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Appropriations Committee
February 01, 2016

[LB956 LB957 LB1092]

The Committee on Appropriations met at 1:30 p.m. on Monday, February 1, 2016, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB956, LB957, and LB1092. Senators present: Heath Mello, Chairperson; Robert Hilkemann, Vice Chairperson; Kate Bolz; Tanya Cook; Ken Haar; Bill Kintner; John Kuehn; John Stinner; and Dan Watermeier. Senators absent: None.

SENATOR HILKEMANN: Welcome to the Appropriations Committee. My name is Senator Robert Hilkemann. I'm from west Omaha representing District 4 in the Legislature. I'm Vice Chair of the Appropriations Committee. Our Chairman, Heath Mello, is presenting in another committee at this time, a bill of his own. I'd like to start off by having members do self-introductions, and I'll begin over here to my left with Senator Cook.

SENATOR COOK: Thank you, Senator. I'm Senator Tanya Cook. I represent Legislative District 13 in northeast Omaha, Douglas County.

SENATOR KUEHN: Senator John Kuehn, District 38, seven counties in south-central Nebraska.

SENATOR STINNER: Senator John Stinner, District 48, Scotts Bluff County.

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

SENATOR HAAR: Ken Haar, Legislative District 21.

SENATOR WATERMEIER: Dan Watermeier, District 1, from Syracuse.

SENATOR HILKEMANN: Assisting the committee today is Laurie Vollertsen, our committee clerk; and our committee's page, Julia; and our fiscal analyst to the right over here, Mike Calvert. On the tables at the back of the room you'll find some yellow testifier sheets. If you are planning on testifying today, please fill out one of the...and hand it to Laurie when you come in. It helps us to keep an accurate record of that hearing. There is also a sign-in sheet if you do not wish to testify but would like to be on record or position on a bill or a budget item. If you have any handouts, please bring up at least 11 copies and give them to the page. If you do not have enough copies, the page can help you make more. We ask that you begin your testimony by giving us your first and last name and spelling them for the record. During the portion of today that is the public hearing on bills, we will begin public testimony with the introducer's opening statements. Following opening statements, we will hear from supporters of the bill and then from those in

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

Appropriations Committee
February 01, 2016

opposition, followed by those speaking in a neutral capacity. We will finish with a closing statement by the introducer if they wish to give one. When we hear testimony regarding agencies, we will first hear from a representative of that agency. We will then hear testimony from anyone who wishes to speak on the agency's budget request. We will be using a five-minute light system today for all testifiers other than the introducer or the agency representative. 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 that you wrap up your final thoughts. As a matter of committee policy, I would like to remind everyone that the use of cell phones and other electronic devices is not allowed during public hearings. At this time, I would ask you to check to make sure that your cell phone has been turned to the silent or vibrate mode. And we've had another one of our members just enter. Would you like to introduce yourself, Senator?

SENATOR KINTNER: Bill Kintner, Legislative District 2.

SENATOR HILKEMANN: And with that introduction, we will begin today's testimony by hearings on LB956 and that's going to be combined with LB957. Would you like to come forward.

GERRY OLIGMUELLER: (Exhibits 1 and 2) Good afternoon. Senator Mello is absent at the moment, but I'm sure he'll be here. Senator Hilkemann and members of the Appropriations Committee, my name is Gerry Oligmueller, that's spelled G-e-r-r-y O-l-i-g-m-u-e-l-l-e-r. I'm the state budget administrator and also administrator of the Administrative Services State Budget Division. I'm appearing here today on behalf of Governor Ricketts in support of LB956 and LB957 which contain the Governor's mid-biennium budget adjustments. The contents of this legislation have been summarized and presented to you in a printed publication entitled "Mid-Biennium Budget Adjustments 2015-2017 Biennium" and dated January 14, 2016. I provided a copy of the printed publication along with my prepared remarks to the committee clerk for your record. In addition, we've posted this publication on the State Budget Division Web site. The state of Nebraska ended the most recent fiscal year 2014-15 with tax receipts in excess of the certified forecast by \$84.6 million. These monies were automatically transferred to the Cash Reserve Fund in July of 2015, increasing the estimated biennium ending balance to \$708 million. This past October the Forecast Board decreased its estimate of net General Fund tax receipts for the current biennium by \$154 million. Consequently, the Tax Rate Review Committee in November reported a budget gap of approximately \$110 million for the current budget biennium. The Governor has recommended various adjustments to the current biennial General Fund appropriations in LB956 which, along with the annual claims bill, represent a net decrease of \$5.7 million in General Fund new appropriations. In addition, the recommendations contained in LB956 eliminate \$87.6 million in FY 2014-15 General Fund reappropriations or unspent carryover in FY 2015-16. LB956 also proposes \$16 million in additional transfers to the General Fund: \$6 million from the Securities Act Cash Fund and \$2 million from the Insurance

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

Appropriations Committee
February 01, 2016

Cash Fund each year of the 2015-17 biennium. LB957 proposes four specific fund transfers. Section 1 authorizes transfers from the Department of Motor Vehicles Ignition Interlock Fund to the Vehicle Title and Registration System Replacement and Maintenance Cash Fund at the direction of the Legislature. A transfer of \$175,000 to support improvements in Nebraska's vehicle and title registration system is provided for in LB956. Section 2 makes a transfer of \$5.3 million from the Department of Motor Vehicles Cash Fund to the Vehicle Title and Registration System Replacement and Maintenance Cash Fund during FY 2016-17 to support improvements in Nebraska's vehicle title and registration system. And Section 4 makes a transfer of \$26.3 million from the Cash Reserve Fund to the Nebraska Capital Construction Fund to finance capital construction at the Nebraska Department of Corrections. Section 5 transfers \$500,000 from the Records Management Cash Fund to the Information Management Revolving Fund in each year of the 2015-17 biennium to finance acquisition of security software for the state's information systems. In addition, Section 3 of LB957 specifies a permitted use of the Clean-burning Motor Fuel Development Fund. My understanding is that you've been briefed on these requests and recommendations and made preliminary decisions. Also you've scheduled hearings for the balance of this week and the next week with individual state agencies for further consideration. In addition to LB956 and LB957 heard today and over the next two weeks in this committee, the Governor has three other proposals before the Second Session of the One Hundred Fourth Legislature. LB958 and LB959 to provide property tax relief will be heard in the Revenue and Education Committee. And LB960, the Transportation Innovation Act, will be heard later in this committee. I want to take this opportunity to extend my appreciation to Chairman Mello, which I'll do when he arrives, and Senator Haar and Senator Cook as you complete your service on the Appropriations Committee and as members of the Legislature. I know you have several months remaining to serve, but I do want you to know that I've enjoyed working with you these past several years. For Senator Cook, I think that goes back prior to the legislative days even. [LB956 LB957]

SENATOR COOK: That is several years (inaudible). [LB956 LB957]

GERRY OLIGMUELLER: Yeah. As always, we look forward to working with you and other committee members as you consider mid-biennium budget adjustments during the 2016 Session of the Legislature. Thank you. Are there any questions? [LB956 LB957]

SENATOR HILKEMANN: Any questions for Mr. Oligmueller? Senator Kintner. [LB956 LB957]

SENATOR KINTNER: Well, I would make...I think it's good news there's no one here. This place is about empty so that means it's not very controversial so this is probably good stuff. [LB956 LB957]

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

Appropriations Committee
February 01, 2016

GERRY OLIGMUELLER: It's either that or it's the weather, I'm not sure. [LB956 LB957]

SENATOR KINTNER: It could be the weather, too, but, yeah, this is the most peaceful, calm I think appropriation probably ever testified, at least what I've been here so good. [LB956 LB957]

GERRY OLIGMUELLER: There's plenty of weeks to go yet, Senator Kintner. I'm aware of that so. Senator. [LB956 LB957]

SENATOR HILKEMANN: Yes, Senator Stinner. [LB956 LB957]

SENATOR STINNER: Thank you. You're representing the Governor speaking on his behalf so I'm interested in where you think we're at in this economic cycle and the level of cash funds and the use of cash funds that we need to have... [LB956 LB957]

GERRY OLIGMUELLER: Okay. [LB956 LB957]

SENATOR STINNER: ...in the Cash Reserve, excuse me. [LB956 LB957]

GERRY OLIGMUELLER: There's I guess the economists would characterize the current economic climate as one of cross winds. So there's some competing reports at the moment with regard to exactly, you know, where economics are going to take us over the next several months so I'll probably defer a little bit on that to the Forecast Board meeting that comes at the end of the month. So on a national scale, 2015 sort of is bookended by a couple of conservative quarters from a gross domestic product standpoint with a couple of quarters in between that showed some pretty good growth. So, you know, the reports I read over the weekend were suggesting we have a strong economy. There's particular considerations to be made obviously with regards to Nebraska. But the economy was noted as being fairly strong and principally strong as a consequence of consumption behavior so consumer spending. But I guess I'll defer probably to the economists and what they bring forward towards the end of the month for the Forecast Board meeting. As far as our cash position, I'd say the National Association of State Budget Directors just completed its survey of the 50 states and Nebraska has the fourth highest rainy day fund as a percent of spending in the country. The states that are ahead of us are energy-producing states. So...and, you know, some of the literature has suggested that as a consequence of the experience during the Great Recession that they made changes to their cash positions as it relates to how much they bank in their rainy day funds. And the majority of the states according to Pew that were making changes at that time sort of pegged their statutory maximums or their targets with regards to their rainy day funds somewhere, you know, from 5 to 10...the majority of them were setting them at 5 to 10 percent. There were some that went to 15. I think Nevada is setting a

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

Appropriations Committee
February 01, 2016

target of 20. I don't know if they're getting there. It's a different kind of state with regards to tax receipts, but in any event there's quite a bit of disparity across the country in individual states. The Governor's recommendations as a total package place the Cash Reserve Fund as a percent of the 2017 forecast at about 11.7, almost 12 percent. And then there's just, you know, a wealth of good ideas and suggestions about where you might want to put that. But Nebraska is positioned fairly well. [LB956 LB957]

SENATOR STINNER: Any idea or any feel for what the minimum amount of Cash Reserves that you'd like to keep in the rainy day fund? [LB956 LB957]

GERRY OLIGMUELLER: A minimum? [LB956 LB957]

SENATOR STINNER: A minimum. Obviously, we feel from the...let me just give you a little bit of insight with where I'm trying to go with this. We feel in the legislative side from the Fiscal Office they talk 16 percent. And I think on a look-back basis there's some...there is considerable validity for that number. What I'm looking for is if we move into a cycle, a down cycle or a soft cycle, and we need to start to look to that rainy day fund to cushion us plus, you know, we're making, what, \$26 million ask out of Corrections. The transportation bill certainly asks for a set aside of cash funds. So as I start to work through this and pencil in to the next biennium, I need to know where that minimum is at that says I'm going to have to look to cuts in order to balance the budget in a down scenario. [LB956 LB957]

GERRY OLIGMUELLER: Well, speaking on behalf of the Governor, his recommendations peg that at \$537 million. [LB956 LB957]

SENATOR STINNER: That's the minimum amount? [LB956 LB957]

GERRY OLIGMUELLER: That's at 11.7 percent. [LB956 LB957]

SENATOR STINNER: Okay. [LB956 LB957]

GERRY OLIGMUELLER: I asked him if that's his minimum. You've probably heard him reference \$500 million. [LB956 LB957]

SENATOR STINNER: That will help me. Thank you. [LB956 LB957]

GERRY OLIGMUELLER: Okay. [LB956 LB957]

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

Appropriations Committee
February 01, 2016

SENATOR HILKEMANN: Are there other questions? Seeing none, thank you. [LB956 LB957]

GERRY OLIGMUELLER: Okay. Thank you very much. [LB956 LB957]

SENATOR HILKEMANN: Are there other proponents for either of these bills, LB956 and LB957? Seeing none, are there any opponents to LB956 or LB957? Seeing no one come forward, are there anyone that would like to testify in the neutral position on LB956 or LB957? Okay, seeing none, we will...our Chairman has walked in at exactly the right time. We have LB1092, Senator. [LB956 LB957]

SENATOR MELLO: All right. Well, (inaudible) get started right away. Give me one second as I see my aide is not (inaudible). [LB1092]

SENATOR HILKEMANN: We will now open the hearing on LB1092 and Senator Mello will open. [LB1092]

SENATOR MELLO: Good afternoon. Good afternoon, Vice Chairman Hilkemann, members of the Appropriations Committee. My name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District in south Omaha. LB1092 would codify budget administrative policies that are already in practice and would implement enhancements to the agency reporting process. Traditionally, in odd-numbered years state agencies who wish to request a change to their appropriation will file the requested change with their department or agency, which is then passed on to the State Budget Office and the Appropriations Committee. LB1092 simply codifies this budget practice in Nebraska statutes and ensures that there is an official deadline for state agencies seeking a change in their budget during an odd-numbered year of the biennium, better known as deficit requests. In addition to codifying this practice in state law, LB1092 could potentially play an important role in the budget process moving forward. As some committee members will remember, when the state of Nebraska held the Council of State Governments Midwest Legislative Conference back in Omaha in 2014, the Pew Charitable Trusts came and presented on their Results First Initiative and the importance of evidence-based policymaking during the budget process. Following that conference, there's been ongoing conversations between the Pew Charitable Trusts, myself, Senator Kathy Campbell, the Legislative Fiscal Office, and the Ricketts administration around incorporating evidence-based practices into our ongoing budget processes. I'd be remiss to note that our colleague Senator Bolz is also engaged in this looking specifically toward the Child Welfare Division. Evidence-based policymaking utilizes the best available data and research gathered from existing state programs to help guide policymakers when making important decisions related to that agency or that program's state budget. LB1092 adds language into our existing state budget process that would require a state agency or department to provide a list of every state program within that agency and to identify

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

Appropriations Committee
February 01, 2016

for each program or practice in their budget request as to whether or not that program is evidence-based or research-based in nature. This change will simply help senators moving forward with important decisions relating to our biennial budget process to understand more about all of the existing state programs in state government and whether or not those programs do intend to have research and/or evidence behind them when they're created, or whether or not they're continuing to operate into the future. With that, Mr. Vice Chairman, I appreciate your time and would be happy to answer any questions the committee may have. [LB1092]

SENATOR HILKEMANN: Any questions from the...Senator Kintner. [LB1092]

SENATOR KINTNER: Oh, yeah, Mr. Chairman, what happens if we don't do this? [LB1092]

SENATOR MELLO: In regards to the overall bill? [LB1092]

SENATOR KINTNER: Yeah. What...you know, how's...you know, what's going to happen if we don't do it? [LB1092]

SENATOR MELLO: Well, one, I think LB1092, the first component I mentioned is right now there is, to some extent, a loose agreement or loose process when it comes to deficit requests. And I can simply remind the committee we've received a number of letters from agencies with deficit requests since December 1 actually. That was a deadline I would choose where they did not submit those deficit requests early enough. And actually, we've even received some when session started from state agencies. And so I think, if anything, this streamlines the deficit request process to assist the State Budget Office as well as our, obviously, Legislative Fiscal Office to be able to ensure the agencies are getting information to us sooner instead of sometimes that first or second week of the legislative session with new requests coming forward. It gives the Legislative Fiscal Office more time to be able to vet those requests, to be able to do research of those requests when it comes to state agencies. The second component of the bill obviously is something that I feel is just good public transparency when it comes to state government. The issue is, is we've been working pretty extensively with Senator Campbell and the administration in exploring the Results First Initiative from the Pew Charitable Trusts of trying to look at an area of either Department of Corrections or Department of Health and Human Services that we could utilize their data and their analysis to provide more, I would say, cost-benefit analysis of where existing taxpayer dollars are going. And I don't believe it's an ideological discussion or an ideological debate in regards to people wanting to see when you do appropriate money to a program that you're getting the best "bang for your buck." And so while this doesn't actually "implement" the Results First Initiative the way Pew sets up with other states, it does provide I think a very important tool that they recommend which allows not just members of this committee but the entire Legislature and the public at large to actually see a

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

Appropriations Committee
February 01, 2016

master list of all of the state programs that are created by state agencies. It would be ironic that you, of all members, would ask this question because you've asked about "state programs that are in different agencies" and not knowing which programs are what or how many programs are within each agency. And this other provision I think provides a level of transparency right now that probably we could ferret out and find a way somehow to get all of it, but it's not collected all in one place and it's not collected all in one process. And that is what the bill would do outside of getting more information from a state agency of whether or not they're using evidence or research when they actually have created this program and/or they're implementing the program, which I think actually is probably the most valuable component of the bill. Because the more research or evidence we can see behind existing state programs, it gives us as policymakers the ability to be able to dig in and evaluate a better cost-benefit analysis further down the road when we choose to appropriate money to that program. [LB1092]

SENATOR KINTNER: If an agency wanted to put it in...is there...I guess if they wanted to put in a late request, past December 1, is there a method in extreme circumstances that they could do that? [LB1092]

SENATOR MELLO: There are still...I mean we still see that now, Senator Kintner, I guess, in the sense that even when agencies during the long budget year, when they submit their biennial budget request, we've had agencies come in with letters after the budget process has started informing the Fiscal Office, the state budget administrator, as well as my office that they would like to request a change in their appropriations. I don't envision that would ever probably stop if there's...in case of emergency. The issue has probably been more...and we've seen this more recently, is that because there's no statutory language guiding agencies for deficit requests, you get these deficit requests kind of at will and just kind of all over a multiperiod of months, unlike the traditional budget request in the long...in the even-numbered year where everything is due September 15 and then goes through the state budget administrator's process, then becomes public on-line. That just seems to be a good process that everyone follows in that year. We would just like to codify that similar process for deficit appropriation requests in even-numbered years. [LB1092]

SENATOR KINTNER: Okay. Thanks. [LB1092]

SENATOR KUEHN: Thank you, Senator Kintner. Senator Hilkemann had to leave so I'm on deck. (Laughter) Senator Stinner. [LB1092]

SENATOR STINNER: Do you see this evolving or a vision of this evolving into kind of a rank order of programs with...like inside of DHHS where there's the central programs where we put this much out, this is the goals, this is the mission? It aligns pretty well. And then you've got

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

Appropriations Committee
February 01, 2016

some others that may be evolving or morphing into something but certainly aren't quite as essential. [LB1092]

SENATOR MELLO: I see this probably in a very pragmatic perspective. Right now it's simply providing more information to policymakers and the public at large about existing state programs. The hope would be that we, as the legislative branch, could partner with the executive branch to actually consider implementing the Pew Charitable Trusts' entire Results First concept and model, which we're in discussions with right now with the executive branch. But in lieu of fully engaging in the full model, this is a practice that a number of other states have done. It simply collects the information and provides information. It makes no determination whether a program is good, bad, indifferent. It simply collects the, no doubt, the thousands of programs in state government, lists them so that you can see all of the programs in this agency, and whether or not there's any evidence behind those programs or research behind those programs in light of them actually carrying out the intent of the program. What we've come to find out in regards to the last couple years of looking at what other states have done through this kind of cost-benefit analysis process is that there's a growing amount of academic research that provides more cost-benefit analysis on a number of programs that state governments across the country all have in some form or another. Right now nationally the focus is mostly on correctional related or criminal justice related programs, identifying programs that provide the best intended outcome per dollar that's spent on the program. And the example that we heard in our discussions with Pew this fall was in the criminal justice programs. Some of you may have heard of the program called "Scared Straight." I think actually it's a television show they've turned it into now where they bring juveniles into a prison facility and try to scare them for the day of not wanting to reoffend or commit another crime. Actually, the research regarding that program that's been collected around the country shows that's one of the worst-performing programs that money is spent on in regard to recidivism rates. And that is just one of the most glaring examples that was brought to our attention in the sense that most people don't really evaluate programs in that sense and being able to cross-reference programs with other national data sources. Once again, this bill doesn't do that. I remind you, this bill simply is what I would classify a very, very minor first step of simply collecting information through the budget process, making that information public for both the Legislature and the public at large with the hope that inquisitive legislators who come back in 2017 and beyond will ask more questions about the existing use of evidence, the existing use of cost-benefit analysis in existing programs that can translate to the work that this committee does, when considering appropriations to agencies and programs, and the Legislature as a whole. [LB1092]

SENATOR STINNER: How does...what's your vision of tying in to Performance Audit and how this all ties together? [LB1092]

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

Appropriations Committee
February 01, 2016

SENATOR MELLO: To some extent, you know what, I think this is...that's a great question. I've never really thought of in the sense of Performance Audit in light because Performance Audit does/is, obviously, statutorily has the ability to do an audit on the performance of an existing statute in regards with intended outcome. The difference this really focuses on is more of the research behind the program in regards to whether or not the program simply was created because John Stinner and Heath Mello had a really good idea that day in comparison to saying we took really great research that Senator Kuehn and his cohorts from this institution had studied this issue. Their research came back and said this may be the better approach to appropriate money towards instead of this really good idea you came up with. In some respect, that's where the concept really comes from. But I think you could see to some extent this data providing maybe just more information to the Performance Audit Committee members as they consider putting requests in on Performance Audit. This may just be another data sort that could help members come up with Performance Audit requests down the road. [LB1092]

SENATOR KUEHN: Thank you, Senator Stinner. Senator Watermeier. [LB1092]

SENATOR WATERMEIER: Thank you, Chairman. I appreciate the bill. And I'll apologize, I really didn't get a chance to look at it earlier like I wanted to. But one of the things that always caught my eye right away because of Performance Audit issues is the definition you have of evidence-based. And how much trouble is this going to get an agency into if they haven't done this research? How much is that going to cost them? How much are they going to have to invest in more...I mean maybe Senator Bolz, who had obviously worked on this idea, probably could define that a little better for me. I don't know. [LB1092]

SENATOR MELLO: I think to some extent, Senator Watermeier, the definition we use, it's more in the sense of an agency knows. Maybe it's me and maybe it's my cynicism of being a now eighth-year member of the Legislature dealing with a number of state agencies. I think you could look at that definition and know right away whether or not your program is evidence-based or not within a state agency. And it really deals more than anything else in regards to evaluations of programs, and that's really I think where the difference of whether or not a state agency...I mean we can...I don't want to pick on a state agency for the simple fact of picking on them, but let's just say the Barber Board, since that's one of my favorite agencies. The Barber Board of Examiners could make a determination of whether or not any of their programs are to some extent offers a high level of research on effectiveness, rigorous evaluations, randomized control trials and evaluations. That...we tried to make sure the definition was as clear-cut as possible to know it's simply a yes or no. It doesn't say and the process doesn't require that you've got to list it all as much as that either, yes, we think this is an evidence-based program or it's not. I'm willing to bet likely that we will see a very small number of state programs actually be evidence-based which then allows this committee and the Legislature as a whole to begin to ask questions in

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

Appropriations Committee
February 01, 2016

regards to why we're not considering more evidence when we develop programs or implement them. [LB1092]

SENATOR WATERMEIER: I can appreciate that. But right away when you put in the definition "high level of research," I'm afraid that's going to throw some people into a tailspin, but I don't know. [LB1092]

SENATOR MELLO: I think I have a tough time seeing, reading this definition, if a state agency looks at this definition and says, do we offer a high level of research on effectiveness? And to some extent if they say that they offer a high level of research, that's going to be a determination that that state agency makes. We're not being punitive, I would say. This bill is not punitive in any which way, shape, or form. It's simply asking them to give us your perspective on whether or not your program is evidence-based or it's not. And if it is, I'm sure no doubt you're going to have senators who are going to want to learn more about that program to see what are the results of your program. Maybe we need to consider putting more money into this program because we get really good benefits for it in comparison to those who simply say, we're not an evidence-based research program and we simply just don't meet this criteria. [LB1092]

SENATOR WATERMEIER: But this also could help the agency in some regards to head off a performance audit if they're doing it well enough. I mean I could see both sides of it. I really can. [LB1092]

SENATOR MELLO: You could. It could, in theory. If an agency had a program that did meet obviously this definition and they do say the program is evidence-based, you're a lot less likely to see senators want to dig into probably the evidenced-based research programs in comparison to those programs you know who are not evidence-based research and they ask Performance Audit Committee to consider, we'd like you to do a performance audit on whether or not this program is really achieving what its intended outcome was. [LB1092]

SENATOR KUEHN: Thank you, Senator Watermeier. And let the record reflect the Barber Board got a shout-out in the inaugural Appropriations hearing this session. (Laughter) Senator Bolz. [LB1092]

SENATOR BOLZ: Senator Mello, I just thought you might have a comment or two on some of the national databases that are available regarding evidence-based practices. We wouldn't, and we wouldn't as a committee or as independent agencies, necessarily need to discern all of this on our own. There are some national resources available. And maybe you have a comment. [LB1092]

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

Appropriations Committee
February 01, 2016

SENATOR MELLO: Yes, I think that is a component I think of the overall kind of concept of looking at evidence-based programming in the sense that there has been a national database created that Pew Charitable Trusts makes available to states that engage in their Results First Initiative. But it's also just generally available on-line. You don't have to engage. I mean you can get on-line today, download the database, and look at all of data sets and data sorts per specific kinds of programs to make a determination and see if there's any information available as it relates to your program. Now that's high-level information. It's not going to be able to show you except here's where we're getting data from, here's what the data was used for and what program. But it would still be able to give state agencies another perspective in regards to looking at existing evidence and research around the country, around a number of state policy programs, primarily social programs. In regards to identifying whether or not these programs fall within this category and if there's research available to them to make the determination to see if their program is evidence-based or it's not, that I think to some extent is kind of further down the road. It would be, I think to some extent, the hope would be is that we could enter into, once again, a joint partnership with both branches of government to kind of do a pilot project first in regards to doing more of the detail machinations of all with Pew. But the bill as it's drafted now once again, more importantly, just simply requires agencies to give us a list of all the programs that you have under your purview as a state agency and to essentially do a quick stock of whether or not this is simply a program that some senator created ten years ago and you've been implementing the program ever since then, or has this program gone through rigorous evaluations. Do you go through academic research and find ways to try to make this program yield certain results based on best practices around the country? I think to some extent it's just trying to look at, I think, state government in a different way and I think to some extent it provides a window for policymakers to ask maybe more questions. You may not get more answers, but it gives you the ability to ask more questions of state agencies on a number of programs in the budget process in the future. [LB1092]

SENATOR KUEHN: Thank you, Senator Bolz. Senator Haar. [LB1092]

SENATOR HAAR: Yeah, thank you. I like your bill. But as you've thought about this, for example, would it apply to Education? And the reason I bring that up is education is where people were looking at testing as a silver bullet, and it's sort of evaluation gone awry, in my mind. How does that balance into...? [LB1092]

SENATOR MELLO: I think if you look at the definition under the evidence-based definition on page 5, you look at subsection (iii), it kind of gives you a little bit generally of what a program or practice really is when we're talking about evidence-based. It's "susceptible to quantifiable benchmarks that measure service delivery, client or customer satisfaction, or efficiency." I think once again, Senator Haar, there are evidence-based programs obviously in the Department of Education. I wouldn't be shocked if you get...if this passes, becomes law, they provide a list back

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

Appropriations Committee
February 01, 2016

and say there are programs that are not evidence-based, I mean in regards to programs that have been created years ago that are not driven, so to speak, in regards to research and evidence when it comes to what the program's mission is and the intended outcome may or may not be. Once again, I think what it does is it provides a glimpse in regards to agencies taking a stock of their own in regards to what are we doing when it comes to the existing 15 or 20 programs that we have under our control, what kind of evaluations do we do, what kind of research do we do that helps impact decisions regarding this program, or is this simply something that we have that we simply implement year after year? We take money in, we give money out, and we just go through the process because that's what the state law requires us to do? My hope would be is it provides people...it gives people a reason to ask more questions... [LB1092]

SENATOR HAAR: Sure. [LB1092]

SENATOR MELLO: ...of state agencies and of existing programs. They're going to no doubt have people who will say this is evidence-based and this is not evidence-based, but really we make that determination based on the definition. I think it's fairly clear-cut, but if an agency wants to make an argument that something is or isn't, that's going to be left up to the agency to make that decision and then that information becomes available to the Legislature and the public to discuss. [LB1092]

SENATOR HAAR: And then there's the whole judgment of each of us that sits at this table then. Thank you very much. [LB1092]

SENATOR KUEHN: Thank you, Senator Haar. Any other questions? Thank you, Chairman Mello. Additional testifiers in support, proponents for LB1092. [LB1092]

RENEE FRY: (Exhibit 1) Good afternoon, members of the Appropriations. My name is Renee Fry and I'm the executive Director of OpenSky Policy Institute, and that's R-e-n-e-e F-r-y. And we're here in support of LB1092. We would, however, like to see it...we think this is a great first step but would love to see it actually taken even a step further. What I've handed out for you is an example of this that's been done in Washington State for a couple of decades, and we think that this is a really great model. This is the model that the Pew based their work off of. This was just the first page that I printed off for you to give you a sample of how this ends up working in practice. The great thing about it is that, one, they achieve better outcomes while also achieving a better return on tax dollars, which, Senator Kintner, I'm sure you would appreciate. So just to walk you through this a little bit, what they do in Washington is first they determine what works and what doesn't work to improve outcomes using a statistical technique called meta-analysis. Then they calculate whether the benefits of a program exceed its costs. And then, third, they estimate the risk of investing in a program by testing the sensitivity of their results. And so you

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

Appropriations Committee
February 01, 2016

can see there they've ordered, in terms of juvenile justice, which programs, what the benefit-cost ratio is, what percent chance it is that benefits will exceed those costs. So in terms of there was an example, the legislature was looking at improving high school graduation rates, the process for that project then was first to examine evidence-based public policies that could lead to improved high school graduation rates in Washington. Then they looked to see which of these public policies would also pass an economic test producing benefits that exceed costs. And then they looked at if Washington adopted a combination of the best policies, how could policymakers expect the state's high school graduation rate to change over the next decade. And then the last part of the project was to look at what the measurable benefits to Washington's economy and how could taxpayer costs of other public services, such as prisons or healthcare, be reduced if graduation rates increased. So that's the process in Washington. We think it is a great model, which again would be why Pew really looked to Washington and built this database based on what they're been doing in Washington for a couple of decades. So we're very supportive of LB1092 and we think it's a great first step. But we'd really love to see at some point the Legislature even go the next step and model something closer to what Washington is doing and the thoroughness of what they're doing. With that, I'd be happy to answer any questions.
[LB1092]

SENATOR KUEHN: Thank you, Ms. Fry. Questions from the committee? Senator Haar.
[LB1092]

SENATOR HAAR: Yes. Sometimes data...more data is just looked at as sort of the silver bullet. How do you, in this kind of situation, how do you sort out cause and effect from just correlation?
[LB1092]

RENEE FRY: I'm not an expert in this area. I've spent some time looking at what Washington does, but I think what they do is they look at very rigorous academic studies. So they're not...they're looking at a broad base of data, right? They're looking at a lot of different data sources rather than one single data source. And they'll set aside anything that isn't a really rigorous study in order to make their determination. And then again, they go and not only look at that cost-benefit but also the chance that it will succeed, right, and what the risk is. And so the way that they approach their work is very thorough and it's not just...and they're taking into effect all of the different outcomes around it. So they're not just looking, for example, with graduation rates. They're also looking at the impact on other services and in other areas. So it's...they're not, as I understand it, they're really not looking at anything in isolation but they're really taking a very holistic approach to the work they do. If you look at the staff for this Washington State Institute, you have a real variety of a lot of Ph.D.s in economics, that sort of thing, so very research-focused staff who's doing a lot of in-depth work. And so the approach that they seem to take really is very holistic and very broad, very steeped in research and very rigorous research.
And I don't know if that answers your question or not. [LB1092]

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

Appropriations Committee
February 01, 2016

SENATOR HAAR: Well, I mean it is kind of a dilemma we face with the world at our fingertips. Now with Google, you can find almost anything, any point of view. [LB1092]

RENEE FRY: Yeah, and I would say that they specifically...if they specifically look at the research, they use academic research to base their decisions on, and they will look at the design of that research. And so if they find that it has not been peer reviewed, that there are weaknesses with the modeling of that research, they discount it or they weight it appropriately. And so they're really looking for very rigorous academic research and they're looking for more than one source. If you look at their Web site and they talk about the process that they go through, they specifically say that they...when they're looking at making a decision, it's based on numerous studies, not just one study in isolation, so. [LB1092]

SENATOR HAAR: Well, this sort of, it follows up on the question Senator Watermeier had of is...and I like this approach because I like data. But using data is kind of tricky and it also...who paid for the research that went into this? Or is that an...does that become an expensive, more and more expensive component of the funding of agencies? [LB1092]

RENEE FRY: So the legislature funded this organization. A couple of decades ago they started it. If you look at the board--again, this is just Washington--but in Washington the board of directors is made up of a number of members of the legislature as well as the equivalent of the fiscal office, the governor's office is on the board of directors, and it's very nonpartisan or bipartisan. And so Washington made this investment in this institute a couple of decades ago for the purpose of doing this work, and that work is then directed by the legislature and the governor's office. So really what they're doing is they're taking these complex problems that the legislature is grappling with and they're asking this institute then to say, okay, our graduation rates are not where they should be; what is the evidence-based way to get us to better graduation rates, you know, 10, 20, 30 years down the road? And they'll review then all of the different programs that are utilized across the county; come back and say, these are the programs that work, these are the ones that don't, these are the projects that seem to...that we would recommend being packaged together to give you the best possible outcomes at the lowest possible expense. So it is an expense in order to fund this institute, definitely. That would be an expense that you don't currently have. And actually it would be a great question, considering that the institute is still operational and that Pew has now taken that and created a database. I'm sure that they found that it's been a really good investment. But in theory, you would see then you're weeding out the programs that aren't working, right, and you're investing more dollars in the programs that do work, thereby again you have the cost of these folks doing the work but you're potentially saving millions of dollars by not funding programs that don't work. [LB1092]

SENATOR HAAR: So doesn't Nebraska have an Institute for Public Policy right now? [LB1092]

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

Appropriations Committee
February 01, 2016

RENEE FRY: We have an institute at UNL. [LB1092]

SENATOR HAAR: Uh-huh. [LB1092]

RENEE FRY: They don't, as far as I understand, they don't do work quite like this. They may be able to if they were tasked with that and were able to hire the staff to do that, but currently they don't do this type of work. [LB1092]

SENATOR HAAR: Now do they do this across the board of all the programs, or do they concentrate like on here it's juvenile justice? [LB1092]

RENEE FRY: This is just one page. So their main issues: child maltreatment, crime, employment, housing, K-12 education, mental health, public assistance, public health, and substance abuse. [LB1092]

SENATOR HAAR: Okay. [LB1092]

RENEE FRY: That's sort of a summary of the big issues that they've been tackling. [LB1092]

SENATOR HAAR: But things like roads, I mean, so there are things outside there. [LB1092]

RENEE FRY: Well, yeah, I guess I don't know where roads...if that would come into play. That could be a subset of a different issue. [LB1092]

SENATOR HAAR: Okay. [LB1092]

RENEE FRY: But I think they're really going at it by, you know, okay...I mean obviously you all have been working very hard on trying to avoid building another prison, right? So if ten years ago there would have been some organization, an institute that works for the Legislature tasked with this to say, okay, we're going to be...we're going to hit overcrowding, what do we do now to really address that and mediate that. And, therefore, then they look at all the evidence across the country to figure out how we can reduce the number of folks that we have and all of that to really plan for the future. And it's tackling, from what I can tell, they're really tackling these big issues and trying to come up with the best combination of solutions that will be most effective at the least cost and are...have the greatest likelihood of being successful as well. [LB1092]

SENATOR HAAR: Thank you. [LB1092]

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

Appropriations Committee
February 01, 2016

SENATOR KUEHN: Thank you, Senator Haar. Senator Stinner. [LB1092]

SENATOR STINNER: This is similar to what I asked Chairman Mello about rank order, and this provides that. I'm interested, you know we talk about programs and evaluating programs that are existing. If we have a new concept, a new idea, who do we go to? How do we model it? It may be modeled. And I'm struggling a little bit with, say, early childhood development. We have a new concept or a new idea that comes out of a task force. How can I tell if that's the best way forward and think it's going to work? [LB1092]

RENEE FRY: I think that's exactly the issue that we have right now, right, and why this is so appealing. This... [LB1092]

SENATOR STINNER: Would this be the instrument that I would go to, though, to develop the model to try to see that cost-benefit? [LB1092]

RENEE FRY: Yeah. So the way that they would do in Washington right now...and actually there is a page on early childhood. [LB1092]

SENATOR STINNER: Okay. [LB1092]

RENEE FRY: So if you went to their Web site, they have done this analysis on early childhood. So you would go to this organization, this institute, and say, all right, let's talk about early childhood. [LB1092]

SENATOR STINNER: Yeah. [LB1092]

RENEE FRY: And they would say, okay, these are the programs that work, that are cost-effective, that have a high benefit-cost ratio; here are the ones that don't, just much like this process, and would help you as a legislator determine what's the right package to get the biggest bang for your buck with the greatest outcomes. [LB1092]

SENATOR STINNER: Right. But a new concept that nobody has thought about before,... [LB1092]

RENEE FRY: Oh. [LB1092]

SENATOR STINNER: ...would they also be somebody to go to? [LB1092]

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

Appropriations Committee
February 01, 2016

RENEE FRY: Probably not. As I understand, again, their research is really based on...I mean what they do is based on research. [LB1092]

SENATOR STINNER: Okay. [LB1092]

RENEE FRY: So if it hasn't been done before, I don't know that they would have any way to evaluate that program. But I don't... [LB1092]

SENATOR STINNER: You'd implement it and then accumulate data, I suppose. [LB1092]

RENEE FRY: What's that? [LB1092]

SENATOR STINNER: You'd implement it and then try to accumulate data and support the program. [LB1092]

RENEE FRY: Right. Right. Now whether that's within the purview of what they do, I can't answer that, but... [LB1092]

SENATOR STINNER: Okay. I'd also have to convince 48 other folks that sit upstairs. [LB1092]

RENEE FRY: Right. Right. And the other thing I would say right now that I think both Senator Mello and Senator Bolz alluded to, you know, the Pew has put together, they've funded this Washington State Institute to create a database, so there is a database that is available now. So if you wanted to go look and see in terms of early childhood, you wanted to look at this for early childhood, that is available right now. Wouldn't be specific to Nebraska but it would be national data and would give you an idea of the direction we should be going without quite the level of investment that Washington has made. [LB1092]

SENATOR KUEHN: Thank you, Senator Stinner. Any other questions? Senator Kintner. [LB1092]

SENATOR KINTNER: You know you couldn't leave without me asking you something, right? [LB1092]

RENEE FRY: Yeah. (Laugh) [LB1092]

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

Appropriations Committee
February 01, 2016

SENATOR KINTNER: Okay. Well, thanks for coming out. You said if the program is not working, quit funding it, which we're not very good at, at this point. At least in my three years we haven't done that a lot. If it's a good program, you put in more money. Do you perceive programs that are working that you say, leave them alone, don't give them more money, just let them do their job? Did that ever happen in your world? Have you ever seen it? Or do we have to put in more money in every program that's working? [LB1092]

RENEE FRY: Well, I think again it's you're making an evaluation, right? So if you have one program that's working and it's doing the job and it's providing the outcomes that you want, then, yeah, you leave it alone. You don't do anything different, right? But if that in and of itself, if you have a program that's working and a program that's not working and combined you're not getting the outcomes that you want, you get rid of the program that's not working. And you determine, okay, putting more money into the program that's working, will that get us the outcomes, or do we need to do something different to get the outcomes that we want? So I think it depends. But that's what this process would give us the ability to look and see whether we're getting the outcomes we want. And if we're not, then we can make an evidence-based decision about what we should be doing instead. [LB1092]

SENATOR KINTNER: All right. Thank you. [LB1092]

SENATOR KUEHN: Thank you, Senator Kintner. Senator Haar. [LB1092]

SENATOR HAAR: Yeah, just one more because...is getting the outcomes you want always a matter of the biggest bang for the buck? [LB1092]

RENEE FRY: No, not necessarily. Not necessarily. [LB1092]

SENATOR HAAR: Okay. And that's really an important part when you do this stuff, right? [LB1092]

RENEE FRY: Right. And so...and that's why I would presume Washington State lays out, you know, what the benefit-cost ratio as well as the chance that it will succeed too. [LB1092]

SENATOR HAAR: Uh-huh. [LB1092]

RENEE FRY: So I think there is a combination. I mean those questions are all important and it depends on the...and it depends on the outcomes that you're trying to achieve and whether you can achieve those outcomes with a program that will cost less, right? [LB1092]

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

Appropriations Committee
February 01, 2016

SENATOR HAAR: Uh-huh. Uh-huh. [LB1092]

RENEE FRY: Or whether you can't. I mean that's part of the evaluation, too, right? [LB1092]

SENATOR HAAR: Okay. Yeah. [LB1092]

SENATOR KUEHN: Thank you, Senator Haar. Any other questions for Ms. Fry? Seeing none, thank you. [LB1092]

RENEE FRY: Thank you. [LB1092]

SENATOR KUEHN: Other individuals who'd like to testify in support of LB1092? Individuals who would like to testify in opposition? Any who would like to testify in the neutral capacity? Hearing none, Senator Mello, would you like to close? [LB1092]

SENATOR BOLZ: Oh, shoot, I have a question. Come up. [LB1092]

SENATOR MELLO: I've got a bill up in Business and Labor right now as well. (Laughter) [LB1092]

SENATOR BOLZ: Fine. Go. That's fine. That's fine. [LB1092]

SENATOR MELLO: Thank you, Mr. Vice Vice Chairman. I'd be happy to answer any questions the committee may have. [LB1092]

SENATOR BOLZ: I guess I just had a comment and I thought you might have a reflection, and that is that much of today's conversation has been about programs. And I don't think that's your end goal. The end goal is government functioning. If the end goal is public safety, how do we get to public safety? And so I just wanted to make sure that we lifted our heads up above the weeds of different initial programs and reminded ourselves that this is about whether or not we are succeeding in our government capacities. [LB1092]

SENATOR MELLO: True. And this is, once again...I appreciate the questions from the committee. This is really, once again, to ease the concerns of others, this is a very minor, small step in regards to the consideration of evidence-based policymaking. It really is just trying to get information that's collected all in one place and to make that determination of whether or not there's evidence or research there. But thanks, Senator Bolz. You are absolutely right. There is a

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

Appropriations Committee
February 01, 2016

much bigger policy discussion and this simply helps us be able to answer those questions somewhere down the line. [LB1092]

SENATOR BOLZ: Thank you. [LB1092]

SENATOR KUEHN: Thank you, Senator Bolz and Senator Mello. No other questions, this closes our public hearing... [LB1092]

SENATOR MELLO: Thank you. [LB1092]

SENATOR KUEHN: ...on LB1092. [LB1092]