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Appropriations Committee
February 06, 2014

[AGENCY 14 AGENCY 41 AGENCY 85 AGENCY 50 AGENCY 51]

The Committee on Appropriations met at 1:30 p.m. on Thursday, February 6, 2014, in Room 1003 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB764, LB1051, and agency budgets. Senators present: Heath Mello, Chairperson; John Harms, Vice Chairperson; Kate Bolz; Danielle Conrad; Bill Kintner; Tyson Larson; John Nelson; Jeremy Nordquist; and John Wightman. Senators absent: None.

SENATOR MELLO: Good afternoon and welcome to the Appropriations Committee. My name is Heath Mello. I'm from south Omaha, representing the 5th Legislative District, and serve as Chair of the Appropriations Committee. I'd like to start off by having members do self-introductions, starting first with Senator Kintner.

SENATOR KINTNER: Well, hello everybody. I'm Bill Kintner from Legislative District 2. That's about half of Sarpy County, Cass County, and a little bit of Otoe County.

SENATOR NORDQUIST: Jeremy Nordquist, District 7, downtown and south Omaha.

SENATOR NELSON: John Nelson, District 6, central Omaha.

SENATOR HARMS: John Harms, 48th District, Scotts Bluff County.

SENATOR MELLO: Sitting to my right is Senator John Wightman from the 36th Legislative District, representing Custer and Dawson County.

SENATOR CONRAD: Hi. Senator Danielle Conrad, north Lincoln.

SENATOR BOLZ: Senator Kate Bolz. I represent District 29 in south-central Lincoln.

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SENATOR MELLO: Sitting next to Senator Bolz is Senator Tyson Larson from Legislative District 40, who will be joining us later. Assisting the committee today is Anthony Circo, our committee clerk; and Matthew Ruiz, who is a senior studying international business at the University of Nebraska-Lincoln and is our committee page. On the cabinet to your right you will find some yellow testifier sheets. If you're planning on testifying today, please fill out one of the sheets and hand it to Matthew when you come up. It helps us keep an accurate record of today's public hearing. There is also a white sheet on the cabinet if you do not wish to testify but would like to record your position on a bill. When we hear testimony regarding state agencies, we will first hear from a representative of the agency, we will then hear testimony from anyone who wishes to speak on the agency's budget request. We will hear bill testimony in the following order. First will be the introducer. We will then hear those in support, followed by those in opposition, then those testifying in the neutral capacity, and we will end with a closing statement by the introducer. If you have any handouts, please bring at least 11 copies and give them to Matthew. If you do not have enough copies, he will help make more. We ask that you begin your testimony by giving us your full first and last name and spelling them for the public record. We will be using a five-minute light system today. When you begin your testimony, the light on the table will turn green. The yellow light is your one-minute warning. And when the red light comes on, we ask you to wrap up with your final thoughts. At this time I'd ask all of us, including senators, to please look at our cell phones and make sure they are on silent or vibrate mode. Lastly, our first fiscal analyst today is Phil Hovis assisting the committee. With that, at this time we'll begin today's public hearing with Agency 14, the Public Service Commission. (Exhibit ___) The committee should have received a letter from the commission supporting the committee's preliminary recommendations. Is there anyone else wishing to testify on Agency 14? Seeing none, that will close today's public hearing on Agency 14, the Public Service Commission, and lead us to our next agency, Agency 41, the State Real Estate Commission. (Exhibit ___) The committee should have received a letter from the commission supporting the committee's preliminary recommendation. Is there anyone else here to testify on Agency 41? Seeing none, that will close today's public hearing on

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Agency 41, and lead us to our next agency, Agency 85, Public Employees Retirement Board. (Exhibit ___) We received a letter from the board supporting the committee's preliminary recommendation. Is there anyone else from the board or any public testifiers on Agency 85? Seeing none, that will close today's public hearing on Agency 85, and lead us to our next public agency, Agency 50, the Nebraska State College System.
[AGENCY 14 AGENCY 41 AGENCY 85 AGENCY 50]

SENATOR HARMS: Welcome. [AGENCY 50]

STAN CARPENTER: (Exhibit 1) Thank you, Senator Harms. Senator Harms and members of the Appropriations Committee, I'm Stan Carpenter, S-t-a-n C-a-r-p-e-n-t-e-r, and I'm the chancellor of the Nebraska State College System, and I appreciate the opportunity to come chat with you for a few minutes this afternoon about our deficit request tied to LB429. And I would just preface that by saying if we didn't face some other fiscal issues that have been related to you in the fiscal note, we probably wouldn't be here today. But when LB429 was passed last year, you know that it requires us to provide contract information to the Department of Administrative Services for any contract that expends any kind of state funds. We are supportive of transparency in the Nebraska State College System. Let me give you just a couple of examples about how we are transparent in the kind of things that we do. Every year for the State Treasurer's Web site our staff spends many, many, many hours going over thousands and thousands of expenditure data lines, so we can pull that expenditure data from the statewide system accounting so that we can look at those expenditures and pull any protected information that needs to be pulled out of that, that needs to be redacted, because much of our expenditures that would be reported in that relate directly to student financial aid. And of course, all those names and amounts have to be...those names have to be redacted. We publish all of our salaries every year from the chancellor and everybody else annually in our June board meeting, and during the course of the year, if we hire someone new, that's reported to the board. Their salary is reported to the board. And if a current employee's salary changes during the course of

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the year, that's reported as well. And of course, we always comply with public records requests in a timely fashion, even if that has to do with competitive bidding information or contract information or vendor proposals. But when LB429 was passed last year and signed by the Governor, we were I suppose in some cases naively unaware as to what the fiscal impact would be of that particular bill. We contacted DAS as soon as the bill was passed, and Carolyn Murphy, who is our vice chancellor for Administration and Finance, was in contact with DAS on a regular basis. And this is in no means, in no way an attempt to denigrate DAS or complain about DAS. They had a very difficult project to complete in terms of coming together and finding ways to implement LB429. But in October, when Carolyn had a meeting with the folks from DAS and finally realized what the implementation process was going to include and what we were going to be required to do, it became obviously apparent to us that we were going to have to have some additional staff to carry it off. We have been working recently to centralize our contracting process in the state colleges and in the system office to make sure that all contracts eventually flow through one office. In October of 2013, the board updated its policies to make sure that was the case. And so we have taken the steps and we are very close to making sure that all contracts now will go through either the vice president for Administration and Finance Office at the colleges and it's required...every contract will be required to be signed by that vice president or by the president. So we are on our way to making sure that we are in control in centralizing the contracting process at the institutions. Our preliminary estimates would say to us that we have about 2,500 contracts annually that we need to deal with and we need to process. Those range from a single-page contract like this and any supporting documents that might go along with that, to this. This is a construction contract. This is the actual contract, but incorporates, by reference, all of these documents. And the law, LB429, requires that if there's anything incorporated by reference into this document, all this has to be sent over to DAS as well. So you can see that there's hundreds or maybe thousands of pages to this particular contract that we need to deal with. Each of these contracts that we send over to DAS will have certain fields that we must complete, and I'll talk about the software system in a moment that we're going to employ, but each of the fields, each of the

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contracts has to be related to an agency number and the agency division, the document number and the document type, a vendor number, a vendor name, contract amount, contract starting date, contract ending date. And then if there's any information that needs to be protected, like Social Security numbers and things of that sort, somebody has to go through each of these to make sure that that information is redacted. And then that redacted document has to be scanned, put into the system, and then sent over to DAS. And there are a couple of fields that we just talked about that will be dynamic; that is, that we'll have to pay careful attention to. One is the end date and the other is the amount, because oftentimes, as you know in these contracts especially but even in smaller contracts, there are change orders that come through. And so we will have to have somebody on staff who will be aware of that, look at that change order, tie it back to the feed that we put over to DAS, tie it back to the fields we talked to, and update that whenever those changes come about. And so that's going to be a very time-intensive...this whole thing will be very time-intensive process for our staff. In addition to the contracts, we also have purchase orders. And purchase orders that are not tied to a contract also by LB429 have to be part of this process. And we will use our software SAP software model that we use for finances to tie our purchase orders into that so that they can then be transferred over to DAS. Currently, only Wayne State is using that particular modality for SAP. So Chadron and Peru will now have to enter all of their purchase orders into the SAP software, our financial software, so that they can be shipped over to DAS as well. That means that there's probably going to be an additional 2,000 purchase orders annually that will need to be fed into SAP that could then be fed over to DAS, but only after they've all been reviewed carefully to make sure there's no more protected information on those purchase orders as well. We are just about to wrap up some negotiations with a software company to provide us a software module that will make this workable for us. It's a software firm that the university uses to track its contracts. And so we think that this will lead to some efficiencies in implementation and consistency in terms of the information that we pull out and the format that DAS wants that information in. When we submitted the deficit request to you, we thought that amount was going to be somewhere in the neighborhood of \$40,000 or \$43,000

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annually. It appears now that it's going to be in the neighborhood of about \$10,000 annually with a \$5,000 one-time implementation fee this year with the software firm. So we can reduce our request to you in the following way. In the first year, that would be this year, we had initially asked for about \$164,990. That could be reduced in this fiscal year to \$136,990, and in the second year, from \$156,990 to \$131,990. So that's kind of what I had to say. I appreciate the opportunity to come chat with you about this and I also want to note and thank Senator Crawford for her letter of support for our request. And I'd be happy to answer any questions you might have. [AGENCY 50]

SENATOR HARMS: Thank you, Dr. Carpenter. Are there any questions? Senator Kintner. [AGENCY 50]

SENATOR KINTNER: Stan, thank you for coming. I don't think this piece of legislation was our finest moment down here. You and I have talked about ways to alleviate some of the pain in implementing this, such as, you know, cutting it off at \$1,000, which would help, but you say it wouldn't greatly affect what you need to do. You still need to go through the same process for the bigger contracts. Is there anything that you thought about, is there is anything we could do to lessen the cost, lessen the burden? And I'm talking about maybe amending the bill a little bit to soften it. We want to keep with the spirit of it, but maybe is there anything that we could do to lessen your cost on this? [AGENCY 50]

STAN CARPENTER: Well, I appreciate that, Senator. And, yes, we have had some discussions about this and we've talked about a de minimis amount, \$1,000, and that would probably eliminate 400 or 500 contracts. It might have an impact on the purchase orders. I don't know how much our purchase orders are on a general basis. I mean that's for things like paper orders and pencils and paperclips and so on, so forth. So it might help in that sense. But I can't think of anything that would lessen the overall impact on this unless you either raise the de minimis amount to an enormous amount of money, which would defeat the process... [AGENCY 50]

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SENATOR KINTNER: Right. Right. [AGENCY 50]

STAN CARPENTER: ...and purpose of being transparent. It is just what it is. I think it's going to be a labor-intensive, continual process to make sure that we have it right or at least as right as we can during the course of the process. I'm sorry, I don't have a magic bullet. [AGENCY 50]

SENATOR KINTNER: Okay. I was just wondering if there was anything that we could do to lessen the impact a little bit rather than spend taxpayer money. [AGENCY 50]

STAN CARPENTER: Well, I understand that. [AGENCY 50]

SENATOR KINTNER: Okay. Well, thank you. [AGENCY 50]

STAN CARPENTER: Yes, sir. [AGENCY 50]

SENATOR HARMS: Okay. Thank you, Senator Kintner. Senator Larson. [AGENCY 50]

SENATOR LARSON: I guess I understand the request and why you need it, and I'm sure Fiscal Office will correct me if I'm wrong here, but I think that you're the only agency that's requesting additional funds for the contract reporting requirements as a deficit request. If LB429 has been so burdensome, and maybe Senator Mello has heard it from other agencies that didn't put a deficit request in, but I would have thought we would have been hearing it from a lot more agencies. Are they all able to handle it within their agency? Or, I mean, and a \$136,000 request, and being the only one to my knowledge--like I said, Fiscal might correct me if I'm wrong--but it just seems a little excessive. So have you heard of what other agencies are doing or why you're the only one requesting? [AGENCY 50]

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STAN CARPENTER: Senator, I can't speak to other agencies. I can only speak to our agency. And as I alluded before, if this were the only issue that we were facing this year and next year from a financial standpoint, a fiscal standpoint, I don't think I'd be here. But there are other issues that we've set forth in the fiscal note that really takes us to somewhere in the neighborhood of \$700,000 or \$750,000 worth of fiscal problems we're going to face in the next year. I'm not whining about that. I'm not complaining about that. But this is kind of the one thing that, from my perspective, as the head of the Nebraska State College System, put us kind of over the edge. It's probably the straw that made us blink. [AGENCY 50]

SENATOR LARSON: Are those other issues, will they be ongoing funding, such as something of this nature, or are those more one-time expenses? [AGENCY 50]

STAN CARPENTER: They're basically on-going funding, Senator. We have... [AGENCY 50]

SENATOR LARSON: So you have about \$700,000... [AGENCY 50]

STAN CARPENTER: We have... [AGENCY 50]

SENATOR LARSON: ...worth of issues that you weren't expecting that are going to be continually ongoing. [AGENCY 50]

STAN CARPENTER: That's correct. And you can look in the fiscal note, but there's an issue with property insurance that was increased by about \$100,000. Up until this point our property insurance had been relatively modest in terms of its increases. We did an internal study for FLSA last year. That winds up costing us about \$90,000 and then that doesn't even take into account what we're going to have to do to add more staff so that we're not in that circumstance, that circumstance again. And we knew when we signed the agreement last year for a tuition freeze that we were somewhere between \$200,000

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and \$250,000 short in the second year. We're willing to live with that because of what it did for our students. But you combine all those together for us, you take those together, and that's a significant amount of money for us. Might not be for other agencies, but it has been for us, Senator. [AGENCY 50]

SENATOR MELLO: Senator Conrad. [AGENCY 50]

SENATOR CONRAD: Thank you so much for coming in, Stan. [AGENCY 50]

STAN CARPENTER: You bet. [AGENCY 50]

SENATOR CONRAD: And I actually had a very similar question to what Senator Larson asked. But in just a quick look at the Legislator's Guide, there's about, what, 800-850 employees statewide... [AGENCY 50]

STAN CARPENTER: That's about right. [AGENCY 50]

SENATOR CONRAD: ...in your different institutions. And then you also...do those numbers include work study students? [AGENCY 50]

STAN CARPENTER: No. [AGENCY 50]

SENATOR CONRAD: Okay, because that, frankly, was one thing that the committee thought about in our initial deliberations, was why couldn't an intern or a work study student be helpful in maybe scanning some of these documents and building things. So have you explored those kinds of internal options? [AGENCY 50]

STAN CARPENTER: We have thought about that, Senator, but we think that the data here and getting it correct is so very important that we want to have somebody who focuses simply on that and is there. It's not that a work study student couldn't help in

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some respect, but in terms of having somebody who's in charge of it, making sure that any changes get in, making sure that whatever those dynamic fields are, are filled in, it's important for us to get it right. [AGENCY 50]

SENATOR CONRAD: Okay. And then you did mention early in your testimony and it's a point I want to flesh out a little bit more, is that currently state employees within the system expend a great deal of time and effort in responding to FOIA requests. Is that right? [AGENCY 50]

STAN CARPENTER: Well, we certainly respond to any public records requests, yes. [AGENCY 50]

SENATOR CONRAD: So once the system would be up and running, in fact, it could save your staff a great deal of time and resources because a citizen who was interested in this information could just access it through the database rather than having to secure copies or make the request or otherwise. So I'm wondering if you've thought about the long-term implications there as well in how this really might be a cost savings. [AGENCY 50]

STAN CARPENTER: Yeah. I suppose there could be some time saved in that, Senator. I don't know how much...how many of our public information requests tie to this kind of material or are tied to any other kind of contract material. I think a lot of it has to do with positions and salaries and job descriptions and things of that sort. [AGENCY 50]

SENATOR CONRAD: And just to be clear, there's no disagreement that the information should be public record and that transparency goals, as advanced through LB829, are valid and in the public interest. [AGENCY 50]

STAN CARPENTER: Senator, I have no issue with that at all. I think it... [AGENCY 50]

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SENATOR CONRAD: LB429, I'm sorry. [AGENCY 50]

STAN CARPENTER: LB429. [AGENCY 50]

SENATOR CONRAD: Sorry. I'm sorry. [AGENCY 50]

STAN CARPENTER: And that's why I wanted to make sure you understood, we operated in a transparent fashion. We're not fighting this bill. We didn't fight the bill to begin with. Transparency is important in state government. It's important for us as well. It's just a question for us in terms of the impact of everything else that we have in doing this and making sure we do it right, so that's why we're here. [AGENCY 50]

SENATOR CONRAD: Okay. Very good. [AGENCY 50]

SENATOR MELLO: Senator Nelson. [AGENCY 50]

SENATOR NELSON: Thank you, Senator Mello. Thank you, Stan. [AGENCY 50]

STAN CARPENTER: Yes, sir. [AGENCY 50]

SENATOR NELSON: If I understood you correctly, you have 2,500 contracts and is that the figure? [AGENCY 50]

STAN CARPENTER: That's the best estimate... [AGENCY 50]

SENATOR NELSON: All right. [AGENCY 50]

STAN CARPENTER: ...we have right now. [AGENCY 50]

SENATOR NELSON: And something such as this, I don't have any idea, you know.

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Some are simple contracts, I suppose. [AGENCY 50]

STAN CARPENTER: Sure. [AGENCY 50]

SENATOR NELSON: Are there a lot of them that reference other documents?
[AGENCY 50]

STAN CARPENTER: There are many, many contracts that do reference other documents,... [AGENCY 50]

SENATOR NELSON: Okay. [AGENCY 50]

STAN CARPENTER: ...even if they're not construction contracts. [AGENCY 50]

SENATOR NELSON: From the standpoint of transparency, isn't everything that's essential in a contract pretty much included in the basic contract? [AGENCY 50]

STAN CARPENTER: Well, I suppose it could be, yes. [AGENCY 50]

SENATOR NELSON: I mean I...this is something that's kind of...I didn't become aware of all these incorporations by reference. What, if you've got the basic contract and all the basic information of what use is all the other documents that can be brought in? I mean maybe we ought to look at amending that bill a little bit to cut down on some of this additional work that nobody is ever going to look at or care about. [AGENCY 50]

STAN CARPENTER: Uh-huh. [AGENCY 50]

SENATOR NELSON: They want the basic figures. [AGENCY 50]

STAN CARPENTER: Yeah, Senator, I wouldn't argue with that, if that were the case. If

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all you wanted were this as opposed to this or any other documents by reference, that would. Senator, I wasn't smart enough to think of that myself. I'm sorry. [AGENCY 50]

SENATOR NELSON: Well, I think if other administrators, other agencies or anything a lot larger than yours of what this involves, if all these... [AGENCY 50]

STAN CARPENTER: Sure. [AGENCY 50]

SENATOR NELSON: ...documents by reference and stuff, including statutes and things of that sort, I suppose. [AGENCY 50]

STAN CARPENTER: I suppose that's true, yeah. [AGENCY 50]

SENATOR NELSON: All right. Thank you. [AGENCY 50]

STAN CARPENTER: Yes, sir. [AGENCY 50]

SENATOR MELLO: Are there any other questions from the committee? Seeing none, thank you, Stan. [AGENCY 50]

STAN CARPENTER: Thank you, Senator Mello, and congratulations. [AGENCY 50]

SENATOR MELLO: Thank you so much. Is there anyone else here wishing to testify on Agency 50, the Nebraska State College System? Seeing none, that will close today's public hearing on Agency 50, and lead us to our next agency hearing, Agency 51, the University of Nebraska System. Good afternoon. [AGENCY 50 AGENCY 51]

DAVID LECHNER: (Exhibit 2) Good afternoon, Senator Mello. My name is David Lechner, senior vice president and CFO at the University of Nebraska, native of District 2, about 20 miles south of District 7, if you want to go back to the start of time. I was

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asked by the committee to furnish a letter regarding the use of our holiday funds from our health trust, and I've furnished that letter to the senator and it recaps our uses of those funds. It talks about acquisition of land and payments thereon at UNO, which we started assembling back in 2007 making payments. It talks about modernization of Love Library, which will be a new dynamic meeting area for collaboration and learning for twenty-first century students. It discusses hiring consultants to help us in the areas of risk assessment and students at risk at UNK, a multiyear process. And it also discusses biomedical and comparative effectiveness research at UNMC which would be funded by these dollars. I will remind the committee that when I spoke to you last, on the 21st of January, we discussed that President Milliken had not approved any of those at that point in time. And matter of fact, all the savings recommendations or, excuse me, initiatives that the chancellors would like to pursue had to come to him to make sure that those one-time monies were deployed strategically that would make a difference in the university for students and Nebraskans statewide. Rather than go on, I would, Senator Mello, stop my comments at this point. And I would entertain any questions relating to the letter from any of the senators. [AGENCY 51]

SENATOR MELLO: Is there any questions from the committee? Senator Bolz.
[AGENCY 51]

SENATOR BOLZ: Thanks for coming in this afternoon. [AGENCY 51]

DAVID LECHNER: Yes. [AGENCY 51]

SENATOR BOLZ: Just out of curiosity, I'm curious whether or not there was any discussion about using these dollars for projects also related to health. Was there any discussion about using these dollars for the same purpose for which they were originally intended? [AGENCY 51]

DAVID LECHNER: I will tell you that the health-related ones, Senator Bolz, came back

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just from UNMC in terms of their research. The other chancellors chose items that more reflected on tuition, because the pool of money we're talking about is part state appropriation, part tuition. So therefore, the first two or three items are more studentcentric, and then the latter one is a health-related one. I see your point and it is a good one. [AGENCY 51]

SENATOR BOLZ: Okay. [AGENCY 51]

SENATOR MELLO: Is there any other questions from the committee? Seeing none, thank you, David. [AGENCY 51]

DAVID LECHNER: Senators, thank you very much for all you do. [AGENCY 51]

SENATOR MELLO: Is there anyone here wishing to testify on Agency 51, the University of Nebraska System? Seeing no one, that will close today's public hearing on Agency 51, the University of Nebraska System, and lead us to our next bill, LB764, Senator Conrad. She has just left to go introduce another bill in Health and Human Services, so at this point the committee will take a brief recess and reconvene when Senator Conrad returns. [AGENCY 51]

BREAK