

**Appropriations Committee March 20, 2019**

**STINNER:** We will now open the hearing on a combined basis, Agency 71, Nebraska Energy Office and the Agency 84, Department of Environmental Quality. You get to speak for both, huh.

**JIM MACY:** I do. Good afternoon, Senator Stinner and members of the Appropriations Committee. My name is Jim Macy, spelled J-i-m M-a-c-y. I'm the Director of the Department of Environmental Quality, DEQ, and the interim Director of the Nebraska Energy Office. With the passage of LB302 on March 15, the Energy Office will merge into DEQ and be renamed the Department of Environment and Energy. A number of related functions and similar services will be enhanced for Nebraskans by taking a long-term strategic view towards protecting the environment and promoting energy efficiency policies. I support the Governor's proposed budget for the State Energy Office for aid and operations as presented in LB294. I would like to request the committee move the Energy Office, Agency 71 budget to the Environmental Quality--Department of Environmental Quality--Department of Environment and Energy, Agency 84, budget. We support the Governor's recommendation to consolidate IT resources into the OCIO and the agency was able to decrease appropriations by \$47,830 and PSL by \$139,604 in both fiscal years '19-20 and in fiscal years '20-21

related to the OCIO consolidation. Couple of notes regarding the budget: the agency requested to decrease the cash fund appropriation amounts by \$600,000 for Program 523, Wastewater Loan Fund, and eliminate the cash fund appropriations of \$1,732,000 for Program 528, Drinking Water Loan, in an attempt to align the cash fund appropriation with actual expenditures. Governor and the Appropriations Committee recommendation includes this request. The reduction in the cash fund appropriation will not impact Program 523 or 528 as federal funds are the primary source of funding. The agency requested and the Governor recommended a federal fund appropriation to administer the VW Settlement Fund. It has been determined that a cash fund should be used to administer these additional funds. I ask the committee to increase cash aid appropriation for Program 513 of \$2.5 million for fiscal years '19-20 and '20-21. I'd like to provide you a brief update on the Volkswagen Settlement Rebate progress. In September 2017, Department of Environmental Quality was designated by Governor Ricketts as the lead agency to administer funds allocated to the state from the Volkswagen Diesel Emissions Environmental Mitigation Trust for state beneficiaries, commonly known as the VW Trust Fund. As directed by the VW state trust agreement, these funds are to be used to undertake authorized actions to reduce nitrogen oxide emissions

in Nebraska. The initial allocation to Nebraska from the state mitigation trust is approximately \$12.25 million. DEQ filed forms with the court and with the trustee to certify Nebraska as a beneficiary of the trust. Certification was received on January 29, 2018. A mitigation plan was developed through a public input process. The plan describes which eligible mitigation acts-- actions Nebraska will pursue, the expected emission reduction benefits, and how these benefits will affect areas in the state that are disproportionately affected by air pollution. The overall process is receiving applications, selecting eligible projects, requesting funds from the VW state trust, signing those agreements, and reimbursing the applicant upon project completion. These funds can only be expended for specific actions designated to reduce NOx emissions in conformity with the terms of the trust. Lastly, I'd like to discuss the committee's preliminary recommendation that include budget modifications which total \$88,795 in-- in fiscal year '19-20 and \$120,666 in fiscal year '20-21. The modifications are Non Intended Use Plan, or IUP, State Revolving Fund engineering reviews, Environmental Council of the States membership, and the National Association of Clean Air agencies memberships. I will briefly discuss each budget modification. The Non Intended Use Plan, State Revolving Fund engineering reviews are to ensure

proper design for all industry and business wastewater construction projects not eligible by the State Revolving Fund money. The reduction of the general funds will reduce our ability to provide timely service to those customers. We request this modification not to be included in your final recommendation and reinstate general funds appropriations of \$71,190 in fiscal year '19-20, and \$103,070 in fiscal year ' 20-21. The other two modifications are reduction of general funds for the ECOS membership and a reduction in general funds for the NACAA membership. As stated in our budget submission, we can switch to alternative sources of funding to continue these memberships. With these two reductions, we would--which we would accept, it remains more important to have our general funds reinstated for the Non Intended Use Plan, State Revolving Fund engineering reviews. I appreciate the work of this committee in your difficult task to create and craft a workable state budget. This concludes my comments. I'd be glad to answer any questions that you might-- might have.

**STINNER:** Questions? Senator Wishart.

**WISHART:** In light of the recent flooding, can you fill us in on-- what are some of the-- the water quality issues that people may be facing in terms of chemical runoff or sewage, and what

can we do to help as an Appropriations Committee to help you do the work you need to do in that space?

**JIM MACY:** Well, as Director Wellman indicated to the committee, our agencies have all been working together at the Nebraska Environmental Management Agency and-- and this is day eight of that emergency. Just today we were all over in the center and there's 84 cities, 74 counties, 4 tribal areas, and 5 special government emergency declarations declared in the state. There's most of our counties and communities have had problems and we're just trying to assess all those. And we are actively out engaging other relationships we have with our federal partners. We're looking at bringing the Environmental Protection Agency in to do some special water quality monitoring testing, and also working with NEEMA officials on-- on after the flood waters recede, we're going to find all kinds of parts and pieces of people's businesses and lives scattered among a lot of Nebraska. And we have these agencies can come in and help us do some damage assessment and actually take care of some of those mitigation activities that we will have to do to get like hazardous waste barrels and propane tanks and things like that. So we're right in the middle of that. I'll deferral a little bit of time to see after the floodwaters recede if we have

additional requests. But I appreciate your concern and your support for our agency and how we're trying to help Nebraskans get through this.

**WISHART:** Thank you. The one other question pertaining to that is I was made aware that there was a water pipeline that was disrupted in the Niobrara area. And I was just wondering who-- who is responsible for looking at all of the pipelines in this-- in these flooded areas to ensure that there isn't leakage and that there isn't an additional environmental quality hazard?

**JIM MACY:** I believe you're addressing a drinking water pipeline up in that area and our agency is responsible with Health and Human Services for those activities. And we did meet telephonically with, and in person, with some of our field reps up in that area, and are assisting actively to get that community back on water and producing safe water.

**WISHART:** OK, and then what about the other-- like other pipelines, other infrastructure underground, where we might not see the immediate impact, who is responsible for that, and again, what can we do on the appropriations side?

**JIM MACY:** Well, we-- we are-- that's the beauty of combining the Energy Office and DEQ, and thank you all for-- for that support

also. We have a combined shared responsibility to review pipelines and-- and that-- that job we are currently doing as we sit here and have this discussion. So again, after the flood waters recede and we hear-- we have no current input that we have pipeline damage outside the drinking water line that we earlier talked about. But that-- that is a minute-by-minute activity that we're engaged fully with.

**WISHART:** Well again, please do tell us what we can do from this committee's capacity.

**JIM MACY:** I appreciate that.

**STINNER:** Additional questions? Senator Dorn.

**DORN:** Thank you, Chairman Stinner. And mine is more of a question. You had LB302 as passed and-- on March 15. When are the two agencies officially combined, or what's that-- or is it just a general flow?

**JIM MACY:** Well, the governor will sign that and then we would have to-- July 1, basically, would be the effective date.

**DORN:** July, OK, thank you.

**JIM MACY:** It aligns with state budget timelines that way.

**DORN:** Thank you.

**STINNER:** Additional questions? I have a couple of them, and I guess I'm reflecting on your request that we modify back the General Funds appropriation of \$71,103. And when I looked at your budget, I noticed that you did have a carryover of \$216,000 General Funds, which is fairly snug. So when I looked at the appropriations that we had for cash, \$17.5 million versus \$15.6 that we used, there's extra appropriations in that, as well as the fed. And so, I was reflecting upon the fact that you probably identified a cash fund that you could use, or fed funds that you could use and move this out of the General Fund category, that was my thinking. Now, tell me where I was wrong on that thinking.

**JIM MACY:** Well, we were all thinking differently eight days ago too. So there's a lot of activities among 84 cities and 74 counties and 5 special government agencies. Those are the villages that are-- or are unnamed communities that aren't real formal that we're trying to help serve. Some of those won't be able to-- to engage in the State Revolving Fund activity that help restore their services. And we'll need to do some engineering work to help those communities stand back up.

**STINNER:** OK. But that would be an emergency situation and we could take a deficit request or something along those lines.

**JIM MACY:** We could.

**STINNER:** But we do have extra appropriations on the cash side as well as the fed side. So, I'm just wondering out loud, do you really need to have that much allocated to General Funds or can we-- General Funds money is really tight. That's why-- I'm looking for opportunities to move some General Funds down into cash, as long as we can do what we're supposed to do within the scope of your job. So, we will---

**JIM MACY:** Let us talk.

**STINNER:** We'll entertain whatever you want for emergency side. We definitely will keep in contact with you. Any additional questions? Seeing none, thank you.

**JIM MACY:** Thank you.

**STINNER:** Additional proponents? Seeing none, any opponents? Seeing none, anyone in the neutral capacity? Seeing none, that concludes our hearing of Agency 71 and Agency 84.