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Appropriations Committee
March 12, 2007

[LB420]

The Committee on Appropriations met at 1:30 p.m. on Monday, March 12, 2007, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB420, and agency budgets. Senators present: Lavon Heidemann, Chairperson; Lowen Kruse, Vice Chairperson; L. Pat Engel; Tony Fulton; John Harms; Danielle Nantkes; John Nelson; John Synowiecki; and John Wightman. Senators absent: None.

SENATOR HEIDEMANN: Welcome to the Appropriations Committee. To get started here, we'll introduce a few people. Starting over there the committee clerk's name is Kendra; sitting next to her left is Senator Danielle Nantkes, from Lincoln, District 46; sitting next to her left is Senator John Wightman, from Lexington, District 36; sitting next to his left is Senator John Synowiecki, from Omaha, District 7; sitting next to his left is Senator Lowen Kruse, from Omaha, District 13, he also serves as Vice Chair of this committee; my name is Senator Lavon Heidemann, from Elk Creek, District 1. This is Jeanne Glenn, a fiscal analyst; sitting next to her left is Senator Pat Engel, from South Sioux City, District 17; Senator Tony Fulton...as we speak, Senator Tony Fulton is coming in, he's from Lincoln, District 29; sitting next to his left is Senator John Nelson, from Omaha, District 6; last but not least Senator John Harms, from Scottsbluff, District 48. Our page for the day, who is distributing things, his name is Kirk. At this time we ask if you have cell phones, if you would please turn them off, we sure would appreciate it. Testifier sheets are on the table and near the back doors. Fill out completely and put in the box on the table when you testify. You do not need to fill out this form if you are not publicly testifying. At the beginning of the testimony, please state and spell your name for the record and for transcribers following. Nontestifier sheets are near the back doors, if you do not want to testify but would like to record your support or opposition. If you have printed materials to distribute, please give them to the page at the beginning of the testimony and we'll distribute them for you. We also ask that you please keep your testimony concise and on topic, under five minutes would be appreciated. With that, we will open up the public hearing on LB420. Senator Phil Erdman. [LB420]

SENATOR ERDMAN: (Exhibit 1) Mr. Chairman, members of the Appropriations Committee. My name is Philip Erdman. I represent the 47th Legislative District. And some of you probably thought this day would never come, that I would be before the Appropriations Committee. And I fully understand any previous endeavors that we have had that may affect your decision on this bill. However, I still come before you in whole sincerity to introduce LB420. I'm going to briefly go through what the bill does, and then give you some larger reasons on why I think this is the right policy decision for the state. There are others who will testify, both pro and con, and then there will be some individuals in a neutral position as well. LB420 with AM43, which is the amendment that Kirk had distributed to you at my request. AM43 makes a technical change that was an oversight in the drafting of the bill. But LB420 with AM43 creates the Agriculture

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

Appropriations Committee
March 12, 2007

Research Fund, in the Nebraska Department of Agriculture, to be used for funding agricultural research projects in facilities across Nebraska. The revenue source for this fund is provided by changing the current distribution of the state's cigarette tax. Agriculture is the leading industry in Nebraska. Continued research and innovation offer significant opportunities to continue a successful future for agriculture in this state. Recent analysis has found that each dollar of investment in agricultural research has returned at least \$10 in economic output and savings. That additional funding has also been a beneficial economic ripple effect on businesses and communities statewide. LB420 also changes the current distribution of the cigarette tax to continue, excuse me, to contribute additional funds to the Water Resources Cash Funds administered by the Department of Natural Resources. As water issues continue throughout Nebraska, ensuring Nebraska dedicates adequate financial resources to water must be a priority. It is essential that we continue to research, develop, and implement effective water policy. As the chair of the Ag Committee, we've had some pretty high level discussions and interesting discussions about the impact of many of the issues in agriculture today. You're going to hear testimony from groups that want to explain to you a little bit how the food versus fuel debate has begun or is at least being conducted, and the need for ag research to determine other ways that we can do some of these projects. Now, obviously, there is some interest on the national level in cellulosic and other ethanol sources. But it doesn't really address the issues that we face in the state of Nebraska. Obviously, number two yellow corn, \$4 a bushel is a big deal; it's positive for a lot of folks, unless you're trying to buy it to raise cattle. There's a lot of impact on the ethanol expansion in the state of Nebraska. I think there's a value in doing some ag research and helping with that. And there's a lot of other broader things that you're going to hear about as well. The other portion of LB420 that I think is important to also talk about is the fact that this changes a philosophy that I think the Governor has proposed to the Legislature on how we fund some of the long-term water projects. This would redistribute existing funds instead of going back to the well and asking the farmers themselves to put in the \$13 million that is in the Governor's budget, under water resources. So it's a similar goal, it's a different tactic. I understand the realities of this bill. This bill asks you, as a committee, to vote affirmatively to take \$1.5 million from the city of Omaha, which has been pledged for their redevelopment projects, and \$1 million annually from the city of Lincoln, which has been pledged for their redevelopment projects, and in turn redirect it to these two programs: the Ag Research Fund, and this Water Resources Cash Fund. You know, it's probably not the logical place to look, if you were trying to find something that was politically successful. Those of us that are small thinkers look for low hanging fruit. This was a place to start. I firmly believe, and hopefully you'll hear this testimony today, I firmly believe that this is something that we either have to do directly or indirectly in this state to make sure that the projects and the tools that we need to have in rural Nebraska, but all over Nebraska, and the university is a vital part in a lot of these research projects, gives us the information, gives us the expertise, and gives us the knowledge to be successful. Obviously, the city of Lincoln and Omaha have been successful because of their development efforts. It's kind of

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

Appropriations Committee
March 12, 2007

ironic that I would see this effort as somewhat similar for the rest of the state because of the interest that ag has and the impact that these types of development projects, both in water and in ag research that contribute to new, viable industries, have for their future development. So I understand the obvious opposition, and I believe you'll hear wholeheartedly from the League that they're not opposed to this idea, they're just opposed to losing their funds to do it. And I think that's fair. I just wanted to make sure that the committee was aware that I believe this is something that is essential for the state to look at, and believe that, whether this is the right approach or not, that we seriously need to be considering ways in order to provide these avenues and this type of information to the citizens of the state to be successful. [LB420]

SENATOR HEIDEMANN: Thank you for your testimony. Just out of curiosity, I'll start questions and we'll hopefully follow up with some others, at least as a member, I don't know if the Appropriations Committee as a whole, tries to keep the process as pure as possible. We probably try to fight dedicated funds or earmarking. What's your general belief on that? [LB420]

SENATOR ERDMAN: I opposed LB657, I believe that was the number, when it was passed partially for that reason. Obviously, I thought it would be more appropriate to allow those funds to be appropriated as opposed to dedicated without going through the source. I think that horse is out of the barn. I think it would be appropriate for us to try to maintain the opportunity for appropriations on dedicated sources and not simply earmark them. I would generally agree with that philosophy. So to answer your question, I mean obviously this continues that philosophy that I didn't support. But obviously now that we have made that decision, I would argue and hopefully effectively so that this would rise to that same level that the folks in Lincoln and Omaha conveyed to the Legislature in 2001, that for the benefit of the state of Nebraska it is that essential to dedicate those. But I would be willing, you know, in the event that there was another vehicle that would be appropriate as well. Like I said, it was low hanging fruit, in my opinion, to redirect those funds, and that was where we started from. And I tend to have that hesitancy as well to dedicate funds. But again we're continuing existing policy, not creating that wheel. [LB420]

SENATOR HEIDEMANN: And if we decide not to use these funds and actually just appropriate \$2.5 million of General Funds, adding that to the budget, increasing our spending, would you support that? [LB420]

SENATOR ERDMAN: With an appropriate offset, sure. And I think that's my philosophy. If it came to the point, Mr. Chairman, if what you're asking me is if I would be willing to spend these \$2.5 million in addition to what you, as a committee, would come up with, I think that's a decision we have to make at a different point. Hopefully, what you'll hear from the testimony today is the compelling need, whether it's this proposal or something else, for this type of focus and the ways that we can go about accomplishing that. So

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

Appropriations Committee
March 12, 2007

my philosophy is well aware to most of the committee members who have been here, is to try to do offsets and try to do things that don't expand spending but set priorities. And candidly, this, to me, rises to one of those priorities. [LB420]

SENATOR HEIDEMANN: I actually support what you're trying to do. It's just curious where you're looking for your funding sources. Senator Wightman. [LB420]

SENATOR WIGHTMAN: A couple of questions. Do you think that the city of Omaha and the city of Lincoln will consider this low hanging fruit? [LB420]

SENATOR ERDMAN: I think they would probably put this on the top shelf, behind lock and key. So, no, I don't think they see it that way. [LB420]

SENATOR WIGHTMAN: I expected that. The other one is, now this money would be used in research to enhance the promotion of agricultural products and maybe to develop new products. Is that correct? Do you see this as also leading down the road to a new department at the University of Nebraska or wherever they would do this research or add personnel to our budget? [LB420]

SENATOR ERDMAN: Senator Wightman, that is, I think, a fair observation. The candid answer is no. The bill is designed, and short of the folks that would administer the program as far as the dollars, it would be my intention that as much of that money actually be distributed, whether it's to the University of Nebraska for research projects, whether it's to other entities across the state. We've heard bills in front of the Ag Committee that are asking for funds in dealing with biodiesel and how we would be able to avoid some of the same food versus fuel debates that are going on in the ethanol industry with the soybean industry. I would think that the way this was set up or at least my intention would be that we would do it similar to the way that we do other grant programs, specifically value-added grant programs where a majority of the money is actually given out in these types of scenarios and it doesn't lead to new government agencies or personnel, it's simply an administrative option that once we determine the process that minimal money is used for administrative costs, and a maximum amount of that money would be actually distributed for the purposes of accomplishing these goals that are needed for ag research in the state as well as water issues. [LB420]

SENATOR WIGHTMAN: That's always a fear I have that in doing that, are we creating some more bureaucracy that is going to cost the state a lot of money down the road? I guess one more question, and that would be, if we considered that Lincoln and Omaha maybe should retain their funds, and we did have a request to expend all of the General Fund portion of this revenue on the highway, either the Trust Fund or the Allocation Fund, earlier last week. Would you want to compete with the Highway Allocation Fund as far as having a portion of the money? [LB420]

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

Appropriations Committee
March 12, 2007

SENATOR ERDMAN: Senator, I think if the committee would choose to deviate from our existing policy in how funds are appropriated, I think that ultimately will be a decision by all of us. On whether or not it rises to that level of priority, some would argue that it's more appropriate or more important to have funding for highways in the state due to the reducing federal funds and the needs that we have statewide for those types of programs. It's been said that you need four-lane highways or at least sufficient highways to have economic development. Candidly, if you don't have highways to take the corn to market, and to get the cattle to the feed yards, and to do those types of things in rural Nebraska some of those highways may not be necessary. So I think it goes hand-in-hand. I would make the argument that there is room for this type of priority. But I recognize that others have different opinions and would be willing to work through that political process to try to arrive at some realistic priorities that I think are essential for the future of our state. [LB420]

SENATOR WIGHTMAN: I see in the fiscal note, I see \$2.5 million, then I see \$1.5 million. Can you tell me, are you now asking for \$1.5 million? [LB420]

SENATOR ERDMAN: No, and that's...let me clarify. There are two provisions in the bill. The money from the Omaha fund or the Omaha project, as I would call it, goes to the Ag Research Fund, that's \$1.5 million. The money from the Lincoln project, the Antelope Valley and those other projects they're working on, is the other half or the other part of that, and that goes to the Water Resources Cash Fund. So it is a \$2.5 million redistribution of cigarette tax funds. It's a total of \$2.5 million, \$1.5 million goes to the Ag Research, \$1 million goes to the Water Resources Fund. [LB420]

SENATOR WIGHTMAN: Thank you. [LB420]

SENATOR HEIDEMANN: Senator Engel. [LB420]

SENATOR ENGEL: Senator Erdman, I, too, voted against LB657 that time,... [LB420]

SENATOR ERDMAN: Thank you, congratulations. [LB420]

SENATOR ENGEL: ...if you recall. But the thing is in fact we had a little fun with that one. But the thing is the commitment was made. And I realize that we cannot bind any future Legislature, so this can be changed at...any new Legislature can change it to change that commitment. But, of course, it would now put a burden on the people in the city of Lincoln and Omaha as far as raising property taxes. And, of course, that's a big issue this year. [LB420]

SENATOR ERDMAN: And that's a valid point, Senator Engel. And I understand the city of Lincoln has maybe some more difficult financial positions than the city of Omaha, at least from my understanding. I don't necessarily buy the argument that ultimately that

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

Appropriations Committee
March 12, 2007

would be what would happen. We as a state have expanded the tax base on sales tax that cities have benefitted from, and I think they're grateful for that in the past. Obviously, if they didn't have any other way to do that, they may turn to that source of property taxes to help offset this. But I understand that the collateral effects, if you will, of this type of decision, should the Legislature go forward, and the impact it would have on property taxes. At the same time, you know, most communities the size of Lincoln and Omaha have property tax valuations growing at 10 percent annually or at least close to that. Their large growth and development that assists, I think, as well in lowering their rates more than what they would ordinarily. But I understand all of those issues, recognized both in the fiscal note and in reality that would be one of the things that they would likely use to argue against this scenario, both for them to be able to lower the property taxes or to keep it low for their constituents, as well as to maintain this funding. And again like I said, I don't know that this is the right way to do it. What I'm hoping the committee is hearing from me is that this is a compelling need of the state. Whether or not it rises to this level and this funding and this tool, I think is openly subject for debate and welcome that. But I do think that we need to have a renewed focus in these two areas. And there may be other ways of accomplishing them. [LB420]

SENATOR HEIDEMANN: Senator Kruse. [LB420]

SENATOR KRUSE: I affirm your project and your concern and the process in which you go at it, Senator, here. This is something that we need to look at. Just make a comment, which you're well aware of, and you somewhat referred to. But one of the problems of being on this committee is that when we put it into one pot, everybody in the state gets all shook up because we're increasing something. But if we put it in another pot, they just ignore it. So obviously the pot it comes out of is in the back of our head all the time. Is there...does your bill open up any statute that would allow us to change the cigarette tax? Or is that...I'm not acquainted with that section of statute. What I'm thinking about is the approaching border bleed that's going to come. I'm really concerned about that. The people from Iowa are going to be racing over to Nebraska to buy cigarettes, and we can't be letting these cigarettes go across the border. So can we kind of balance out the increase in tax that they are doing so that we can pay some of our bills without it showing up on the budget? [LB420]

SENATOR ERDMAN: Senator Kruse, I think if you look, starting on page 3, which is the existing language of 77-2602, that section, I believe, begins the process of outlining the tax requirement of 64 cents a package, going through, I think that's an entire section that concludes on page 7. So it is in there. And obviously that's a decision that you would have to make. I'm sure the individuals affected would have a say in that as well. But, you know, again it's your decision how you choose to proceed. Your point is well noted. [LB420]

SENATOR KRUSE: I think we could get some votes from Iowa for that. So that would

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

Appropriations Committee
March 12, 2007

help. Thank you. [LB420]

SENATOR HEIDEMANN: Senator Fulton. [LB420]

SENATOR FULTON: Thank you, Senator Erdman, for joining us today. The Water Resources Cash Fund. Probably should have done more homework on this, so I'm hoping you might be able to better inform us how this...were this proposal to move forward, how does that affect the Governor's plan for funding of the Water Resources Cash Fund? And we have a plan, too. But I'd like to hear how this would integrate or if you could comment on that. [LB420]

SENATOR ERDMAN: I would. And that's a fair question, Senator Fulton. Section 2 of the bill on page 2, refers to the exact same fund. We're not creating the fund any different than the Governor has. It's my understanding that this would be the same...this money would go into the same fund, in the event that the Appropriations Committee or members of the Legislature as a whole would choose to reduce those other proposals, those policy decisions that the Governor has put on the table, I think that would be fair game. But it's not designed to offset that at this point, given the fact that there are probably some political hurdles that this proposal faces, and not to try to do both, but to simply see where we're at to start with. But it would add to the same fund. It would be the same intent that the Governor has outlined in his Water Resources Cash Fund that would be administered by the Department of Natural Resources. So it would be a compliment to that. In the event that we, as a Legislature, would decide that it was overly complimentary, we could reduce some of those other obligations that the Governor has in mind from say the excise taxes on crops or other areas. So it's in addition to that. And it's not done to offset, candidly because we had drafted the legislation before we were aware of the Governor's proposal. [LB420]

SENATOR HEIDEMANN: Are there any other questions? Seeing none, thank you for your testimony. Will you be back for closing? [LB420]

SENATOR ERDMAN: I would love to. Since it's taken me seven years to get here, I'll probably try to make the most of it. Thank you. [LB420]

SENATOR HEIDEMANN: Is there any other testimony in the proponent capacity on LB420? [LB420]

PETE McClymont: Senator Heidemann, members of the committee, I'm Pete McClymont. P-e-t-e M-c-C-l-y-m-o-n-t. I'm vice president of legislative affairs for Nebraska Cattlemen and I'm here in a supportive manner. I'd like to thank Senator Erdman for introducing this. And like Senator Erdman, I am small in stature and a small thinker as well. So I'm ready for anything. (Laugh) Just the highlights of this. Obviously, I recognize the fact, being a new resident of Lincoln, I don't want to short my new home

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

Appropriations Committee
March 12, 2007

\$1 million that they would like, and obviously my good friends in Omaha would like \$1.5 million as well. So I understand the challenges there that you have as a committee. Obviously, the Ag Research Fund is a huge thing as you, Senator Kruse, and you, Senator Nelson, heard at the urban ag lunch today that Nebraska is sitting on the cusp of being the primary player in ethanol in the United States. And there is research that is absolutely necessary to what we have to do to maximize our efficiencies that isn't even being done at the federal level. So obviously we would like to urge our congressional delegation at the national level to try to get USDA to get more funding to do things like enhance corn yields that we need to have to supply the ethanol industry. But Dr. Ken Katzman was the presenter today, and he is one of the leading experts in bioenergy in the United States. So he would be somebody that would obviously be a great benefactor. And we as Nebraska cattlemen have worked very hard to try to be supportive of the university and all the great things they are doing in ethanol. Obviously, this would benefit research and facilities. And those would obviously have to be included in this to make sure the research is done. And obviously, as we talked about earlier with what Senator Erdman talked about, the natural resources and you, as members of the Unicameral, have a difficult job with water issues that will be coming up in LB701 and LB458. Those are tough decisions. But part of the issue with research that's imperative is the food versus fuel, as we heard this noon over our presentation, and what we can do as a state to lead this. But I'd just like to say in closing that I think the intent is good, obviously. The robbing Peter to pay Paul, obviously, has some challenges that have to be considered here. But we would be supportive of this bill. And I would be happy to answer any questions, Mr. Chairman, if you have any. Thank you. [LB420]

SENATOR HEIDEMANN: Are there any questions for Pete? Looks like we're going to leave you off easy. [LB420]

PETE McCLYMONT: All right, thank you. [LB420]

SENATOR HEIDEMANN: Is there any other testimony in a proponent position? Seeing none, is there any testimony in the opponent position? [LB420]

STEVE HUBKA: Senator Heidemann and members of the Appropriations Committee, my name is Steve Hubka. I'm the budget officer for the city of Lincoln. And as you probably surmised from the discussion already, I'll be testifying in opposition to LB420. The reason the city is strongly opposed to LB420 is that it eliminates the funding source that the city is using to pay for the bonds that the Legislature authorized in 2001. In 2001, the Legislature created the Primary Class City Development Fund and codified this act in state Statute, Section 19-102. The Legislature further authorized the city to issue bonds secured by this revenue in state Statute, Section 19-104. The proceeds from the bonds were used to fund various capital construction projects in the city of Lincoln's Antelope Valley Development Project. The bond issue generated \$10.7 million,

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

Appropriations Committee
March 12, 2007

of which \$9.4 million was used to pay for state and university projects that were impacted by the flood control and road improvements in this project area. If the Legislature passed LB420 in its current form, you would jeopardize a security pledge made to the bondholders, as well as jeopardizing the city's credit rating. It would also set a bad precedent for the state to not honor the commitment it made in 2001. And just in response to one of the comments made earlier, we have seen a couple instances where our property values have gone up over 10 percent in the last 12 to 15 years. However, we've also lowered the tax rate by 42 percent. So the only increases we've taken in revenue from property tax has been from real growth in the tax base, not from any of these revaluations that caused large jumps. If you have any questions, I'd be happy to respond to them. [LB420]

SENATOR HEIDEMANN: Are there any questions for Steve? Senator Nelson. [LB420]

SENATOR NELSON: Is that an ongoing commitment, \$1 million a year for a time certain? Could you tell me a little bit about that. [LB420]

STEVE HUBKA: As I read the bill, the way it was originally done it was until June 30, 2016, and the bill changes it to 2008. So about eight or nine years of \$1 million a year is eliminated. And that's the money we had pledged for the bonds. [LB420]

SENATOR NELSON: All right, okay. [LB420]

SENATOR HEIDEMANN: Is there any other questions? Seeing none, thank you for...Senator Synowiecki. [LB420]

SENATOR SYNOWIECKI: The city of Lincoln, they have a pretty restrictive smoking ban, don't you? [LB420]

STEVE HUBKA: Yes, very restrictive, obviously. [LB420]

SENATOR SYNOWIECKI: And this income to the city comes from the sales tax on cigarettes? [LB420]

STEVE HUBKA: Comes from cigarette tax itself, I believe. [LB420]

SENATOR SYNOWIECKI: Wasn't there previous legislation, last year, that tried to closely examine that? [LB420]

STEVE HUBKA: I can't answer that question. I'm not familiar with that. [LB420]

SENATOR SYNOWIECKI: Okay, thank you. [LB420]

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

Appropriations Committee
March 12, 2007

SENATOR HEIDEMANN: Any other questions? Seeing none, thank you for your testimony. [LB420]

STEVE HUBKA: Thank you. [LB420]

SENATOR HEIDEMANN: Is there any other testimony in the opponent position? [LB420]

JACK CHELOHA: Good afternoon, Senator Heidemann, members of the Appropriations Committee. My name is Jack Cheloha. The last name is spelled C-h-e-l-o-h-a, I'm the registered lobbyist for the city of Omaha. I'd like to testify in opposition to LB420. At the beginning of this session, I remember running into Senator Erdman in the hallway, and he nonchalantly asked me if I would be opposing his bill, LB420. And I have to admit at the time I didn't know what it was or what it did, but boy are we opposed, and here I am. I remember sending an e-mail out to our finance director and said, here, you might want to take a look at this bill. And her reply came back with at least three of those exclamation points, you know, how you get on your Outlook. In 2001, LB657 was passed by the Nebraska Legislature. And that bill was introduced at the bequest of then Governor Mike Johanns to, if you will, help fund a project in Lincoln relative to the Antelope Valley. And then in Omaha it funded something called the City Metropolitan Class Development Fund, which essentially is a project along our river front, along the Missouri River. But with that it was even more specialized. At that point in time there was a certain company in the state that was headquartered in Lincoln. And they were thinking about building their headquarters in a different state. But yet through negotiations and some other things a deal was arranged where we were able to keep their headquarters in the state. It just happened to be located then in Omaha. And they picked a site which was on the river front, which at that point was undeveloped. So we had to do significant work relative to street improvements, laying of sewer lines, sewer, curbs, gutters, etcetera. And so with that it was agreed to that the state, as a partner, would help fund that project. And so the city of Omaha does receive \$1.5 million a year, at that time it was envisioned for 15 years, the total would be \$22.5 million, if it lived through the life of its 15 years. With that there were provisions in LB657 that the city of Omaha had to put up funds on a 1 to 3 ratio, so at a minimum we had to put up at least \$8 million towards this project. I don't have exact figures, but our finance director, in phone conversations with me, has extended that we've spent upwards of up to \$50 million in terms of improvements and things along that line along the river front. Likewise, we've issued bonds with this revenue stream pledged as a way to repay it. If for some reason we would lose this \$1.5 million, we'd have to raise our property tax by three-fourths of 1 cent to make up the difference or that's roughly three-quarters of 1 cent equals \$1.5 million in the city of Omaha. As Senator Erdman said, he's correct. We don't have any qualms about the underlying program that he's talking about. I'm sure they have great merits to them. We have issues of concern relative to water. A number of our headquarters and businesses in Omaha deal with ag and ag products. And so

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

Appropriations Committee
March 12, 2007

we're just asking you, this committee, to look for a different funding source. So I'll try to answer any questions you might have. [LB420]

SENATOR HEIDEMANN: Senator Synowiecki. [LB420]

SENATOR SYNOWIECKI: Jack, didn't the city of Omaha adopt a smoking ban? Maybe not quite as restrictive as Lincoln's, but... [LB420]

JACK CHELOHA: Yes, Senator, they have adopted one. [LB420]

SENATOR SYNOWIECKI: And this funding stream comes from tax on cigarettes, doesn't it? [LB420]

JACK CHELOHA: It does. [LB420]

SENATOR SYNOWIECKI: Isn't it possible that when the city takes action, whether a vote by the people or by the elected representatives, that sometimes there are unintended consequences of that action? [LB420]

JACK CHELOHA: I can agree with that. I think that happens. [LB420]

SENATOR SYNOWIECKI: I can't speak for the introducer, Senator Erdman, but don't you think that there is some timeliness with this relative to where we're at now on...I'm looking at it from the revenue side of the picture. [LB420]

JACK CHELOHA: (Laugh) No, I understand. [LB420]

SENATOR SYNOWIECKI: I would be...it would be my guess that pre-ban, we got a ton of money from the metropolitan area of Omaha and from the city of Lincoln relative to revenue coming in from cigarette taxes. [LB420]

JACK CHELOHA: Right. [LB420]

SENATOR SYNOWIECKI: I would imagine it was substantially more than it is now. And again, I can't speak for Senator Erdman, but don't you think that in sense of timeliness, there's something that we should probably take a look at here? [LB420]

JACK CHELOHA: Well, that may be true, Senator. But at the same time, I mean the majority of the population reside in these two cities. And I don't have any statistics on who smokes or doesn't smoke, but you know I think they still sell cigarettes in each of those respective cities, and the revenue still comes from those residents. [LB420]

SENATOR SYNOWIECKI: But don't you think that's within the scope of this committee

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

Appropriations Committee
March 12, 2007

to look at stuff like that, to look at issues such as that? [LB420]

JACK CHELOHA: Oh, absolutely, I think that's absolutely fair, Senator. [LB420]

SENATOR SYNOWIECKI: Thank you. [LB420]

SENATOR HEIDEMANN: Any other questions for Jack? Seeing none, thank you for testifying. [LB420]

JACK CHELOHA: All right, thank you. [LB420]

GARY KRUMLAND: Senator Heidemann, members of the committee, my name is Gary Krumland, it's spelled K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities and appearing in opposition to LB420, mainly because of the funding source that you've heard from both Steve and Jack. We have no opposition or don't oppose the intent of the bill, but we do have concerns about taking away the funding source from Omaha and Lincoln. As you heard, both of those cities have relied on this and issued bonds and would be in a real bind if the money was taken away. So I won't repeat what they both said, but we do want to go on record. [LB420]

SENATOR HEIDEMANN: Well, thank you for being brief, we do appreciate that. Is there any questions? Seeing none, thank you for your testimony. [LB420]

GARY KRUMLAND: Okay. Okay. [LB420]

SENATOR HEIDEMANN: Is there any other testimony in the opponent capacity? Seeing none, is there any testimony in the neutral capacity? [LB420]

GARY CUNNINGHAM: Chairman Heidemann, members of the committee, thank you for allowing me to speak as you consider LB420. My name is Gary Cunningham. I'm the dean of the Agricultural Research Division of the University of Nebraska. I feel a little reluctant, now that I've heard all of the testimony coming before me, to say anything at all because most of these folks have spoken fairly highly of the benefits of funding agricultural research, which is what I intend to talk about. I want to talk to you a little bit about the value of agricultural research and the value of an Agricultural Research Fund for the state of Nebraska. I want to emphasize, however, that I am not advocating any particular method for funding agricultural research. I think you have already pointed out this afternoon that you are the experts on how things should be funded. So I will leave that up to you. And I will talk about the things that I have some expertise in, mainly agricultural research. I'm sure that the importance of agriculture to the state of Nebraska is familiar to all of you. I'd like to point out though, in case you have forgotten, that about 30 percent of the state's economy, and about 30 percent of the jobs are in agriculture or businesses that are directly serving agriculture and products that are derived from the

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

Appropriations Committee
March 12, 2007

state's agriculture. If you think about that for a moment, and you think about the possibilities for increasing the economic benefits to the state, agriculture is really one of the places you'll need to go. It's really the way we take advantage of the natural resource that we have. And I'd also like to point out that 30 percent of the economy...that 10 years ago it was only 25 percent. So even though you see lots of things about there's a smaller number of farmers, a smaller number of farms and so on, actually the percentage of the state's economy that's based on agriculture is continuing to increase and is likely to do that in the future. I think that the key to taking advantage of the future is new knowledge and technologies that will allow us to sustain our natural resources and create greater economic value from our agricultural production. The creation of that knowledge and delivering it in the form of useful tools and techniques is the major goal of the University of Nebraska's Agricultural Research Division and the entire Institute for Agriculture and Natural Resources. We have been highly successful in doing this in the past. In a recent study, that we call At Work for Nebraska, that was done by a private research and development firm, has conservatively estimated that the Institute for Agriculture and Natural Resources, through its research and education programs, returns about \$15 to the state's economy for every \$1 that's invested. Okay? And I would point out that this value turns out to be very much in line with studies that have been done on agricultural research throughout the United States. These same sorts of economic benefits tend to accrue. I think it's timely that you are talking about investments in agricultural research at this session of the Legislature. This is really a time of great opportunity and challenge for Nebraska's agriculture and the state's economy that is based on agriculture. I think we have great opportunities now, as has been pointed out by other speakers here this afternoon, to move into the area of bioenergy and bio-based materials. As we do that, this could turn out to be, particularly in the area of biofuels, a short-term boom or a source of long-term sustained economic growth for the state of Nebraska. And that's going to depend a lot on how we manage the natural resources on which agriculture is dependent, specifically water and soil and the kinds of things that have been talked about here already this afternoon. As you, I'm sure, are aware, Nebraska's agricultural wealth is primarily based on irrigated agriculture, primarily on corn, soybeans, cattle, and to some extent wheat, dry beans and other crops. For the immediate future and for any kind of funding that would come from something like the bill that you're considering today, the Agricultural Research Division, I think working in cooperation with the Department of Agriculture, state's Department of Agriculture, would focus its research efforts on sustainable agricultural production systems. Primarily, we would be looking at maximizing profits per unit of water used. Something that I think is going to be important, regardless of where we get funding to do the research, it's the kind of thing that we're going to have to do, it's going to be essential to sustain Nebraska's agricultural economy. We're going to have to look at different cropping systems that can make the most profit out of the water that we utilize, and we're going to have to look at new and more effective ways of water management, really getting down to the point where we're using only the water that's necessary to produce the crops that we need. The other thing that we're going to have

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

Appropriations Committee
March 12, 2007

to worry about is maintaining soil quality. As we move into some of the high production systems that people are talking about now, production of grain, for example, for corn for ethanol production, there is going to be pressure put on for increasing use of fertilizer, over irrigating in order to maximize crop production, so in order to maintain soil quality and to conserve water we need to do more research. We also are going to have to begin to look at the possibilities for reducing pest damages to crops. As we increase production levels, we're going to have more and more food out there for the pests and pathogens to get to and attack, and we're going to see new crops...or new pests showing up in the crops that we haven't seen in a long time. We're going to have to do a better job. We've done a lot. As a matter of fact, the research at the University of Nebraska has led the way in the utilization of by-products for the production of ethanol from corn, particularly for animal feed. We're going to have to do more research in that to develop systems that are more effective than the ones we have already. As many of you may know, there is a problem involved with confined animal feeding that can lead, if it's not properly managed, to increases in phosphorus in the soil to unacceptable levels. We're going to have to be looking, as we are now, at ways of keeping that problem at bay. We're going to have to do things because I think as we utilize more of by-products from ethanol production we're going to use more of those in confined animal feeding operations. That means there is going to be more of them. We're going to have to begin to do more of the research necessary to make sure that the environmental impact from those remains acceptable to the communities that surround them. We are going to have to do things to improve the quality of corn and soybeans and other crops to make them better, not only better food crops, but also more appropriate particularly in industrial uses. In particular I think one of the things that we're looking into is doing more research on changing the quality of the oil that's produced by soybeans to make it more effective as a biodiesel input or feedstock. We're also going to have to begin to work with alternative crops because even as you begin to look at the amount of ethanol that we can produce from corn, even at maximum production levels in the state of Nebraska and in surrounding states as well, it doesn't come anywhere near meeting the need for the nation. We're going to have to begin to look at other sorts of feed stocks for bio-based fuels, things like sweet sorghum, and perhaps perennial grasses that can produce ethanol from cellulose. So there's a large research agenda. We will be working diligently on that. Something like a fund to help support that or at least provide the state's funding for that could be very, very important. Just as a final note, I would point out that the researchers at the University of Nebraska's Agricultural Research Division are very, very good at taking a little bit of state money and turning it into lots and lots of federal dollars to approach some of these problems. Okay? Thank you very much for your time. [LB420]

SENATOR HEIDEMANN: Thank you for your testimony. Senator Wightman has a question, if you would so oblige. [LB420]

SENATOR WIGHTMAN: Mr. Cunningham, thank you for being here. Your testimony

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

Appropriations Committee
March 12, 2007

was enlightening. At the same time, I know I asked Senator Erdman, did he see this as creating the situation where the university would be involved in a good deal more research? And he indicated that probably there wouldn't be a lot of new employees or researchers at the University of Nebraska, but that money would be paid out mostly in the way of grants to private industry. And of course, your testimony indicates to me that it would take a lot of research to do those things that you were talking about. So I'm kind of wondering how that fits into the redirection of funds? [LB420]

GARY CUNNINGHAM: Senator Wightman, the funds that we use, we have the staff to do all of the research that I was just talking about. We are doing that now. What we would use additional funds for is to hire temporary employees to work with our professional staff to provide for supplies and materials to conduct the research. So it would go into the operations, not into salaries. We've got enough people to do this, in fact our funding level for the university as a whole gets up to the level that has been requested for. If it doesn't, we would still not use these funds for hiring. We would not use temporary funds for hiring permanent personnel. We would use the personnel that we have in the most effective way possible. [LB420]

SENATOR WIGHTMAN: And I'd like to see the research go on. If it gets down to a matter of determining what our priorities are on the dollars, but with regard to your statement that you would hire temporary staff, I suspect that that frequently leads to the employment of permanent staff, and maybe professors in the Research Department down the road. Could you comment on that? [LB420]

GARY CUNNINGHAM: We have not grown the size of our research faculty on temporary dollars from the federal government or from the state; we've only grown it when we have permanent appropriations from the state and tuition dollars, which also go into providing salaries for the research faculty. The temporary employees are just exactly that, they are usually graduate students or technicians that come in and work through a specific project under the direction of the permanent faculty and then move on to permanent jobs elsewhere. [LB420]

SENATOR WIGHTMAN: How many staff members do you have in your research...you're talking only ag research, is that correct? [LB420]

GARY CUNNINGHAM: Yeah, in ag research, um-hum. [LB420]

SENATOR WIGHTMAN: How many full-time staff members would be in that department? [LB420]

GARY CUNNINGHAM: We have the equivalent of around 180 full-time faculty scattered across the state. [LB420]

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

Appropriations Committee
March 12, 2007

SENATOR WIGHTMAN: And a lot of temporary workers in there. [LB420]

GARY CUNNINGHAM: We have at least...we have probably one and a half to two times that number of people as temporary employees on specific research projects. [LB420]

SENATOR WIGHTMAN: Thank you. [LB420]

SENATOR HEIDEMANN: Senator Harms. [LB420]

SENATOR HARMS: Yes, thank you very much for coming in. One of the questions that I have and I guess one of the concerns that I have is that we're putting a tremendous amount of emphasis on ethanol. The biggest concern that I have with this is that eventually it's going to run its course. And we're not very competitive with sugarcane and what they're able to do there. What do you see as the future with ethanol and our competition with Brazil and the kind of things that are going to take place? Because I think we have a real race on here. [LB420]

GARY CUNNINGHAM: Senator Harms, I don't thank you for that question. I wish I had that kind of insight. If I did, I'd be rich. Right? I don't. I do know that corn-based ethanol production is here now. Right? It's going to happen. It's happening in Nebraska. If we don't do the kinds of things that I've been talking about in terms of managing the water properly, maintaining our soil quality and so on, and then the ethanol programs fall away or go somewhere else or we find a cheaper source, then we are left with a nonproductive agricultural system that represents a huge amount of Nebraska's economy. And we've got...we've just depleted our natural resource base. So we have to do this. Because it is happening, we're going to have to give people the knowledge and the technology to do it the best way possible and in ways to keep it sustainable. [LB420]

SENATOR HARMS: Yeah. I guess what I'm interested in is, are we running the research now for starting to look at other alternative sources? Because by the time we run this whole scale, it's going to be too late. If we're not already doing the research, not already addressing the issues and thinking ahead, we'll be behind. And that's what I'm really interested in. The other side that I'd like to talk to you a little bit about, have you or are you doing any research at all in regard to drought resistant seeds in corn, and dry farming of corn, and its production? Could you talk a little bit about that, please. [LB420]

GARY CUNNINGHAM: Sure. Which one first? [LB420]

SENATOR HARMS: Whatever you'd like to do. [LB420]

GARY CUNNINGHAM: Okay. Let's talk about the corn first. Because I think there is kind of a widespread belief that there is a silver bullet, right? That we're going to come up with a corn variety that is not going to need water. Well, we're not going to do that.

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

Appropriations Committee
March 12, 2007

That's an impossibility. If you're going to grow corn, it's going to take water. The trick is to get most of the water that you're putting on actually going through the corn plant rather than evaporating off of the soil or draining out. Now, there are some things that you can do though in the way of managing the water that you do have. Right? That can give you increased yields with a reduced amount of water. And that can be done through water management, and to some extent by breeding. I probably ought to point out that the corn that we're growing today is really much more drought tolerant, well, drought tolerant isn't the right word, is more water use efficient. Right? We're putting the same amount of water on, but we're getting more corn produced for the amount of water we're putting on because we actually have been selecting plants that can produce more with less water. And some of that selection, I think, has maybe been a little inadvertent, but in fact it does happen. Now there is a possibility, by managing water correctly, that you could put on irrigation, you know, at critical times, and withdraw at critical times, and get the same production with a smaller amount of applied water. [LB420]

SENATOR HARMS: Where are you with the research with water sensors, that you actually put in the field, right in your pickup, and you got your computer, you zip it in and you've got your amount of dryness and whether you should irrigate or not? Are you guys moving in that direction? [LB420]

GARY CUNNINGHAM: Yes, we are moving in that direction. As a matter of fact, that technology is there, if people wish to apply it. It can also be done from just estimates from weather data and soil conditions as well. [LB420]

SENATOR HARMS: Yeah. Is that effective already? [LB420]

GARY CUNNINGHAM: Pardon? [LB420]

SENATOR HARMS: Is it in existence now? We're using it? [LB420]

GARY CUNNINGHAM: Yes, yes. [LB420]

SENATOR HARMS: Okay. If you had the opportunity to receive these kinds of dollars, what research is number one on your scale that you'd start with, that you think is the most critical to agricultural community and for economic development? [LB420]

GARY CUNNINGHAM: I think the one...the place where we would go first is looking at irrigation management, that is the problem that I talked to you about just a moment ago where you can take the water that you have and, by timing the way you deliver it, you can improve the amount of production that you get for the same amount of water. So that's the sort of thing we would do first. And then also begin to look at alternative cropping systems. We need, for example, to begin to look at what's going to happen if people don't rotate soybeans with corn on a regular basis as they do now. What's going

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

Appropriations Committee
March 12, 2007

to happen to soil fertility? What demands is that going to put on nitrogen applications and increasing cost and things like that? [LB420]

SENATOR HARMS: Are you doing any research at all...that's okay. I'll stop right here. Thank you very much, appreciate it. [LB420]

GARY CUNNINGHAM: Okay. [LB420]

SENATOR HEIDEMANN: Are there any other questions? Seeing none, thank you for your testimony. [LB420]

GARY CUNNINGHAM: Thank you. [LB420]

SENATOR HEIDEMANN: Is there any other testimony in the neutral position? Seeing none, would Senator Erdman like to close? [LB420]

SENATOR ERDMAN: Thank you, Mr. Chairman and members of the committee. I'd clarify a couple of things. Senator Wightman, if my comments or if my answer was not as clear as I thought it was, let me clarify it. It's not my intent that by creating these funds that we would create an entity or an agency to administer them. I think the goal should be, as has been pointed out by the dean from the university, the goal should be to put the money in the hands of those who are going to be able to maximize its return. Those are the researchers, maybe it's in operations in the existing funds or maybe it's in the opportunity to be able to have the right people to do the work to get us the answers that we need. And so it's not my intent that we set aside \$1.5 million a year for ag research, only to see half of it eaten up by administrative costs. And I wanted to make sure that that was clarified. The intent of the fund that's administered by the Department of Ag again is both a private and public eligibility issue. It's not simply reserved for the university. We have had, in bills before the Ag Committee, individuals come before the committee and ask for different opportunities that they would see fit in order for them, as a private entity, to be able to maximize their opportunity to do ag research in this state. And so the bill is drafted in such a way to allow both public and private dollars to go into the fund, and whether those public dollars are federal, state or other public funds as well as other private entities that would choose to facilitate this process by putting money into that fund as well. And then the recipients would logically be anybody that would qualify under the fund. Just run through a brief few things here that came to mind as I'm sitting here listening to some of the testimony. We have research ongoing right now in the Bioscience Institute, some of you may have had the opportunity to see that, where they are doing a lot of these oil related discussions or tests with soybeans and other ideas to try to maximize the oil production both for food, and it's kind of odd we talked about ethanol, they're actually looking at it from two standpoints. One is the standpoint of, how do we maximize the oil that's available to be used in production say of biodiesel? At the same time they're looking at, how do we maximize the oil content in

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

Appropriations Committee
March 12, 2007

soybeans, the omega 3's and some of those, to be able to facilitate some additional agricultural opportunities in the state of Nebraska such as aqua culture. And they're doing all of these things in coordination with one another because there are similar procedures and mechanisms that have to be done as you go through these test trials and trying to come up with these hybrids that are more readily usable, whether you're using them for biodiesel and biofuels or whether you're using them directly for food. That's one of the things that I think is important to recognize is that agriculture in Nebraska generally not only addresses all of these issues that we've recently talked about, but approximately you know every farmer is feeding 128 people worldwide. So it's beyond just simply the new type of scenarios. Some other ideas you've heard a bill before this committee on crop insurance programs, and the fact that we need to do research before those would be eligible to be certified on the national level, to be able to allow farmers the opportunity to further reduce or manage their risk. Distillers grain is our by-product from ethanol and other biofuels, fractioning those distillers grains further to make those crops more digestible for dairies, for livestock production such as pigs, in addition to your traditional beef use is a value and it also maximizes the ability to do the type of production, quotas and qualities that we need to be able to compete. You're actually getting more oil out of the same product, you're becoming more efficient. The drought, the issues are numerous there. And these two things tie together--your water, your ag research. So there is a lot of applications. Obviously, there's probably not enough funding to do it. I guess the question I keep coming back to is an analogy that I've shared with other groups in relating to ag development in the state of Nebraska. Nebraska used to be one the nation's leaders in dairy production. We are no longer in that category for a number of reasons. But we did have quite a boom and that was very successful. We didn't have the tools, we didn't have the knowledge that I think we needed to be able to compete, and there are a number of factors that are contributing to what those struggles were. But had we had the opportunity, I think we could have done better. I would hate to see us in a scenario where we as a state, whether it's direct food production for agriculture or whether it's using food for fuel or trying to find alternatives to food for fuel that we would simply lose out because we failed to do the research, we failed to plan, we failed to have the tools we needed to maintain this viable industry. Agriculture counts for one in three jobs in the state of Nebraska, one in three. As it was pointed out, 20 years ago it was one in four. It's becoming even more important. Part of that is due to the new technologies that we have. But it's also due to the fact that we need to make sure that in this process we're also still focusing on those products, like Senator Harms and I, who I appreciate cosponsoring LB420, see in western Nebraska. Dry edible bean production is Nebraska's number one in great northern production, dry edible beans. And, Senator Engel, those are generally the things that you chase your corn bread in at dinner time. We grow those in Nebraska. Most people don't realize that, they think it's soybeans. We're doing that research in western Nebraska, we're doing it on wheat. We need to make sure that we continue that type of focus because those types of research projects have to be done in those climates and we're being successful. We continually need to focus on those to make sure that we're able to

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

Appropriations Committee
March 12, 2007

provide this state both an opportunity for those who are here, and those future generations who see agriculture as a vital part of our future. [LB420]

SENATOR HEIDEMANN: Thank you, Senator Erdman. Are there anymore questions for Senator Erdman? Senator Wightman. [LB420]

SENATOR WIGHTMAN: You're asking for \$2.5 million, which would take up all the money that was being currently paid. [LB420]

SENATOR ERDMAN: And I thought Mr. Cheloha would come in here and voluntarily give up his \$1.5 million. I apologize for misreading that. [LB420]

SENATOR KRUSE: But he didn't, I notice that. [LB420]

SENATOR ERDMAN: I know. I was under a false assumption there. [LB420]

SENATOR WIGHTMAN: And I was just wondering, is there a viable research project that you can handle, if you were funded at something less? Maybe considerably less than \$2.5 million, in light of the fact that we may think that Omaha and Lincoln still have some right to some of this fund? [LB420]

SENATOR ERDMAN: To be candid, any money would be a good step. [LB420]

SENATOR WIGHTMAN: You wouldn't turn it down? [LB420]

SENATOR ERDMAN: Right. And this approach that I've offered you is an offset, it's not new money. It's reprioritizing existing money that the city of Lincoln, the League, and the city of Omaha have different opinion on what priority this sets. But that's generally been my philosophy. And, you know, I think that's appropriate. But obviously, based on the testimony we've heard, based on the understanding that we have, based on the fact that you see the price of corn continuing to go up, the impact that that has on other issues as far as the value that food has and the ability to afford food, we have to be a part of that discussion. The question is, how? What that looks like? Who's a part of that? What type of tools we need to make sure that the producers are successful, that the end product is of value, both to the consumers and to the state, and how do we balance all those interests out? So if you have a different number in mind, Senator, I'm sure no number would go turned down. It's just a matter of how we prioritize and where we set those decisions in our budget. And that's obviously what your job is, and I'd be happy to work with you. [LB420]

SENATOR WIGHTMAN: I know that you and Mr. Cunningham have both testified with regard to the necessity of the university being involved in this research. And I think it is important that they are. But much of this research would probably go on, even if the

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

Appropriations Committee
March 12, 2007

university isn't doing it in the form of people from the ethanol industry determining some of these same things and whether...and the seed corn industry, and some of these. That research is occurring, even as we speak, I suppose, by private industry, at least some part of it. [LB420]

SENATOR ERDMAN: Some of it is, you're right. I would argue that if you look at Purdue, if you look at the University of Nebraska, Kansas State, a lot of the land grant universities that are truly fulfilling their land grant mission, you'll see a lot of them partnering with those individuals as well. That was kind of the vision behind LB420 was that we weren't simply going to finance and fund these projects only in public institutions. And that's why we also don't just simply ask for public dollars. We're expecting, and not that I've had any direct conversation, but I'm expecting some of those folks that are in that business now to use this as an opportunity to further enhance their opportunities for research, putting money into this fund, whether it's federal dollars, private dollars or state dollars, to facilitate those types of public-private partnership. That's one of the things that you see in the Bioscience Institute is that they're working with the Dow's and other private entities that do research to coordinate those types of efforts to see what the return would be. Ultimately, to get those things patented is very expensive. And usually those land grant universities are doing the up-front research. That next step then is usually done by the private entities because of cost and other things. So there's a lot at play here, and there's a lot of reasons why it needs to be flexible. And hopefully, we can figure out a way to balance some of those things out, recognizing some of this research is being done, but ultimately recognizing that it's in the best interest of the entire state to make sure that this information is available. [LB420]

SENATOR WIGHTMAN: Thank you. Your information is helpful. [LB420]

SENATOR ERDMAN: Thank you. [LB420]

SENATOR HEIDEMANN: Senator Synowiecki. [LB420]

SENATOR SYNOWIECKI: Phil, you reference the bill that set the Omaha and Lincoln cigarette tax revenue. I think for Lincoln it's \$1 million, for Omaha it's \$1.5 million. What was that bill number? [LB420]

SENATOR ERDMAN: I believe it was LB657. [LB420]

SENATOR SYNOWIECKI: And on the revenue side of the ledger, do you think Omaha and Lincoln are participating at the level that they were upon passage of that bill, given the enactment of the smoking bans? [LB420]

SENATOR ERDMAN: It's my understanding, and this is just from my cursory review of

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

Appropriations Committee
March 12, 2007

some of the information that was presented to the Health Committee on LB395. It's my understanding that they have seen a reduction, and I think Lincoln is probably the example that was cited. They have seen a reduction. I don't know that it is substantial. Maybe 10 percent of the smokers in Lincoln, due to the fact that there is now a smoking ban, that information, I don't know, is concrete; I think some of it may be anecdotal, because obviously you probably don't have a registry of all smokers to figure out truly how many are not there. But logically you could assume that due to the reduction of the opportunity that there are probably folks that have foregone that legal right that they have and it's probably influenced the revenue to the state of Nebraska in some sense. [LB420]

SENATOR SYNOWIECKI: Did LB...when did LB657 go through? I should know this, but I don't. [LB420]

SENATOR ERDMAN: I believe it was in 2001. And as the testifiers did point out, it was a bill that was...I believe it was either introduced by Senator Quandahl or Senator Beutler. They were the two main proponents from each community, and it was at the request of the Governor. We spent quite a bit of time discussing the mud flats and the ditches, as Senator Wickersham called them, and most people probably won't forget that, including the response that Senator Beutler gave Senator Wickersham to those titles. But it was done in 2001, and it was done at that time to help facilitate those exact projects that were referenced. [LB420]

SENATOR SYNOWIECKI: So the bill predated both Lincoln and Omaha smoking bans? Not to beat up on the cities, not whatsoever. But don't you think it's appropriate to reexamine the appropriation level, given that they may not be participating to the degree that they were in 2001 relative to cigarette tax revenues? [LB420]

SENATOR ERDMAN: I think every action has a reaction. Whether or not their actions warrant this type of reaction, that's not my intent. There have been discussions, I believe, in the past from certain representatives from Omaha, who may not be with us anymore due to term limits, that had proposed similar ideas. I don't know that those were overwhelmingly received either. But I do think that as we go through this process and, you know, I've written a budget before, it got 18 votes on the floor of the Legislature. And I don't envy your job because candidly it wasn't a lot of fun. I probably had a little more freedom because I didn't have to have public hearings on what I proposed, so there was a lot more flexibility there. But everything that was in my proposal had a public hearing. So I understand kind of what you're going through. If you're going to come back to me and say, in 2003, when we zeroed out the county property tax relief program under the assumption that in 2006 it would be reinstated, and reinstated is not zero, that there was an action, and then there was going to be a reaction to reflect changes. We made a decision not to keep our word in that area. I don't know if this is the right way to say we're not going to keep our word, based on their

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

Appropriations Committee
March 12, 2007

actions, to the folks in Lincoln and Omaha. But I do know that other areas have been forced to make decisions that they didn't want to make, and therefore there have been reactions to those decisions. So I understand where you're going. It wasn't my intent here. Nothing happens in a vacuum. And in the event that you make a decision that reduces the amount of revenue that you are receiving based on your direct actions or that the entire state is receiving, but you're held harmless, you got to evaluate that. We're doing it at the state lottery this year, other areas. Again, I don't want to pick that fight with Lincoln and Omaha, if there's another way to do it we can. If the committee's will is to reevaluate all of the earmarks in the Cigarette Tax Fund, as what was one of the recommendations when LB657 was going through, I think that's appropriate because it then brings back the discussion that as we, as a Legislature, get to appropriate funds annually or biannually for every program, and not just earmark ones for those that shouldn't be touched or vice versa. So simple answer is that for every action there's a reaction. Ultimately, that reaction is probably largely based on the political realities of the day and whether or not they can be exacted a revenge or a response for their action. [LB420]

SENATOR SYNOWIECKI: I appreciate that response. And the time line on these appropriations run through 2016, and they were set, as you indicated, in 2001. And they were set upon a premise of what Omaha and Lincoln were doing at that time relative to the active participation on the revenue side. This committee, all the time evaluates revenue and appropriation from that revenue or we do the appropriation side. Now, the revenue side has been impacted. And it may have been for all good reasons--for public policy health reasons are all good, but nevertheless, I think it might be impacting the revenue side, thus as we always do we have to reexamine the appropriation side of it. [LB420]

SENATOR ERDMAN: One of the things that probably hasn't been pointed out, and not to undermine your argument, that I believe the tax rate in 2001 on cigarettes was substantially lower than the current tax rate. So it's probably hard...it's easy to make the analysis that because X happened we're reducing the revenue, but at the same time the cigarette tax went from 20 cents or whatever it was to 64 cents. Maybe that's not the right number. I know it's now 64 cents. So the state has levied a substantially higher tax on cigarette purchases in the state of Nebraska after LB657 was even enacted. So one might even argue, not that I want to argue on behalf of the cities today because maybe they're not in favor of ag research and water, I told them I would say that, but I think they are, one would argue that they are contributing more than what they had originally planned to contribute in 2001. But I do think in the global sense of what we have to do as state policymakers is to set policy for the entire state and analyze all of those decisions that have been made that may impact the dollars and cents as well as the public policy of the state. [LB420]

SENATOR HEIDEMANN: Senator Engel. [LB420]

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Appropriations Committee
March 12, 2007

SENATOR ENGEL: Just a little history. I was here in 2001, I was also here five years prior to that when they used the cigarette tax to renovate the civic center in Omaha, and after those bonds are paid off after five years, then that money is supposed to revert back to the General Fund. And that's when LB657 came about. So those things occur. [LB420]

SENATOR ERDMAN: And, I guess, one of the last things I'll share, I know you have other agencies that are here and demand your time. One of the things I hope doesn't happen, I hope we don't have a repeat of what Senator Engel just pointed out, where we dedicated funds for a certain area, and once those funds ran out somebody came up with a new, creative way to keep those funds in that area. I think each one of those programs have to be reevaluated. It's my understanding that those folks in Omaha are back for additional funding under a different guise this session, and they have every right to do that. We have to figure out those policy decisions about do we earmark these funds or don't we. And if we are going to earmark them for a time, do we...should we...should I have come before the committee with LB420 saying, in 2016 these monies go to this fund? You know, that would probably be just as inappropriate, according to the chairman's concerns and some of mine, as the existing program. But we can't put that horse back in the barn. We always have to reevaluate the programs and the priorities. You're going to do that. Once you've created your plan, we, as the Legislature, will get to review your hard work and determine whether we agree or have some recommendations to the contrary. So these aren't easy times. And even when we have money it's probably harder than when we don't. I want to thank you as a long-standing member of the Legislature for your efforts, collectively as an Appropriations Committee, but specifically this session, and look forward to working with you on this bill and obviously your final product, to see where we may find common ground. [LB420]

SENATOR HEIDEMANN: Any other questions? Thank you for bringing LB420 before us. With that, though, we will close the public hearing on LB420, and open up the public hearing on Agency 72, the Department of Economic Development. [LB420]

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Appropriations Committee
March 12, 2007

Disposition of Bills:

LB420 - Held in committee.

Chairperson

Committee Clerk