only where there would be a slight rise in water table, but in the areas that are just suffering a water table because that same water can be used for the flow augmentation back to the river to offset depletions. [LB12]

SENATOR WIGHTMAN: And I understand there wasn't a lot of scientific evidence to support some of the seepage claims probably that were pretty prominent back when in the Spring Creek Dam days, but... [LB12]

RON BISHOP: That's right. (Laugh) That's correct, Senator. [LB12]

SENATOR WIGHTMAN: Thank you. [LB12]

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

Appropriations Committee
March 09, 2009

RON BISHOP: You bet. [LB12]

SENATOR HEIDEMANN: Has there ever been a cap on any of this so that this money would go further or... [LB12]

RON BISHOP: Actually the fund...the way the law was written, the fund was to provide 75 percent cost share. And over time that 75 percent has been reduced so that typically the fund only provides 50 to 55 percent cost share on projects just to make it go further. [LB12]

SENATOR HEIDEMANN: But there's never been a cap as far as the total amount. [LB12]

RON BISHOP: Yes. There is a cap and that adjusts, I think, based on inflation so that there is a limit to the number of projects can be approved at any one time, and that limit comes in. And that's probably why, Senator, you see the approved and partially funded list and then the pending project list, those pending projects are probably waiting in line for that cap to not be a limiting factor. [LB12]

SENATOR HEIDEMANN: Okay. Senator Mello, then Senator Hansen. [LB12]

SENATOR MELLO: Thank you, Mr. Bishop, for coming before us today. I guess my question was more if you could provide the committee maybe of an overview of where the mill levee is at with a lot of the natural resource districts around this state? [LB12]

RON BISHOP: They're all over the board, but generally in the Platte River Valley and the Republican River Valley and soon to be the Niobrara River Valley they're getting up close to the top. They are above me in the western part of the state. The North Platte NRD that's headquartered in Scottsbluff is generally close to the cap. In the Republican, I think there's at least two and maybe all three of the NRDs down there are close to their cap. And so as these problems, more and more problems with water come up, both ground water and surface water come up, the districts are getting closer and closer to the cap. There currently is a 3 cent per \$100 valuation authority that was tacked on to those districts that were declared fully and over appropriated for a short period of time, but I think that expires in 2012. When that comes, a lot of the districts are going to be in tough shape to come up with the money to do the things that they need to do. And so my guess is that we'll all have to come back down to the Legislature and ask for that to be extended. But right now, for the most part, we're able to carry out what needs to be done within the limit. We are fortunate in our natural resource district in that we have a relatively...as does the Papio and as the Lower Platte South, we have a relatively high valuation, and so we are not bumping up against the lid. We are currently at about something over 5 cents per \$100, and we could be as high as 8. So we're up there, but we're not bumping up against the lid as several of the NRDs are. [LB12]

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

Appropriations Committee
March 09, 2009

SENATOR MELLO: Thank you. [LB12]

SENATOR HEIDEMANN: Senator Hansen. [LB12]

SENATOR HANSEN: Thank you, Mr. Chairman. Mr. Bishop, thank you for being here today. I had a few questions and I refer to the map on page 17 of the handout. It looks like above and beyond the 100-year flood pool that there's going to be some acres taken out of production. How do you account for that? Is that part of the \$11 million to buy those acres? [LB12]

RON BISHOP: Part of the \$11 million will go for land acquisition, yes. And it's typical when you design a structure that you go up slightly above the 100-year flood pool because, as you know, you can get that one in 400-year, once in 500-year flood. And if you store water then on private property, it can be damaging to the individual. They have to go through the court process, so it's a lot easier and it's typically normal that you go some distance out from the 100-year. [LB12]

SENATOR HANSEN: The highway project that is there in a darker line, has there ever been any consideration of going around the new flood pool rather than going over? Looks like a considerable amount, almost probably a mile long. [LB12]

RON BISHOP: We've got...we're still in the planning stage on the final design on that project, and there are some options that they're looking at, trying to look at the most economical approach to handle roads, as well as the structure. One of the things we're looking at is possibly raising the structure elevation to store more water so that we can augment more back to the river. [LB12]

SENATOR HANSEN: I agree with that augmentation. It's a great goal, especially for that area where you have a clay pan. The environmental impact statement, is that to be paid out of district funds or are all the funds just commingled, then used... [LB12]

RON BISHOP: The funds are generally commingled on all of these projects, and so the development fund would have a piece of it, as would the natural resource district or any other sponsors. [LB12]

SENATOR HANSEN: The augmentation is to be used mostly for the Endangered Species Act, I assume, because you're at a critical point there where... [LB12]

RON BISHOP: Yes. [LB12]

SENATOR HANSEN: ...you need more flow in the Platte River. [LB12]

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

Appropriations Committee
March 09, 2009

RON BISHOP: Absolutely, absolutely. And so, yes, it will be...that will be one of the main functions of it, but that's not the only thing that we can use it for. [LB12]

SENATOR HANSEN: I assume that this would be filled with winter storage, and then be drained down for summer flow, is that correct? [LB12]

RON BISHOP: Yes. Generally Elm Creek feeds into that reservoir. And so the spring storms on Elm Creek would help, but the primary source, that structure sits just below the dump or the tail end of the Dawson County Canal out there in... [LB12]

SENATOR HANSEN: We're talking about dumps. We don't want to talk about dumps. (Laughter) [LB12]

RON BISHOP: It lies just below the end of the Dawson County Canal. So any time the Dawson County Canal has water in it and they get a storm out there and they don't irrigate, they discharge the water down into Elm Creek and this structure would catch it. Also we would have the capabilities of diverting water, and it would primarily be in the late fall and early wintertime, out of the Platte River, run it down the Dawson County Canal and into the reservoir so it would be an automatic feed from the Platte River. [LB12]

SENATOR HANSEN: So fishing year round would be possible in this small... [LB12]

RON BISHOP: Yes. It is anticipated that it would be fishing year round, recreation year round. [LB12]

SENATOR HANSEN: Thank you. [LB12]

SENATOR HEIDEMANN: Any other questions? Seeing none, thank you. [LB12]

RON BISHOP: Thank you, Senator, all of you. [LB12]

SENATOR HEIDEMANN: Is anyone else wishing to testify in favor of LB12? Seeing none, is anyone wishing to testify in opposition of LB12? Is anyone wishing to testify in the neutral position on LB12? Seeing none, would Senator Langemeier like to close? [LB12]

SENATOR LANGEMEIER: I just want to make one clarification that as you sit through the department's budget today and this...they're two different aspects of what we're doing, this is funding for structures. As the department comes up, and I'm not going to stick around for their bill, but I'll put my little sales pitch in for them is that they continue to have water challenges across the state. And we continue to look at pending lawsuits within the Republican River Basin. And now as we fully appropriate the rest of the state

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

Appropriations Committee
March 09, 2009

through the Plattes, the money for that department is going to be extremely crucial as they need the money to model and make sure their science is right for their fully appropriated. So I just want to make sure that we don't drag them together, they're two separate issues and they are going to need funding to keep their doors open to keep us out of potential lawsuits for water. With that, thank you very much for your time. [LB12]

SENATOR HEIDEMANN: Thank you, Senator Langemeier. With that, we will close the public hearing on LB12. I have the next bill up, so I'm going to turn it over to Senator Harms. [LB12]

SENATOR HARMS: The public hearing for LB96 is now open. Senator Heidemann. Senator Heidemann, welcome to our committee. (Laugh) [LB96]

SENATOR HEIDEMANN: It's always nice to be in front of Appropriations. Good afternoon, Senator Harms and members of the Appropriations Committee. I am Senator Lavon Heidemann, spelled H-e-i-d-e-m-a-n-n, representing District 1 in southeast Nebraska. I'm here today to introduce LB96. LB96 is an outright repeal of Section 81-1623 of the Nebraska Revised Statutes. This section of statute creates the State Energy Office Cash Fund and provides for authorized uses of the fund. The repeal is necessary because another section of the statute, Section 81-1607.01 also creates the State Energy Office Cash Fund and provides a different set of authorized uses. Although some of the authorized use of the same in both sections of statute, they are not identical. Therefore, it is necessary to repeal one of the conflicting sections of statute. Over the interim, the Revisor of Statutes Office contacted the Fiscal Office making them aware of the apparent conflict between the two sections of the statute. It was proposed to either merge the two sections of statute or repeal one of the sections. The State Energy Office was contacted and they preferred that Section 81-1623 be repealed as they are currently complying with the uses listed under Section 81-1607.01. LB96 will allow the State Energy Office to continue using the cash fund as they've been doing, and eliminate any potential conflicts between the two sections of statutes. If you have any questions, I will try to answer them. [LB96]

SENATOR HARMS: Any questions? Danielle. [LB96]

SENATOR NANTKES: Thank you, Senator Heidemann. I just had a chance to review your bills a few minutes ago, and I was looking at the two sections and it is striking that they seem to be very, very similar, so it would make sense to try and harmonize some of these provisions. And I guess that's really prompted my first question is, what is the substantive impact of this legislation that you bring because I imagine it must be significant in some ways, otherwise we probably would see a bill like this become a revisor's bill rather than a stand-alone bill? [LB96]

SENATOR HEIDEMANN: I'm not aware of anything that's really substantive through

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

Appropriations Committee
March 09, 2009

this. [LB96]

SENATOR NANTKES: Okay. Did you...and maybe you could just...did you talk to Executive Board or others about making this a potential revisor's bill? [LB96]

SENATOR HEIDEMANN: I did not. [LB96]

SENATOR NANTKES: Okay. And then I guess the second question is any maybe the Energy Office, Senator Heidemann, would have some more specific information as to their preference in removing the one that you proposed in this legislation, but it looks to me that the repeal of 81-1623, it actually references a variety of different chapters in terms of the Nebraska Revised Statutes, which without having a full statute set in front of me and unable to garner exactly what those additional uses may be or would not be. But can you tell me the thinking behind why this provision of law versus the other one was chosen for repeal? [LB96]

SENATOR HEIDEMANN: The preference of the Energy Office. [LB96]

SENATOR NANTKES: But do you know what that was based on? [LB96]

SENATOR HEIDEMANN: Not really, no. [LB96]

SENATOR NANTKES: Okay. Do you know if they plan to testify today to address potential questions? [LB96]

SENATOR HEIDEMANN: I knew that there's a letter of support here. I'm not for sure if they're going to... [LB96]

SENATOR NANTKES: Oh, I see Mr. Moseman is here, so maybe he could make himself available. [LB96]

SENATOR HEIDEMANN: When the agency is up, I think you would have that opportunity to ask that question at that time if he doesn't testify right now. [LB96]

SENATOR NANTKES: Okay. [LB96]

SENATOR HARMS: Do we have any other questions? Senator Wightman. [LB96]

SENATOR WIGHTMAN: Couple of questions. Number one, is there anything in the cash fund right now, the one we're terminating? [LB96]

SENATOR HEIDEMANN: I don't... [LB96]

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

Appropriations Committee
March 09, 2009

NEIL MOSEMAN: It's a single fund, Senator. [LB96]

SENATOR WIGHTMAN: What? [LB96]

NEIL MOSEMAN: It's one fund that's codified in two separate places. There's only one fund. [LB96]

SENATOR WIGHTMAN: There's only one fund now and we've got two funds identified by statute. [LB96]

NEIL MOSEMAN: Correct. [LB96]

SENATOR WIGHTMAN: Okay. So that there's no problem with the money just being in the same place. It's just that we don't have two funds running around out there. [LB96]

SENATOR HARMS: Do we have any other questions you'd like to ask? Senator Heidemann, thank you very much. [LB96]

SENATOR HEIDEMANN: You bet. I will waive closing. [LB96]

SENATOR HARMS: Yes. Okay. Do we have anyone else who would like to speak in favor of LB96? Seeing none...I guess we do have. [LB96]

NEIL MOSEMAN: Mr. Chairman, good afternoon. My name is Neil Moseman, M-o-s-e-m-a-n, and first name Neil, N-e-i-l. I'm the Energy Office Director, and I'm happy to (a) be in support of this bill, and answer any questions the panel may have. [LB96]

SENATOR HARMS: Thank you very much. Do we have any questions? [LB96]

SENATOR NANTKES: Mr. Moseman, I don't know if you had a chance to hear beforehand, but during Senator Heidemann's opening I asked him why your office...if you had a specific preference in terms of repealing this section versus the other section of law which seems to accomplish similar objectives? [LB96]

NEIL MOSEMAN: Yes, ma'am. The answer is that based on legal counsel that this is the most recent language or the most recent revision, so we're going to strike the older revision and go with more current. [LB96]

SENATOR NANTKES: Okay. And then do you happen to know by chance the other provisions of law that are referenced in the legislation through the statute that it seeks to repeal? It mentions quite a few other statutes that could be effectuated or impacted outside of the state energy office jurisdiction. Do you know what those are? [LB96]

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

Appropriations Committee
March 09, 2009

NEIL MOSEMAN: I can research that, if you wish. I don't... [LB96]

SENATOR NANTKES: Okay. I mean, I could look it up if I had a full statute set, but I just didn't know if you knew off the top of your head. [LB96]

NEIL MOSEMAN: No, ma'am. We'll find out. [LB96]

SENATOR NANTKES: Okay. Thanks. [LB96]

SENATOR HARMS: Do you have any other questions? [LB96]

SENATOR MELLO: I guess I do. Mr. Moseman, thank you for coming in. And I guess Senator Nantkes asked it and I didn't know if I got kind of the answer. What actually is getting repealed then? Is there any specific duties that...or uses into the cash fund that we're going to look to repeal that are different from the statute 81-1607.01, I mean, if things that we're repealing in that cash fund won't be able to do in the future then? [LB96]

NEIL MOSEMAN: No, sir. Actually, I don't believe it has any impact on what we're currently doing. My understanding it was more of a...to clean up the books and it was something, I think it's been probably been several years here in waiting, and someone very astutely in the budget office found it and thought we should make the record clear. [LB96]

SENATOR MELLO: Okay. [LB96]

SENATOR HARMS: (See also Exhibit 12) Do we have any other questions? I see none, thank you. Do we have anyone else who would like to speak in favor of LB96? Seeing none, do we have anyone here that would like to oppose LB96? Seeing none, do we have anyone here that would like to speak neutral for LB96? Well, thank you. LB96 now is officially close. [LB96]

SENATOR HEIDEMANN: With that, we will now open up the public hearing on LB569. Senator Dubas. Welcome. [LB569]

SENATOR DUBAS: (Exhibit 3) Good afternoon. Good afternoon, Chairman Heidemann and members of the Appropriations Committee. My name is Senator Annette Dubas, D-u-b-a-s, and I represent the 34th Legislative District. LB569 is a bill asking for an appropriation of \$25,000 to fund the Wind for Schools project through the National Renewable Energy's Lab under the federal direction of the Department of Energy. I've asked that this appropriation go to the Nebraska Energy Office for these projects and it, you know, it's just seems logical. This is the agency that clearly receives federal funding

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

Appropriations Committee
March 09, 2009

and should be the agency handling these funds. And this program is in place in other states and the Energy Office is the department that does oversee these funds. The Wind for Schools projects are intended to educate rural America about the benefits of wind energy, and also to education our future leaders by giving students and teachers hands on experience. They put up small wind towers at the school. Teachers are able to develop curriculum across all ranges of the curriculum, whether it's science or I know of some FFA ag groups are involved in these projects. It's a really encompassing type of a program in ways that it can educate the students as well as the faculty and the administration and the community. Right now, I believe, three to five schools per state have had turbines installed through 2008-2009, and they're looking to expand that to four to six schools per state over the next several years. The Wind for Schools project has three specific goals: (1) to educate and engage students and teachers in wind energy; to allow our college students to get involved through the development of engineering professions and those types of jobs; and then finally to introduce wind energy and the concept of wind energy to the communities. As I stated earlier, these projects involve a teacher, an administrator, there's a wind application center facility, and that's usually through the university, a state facilitator, the national renewable energy lab, Department of Energy. Then there's a green tag marketer, turbine manufacturer, and then usually the local utility is involved too. I don't have any schools in my district that are doing this project right now, but I do have a neighboring district just not too far from where I live, actually, in Cedar Rapids that is just right now in the process of getting their turbine up and going. And there's been a lot of community involvement and interaction at the local level to get this project going, but it does take money. And there are a lot of different entities that are trying to get involved in putting this money up. It's about \$6,000, to my understanding, just to get the turbine in place. And again, I believe NPPD has helped with some funding in the past. I think the local energy provider is doing, like, some in-kind donations, those types of things. You should have received a letter from Dan McGuire and I think he went into some of the specifics of the program. And I also believe the representative from the university should be here today, and hopefully he'll be able to come forward and answer some questions for you also. We have opportunities over the next few months to look at stimulus money and to see how we can move the renewable energies forward through the use of those specific stimulus monies. I have several bills that I've introduced this session, along with quite a few other senators dealing with energy issues. My bills deal with the Energy Office, creation of energy plans, the need for job training, specifically green job training, and where can we come up with the money for that specific type of training. So I really am looking forward to working with this committee to see how we can leverage those energy dollars to get our maximum economic benefit out of them. I think there are just vast amount of opportunities for the state of Nebraska right now in the production of renewable energy, and real possibilities for that to truly stimulate our economy. But for today I'm asking you to consider this request to help maintain what I see as a really good program. It's a very interactive program. It gets a lot of different people involved. And I think it's a good building block for the future in getting people to understand

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

Appropriations Committee
March 09, 2009

exactly...and I have a lot of people come to me and say, well, why don't we just put up a wind turbine and everything...life will be good. And there are a lot of challenges that our state faces because we are in a unique position because we're public power and that has served us really well? And so how do we integrate this new type of technology into something that's already serving us really, really well. So we've got opportunities there and we need to be able to take advantage of them. I also did give you all a handout that goes into a little more detail about the Wind for Schools program across the country. So with that, I would try to entertain any questions you may have. [LB569]

SENATOR HEIDEMANN: Senator Harms. [LB569]

SENATOR HARMS: Senator Dubas, thank you very much for coming. Could you tell me, how many school programs do we have that are in this turbine wind? [LB569]

SENATOR DUBAS: Right now specifically, and I left that piece of paper back on my desk, but right now in the state I think we have between three and five that are either in some stage of operation right now. [LB569]

SENATOR HARMS: Is this program...does it operate through the state Department of Education? [LB569]

SENATOR DUBAS: No. [LB569]

SENATOR HARMS: Is it independent of that in regard to its curriculum and design and development? [LB569]

SENATOR DUBAS: I think it's...to my understanding it's up to the schools and what NREL has and they develop their curriculum. [LB569]

SENATOR HARMS: Okay. Are you looking at making an application for some of the stimulus dollars or are we looking at maybe making an application to fund more schools to the stimulus dollars? [LB569]

SENATOR DUBAS: I think that would be a good place for the stimulus dollars. It's a one-time, you know, expenditure for these schools. Right now, the schools do need to come up with some money, so it is a challenge for them in coming up with those dollars for them. And so this would be a great use of dollars helping them get this program off and running. [LB569]

SENATOR HARMS: Did you know whether the Energy Office is considering making application for those dollars, since as I understand how this all works it would most likely go through that office. I think that's the normal process that we would use. Do you have any idea whether we're looking at that or... [LB569]

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

Appropriations Committee
March 09, 2009

SENATOR DUBAS: This is something that I believe I've just kind of in passing discussed with Director Moseman, but have not specifically said, you know, how would you see your particular office doing that? But I know in other states the state energy office is involved with this program. [LB569]

SENATOR HARMS: I know that when we look at Nebraska...I mean, it has great potential for wind, but the biggest issue we have is our ability to transport that power across the state or out of the state. And as I understand that's about a \$500 million project. And so in order for Nebraska to be a player of the future, we're going to have to look at that stimulus dollars to get us in place because I believe if we miss those dollars, we will never catch up. And the projects you're doing here, when you get young people interested and young entrepreneurs get excited about the great potential you have, we're just not going to be able to get there. And so I hope that as we look at this, that we understand that energy is our future, but we have to prepare the state to address the issue. Is that as you see it the same way? [LB569]

SENATOR DUBAS: That's how I see it, too, and I think this is great educational tool to help those who are going to be stepping into this field. These are the people that are going to be stepping into this...into these jobs and into this field. And so giving them the exact hands-on type of opportunity as to see how a turbine works, to see how it generates, and also to recognize the challenges that we face and what they're going to need to be dealing with as they step into this arena. [LB569]

SENATOR HARMS: Thank you very much. [LB569]

SENATOR DUBAS: You bet. [LB569]

SENATOR HEIDEMANN: Senator Fulton. [LB569]

SENATOR FULTON: Thank you, Senator Dubas. First question, I assume that these projects are...I'm not familiar with it. This is the first time I've come across it. I assume these projects escape the least cost requirement for...that state of Nebraska has statutorily and therefore the purview of the Power of Review Board, is that correct? [LB569]

SENATOR DUBAS: Right. These projects are not necessarily for the schools to generate their own energy. They're small turbines, they're a smaller scale turbine. So they're going to generate some energy and that's where the green tag issue comes into play and the energy that the...but it's not looking at supplanting the school's energy production. It's looked at more as an educational tool. [LB569]

SENATOR FULTON: Does the energy then that is produced, I assume it's utilized in

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

Appropriations Committee
March 09, 2009

some way, shape or form. Is that done through the local public power district or how does that... [LB569]

SENATOR DUBAS: The local power district does get involved with these projects. [LB569]

SENATOR FULTON: Okay. And so that's worked out, I would assume, between those two? [LB569]

SENATOR DUBAS: That's my understanding, yes. [LB569]

SENATOR FULTON: Okay. [LB569]

SENATOR DUBAS: They're a very integral part of the project. [LB569]

SENATOR FULTON: Okay. Thank you. [LB569]

SENATOR HEIDEMANN: Senator Wightman. [LB569]

SENATOR WIGHTMAN: Thank you, Senator Dubas, for your testimony. Now, you indicate that this would provide only a small part normally of a school's energy use, but it would be used, I assume. It would produce some and it would be used. In a typical project, would you be looking at state funding of about \$6,000, is that.... [LB569]

SENATOR DUBAS: That's...no, no. That's about what it would cost to get the turbine up, the \$6,000. [LB569]

SENATOR WIGHTMAN: To buy the turbine and get it up? [LB569]

SENATOR DUBAS: Right. That's my understanding, in that range. [LB569]

SENATOR WIGHTMAN: Is that the major cost? [LB569]

SENATOR DUBAS: That's the major cost, yes. And again, the schools are required to come up with the money. I believe there's some money from the Renewable Energy Lab. There are other sources of funding. What the Renewable Energy Lab is looking for is that other states have also contributed to this pot of money. We're not looking for this money to fully fund the project. We're looking for the state to just be able to have...to help the school districts that might not be able to come up with the full amount that they would need to come up with to...there's quite a few pots of money that these projects go to get all of the resources that they need. [LB569]

SENATOR WIGHTMAN: So the \$25,000 would be pretty much seed money that we

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

Appropriations Committee
March 09, 2009

would let us tap into some matching funds, is that correct? [LB569]

SENATOR DUBAS: Yes. That \$25,000 would go a long way to school districts across the state. I mean, you're not looking at a big chunk of money going to one particular school district. It's just some additional dollars that school districts could apply for. [LB569]

SENATOR WIGHTMAN: You don't see this as an ongoing annual need for General Funds? [LB569]

SENATOR DUBAS: No. As I said, I think they're looking at adding on four to six schools a year. I don't know if they have a top limit of how many...if they have a maximum limit, but it's a project that they want to get more schools in the state. And they're just looking for the state to have some money available. The projects that are going right now have been able to do it without state money, but if we want to keep this kind of a program in the state they want to see the state actually put in a little investment of their own too. [LB569]

SENATOR WIGHTMAN: How many school districts do we have? You said something about three or four. [LB569]

SENATOR DUBAS: I think there's...yeah, there's two that I know of for certain and I think there might be a couple more in some, but I don't know if Dan McGuire outlined that in the letter that he gave to you. And if the representative from the university...he could come up and answer that also. And if no one gets you that information, I certainly will be able to get that for you. [LB569]

SENATOR WIGHTMAN: How much would you see of these \$25,000 going to one school district? I know it will vary probably by their project and... [LB569]

SENATOR DUBAS: Yeah. I wouldn't see more than a few thousand dollars per school district coming out of this. You know, I might... [LB569]

SENATOR WIGHTMAN: So it could fund maybe eight or nine or ten... [LB569]

SENATOR DUBAS: Right. You could fund a lot of schools with this \$25,000. You could help a lot of schools with this \$25,000. [LB569]

SENATOR WIGHTMAN: Thank you. [LB569]

SENATOR HEIDEMANN: Senator Nantkes. [LB569]

SENATOR NANTKES: Hi, Senator Dubas. Thank you for bringing in this bill. It seems

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

Appropriations Committee
March 09, 2009

like a very unique partnership that has been established amongst a variety of different governmental agencies from the federal government down to our local school district. So it's...I think it's a good opportunity and a good example of learning about these kinds of things that make our job as legislators kind of fun. So thanks for bringing this to our attention in the first place. And maybe you covered this in a previous question or your opening and I just didn't...I guess I wasn't clear as to the answer. But did you have a chance to visit with the state Department of Energy in regards to being able to maybe find some existing resources to devote to this program and its needs? [LB569]

SENATOR DUBAS: I have not visited with them about existing resources, but I do know what their budget is and what they do with the money that they have, so I know that they don't have really any extra dollars laying around. That's why I would see if we could get them these dollars. To me, they'd be the logical department to oversee the project and distribute the dollars, but I don't anticipate that they would have any of those kind of dollars available right now. [LB569]

SENATOR NANTKES: Okay. Thank you. [LB569]

SENATOR HEIDEMANN: Senator Nelson. [LB569]

SENATOR NELSON: Thank you, Senator Dubas. I'm looking quickly through this handout here. Are these...you see the pictures of elementary schools. Are these K-12, basically, schools? [LB569]

SENATOR DUBAS: Yes, yes. [LB569]

SENATOR NELSON: Okay. One of the three primary project goals here includes educate college students in wind energy application which will equip engineers. Now, is that going to be a separate money fund there? [LB569]

SENATOR DUBAS: No because the university is kind of involved with these projects they're able to bring their students and use their students...training their students through these projects at the local schools. [LB569]

SENATOR NELSON: Okay. Thank you. That answers my question. [LB569]

SENATOR HEIDEMANN: Senator Harms. [LB569]

SENATOR HARMS: Senator, I just have one other question. And I'm trying to recall, but I might be wrong. But I think that there are several community colleges that are actually developing curricula for wind energy. And it's more along the skilled side of being able to go out and be the technician to put all this stuff together as this thing starts to unfold. It would really be nice if we could, as we start to look at this, tie all of this together so

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

Appropriations Committee
March 09, 2009

you would then...you would have really neat package that would be a seamless environment that would go through. These kids get their start in the public school system where you get excited about what the energy jobs are of the future. Then you just walk across and go on into the community college, and from there you can go to the university if they have a curriculum along this line so it would be a seamless environment. I know that you have a really high interest in energy and I applaud you for that. It might be something that I think you might want to ask the question to see, hopefully I'm right on that, that we ought to be looking at that. And I think it might create some opportunities here that would be really great for Nebraska. [LB569]

SENATOR DUBAS: I think there's opportunities across the board from K-12 to the community colleges through the university. I think there's also opportunities for our local businesses. We have some locally grown state businesses that are looking at and that are already building small turbines just for individual farmer/home use. And so, you know, they'd be a great place to look at providing the turbines for these schools. So there are a lot of opportunities, not just in the education arena but also in developing businesses for the state just through this relatively small program. [LB569]

SENATOR HARMS: And the beauty of this would be that we could bring all the educational community together along with business and really do some super thoughts and ideas about moving us into the real world or the future, and wind is definitely going to be an issue, going to be an energy program that we need to get into as a state. [LB569]

SENATOR DUBAS: I agree. [LB569]

SENATOR HEIDEMANN: These are to be used as matching funds. Who determines the match? [LB569]

SENATOR DUBAS: I guess that would probably be something that would be set up through...you know, if the energy office is the one that is going to oversee that, they would. And I would go back to what other school districts are doing as far...in other states that are accessing state dollars. So I would see that as something that could be addressed through rules and regs and how the state really...how the department would like to see these funds dispersed, how they would be used. [LB569]

SENATOR HEIDEMANN: Is there any kind of a cap on this? Could one school actually access \$10,000 or would you envision saying no more than... [LB569]

SENATOR DUBAS: I think it has...yeah, it has to be...there has to be contributions from all of the various contributors. Like I said, the green tag program, there's going to be money generated throughout from the local level at the schools, the local energy, REAs, etcetera. So, you know, I see this as a very...an issue that needs contribution from all

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

Appropriations Committee
March 09, 2009

parties. So, you know, again, through rules and regs I think that could be addressed as to, you know, no school district can get more than X amount of dollars or you have to come up with so much money in order for us to even consider giving you any money. [LB569]

SENATOR HEIDEMANN: Okay. Are there any other questions? Seeing none, thank you. [LB569]

SENATOR DUBAS: Thank you. [LB569]

SENATOR HEIDEMANN: Is anyone else wishing to testify in favor of LB569? Welcome. [LB569]

JERRY HUDGINS: Thank you, Senator Heidemann. I'm Jerry Hudgins, last name H-u-d-g-i-n-s. I am the director of the Wind Application Center and I'd like to thank Senator Dubas for introducing this bill. I believe the parameters of the program have been discussed already. If you have other questions, I'm happy to answer them. We are a center that if funded by the National Renewable Energy Laboratory, and one of our tasks is to help support the Wind for Schools program. And we help with...Dan McGuire is our colleague. We identify schools that have interest and have capability to generate enough funds through various sources, as Senator Dubas indicated, to bring a project to fruition. And then we try to help them with technical and logistical support for installation of these turbines, and then further curriculum development. And also then follow up with things like data collection and data sharing amongst the schools, communications activities, and so forth. [LB569]

SENATOR HEIDEMANN: Are there any questions? Senator Nordquist. [LB569]

SENATOR NORDQUIST: Could you kind of walk through kind of maybe one of the projects that you've done and kind of all the partners that have been involved and just all... [LB569]

JERRY HUDGINS: Sure. The first turbine that we installed was at Elk Horn Valley School District in Tilden. And we had NPPD is the retail provider there, so we worked directly with NPPD. They provided funds to help with the installation. We had a local contractor that helped provide in-kind support for the foundation work. Valmont Industries in Valley provides the towers for schools in all these programs at cost. So we were able to get a 60 foot tower monopole at cost shipped out to the school. The turbine manufacturer is headquartered in Arizona and they have a contract with the National Renewable Energy Lab to provide turbines for this program to all the states that are involved at cost. So, again, we have support from them. And then we have local contractors typically that provide the boom truck or a crane of some sort. And these are fairly small turbines so it doesn't require major equipment, but typically something a

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

Appropriations Committee
March 09, 2009

utility company has locally on hand. And then we assist with installation. We have to have some electrical contracting work done and so forth, and depending on the school district, that may or may not be in-kind service. [LB569]

SENATOR NORDQUIST: Okay. How about like cost is about \$6,000 or... [LB569]

JERRY HUDGINS: That's part of the cost. That's...I think, Senator Dubas was referring to more the turbine and sort of the hardware costs. The actual project cost total run closer to \$15,000. The turbine and the tower typically run in that \$6,000 to \$8,000 range. [LB569]

SENATOR NORDQUIST: And how...like this first project that you did, what kind of funding mechanisms did you...there's a lot of in-kind? [LB569]

JERRY HUDGINS: Right. The school districts, in fact, every school that wants to participate in this program is required to provide \$1,500, \$1,500 as sort of their buy-in to the program. There is money available in the range of \$2,000 for these green tags. Then the in-kind support, NPPD has provided some cash support for the schools that they provide service to directly, and also some in-kind contributions for schools where they're the wholesale provider to the rural co-op. And then of course we get at cost sort of the hardware pieces, and we try to offset costs with the foundation from other funds in the actual cost for the turbine and the tower. The four schools where we have installed turbines received a USDA grant that provided them \$10,000 which really was a bit more than they needed to just do the turbine installation, but they've also used these funds to help develop curriculum and provide some auxiliary equipment support such as computers and some other equipment to help with the program. [LB569]

SENATOR NORDQUIST: Great. Well, I want to thank you for your leadership on this. This certainly seems like a very worthwhile program. And we know, you know, that this is going to be an important area to generate interest in the future. I mean, in the stimulus there's \$100,000 million nationally just for job training on transmission grid. I mean, it's an issue that going forward is going to need...we need to generate interest with our students in elementary, high school, and going into higher ed. So thank you. [LB569]

JERRY HUDGINS: Thank you. [LB569]

SENATOR HEIDEMANN: What do they do with the electricity that they generate? [LB569]

JERRY HUDGINS: The turbines are on the school side of the meter. And so the electricity is used within the school system. But as Senator Dubas indicated, the amount of power that's generated is so small that there's not a large offset to the typical

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

Appropriations Committee
March 09, 2009

electrical uses. So there's no chance of, you know, this issue of, say, meter running backwards or providing energy necessarily on the grid. Most the energy is small enough that there's really not an issue there. And that was by intention so that we didn't have to get into issues of power purchase agreements or those sort of things with the utilities. [LB569]

SENATOR HEIDEMANN: Do they do...is there data then exactly as far as any kind of a payback at all or this is just more of an educational tool, but out of curiosity, as far as the money invested? [LB569]

JERRY HUDGINS: Yeah. It really is, you know, primarily an educational tool. So the payback on this is in the range of at least 10 years and more like 15 years if you actually costed it out. From that standpoint, it's not necessarily a good investment in energy production. It's a good investment in education. [LB569]

SENATOR HEIDEMANN: Okay. Senator Hansen. [LB569]

SENATOR HANSEN: Thank you, Mr. Chairman. Did you state that the turbine costs about \$6,000, is that right? [LB569]

JERRY HUDGINS: The turbine costs are in the range of \$4,500 to \$4,800 for cost. [LB569]

SENATOR HANSEN: On that price of a turbine, is there a generator or a pitch control or are these going to look like pinwheel flying? [LB569]

JERRY HUDGINS: Yeah. These are small turbines, so they don't have active pitch control. They have a static pitch control, so the blades are designed so that they, as the air velocity increases, they actually deform to depower themselves. Yeah. [LB569]

SENATOR HANSEN: They do have control built in then? [LB569]

JERRY HUDGINS: Yes. [LB569]

SENATOR HANSEN: Okay. Thank you. [LB569]

SENATOR HEIDEMANN: Senator Nelson. [LB569]

SENATOR NELSON: Thank you, Senator. Are these perma lid installations? [LB569]

JERRY HUDGINS: Yes. [LB569]

SENATOR NELSON: Okay. They must require a little area. I mean, they're 70 feet tall.

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

Appropriations Committee
March 09, 2009

Are they on the school grounds or do you have to lease adjoining land or how does that work? [LB569]

JERRY HUDGINS: They are all...to date, they have all been on school grounds. Now, these are...because of the size of the turbine, this is...we sort of liken it to putting up a stadium light. [LB569]

SENATOR NELSON: Putting up a what? [LB569]

JERRY HUDGINS: A stadium light. [LB569]

SENATOR NELSON: Oh, a stadium light. All right. [LB569]

JERRY HUDGINS: Yeah. So it's that kind of size, it's that kind of weight and construction, and the foundation work that's required is similar to that kind of installation. [LB569]

SENATOR NELSON: Okay. Thank you. [LB569]

SENATOR HEIDEMANN: Seeing no other questions, thank you. [LB569]

JERRY HUDGINS: Thank you. [LB569]

KEN WINSTON: (Exhibit 4) Good afternoon, Senator Heidemann and members of the Appropriations Committee. My name is Ken Winston, last name is spelled W-i-n-s-t-o-n, and I'm appearing on behalf of the Nebraska chapter of the Sierra Club in support of LB569. We're big supporters of renewable energy. As I have pointed out on numerous occasions, Nebraska has incredible solar and wind resources. We're rated as being the sixth best in wind and ninth best in solar potential, but we're lagging seriously in our development of those resources. And we look at the development of having students learn about the resources in school as being one of the ways of helping to develop our natural resources. And I thought I'd elaborate just a little bit on that. I mean, I just make that statement in my letter. But I was thinking about that a little bit, and one of the things about when a person grows up with something, when they learn about it in school, when they learn about it at a young age they're a lot more likely to be willing to explore that to take full advantage of it. I think of my children and computers. They never have known an age when there weren't computers, and the Internet is second nature to them. Whereas for me it's still sort of...I'm not a native in terms of computers and the Internet. And so I can learn those applications, but I'm not as handy with them as my children are. And if children learn about wind energy, if they learn about renewable energy at a young age, they're a lot more likely to say, well, gee, not only is this a resource, but how can we take advantage of that resource? And if a person has grown up in school and they learned about using energy from nonrenewable sources, then they're more likely to

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

Appropriations Committee
March 09, 2009

think in terms of those resources as the first means of development. So I think this has an opportunity to go far beyond just the idea of putting up a turbine in a few schools. And I don't know if Mr. Hudgins mentioned, Professor Hudgins mentioned, but this would have the impact of...I mean, if you put up a turbine in a school and the school has 200 students and it's up there for 15 years, I mean, that's 3,000 students that would have an impact. And these things have a way of having a ripple effect in the community. The more students learn about something, the more they spread that message out further into the community, and the more that it can have a wide-ranging effect. So with that, we would ask that LB569 be advanced. [LB569]

SENATOR HEIDEMANN: Thank you. Are there any questions? Seeing none, thank you. [LB569]

KEN WINSTON: Thank you. [LB569]

SENATOR HEIDEMANN: Is anyone else wishing to testify in favor of LB569? Is anyone wishing to testify in opposition of LB569? Is anyone wishing to testify in the neutral position on LB569? [LB569]

NEIL MOSEMAN: Good afternoon, again, Mr. Chairman. My name is Neil Moseman, M-o-s-e-m-a-n, first name Neil, N-e-i-l. I'm director of the Nebraska Energy Office. We're here in a neutral capacity today on LB569. And I thought what I'd do is maybe give you a little background as well what other states in regard to this program, largely funded by the National and Renewable Energy Lab out of Golden, Colorado. It is by and large an educational tool, and as folks explained and Senator Dubas explained, not so much for the energy production, but just an opportunity for students to see and examine and get familiar with wind energy from an educational perspective. And I'm happy to answer any questions. [LB569]

SENATOR HEIDEMANN: Senator Harms. [LB569]

SENATOR HARMS: Thank you very much for testifying. I'm just curious about when you look at the stimulus package, are you looking at all pursuing any funding to start to look at our network in the state of Nebraska so we can actually transport power out of the state if we could get this program put together? [LB569]

NEIL MOSEMAN: I know the Governor is supportive of exporting energy, if you will, and so is the Nebraska Energy Office. At least from a stimulus package from what I understand currently, and we'll probably maybe discuss this here shortly, too, when our budget is before you this afternoon, but the stimulus funding we will probably have greater detail by the first April in terms what actually the criteria will be for the state energy program dollars, which we understand are coming to the state, and how that may come into play. I'm sure there aren't enough funds within the state energy program

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

Appropriations Committee
March 09, 2009

for transmission or doing a large amount of transmission, but those things certainly should be kept in consideration when these stimulus dollars are developed here in the state. [LB569]

SENATOR HARMS: Have you looked at the map that NPPD has that shows if that would actually occur where those lines will be? [LB569]

NEIL MOSEMAN: I have seen a map that they constructed in late 2007. I'm assuming that's probably the most current map, yes, sir. [LB569]

SENATOR HARMS: And what are views in regard to that? [LB569]

NEIL MOSEMAN: It's expensive. As a general point, it's expensive to...and I'm quoting the Nebraska Public Power District, but it's about \$1.5 million per mile, sometimes \$2 million in terms of transmission, to build transmission. I know they have...there's been a lot of research and study that's gone into the siting of those lines, and that research and study continues on today. The report NPPD is part of a study with the National Renewable Energy Lab, and they expect to have a report done by later this fall in terms of wind integration within the southwest power pool. So the trick in Nebraska is how do you get the wind from the most lucrative wind production areas of the state back into the main transmission lines? And I think that's probably what the study with NPPD and what we're trying to do as well. [LB569]

SENATOR HARMS: What figures have you seen in regard to potentially the cost of implementing such a plan? [LB569]

NEIL MOSEMAN: I haven't seen a final dollar figure yet or an estimated figure. I anticipate that will be probably that will be part of this NPPD and NREL study. [LB569]

SENATOR HARMS: Thank you. [LB569]

SENATOR HEIDEMANN: Senator Wightman. [LB569]

SENATOR WIGHTMAN: Mr. Moseman, one of the problems I assume on generation is that the primary areas that we could generate wind energy are probably the north and west where those states are already fairly developed, South Dakota, North Dakota, Wyoming. Would that be a fair statement? The market would be more east and south. If we were to transmit beyond the boundaries of the state. [LB569]

NEIL MOSEMAN: Well, in terms of wind production in several areas of Nebraska along north-central Nebraska shows great promise. Probably the six most western counties in Nebraska also show great promise in terms of wind production. And I'm sorry. Your question, Senator, in terms of... [LB569]

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

Appropriations Committee
March 09, 2009

SENATOR WIGHTMAN: Well, they're pretty much bound, those areas, by states that already have a fairly well-developed wind energy. Wyoming, South Dakota, and North Dakota are probably all ahead of us, aren't they, in development of their wind energy? [LB569]

NEIL MOSEMAN: They, at this current...at this time and not being...those states being eligible for the federal tax production credits. I'd say they're probably ahead in terms of just kilowatts, overall kilowatts in term of production. Yes, sir. [LB569]

SENATOR WIGHTMAN: And there's not a lot of market in those areas because they're already developed wind energy. Your market, if you were going to transmit the power, is more to the east and south. [LB569]

NEIL MOSEMAN: Yes, sir. And I think that's one of the primary reasons why, for example, the Nebraska utilities have joined or are joining the southwest power pool here very soon. [LB569]

SENATOR WIGHTMAN: Okay. Thank you. [LB569]

SENATOR HEIDEMANN: Senator Harms. [LB569]

SENATOR HARMS: I have one other question I'd like to ask. In regard to power and creating the power fields, what are your views about eminent domain here and the fact that it's very difficult in Nebraska to bring the private sector in to deal with the public sector because of eminent domain? What are your views about this? [LB569]

NEIL MOSEMAN: I think that it represents a significant problem or impediment, if you will, toward developing wind production in Nebraska. I hear almost weekly from commercial wind developers who tell us that the eminent domain requirements and our state law frankly have dampened their enthusiasm for coming to the state. And I know in several circumstances it has probably ceased planning or at least funding of operations. [LB569]

SENATOR HARMS: As the energy director, what would you suggest to us how to fix this particular issue? [LB569]

NEIL MOSEMAN: Very good question. I know the Natural Resources Committee has several energy bills that they're considering and several ideas. One potentially having a group or even a task force review this idea. And I've told the committee that's probably a wise idea in terms of identifying not only eminent domain but other impediments to wind production here in the state, and developing a legislative solution to that and a regulatory one as well. [LB569]

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

Appropriations Committee
March 09, 2009

SENATOR HARMS: I guess the thing I worry a little bit about is we have a tendency in this state to study everything to death, and I don't think we've got a heck of a lot of time here. I think as this economy starts to unfold and it gets back to where it needs to be and we're better off in our production, we better be ready because we're going to lose out here. And I think it's very critical that this state moves forward. That's why I think eminent domain needs to be addressed. I also think that the stimulus dollars, we need to be looking at that because this is our hope. And if we miss the wind energy, you know, well, solar energy being ninth is going to be good, but wind energy to me seems to be where it's going to have to be in the future. And you've got geothermal energy and a lot of other things we can look at. But I think Nebraska has some great opportunities here. I'm just so concerned that we're going to miss this boat. What are your thoughts? [LB569]

NEIL MOSEMAN: I agree, Senator, it's very timely. One of the, I guess, areas we cannot...one of the things we can't overlook is we have to have the support or the cooperation of our public utilities in doing this in terms of whether it's eminent domain or also transmission issues that have been at least voiced by wind developers an impediment to growing wind in the state. But whatever we do, and just because we are a rather unique state in that regard being all public power, we have to have the public utilities on board as well. [LB569]

SENATOR HARMS: Well, that would be true. But we could also have the strength and the courage just to change the law. What are your thoughts about that? [LB569]

NEIL MOSEMAN: I would support that. I encourage that. [LB569]

SENATOR HARMS: Okay. Thank you. [LB569]

SENATOR HEIDEMANN: Senator Nantkes. [LB569]

SENATOR NANTKES: Director Moseman, and just to follow up on a few strains started by Senator Harms's questioning. And if you'd prefer to defer these questions to your agency budget so Senator Dubas can get back to her work this afternoon that's fine too. But I guess in absence of action by the Legislature this year, what's your office and the Governor's plan to encourage that kind of coordination and cooperation amongst public power agencies or other entities to develop a comprehensive energy plan for Nebraska? [LB569]

NEIL MOSEMAN: We have...on February 19, the Governor sent...addressed a letter to our public utilities here in the state and asked for an initial plan or outline, if you will, by the middle of March in terms of how do we move forward, particularly in the area of exporting energy from the state of Nebraska. I would agree with Senator Harms. I

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

Appropriations Committee
March 09, 2009

mean, the timing is right. I think another issue we haven't really addressed now, but if a federal renewable energy standard, if that standard comes into play, that will create a market for Nebraska energy as well renewable energy in essentially 49 other states. So the timing is here now. And with the Governor we've asked the utilities to help us develop...take that...what is that next step, how do we move forward? [LB569]

SENATOR NANTKES: So would it be inaccurate to say that at the current time there is no plan? You're working on it? Is that an accurate statement? [LB569]

NEIL MOSEMAN: We are trying to develop a plan. Yes, ma'am. [LB569]

SENATOR NANTKES: Okay. [LB569]

SENATOR HEIDEMANN: Any other questions? Seeing none, thank you. [LB569]

NEIL MOSEMAN: Thank you. [LB569]

SENATOR HEIDEMANN: Is anyone else wishing to testify in the neutral position on LB569? Seeing none, would Senator Dubas like to close? [LB569]

SENATOR DUBAS: Just very briefly. We had a great discussion here today. We got to talk about bigger things than just Wind for Schools, but I think Wind for Schools for a relatively small program could have huge benefits across the state. As Ken Winston said, you know, you have it for 15 years and you multiply that by 200 kids. That's a lot of opportunity, not just to educate kids, but to educate community leaders, state leaders all across the board. So I think for a relatively small amount of dollars we can do a whole lot of good in our educational system. So I appreciate your consideration. [LB569]

SENATOR HEIDEMANN: (See also Exhibit 13) Thank you. With that, we will close the public hearing on LB569 and open up the public hearing on Agency 71, the Nebraska Energy Office. Yes. [LB569]

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

Appropriations Committee
March 09, 2009

Disposition of Bills:

LB12 - Held in committee.
LB96 - Held in committee.
LB569 - Held in committee.

Chairperson

Committee Clerk