

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

Appropriations Committee
February 04, 2008

[LB959 LB960 LB961]

The Committee on Appropriations met at 1:30 p.m. on Monday, February 4, 2008, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB959, LB960, LB961, 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: I think we're going to go ahead and get started here. We've got a few senators that are introducing their own bills, so they're going to be just a little bit late. Welcome to Appropriations. Think we'll go around the room first and introduce everybody. That's the committee clerk, Kendra Papenhausen; Senator Danielle Nantkes; Senator John Wightman; Senator John Synowiecki will be sitting there when he joins us later; Senator Lowen Kruse from Omaha; myself is Lavon Heidemann from...Senator Lavon Heidemann from District 1; this is Mike Calvert from the Fiscal Office; Senator Pat Engel from South Sioux City. Joining us later will be Senator Tony Fulton from Lincoln, Senator Nelson from Omaha, and Senator John Harms from Scottsbluff. Just a few house rules before we start: If you have cell phones, we ask that you would shut them off now. Testifier sheets are on the table or near the back doors. We ask that you would please fill them out completely and put them in a box on the table when you testify. You do not need to fill out this form if you aren't publicly testifying. At the beginning of the testimony we ask that you would please spell and state your name for the transcribers that follow. Nontestifier sheets near the back doors, if you do not want to testify but would like to record your support or opposition. You only need to fill these out if you will not be publicly testifying. If you have printed materials to distribute, please give them to a page at the beginning of the testimony. You will need 12 copies. We ask that you please keep your testimony concise and on topic, under five minutes would be appreciated but we accept almost anything. With that, I think we're going to open the hearings on the three mainline budget bills. We'll just do them all together. So we'll open the hearing on LB959, LB960, and LB961. And I think we have Gerry from the Governor's Office to share with us. [LB959 LB960 LB961]

GERRY OLIGMUELLER: (Exhibits 1 and 2) Great. Glad to be here. Good afternoon. Senator Heidemann and members of the Appropriations Committee, my name is Gerry Oligmueller, G-e-r-r-y O-l-i-g-m-u-e-l-l-e-r, state budget administrator. I'm appearing here today on behalf of Governor Heineman in support of LB959, LB960, and LB961. These three legislative bills comprise the specific midbiennium budget recommendations presented by the Governor to the Legislature on January 15, 2008. The contents of this legislation have been summarized and presented to you in a publication entitled, "Mid-Biennium Budget Adjustments 2007-2009 Biennium," and dated January 15, 2008. I provided a copy of this publication to your committee clerk, along with my prepared remarks for your record. During the 2007 Legislative Session,

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

Appropriations Committee
February 04, 2008

the Legislature enacted the largest tax relief package in Nebraska history and limited spending growth to a rate less than was trend over the past two decades. The 2008 Legislative Session is considered the midbiennium, or off year, as it relates to our currently enacted biennial budget. Many proposals are being presented by others to the Legislature for additional spending. The Governor's priorities, however, remain the same as when the biennial budget was enacted in 2007; that is, give the highest priority to tax relief, limit spending, and maintain a robust Cash Reserve. The various agencies, boards, and commissions requested about an additional \$40.2 million General Fund appropriations for the current biennium. The Governor's recommendations, provided for in LB959 and LB960, include \$8.3 million in additional General Fund appropriations. We understand that the committee's preliminary recommendations are limited with regards to additional appropriations and encourage you to maintain that direction as you prepare your final recommendations. The Governor's recommendations also include an additional \$53 million in fiscal year 2008-2009 to recognize the revised December estimates and, now, certification of school aid for fiscal year 2008-2009, which is greater than enacted during the 2007 Legislative Session. TEEOSA school aid will grow by 17.5 percent in fiscal year 2008-09, and is projected to grow by 11 percent each year of the next biennium. TEEOSA school aid alone currently represents about 23 percent of the state General Fund budget; however, it is estimated to consume about 75 percent of the projected General Fund tax receipt increase in fiscal year 2009-2010, and about 60 percent in fiscal year 2010-2011. K-12 education is a funding priority for all of us. It will present us with a serious challenge when we prepare the next biennial budget. The third budget bill, LB961, the 2008 transfers bill, includes two very important recommendations by the Governor. First, the Governor recommends that \$75 million be transferred from the Cash Reserve Fund to the Property Tax Credit Cash Fund to increase the property tax relief scheduled in fiscal year 2008 through '09 from \$115 million to \$190 million. The Governor has proposed no transfers from the Cash Reserve Fund during the 2008 Legislative Session for additional spending. Tax relief should be a higher priority than spending from our Cash Reserve Fund. After the proposed transfer of this \$75 million to the Property Tax Credit Cash Fund, the Cash Reserve Fund is projected to have a biennium ending balance of \$465 million, \$41 million greater than the 2007 sine die estimate. Second, the Governor has also proposed in LB961 that \$15 million of the remaining General Funds for this biennium be transferred to the Department of Roads Operations Cash Fund to aid the department in financing of its construction program. Finally, LB961 also includes transfers from the Tobacco Products Cash Fund and the Securities Act Cash Fund to the General Fund to provide financing for the university and state college request for a joint Student Information System. I trust that the issues associated with these three budget bills have been addressed by the Fiscal Office staff in the course of your individual briefings. However, I'm happy to answer any questions you have regarding LB959, LB960, or LB961. Do you have any questions? [LB959 LB960 LB961]

SENATOR HEIDEMANN: I think I got a couple questions but I'm going to let everybody

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

Appropriations Committee
February 04, 2008

else... [LB959 LB960 LB961]

GERRY OLIGMUELLER: Okay. [LB959 LB960 LB961]

SENATOR HEIDEMANN: See what they ask you first and then maybe they'll cover it. Senator Wightman. [LB959 LB960 LB961]

SENATOR WIGHTMAN: Gerry, one of the things that I notice in looking over the past several years, was it in 2001, I think, and 2002, those fiscal years we had a cash shortage of about \$266 million each year, which would have come to about \$532 million. I'm guessing...my thought is I'm wondering about the \$75 million transfer for property tax relief when what we have is about enough to cover two years similar to 2001-2002. Could you comment on that? [LB959 LB960 LB961]

GERRY OLIGMUELLER: Well, I guess you have to arrive at your level of comfort with regards to the Cash Reserve Fund, and there's a lot of variables that can go into that. The Governor's recommendation for a \$75 million transfer actually allows for that Cash Reserve Fund to improve its position since the biennial budget was enacted. So I guess we're drawing some comfort from the fact that we're seeing improvement in the balance from the period of time, you know,... [LB959 LB960 LB961]

SENATOR WIGHTMAN: Would you agree we'd have... [LB959 LB960 LB961]

GERRY OLIGMUELLER: ...at which we enacted this biennial budget, so... [LB959 LB960 LB961]

SENATOR WIGHTMAN: We'll have a little better idea on that after the next forecast on February 22, wouldn't we, I suppose. [LB959 LB960 LB961]

GERRY OLIGMUELLER: That's true. The Forecast Board meets on February 22 and they'll take a look at both fiscal year '08 and '09 and you'll have some new estimates. [LB959 LB960 LB961]

SENATOR WIGHTMAN: If that came in substantially weaker than where we are right now or flat would that make a difference, do you think, on the \$75 million? [LB959 LB960 LB961]

GERRY OLIGMUELLER: Not ready to say today that it would make a difference, no. [LB959 LB960 LB961]

SENATOR WIGHTMAN: Thank you. [LB959 LB960 LB961]

SENATOR HEIDEMANN: How did you come up with the \$75 million figure? [LB959

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

Appropriations Committee
February 04, 2008

LB960 LB961]

GERRY OLIGMUELLER: Well, tax receipts on June 30, 2007, actually came in above forecast by about \$47.3 million. Tax receipts are forecasted to come in above the certified forecast for '08 by about \$68 million. So you're having some significant improvement on the projected balance in the Cash Reserve Fund, plus we rolled back the appropriation in our recommendations, which I understand you did in your preliminary as well, on the homestead exemption program. So, you know, the combination of the, you know, actual receipts, the forecasted receipts above certified, and this roll back on what would have otherwise been property tax relief through the home exemption program far exceeds \$75 million. So it's, you know, you approach an enacted budget like this and it seems that tax relief should have a priority consideration just as much, if not more, than consideration for additional spending. When this budget was enacted, there was a balance drawn between tax relief and additional spending and I think it's logical to take that into consideration as we look to adjustments in the biennial budget that was enacted. [LB959 LB960 LB961]

SENATOR HEIDEMANN: I think John talked about the February forecast and we are a little bit at an advantageous position than what you are because we're able to wait with some of our more...the bigger decisions that we have to make concerning the budget. And if you use the \$68 million figure that theoretically will go over to the Cash Reserve because of the October forecast, but if the February forecast actually flattens out and takes the October forecast back to where we was at sine die would you still make that same determination, knowing that that \$68 million won't be there? [LB959 LB960 LB961]

GERRY OLIGMUELLER: Well, it's hard for me to speculate about February 22, but today I'm not ready to say that we should be doing anything other than other than providing additional property tax relief. In fact, you know, maybe, you know, the current economic conditions suggest that that's perhaps what we should be doing. [LB959 LB960 LB961]

SENATOR HEIDEMANN: And you would get to that determination how then, that we should be doing more property tax relief because of the...? [LB959 LB960 LB961]

GERRY OLIGMUELLER: Tax relief should be a higher consideration than additional spending. [LB959 LB960 LB961]

SENATOR HEIDEMANN: I agree with you there, but...we could have somewhat a debate and maybe we better open this up for other questions. (Laughter) I think Senator Engel had one. [LB959 LB960 LB961]

GERRY OLIGMUELLER: Sure. [LB959 LB960 LB961]

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

Appropriations Committee
February 04, 2008

SENATOR ENGEL: Well, Senator Wightman actually asked about the Forecasting Board, when they meet, and they've been discussing that. But as far as the property tax relief, everybody likes property tax relief, but I just wonder if we're really getting to the actual problem of property tax relief. It's spending rather than it is...to me, temporary relief is what this is. We've done that before, and I agree we should start a new program for saving this money. But the only thing is, like, the people...I've been here long enough, I realize people, like this last year I noticed it on my tax returns, I got some different houses, stuff like that, each one of them was a little less and this one will make them a little less more. But then the thing is, when things change, they're going to go right back up to where they were and that's when people aren't going to remember that we gave anything back. They just going to remember you just raised the dickens out of my taxes. And I mean it's just human nature, you know? And as far as our roads situation right now, you've got \$15 million here for roads, \$75 million for property tax relief, perhaps right now we're in dire need of road funds, you know, which is an ongoing thing. It's not an additional expense. It's something we have to do. Maybe a reversal of those two. Just some comments is all I'm making. I'm not criticizing anything you're doing because you're great at it. [LB959 LB960 LB961]

GERRY OLIGMUELLER: Well, okay. Well, thanks. [LB959 LB960 LB961]

SENATOR HEIDEMANN: I'll put it on record that I love the property tax relief program. I have got so many comments from my district that they are so very thankful for what we did. [LB959 LB960 LB961]

SENATOR ENGEL: Oh, I love it too. [LB959 LB960 LB961]

SENATOR HEIDEMANN: I am fearful that if we ever have to scale it back and they're going to get hit, it makes me a little bit nervous. But for right now, I have a whole lot of people that appreciate what we did. [LB959 LB960 LB961]

SENATOR ENGEL: Yeah, boy, they do. [LB959 LB960 LB961]

GERRY OLIGMUELLER: To respond to your question, you know, I don't disagree that there has to be considerable effort made actually at the local level to restrain spending. That's going to make a big difference on local property tax, taxes collected. I don't want to get into rates because rates are used kind of as a dodge to the issue, but that's important. And then we ought to look to find a way to make our current property tax relief that's in this budget permanent going into the construction of the next biennial budget. So the Governor is committed to, you know, working to construct a biennial budget that continues that relief. [LB959 LB960 LB961]

SENATOR ENGEL: If I may continue, I do believe in taking the extra money off the

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

Appropriations Committee
February 04, 2008

table so you don't have any new spending programs. That I've always agreed with.
Thank you. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Senator Fulton. [LB959 LB960 LB961]

SENATOR FULTON: Sorry I was a little bit late. Thank you for testifying. [LB959 LB960 LB961]

GERRY OLIGMUELLER: Sure. [LB959 LB960 LB961]

SENATOR FULTON: There is something that was brought to my attention I want to ask you about... [LB959 LB960 LB961]

GERRY OLIGMUELLER: Okay. [LB959 LB960 LB961]

SENATOR FULTON: ...in green copy of LB959,... [LB959 LB960 LB961]

GERRY OLIGMUELLER: Okay. [LB959 LB960 LB961]

SENATOR FULTON: ...page 25, the homestead exemption actually. Personally, it's something that before I was in this body I worked on. Just...it affects a lot of elderly people and I have some interest there. The changes would reduce in fiscal year 2007-2008 by \$7 million. [LB959 LB960 LB961]

GERRY OLIGMUELLER: Correct. [LB959 LB960 LB961]

SENATOR FULTON: And that's due to how many are actually utilizing the program, correct? [LB959 LB960 LB961]

GERRY OLIGMUELLER: Right. [LB959 LB960 LB961]

SENATOR FULTON: Okay. [LB959 LB960 LB961]

GERRY OLIGMUELLER: Correct. [LB959 LB960 LB961]

SENATOR FULTON: Okay. I notice then in '08-09 there was no accompanying decrease. Can you explain why, why that's left alone? [LB959 LB960 LB961]

GERRY OLIGMUELLER: Well, there was a law changed with regards to the homestead exemption program, I believe, I hesitate to say 2007 Session, it might have been the 2006 Session, that we're not entirely comfortable we've fully experienced in the context of its impact on claims for homestead exemption. So we're exercising a little bit of reservation in relation to that consideration, plus, we've worked hard with regards to

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

Appropriations Committee
February 04, 2008

estimating the appropriations necessary for this program over the last couple of biennia to avoid deficit requests that require adding money for the homestead exemption program. We had a perennial experience in Nebraska, up until about two biennia ago, of just having an annual deficit for the homestead exemption program, and it's simply because there wasn't a lot of math put to an estimate of the impacts of property values and program participation in this program. So, conservative approach to construction of any changes related to that program in the currently enacted budget. [LB959 LB960 LB961]

SENATOR FULTON: Okay. You don't...then it's partly out of a measure of prudence for the planning of '08-09, but there's also a bill you... [LB959 LB960 LB961]

GERRY OLIGMUELLER: We had a bill pass in 2006 which changed the eligibility for this program. [LB959 LB960 LB961]

SENATOR FULTON: That hasn't really gone into effect yet. [LB959 LB960 LB961]

GERRY OLIGMUELLER: We're concerned we're not seeing the full effects of that yet. [LB959 LB960 LB961]

SENATOR FULTON: Okay. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Senator Nantkes. [LB959 LB960 LB961]

SENATOR NANTKES: Hi, Gerry. [LB959 LB960 LB961]

GERRY OLIGMUELLER: Hi. [LB959 LB960 LB961]

SENATOR NANTKES: Thanks so much for coming down. Always nice to see you. And I appreciate the comments you made in your opening, but I guess one word just keeps ringing in my mind as we craft our preliminary budget and look at additional issues that have been offered and that deserve our attention, and one word that I just keep thinking about is sustainability. And I guess in terms of the Governor's proposal with, you know, transferring \$75 million out of the Cash Reserve Fund, I'm just not sure if that's a responsible policy in terms of sustainability in our overall state budgetary picture. And I'm wondering if you could maybe share some of your thoughts or the Governor's Office's thoughts about, you know, really in terms of long-term planning and decision making, how that significant transfer really plays into an issue like sustainability. [LB959 LB960 LB961]

GERRY OLIGMUELLER: Well, a couple of thoughts I'd share: We clearly are in a situation where we've had actual and forecasted receipts in excess of that anticipated for the current biennium. We've rolled back on the homestead exemption program

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

Appropriations Committee
February 04, 2008

because its appropriation is higher than necessary and effectively would otherwise represent tax relief in the current fiscal year. The...looking forward, you have the issue of sustainability with regards to spending as well as you do with regards to any adjustments you make relative to tax policy. So again, I would just say when we're looking at changes to this biennial budget, it's clearly our priority to look to tax relief prior to spending, which requires sustenance as well, depending upon what you spend it on. That was part of our motivation behind the transfers from Tobacco Products and Securities Act related to how to finance the university's combined Student Information System at the state colleges--look for a source that's one-time to deal with that one-time spending item. So the issue of sustainability is, you know, is a fair question and it's a fair question I think on both sides of, you know, the budget ledger. [LB959 LB960 LB961]

SENATOR NANTKES: Well, and I hope that the Governor's Office would agree that, in working with this committee and the full body last session in crafting, you know, the majority of our budget and the biennial process that we work through here, that, you know, we really made a strong statement in terms of controlling state spending and I feel worked very, very diligently to put out a very responsible budget in terms of the spending side of the ledger, as you mention. And that's the impetus for my question. After working so diligently to try and really get a handle on the spending side of things, we have to see it on both sides. And I really just don't feel that this \$75 million is an appropriate response on the other side of the ledger to ensure a responsible and sustainable budget from this point forward. And in terms of responsibility, I think that's also another issue that needs to be addressed and that runs through all of our decisions on the budget committee, of course. And we have very well-demonstrated and very real needs for a lot of critical programs that the state of Nebraska is responsible for, and I really admire the Governor's approach in making some one-time investments to address those needs. And I'm hopeful that we'll be able to figure out what the right numbers are in those regards and to move forward. But I'm very concerned about the sustainability of the \$75 million proposal, and particularly when you look just last year, in working together with the Governor to offer record tax relief, I think that we have to be very careful about eviscerating our revenue base. So thank you. [LB959 LB960 LB961]

GERRY OLIGMUELLER: Uh-huh. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Senator Harms. [LB959 LB960 LB961]

SENATOR HARMS: Thank you. Thank you very much for coming. Appreciate your thoughts. I'm sorry I missed part of it, but I had some constituents come from western Nebraska that I didn't know was coming so, I'll tell you what, they come all that distance, you need to listen to them. I wanted to talk a little bit about a comment that you made in regard that in the spending side of the things we have to tell the political subdivisions they got to cut it off. I'll tell you what, I don't think it's that easy, Gerry. We've got to find a way to address this issue by encouraging cities to merge, counties to merge, public

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

Appropriations Committee
February 04, 2008

schools to merge. We got to find law enforcement to merge. We're not going to be able to do this by just cutting them and squeezing them down. I'm a strong supporter of tax relief and particularly property tax relief, but I think it's come to a point that we have to start the discussion about the expenditures of government. I'm not talking only about city government, county government; I'm talking about state government. And I think the next time we come about and start talking about taxes and cutting our taxes back in state aid and other areas in the state, quite frankly, I think we need to have the discussion about expenditures, streamlining government, and coming to a decision about what we want this state to look like in the future. What we do is when we have a good year, we give them tax relief, spend a little money; and we have a bad year; we just go back and forth. And there is no discussion that I've seen yet in this government, in the 30 years that I have participated on the other side of this thing and the last 2 years, about what we want the state to look like. And that brings me to another topic, and that is until we start to get in statewide planning, until we determine what we want the state to look like, what our public policies are going to be, we're going to have these issues continuously. Other states are doing it and those states are making good strides. So I guess what I'm saying to you is that, yes, we all want property tax relief, but in some form we've got to be able to encourage political subdivisions and help them make those decisions by giving them the opportunity and making sure the laws allow this to take place. I mean, two cities can't even merge. I mean, Senator Erdman is introducing legislation today to be able to address that issue for Scottsbluff and Gering. They ought to come together on the city council, but they can't do it because the law (inaudible). All those things would be in a planning process, all those things would be cleared up. Then we can have the discussion, when we know what we want the state to look like, what it's going to be in the future. Then I feel really comfortable saying, let's get after this thing. But I don't think we can do it now. We just go from one side to the other, and that's kind of where I'm at. And I'm supporting the tax relief, but there's a lot of things in between that you better put in place or you're going to have chaos in Nebraska. That's my point. Thank you. [LB959 LB960 LB961]

GERRY OLIGMUELLER: Yeah. [LB959 LB960 LB961]

SENATOR HEIDEMANN: I didn't know if you wanted to respond to that or not. [LB959 LB960 LB961]

GERRY OLIGMUELLER: Well, I mean I'm certainly willing to participate in that kind of discussion and planning. [LB959 LB960 LB961]

SENATOR HARMS: Well, I can tell you I will be introducing legislation about long-range planning next year, so I'm very serious about what I'm saying, so... [LB959 LB960 LB961]

GERRY OLIGMUELLER: Yeah. [LB959 LB960 LB961]

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

Appropriations Committee
February 04, 2008

SENATOR HEIDEMANN: Kind of following up on that just a little bit, I've had members of this committee talk to me about they see the out years and they see the \$260-some million that we're short and they tell me, Lavon, we need to start working on that this year. Do you buy into that? And if we need to start working on it this year, what's the best way we can do that? [LB959 LB960 LB961]

GERRY OLIGMUELLER: Well, I know there are discussions underway, for example, with regards to TEEOSA school aid, which there have been in the past as well, but that seems to be a major consideration and driver. And it fits into a bit of the discussion with regards to the long range too. I was presenting to a group over the noonhour and I was taking a look at some of the information heading into that discussion and we concentrate a lot on, when we work on the state budget in particular, on the state agencies and the specific programs they administer, which is important, but it occurred to me as I was looking down through the school aid formula, for example, that OPS, in and of itself, would rank seventh on that list of things in the state budget. OPS alone, Omaha Public Schools, its General Fund appropriation for just TEEOSA school aid, excluding special ed, would be the seventh item, from the largest to the smallest, on our list of things we finance. So there's an opportunity, you know, in discussing school aid obviously, to start to look at some of the policies that have emanated over the last ten years with regards to the formula and revisit some of those considerations. That's a significant area. I mean that is 23 percent of the budget and growing heading forward. I think we have to look much closer at it, not only from a policy but from a financing perspective. And then Medicaid obviously comprises another large component of that, and I don't think we want to relegate Medicaid to a let's look at it every five year kind of thing; you know, wait for it to be...to rise to a level where it needs to be another task force. There just needs to be some concerted review and discussion on some of the larger areas, in particular, of the state budget because they are the drivers. There's some opportunities in some of these other areas in terms of trying to consolidate or to make things work more efficiently, but the numbers reside predominantly in a couple areas and that's probably where we need to concentrate our look; first two things, anyway, that come to mind. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Senator Nantkes. [LB959 LB960 LB961]

SENATOR NANTKES: Thank you, Chairman Heidemann, and thank you, Gerry. As you talk a little bit about school aid, which you know is a big part of our overall budgetary discussions and decisions, and you know we have considerable conversations amongst the committee and with our colleagues about the importance of education and particularly the state's role in ensuring a quality education exists for all Nebraska children. I know that the Governor is very committed to trying to find solutions to achieve the same. I guess what I don't...what I have some concerns about in terms of this discussion is just kind of the frame of the issue and I don't appreciate comments that

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

Appropriations Committee
February 04, 2008

somehow or another school spending is out of control. I think, instead, it's more responsible to look at the issues and looking back historically to see where we as Nebraska have made specific public policy choices about what we're asking schools to do, and continually asking them to do more and more and more, and how the school aid factors into those public policy decisions. And so I guess that I just have concerns as we move forward in terms of how we talk about these issues and that we paint an accurate picture for Nebraskans about what those expenditures mean. And I don't know if you have any ideas about that as we move forward or if you'd like to comment in that regard, but just a note of caution, I guess. [LB959 LB960 LB961]

GERRY OLIGMUELLER: Well, I think it's worth a closer look. I think it would be interesting to see exactly how some of the expectations, as expressed in as policy and translated into law, have actually worked their way through in terms of determining an amount of money to be allocated on a school system by school system basis, and to just develop a pretty detailed understanding of exactly whether or not it's translating from a financial perspective to that which was intended. And I think that would be worth the exercise. [LB959 LB960 LB961]

SENATOR NANTKES: Thanks. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Any other questions? Senator Harms. [LB959 LB960 LB961]

SENATOR HARMS: I just had one. Do you feel comfortable with the progress that we've made with keeping Medicare and Medicaid under control? And we had a small increase compared to what we've had historically, but do you feel like we're on top of that or do you still think that thing is just going to move forward, with what the committee...the changes that we've made in this process? Or should we be looking at new ideas and new approaches? [LB959 LB960 LB961]

GERRY OLIGMUELLER: Well, I mean, I'd urge a continual look at Medicaid, and one of the reasons I say that is you've obviously had an impact, through efforts of Medicaid reform, and the growth in that program was slowed, but I, you know, anticipate that it will continue to grow once it establishes its new baseline, if you will, and concerns will develop again for the amount of money we're investing there. [LB959 LB960 LB961]

SENATOR HARMS: What are your thoughts on like what North Carolina and Florida have done, maybe South Carolina, where they've actually said, you know what, it's your responsibility to take care of your health; we're going to provide health insurance for you and you manage your own health, your own system, you stay within these boundaries? What are your thoughts about something like that? [LB959 LB960 LB961]

GERRY OLIGMUELLER: I haven't given it a lot of thought and I'd probably defer to some of those who have responsibilities in that area, Senator. [LB959 LB960 LB961]

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

Appropriations Committee
February 04, 2008

SENATOR HEIDEMANN: Senator Fulton. [LB959 LB960 LB961]

SENATOR FULTON: Yeah, thank you. Senator Harms, the philosophy there is defined contribution versus defined benefit, and that's...this is something that during the budgetary process last year that I brought up I'd like to take a look at. Do we have anyone on the executive...within the executive branch of government that is studying what is occurring? And Florida is one of the states, I think it's North Carolina is the other one. They've moved from a...to a defined...oh, a defined contribution model versus what traditionally we've been using, a defined benefit model--a different type of philosophy. Whether it works or not we don't know, but we're starting to get to that point chronologically in history now. It's been in place for a certain number of years. There should be some empirical data by which we are able to move forward with some policy here. Is that being watched on your side of the government? [LB959 LB960 LB961]

GERRY OLIGMUELLER: I suspect that Vivianne Chaumont in Medicaid is watching that. I'm not aware of a specific study in Nebraska. It's geared in that direction. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Senator Kruse. [LB959 LB960 LB961]

SENATOR KRUSE: TEEOSA is the elephant in the middle of the living room right now, and obviously that's our product. We decide how much it's going to be and it's a product of our policy. Is there any discussion about a long-range look at what that total amount should be so that we are keeping it from being a budget buster? [LB959 LB960 LB961]

GERRY OLIGMUELLER: Well, there's...I think there's probably consideration that will need to be given at some point to whether or not you, as a matter of policy, determine the amount to be provided, accounting for the specific expectations that Senator Nantkes refers to and/or you rely on a formula that tells you the amount that should be appropriated for TEEOSA school aid. Just anecdotally, I'd share that...and of course different state, different laws, different expectations, but I was in South Dakota a week ago and the article in the newspaper was about the Legislature there snubbing changes to their current school finance formula, which was characterized in the news article as either CPI or 3 percent, whichever is lower, and in South Dakota this year it was 2.5 percent. So they evidently have some semblance of an approach to financing school aid that sort of establishes what is the level of funding they provide as opposed to a formula that determines the amount. [LB959 LB960 LB961]

SENATOR KRUSE: Well, I'm thinking of the relevance of the resource factor, which is definitely in our control under the levy limit. So we can... [LB959 LB960 LB961]

GERRY OLIGMUELLER: Right. [LB959 LB960 LB961]

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Transcriber's Office

Appropriations Committee
February 04, 2008

SENATOR KRUSE: ...we don't have to worry about the formula as it equalizes, makes it fair among the districts. Our question is what is the appropriate level of state funding, what's the appropriate balance we should be having? And I just miss that kind of a conversation around here. Again, it's back to that long-range plan that we're talking about. [LB959 LB960 LB961]

GERRY OLIGMUELLER: Uh-huh. [LB959 LB960 LB961]

SENATOR KRUSE: We don't do it. And I'm a bit frustrated with it because we act like the TEEOSA...that we're victims of TEEOSA. (Laugh) Well, it's our elephant. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Senator Nantkes. [LB959 LB960 LB961]

SENATOR NANTKES: Gerry, thanks for giving us that report about some of the discussions happening in our neighbor to the north up in South Dakota, but I guess I wanted to give you a chance to clarify the impetus for that report. Is the Governor suggesting that we examine some sort of artificial cap when it comes to school...to public...the investment the state should be making in public education? [LB959 LB960 LB961]

GERRY OLIGMUELLER: Well, I think it's not unlike probably the line of thought that Senator Kruse was sharing, and that is should we...is it right now to have a discussion about what that level of investment should and needs to be. [LB959 LB960 LB961]

SENATOR NANTKES: Uh-huh. I guess, you know, we discuss frequently within committee about how important it is to keep a cap on overall state spending. We all remember very...we all remember very well the discussion that Nebraska had about spending overall in terms of the proposed lid that was on the ballot... [LB959 LB960 LB961]

GERRY OLIGMUELLER: Right. [LB959 LB960 LB961]

SENATOR NANTKES: ...in 2006 and I know that weighs heavily on our minds as we make decisions in ensuring that we aren't forced into a situation when we have to deal with those kinds of artificial limits on carrying out the many important duties that state government has to attend to. And so I guess I'm just a little nervous when the conversation terms, particularly in a time, at the moment, of economic prosperity--of course, we'll see what happens in terms of the overall economic picture--but about instituting any sort of artificial caps in terms of investing in what I consider to be one of the paramount duties of government and that's, you know, providing for a quality public education. So I just wanted to give you a chance to clarify about that report. And thank

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

Appropriations Committee
February 04, 2008

you. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Senator Wightman. [LB959 LB960 LB961]

SENATOR WIGHTMAN: Gerry, you talked about South Dakota putting limits at 2.5 or 3 percent or CPI, whichever was lower I think. Is that right? Did they...have they done that or is that under consideration? [LB959 LB960 LB961]

GERRY OLIGMUELLER: I haven't...well, I haven't researched it, but that is what was being reported in the paper. [LB959 LB960 LB961]

SENATOR WIGHTMAN: Yeah, I know we get reports, statistical reports, that indicates Nebraska, and this may have been discussed when I was out of the room, but that Nebraska is the lowest or certainly one of the very lowest as far as state aid to education, as far as a percentage of the overall cost. I assume you've reviewed such studies. [LB959 LB960 LB961]

GERRY OLIGMUELLER: As a percent of personal income or on a per capita basis or...? [LB959 LB960 LB961]

SENATOR WIGHTMAN: No, I think it says a percentage of total overall educational costs, that the state funding is the lowest percentage of any of the states or very nearly the lowest. That's my understanding of what the statistical studies show, not necessarily per capita or anything, but just if you took the total funding of education, local and state, that ours is one of the lower. Are you familiar with...? [LB959 LB960 LB961]

GERRY OLIGMUELLER: I guess I'd have to look at some of these reports to know exactly what we're talking about,... [LB959 LB960 LB961]

SENATOR WIGHTMAN: I was wondering if... [LB959 LB960 LB961]

GERRY OLIGMUELLER: ...but because we obviously are a smaller state than many of the other states in the country and, of course, would have... [LB959 LB960 LB961]

SENATOR WIGHTMAN: Lower total dollars. [LB959 LB960 LB961]

GERRY OLIGMUELLER: ...lower investments, but, yeah. [LB959 LB960 LB961]

SENATOR WIGHTMAN: But I think this had to do with the percentage of total educational funding, so that whether you were a large or a small state should make no difference. Do you...I was going to ask if you happen to know what the level of total cost per student is in South Dakota as opposed to Nebraska or... [LB959 LB960 LB961]

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

Appropriations Committee
February 04, 2008

GERRY OLIGMUELLER: No. Don't have that with me. [LB959 LB960 LB961]

SENATOR WIGHTMAN: ...or what their percentage of funding is compared to ours?
[LB959 LB960 LB961]

GERRY OLIGMUELLER: No. [LB959 LB960 LB961]

SENATOR WIGHTMAN: Thank you. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Any other questions? Seeing none, thank you for coming in today, Gerry,... [LB959 LB960 LB961]

GERRY OLIGMUELLER: Sure. [LB959 LB960 LB961]

SENATOR HEIDEMANN: ...and telling us some of what you think is important. Would you be sticking around for the closing? [LB959 LB960 LB961]

GERRY OLIGMUELLER: I waive closing, if I even presume to have had it. [LB959 LB960 LB961]

SENATOR HEIDEMANN: You're going to waive closing. (Laugh) Thanks for coming in today. [LB959 LB960 LB961]

GERRY OLIGMUELLER: (Laugh) [LB959 LB960 LB961]

SENATOR HEIDEMANN: Is there anyone else wishing to testify in support of LB959, LB960, or LB961? [LB959 LB960 LB961]

WAYNE MARK: Good afternoon. My name is Wayne Mark. My last name is spelled M-a-r-k. I am the president of the Nebraska State Bar Association and I am unable to be here next Monday when the judicial branch actually makes its presentation on its part of this budget bill, but I wanted to speak to you today about the interpreter aspect of that bill. I understand that the Governor has supported the judicial branch request for additional funds for this year. I'm not exactly certain what the Governor has included in the bill for next year. I do want to speak in support of the Chief Justice's request for both for this year and next year. I think I was privileged to be in the Legislative Chamber when the Chief delivered his State of the Judiciary message, and I thought he spoke eloquently about the need for interpreters and why it's become such a tremendous burden on the court financially. And I believe that all of us can recognize that if we were sitting in a courtroom with either liberty or our financial future at stake, it's important to the fair disposition of justice that we can at least understand what's going on in that room; that we can understand what the witnesses are saying or what the judge is saying about that. And the obligation to provide the interpreters is an obligation of the Supreme

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

Appropriations Committee
February 04, 2008

Court and it continues to go up. I believe the Chief said in that, in his speech to the legislative body, that there are something like 20 different languages that need to be interpreted in this state. Our diversity is a wonderful aspect of the state of Nebraska, but it doesn't come without cost. And so I urge this body to support the request of the judicial branch for additional interpreters. I'd be happy to answer any questions that you may have. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Just to let you know that the request was made and it looks like we, at least initially, have decided to put it in our preliminary budget. [LB959 LB960 LB961]

WAYNE MARK: All right. I appreciate that. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Does anybody have any questions? Senator Wightman. [LB959 LB960 LB961]

SENATOR WIGHTMAN: Well, I happen to come from Lexington, Nebraska, where we probably have more need for interpreters per capita maybe than about anyplace in the state, and we're having more in that plant workers are being transferred from Emporia, Kansas, to Nebraska. And I understand the problem and justice without people understanding what they're pleading to or what the proceeding is about is not justice, obviously, and I do think that in order to have a pool of interpreters sufficient to handle all these languages, we are going to have to be competitive. So I appreciate your being here and certainly it's a subject that's very much of important matter in our district, so... [LB959 LB960 LB961]

WAYNE MARK: Well, the lawyers and judges of this state appreciate that, too, Senator. There's nothing else? [LB959 LB960 LB961]

SENATOR HEIDEMANN: I see no further questions. Thanks for coming in today, Wayne. [LB959 LB960 LB961]

WAYNE MARK: Thank you. [LB959 LB960 LB961]

ROB ROBERTSON: (Exhibit 3) Good afternoon, Senator Heidemann, members of the Appropriations Committee. I'm Rob Robertson with Nebraska Farm Bureau Federation and we're here today in support of specifically LB961. As you are aware, Nebraska Farm Bureau is the state's largest farm organization. We've been before this committee and other committees talking about how property tax relief is a huge public policy priority for Farm Bureau. Farmers and ranchers pay a disproportionate share of property taxes in the state and, in fact, I think over 60 percent of the schools, about 60 to 70 percent of the property tax burden is made up by agricultural property owners. And that's why it's a big concern to us in Nebraska Farm Bureau. Four or five years ago we

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

Appropriations Committee
February 04, 2008

did conduct some research and it showed that the average farm...average property tax burden for a farm in Nebraska was about \$7,500, compared to that of Kansas of \$3,100, and other neighboring states which were much lower than \$3,100. So we do have a significant burden here in Nebraska that kind of sticks out like a sore thumb in the Midwest. And I know you have a lot of tough decisions with the Cash Reserve in the budget this year and so if the committee does choose to recognize some surplus the Cash Reserve and wants to use it for property tax relief or any tax relief, we would urge you to use it for property tax relief. So with that, if there's any questions I'd be happy to answer them at this point in time. [LB959 LB960 LB961]

SENATOR HEIDEMANN: I see no further questions. I do appreciate you coming in, Rob. I had stated before when Gerry was testifying that I've got so much positive feedback from our property tax credits where some people are actually paying less this year. And one guy was probably in his sixties and says, I've been at this for...farming for, like, 40-some years and he had never actually paid less property taxes. So it is appreciated. It's on our mind also. [LB959 LB960 LB961]

ROB ROBERTSON: Yeah. And we hear it from our members and we appreciate the Governor's effort to expand the program, but I realize the committee has a difficult decision on the Cash Reserve, so... [LB959 LB960 LB961]

SENATOR HEIDEMANN: We appreciate that you realize that there are some difficult decisions to be made. (Laughter) Senator Nantkes. [LB959 LB960 LB961]

SENATOR NANTKES: Rob, thanks so much for coming down... [LB959 LB960 LB961]

ROB ROBERTSON: You bet. [LB959 LB960 LB961]

SENATOR NANTKES: ...and for all of the good work that your organization does in our state here. And I guess I was just wondering if maybe you could illuminate for the committee what other legislative priorities the Farm Bureau might have this session and, really, in terms of those other priorities, if any of them carry a price tag, how would you come down on the side of decision making in terms of this piece that you're here in support of today? [LB959 LB960 LB961]

ROB ROBERTSON: Yeah, we definitely are focusing on other things--water, for example. This committee is aware of that, and roads funding is also a priority in rural Nebraska as well. And it's a tough question to answer. I know you folks have to balance the needs and priorities, but agriculture continues to stick out, like I said, very clearly compared to other states as paying far more property taxes than our counterparts in other states. And so that is an equal priority for us in terms of that versus water and roads. And so if there's a balance or a mixture, we'd certainly be willing to work with the committee to try to find that. [LB959 LB960 LB961]

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

Appropriations Committee
February 04, 2008

SENATOR NANTKES: Thanks. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Senator Harms. [LB959 LB960 LB961]

SENATOR HARMS: You know, Rob, the last time I looked, it's been about a year ago, Nebraska was number one in the nation on property tax levied against agriculture. I don't know if it's still there or not, but it's got to be pretty close to being at the top. Wanted to ask you, one of the issues that I've run into and I'm curious about where the Farm Bureau might be. One of the things we are seeing in western Nebraska is people are coming in from out of state, buying up the ranch or farm, paying a pretty good sum for that, and what's happening is that it's pushing their land values up and also then increases their taxes. What are your thoughts about the land values and how that does generate that whole tax structure? [LB959 LB960 LB961]

ROB ROBERTSON: Well, I mean, the valuation of agricultural land I think is close to becoming a train wreck in the next couple, three or four years with not only outside interests coming into our state but also just with the higher commodity prices and higher incomes out there. We're going to be working very closely with the Revenue Committee to try to move to some sort of a soil productivity basis of valuing agricultural land as opposed to a percent of market value, which is 75 percent of market value at this point. Although that gives a more realistic valuation to all landowners, but it certainly doesn't treat those outside interests different than existing farmers and ranchers, because our constitution wouldn't allow that, so... [LB959 LB960 LB961]

SENATOR HARMS: Yeah. One of the things that we have found there is being in an eight-year drought, when they're coming in and buying the ranches around them, and they can't feed as many cattle on that land as they used to because they just don't have the pasture. They had to cut their herd down in half and, financially, it's really driving some of the ranchers into a terrible environment. [LB959 LB960 LB961]

ROB ROBERTSON: Yeah. [LB959 LB960 LB961]

SENATOR HARMS: Unless we find some solution to that fairly soon, you're going to find a lot of those farmers and ranchers, particularly ranchers, are going to go out of business. They just can't do it. Some are working two and three jobs in hopes that they just keep their ranch in their family, but it's getting desperate for some people, so... [LB959 LB960 LB961]

ROB ROBERTSON: And I know particularly in your area a more aggressive implementation of greenbelt laws would be helpful because of the Wild Cat Hills near Scottsbluff inflates the market values where they're really are a lot of outside interests driving that agricultural valuation market. And so we're also working on the greenbelt

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

Appropriations Committee
February 04, 2008

laws as well with the Revenue Committee. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Senator Fulton. [LB959 LB960 LB961]

SENATOR FULTON: Thank you for testifying. [LB959 LB960 LB961]

ROB ROBERTSON: You bet. [LB959 LB960 LB961]

SENATOR FULTON: I want to lay out a scenario that could very well happen in the upcoming years and it doesn't...I'm not speaking for or against LB961 specifically, but this is a...it should be something that we bear in mind and I'd be curious to see what the Farm Bureau thinks about this. Ag land value will, it seems to me, will proliferate, will increase, particularly with the price of corn and whatnot that's occurring. At the same time, it seems in urban areas that there's potential for property valuation to decrease given the, you know, mortgage lending crisis that's occurring across the country. If I play that out four, five, six years down the road, I can see an increased need for...well, more pressure being placed on ag land versus urban land. That being the case, and recognizing what's occurred in the past 20 years or so, even in those years that we have provided property tax relief from the state level, there has still been more raw dollars paid into property taxes by farmers. My family is in his district. Is that a concern and, if so, how do we...is there something we can do to address that now before it becomes...before an urgency forces us into a decision? [LB959 LB960 LB961]

ROB ROBERTSON: Yeah, it's a real big concern to us in agriculture because everybody has heard the figures of what the school aid formula is going to do in the next couple years left untouched, and any effort to try to rein that in or to modify the formula really puts, I think, agriculture property on a high mountain in a target. And I think it's going to be, you know, relied upon more so than property in other parts of the state. And so we are right now thinking about different strategies to bring some positions and policies and ideas to the Legislature to try to put more emphasis or have recognition in the formula of the unique nature of rural schools and the different expenses it takes to educate kids out there, and also that some adjustment factors that considers areas that are maybe land rich but people poor or recognizing the ability to pay. Because there might be significant land resources but, it goes back to the farm and ranch example, but there really isn't the ability to pay. And so if there's some area to drive that formula that looks at income in school districts as opposed to a property tax, you know, maybe having an income index drive it more than a property index, that would be one area that we're looking at as well. But we'll hopefully bring some more ideas down the road. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Senator Kruse. [LB959 LB960 LB961]

SENATOR KRUSE: My question is for Senator Harms. Senator Harms, your initial

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Transcriber's Office

Appropriations Committee
February 04, 2008

statement was Nebraska is first in the nation in what kind of tax? [LB959 LB960 LB961]

SENATOR HARMS: In property tax on agriculture. [LB959 LB960 LB961]

SENATOR KRUSE: On agriculture. [LB959 LB960 LB961]

SENATOR HARMS: Yeah, that was about a year or so ago, and I haven't looked at that. [LB959 LB960 LB961]

SENATOR KRUSE: Yeah. No. Okay. [LB959 LB960 LB961]

SENATOR HARMS: I don't know where we are now, but we're pretty close to the top. Good question. [LB959 LB960 LB961]

SENATOR KRUSE: Well, I quite often hear mixes of that, that we're the highest in property tax for residential tax, and that's certainly not true. My property, my residential tax, is half what my kids are paying in other states. So that would just emphasize more what you are saying, Rob, that there's discrepancy between the two kinds and that's why I want to straighten that out. [LB959 LB960 LB961]

SENATOR HARMS: When you look at what Senator Fulton just brought forward, you can see where we're headed. [LB959 LB960 LB961]

SENATOR KRUSE: Yes, if that were to continue,... [LB959 LB960 LB961]

SENATOR HARMS: Absolutely correct. [LB959 LB960 LB961]

SENATOR KRUSE: ...we'll have something to look at here. But it's not helpful that some people like to make their point by making these wild statements to me about our high property taxes when it's just not that simple. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Senator Wightman. [LB959 LB960 LB961]

SENATOR WIGHTMAN: Well, thank you for being here, Rob, and giving us Farm Bureau's position on this. My impression is that, as property values go up, it's going to have a lot more impact on counties that have a substantial urban population than some of the Sandhill counties and very sparsely populated counties. You might comment on that as to whether that's true. But it seems to me that if 95 percent of your valuation, which it may be in some of the more rural counties, is farm property, agricultural property, then it's not going to have a very big impact probably as property values go up, as long as they hold the line on spending. [LB959 LB960 LB961]

ROB ROBERTSON: Yeah. [LB959 LB960 LB961]

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

Appropriations Committee
February 04, 2008

SENATOR WIGHTMAN: But you're reallocating in a county that might be half urban and half rural or three-fourths urban and one-fourth rural and that you're reallocating the division between the two. Is that...do you think that's a fair...? [LB959 LB960 LB961]

ROB ROBERTSON: Probably to some extent, because I think in those districts that there's 95 percent agriculture property, those probably aren't equalized districts anyway and they're not receiving state aid generally. I'm not sure that's the case across the board. But where we're really going to see the change in the mix is the Yorks, the, you know, the half-and-half type counties, half urban, half rural. And there's going to be, if something doesn't change, a huge reliance on agricultural property. We have a high one now. It's going to be extremely high, I think, if the formula is not addressed in terms of its cost and how it's allocated and how it's triggered. [LB959 LB960 LB961]

SENATOR WIGHTMAN: And what you were discussing with regard to property taxes may not be a lot different than the bill I introduced last year which went nowhere in Revenue, that would have provided for, at least in some instances, a local option income tax. And I assume you're referring to that possibility at least. Is that correct? [LB959 LB960 LB961]

ROB ROBERTSON: That is, and that's why I mentioned to Senator Fulton that maybe an income trigger somehow wrapped into the formula might be helpful to address the issue, so... [LB959 LB960 LB961]

SENATOR WIGHTMAN: Now the bill I introduced, and I think Farm Bureau did support it, was a bill that would have only used income from income tax receipts for facility charges. I think Senator Wallman introduced in a bill, I think at Farm Bureau's request, that would have included special education also in that funding. But I gather that Farm Bureau would support that type of a proposal. [LB959 LB960 LB961]

ROB ROBERTSON: That's a path we'd like to take a look at, yeah, when we're looking at school aid reform issues. [LB959 LB960 LB961]

SENATOR WIGHTMAN: Do you agree that that probably should be a local option rather than something that the Legislature makes applicable to everybody? [LB959 LB960 LB961]

ROB ROBERTSON: Local control and local options always seem to go over a little bit better with the population and with our members as well. [LB959 LB960 LB961]

SENATOR WIGHTMAN: Thank you. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Seeing no further questions, thanks for coming in today, Rob.

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

Appropriations Committee
February 04, 2008

[LB959 LB960 LB961]

ROB ROBERTSON: Thank you. [LB959 LB960 LB961]

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 a registered lobbyist for Nebraska Cattlemen. I appreciate the opportunity to come here and speak today. Like Farm Bureau, we are a broken record when it comes to lowering property tax, so I'll try to help out and shed some information. Obviously, you have a hard charge with the Cash Reserve as it is, people putting their hand out for their form of relief. But nonetheless, if you're going to run a business as our members do, one of the things you have to do is be prudent and be prepared for that rainy day when the economy isn't good and you're going to have to be able to get through that time. So that's your challenge. Our board was in last week and LB961 was one of our priority bills. I'm speaking only to LB961. As you know better than I do how this conversation and these bills work out in terms of what you do, it could be put into another form or package and so we would like to be in the discussion in all that. Senator Harms stole one of my talking points and I would like to echo what he was talking about, the drought in the western part of the state, especially the Panhandle. As you see the shift from the west to the east in terms of people wanting to buy ground, they have "dollared up" from where they are in California or Colorado or Montana and they come to Nebraska, so they have a lot of money and they're willing to pay more. That's great if you own the ground. Obviously, any of us want our values in what we own to appreciate. But then what it does when you're a rancher and you're a fixed cost operator, as you know, Senator Heidemann, it makes it real hard because that may not change the profitability in what you do in your business but it's still...you have an appreciating property tax because you've got new people coming in. So with that, until you sell that ground, that appreciation of that ground almost hurts you. And you may not even sell that ground. You may try to gift it to your children, the next generation. And so in that aspect, that can be a hardship. Obviously, as we've talked about, as we've all seen with corn at \$5, soybeans at \$12.50, wheat at \$8, it's helped out. So you see the corresponding values of crop ground go up. And then, too, if you don't own, if you rent pasture, if you rent crop ground, that's reflected in higher cash rents, and so that can be a burden. So the point is if we lower the valuation rate or we provide property tax relief, with the escalating prices and then yet offset...they could still theoretically go up. In other words, your property tax goes up because land values have gone up, and there may have been a cut in there somewhere that helps out, so that's always hard to deal with. We know that this is a tough call because obviously, as I alluded to earlier about the Cash Reserve, I think it's prudent to be ready for that rainy day. And so we would like to see property tax relief, as I'll be here, like I said, as a broken record to try to stump for our members in that regard. One of the things that we see, as Mr. Robertson talked about before, is if this could be somewhat more on the income side because if, as Senator Harms said, you have higher property taxes because people have come in and have paid more for land, that doesn't necessarily change your profitability on the

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

Appropriations Committee
February 04, 2008

ranch. So if it was income-based, it would help those people out in that regard, so...and I'll throw my pitch in here. Obviously, we in the beef industry are the largest segment of the economy in Nebraska. Direct sales of feeder cattle and fat cattle is over \$7 billion right now. So point is, if things are good and it's on an income side rather than a property tax side, you're still...you're getting taxed on a profitability basis, not on the land value. So I think it's Senator Janssen's bill, as we look to...look at the ability to tax based on the earning capacity, I think that's a good way to start the process. And so we are...that's also one of our priority bills. So just quickly, in closing, be happy to answer any questions the committee has. We would urge for support of LB961 and, if not LB961, the opportunity to see property taxes be adjusted. Thank you, Senator. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Thanks for coming in today, Pete. Are there any questions? Senator Wightman. [LB959 LB960 LB961]

SENATOR WIGHTMAN: Pete, as you recognized, we do get into competing interests, some of which spell property tax relief in specific measures, some as a general measure, which this would be, if we just passed the \$75 million property tax relief. But some of the things we'll be looking at are, for example, jail reimbursement, which is a charge that the county bears part of, and there will be some debate within this committee as to who should bear that expense. But if you get down to specific issues, which probably also contributes to the property tax relief, if we allow jail reimbursement which cuts the overall expenditure to the county. Do you have any thoughts with regard to whether we allow it all in this \$75 million or whether we should look at specific measures that also would have a reduction in property tax? [LB959 LB960 LB961]

PETE McClymont: Well, I think Senator Nantkes hit it properly that we can give the relief in \$75 million, but if it isn't counterbalanced, you know, in the areas that you're talking about, you know, it's just put another hardship that this body or future bodies have to deal with. So obviously, basically funding of schools is roughly, what, two-thirds, so that's got to be considered too. So we can't, as an association, come before you as a committee and the body and say we want this but not realize that we're going to have to tighten up our belts in other areas. So to give you specifics, no, but I would agree with your assertion. [LB959 LB960 LB961]

SENATOR WIGHTMAN: One follow-up question: What would the Cattlemen's position be on a local option income tax? I think you were supportive of that a year ago, but I'm not sure. [LB959 LB960 LB961]

PETE McClymont: Yeah, we were, so I would continue to say that. I can't add anything further, but we would be supportive of that, yes, sir. [LB959 LB960 LB961]

SENATOR WIGHTMAN: But one of the problems you have out there is that somebody

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

Appropriations Committee
February 04, 2008

might have a portfolio of stocks or mutual funds that would be worth \$10 million and they own a \$100,000 home and the only thing they're paying property tax on is the \$100,000. Now some of that there's going to be some income. But if they owned a portfolio of all municipal bonds that they were paying no income tax, then they're not paying either an income tax or a property tax. Would that be a fair assessment? [LB959 LB960 LB961]

PETE McCLYMONT: Yes, and we've had that conversation. I totally agree. So how we write a bill to go after those incomes, that would be difficult at best, I assume. [LB959 LB960 LB961]

SENATOR WIGHTMAN: We could try to go back, and I don't think anybody wants to go that direction of course, of assessing personal property again. But that was kind of a deal if you ask me no questions I'll tell you no lies, I think. (Laughter) Thank you. [LB959 LB960 LB961]

PETE McCLYMONT: Thanks. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Senator Nantkes. [LB959 LB960 LB961]

SENATOR NANTKES: Pete, thanks for coming down. [LB959 LB960 LB961]

PETE McCLYMONT: Thank you. [LB959 LB960 LB961]

SENATOR NANTKES: Always good to see you. You mentioned the business perspective that the Cattlemen bring to the table in terms of their support for LB961, I guess it is, and I appreciate that. And in that same vein I just wanted to ask a question. You may have heard some of my dialogue with Gerry Oligmueller about the sustainability factor involved in our tax structure and how that affects our other budget decisions. And I guess from a business perspective, isn't it also an important principle to have basically a tax structure in place that is fairly consistent from year to year, too, so that business people can make appropriate business decisions and planning decisions in accordance with those sound budgetary principles? And I just wondered if you could address maybe the consistency and sustainability issues. [LB959 LB960 LB961]

PETE McCLYMONT: Oh, without a doubt. I think this isn't going to play well with certain groups, but obviously we would...we'd be very agreeable and willing to work with any senator or committee that if you wanted to make it more even between the three--sales, income, and property tax--we would love that. Now, you know, part of the people on the sales and income tax side aren't going to like that, and that's always going to be a challenge, but if that were more the case or attempted to go to that direction, we would definitely agree with that. [LB959 LB960 LB961]

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Transcriber's Office

Appropriations Committee
February 04, 2008

SENATOR NANTKES: Great. Thanks. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Any other questions? Seeing none, thanks for coming in today, Pete. [LB959 LB960 LB961]

PETE McClymont: Thanks. [LB959 LB960 LB961]

JACK CHELOHA: (Exhibit 4) Good afternoon, Mr. Chair and members of the Appropriations Committee. My name is Jack Cheloha, the last name spelled C-h-e-l-o-h-a, and I'm the registered lobbyist for the city of Omaha. I wanted to testify briefly in favor of a portion of LB961 relative to the \$15 million transfer to road funding. Basically, the story, as I understand it, is that the federal government sends amounts of money to the states for highway construction. Looking at that down the road, it appears that the amount of money...I do have a handout, too, by the way, the amount of money coming from the feds is going to be decreased. We don't know an absolute number at this point in time but we anticipate the number being lower, which ultimately will affect our Highway Trust Fund, which affects the abilities of cities and counties to maintain their streets, etcetera. And so it's my understanding in this bill the Governor proposes a one-time transfer of \$15 million into the...a certain fund which would be utilized by the Department of Roads to help. I guess I'd prefer to see the money transferred in at the top of the funnel, if you will, the Highway Trust Fund, because then that would go down to the Highway Allocation Fund, which is a portion that cities and counties share, if you will, for their street program. Obviously, we have concerns about the numbers being down. This resolution that's being handed out was passed by our city council and signed by our mayor asking you to look favorably upon this transfer of funds. I'll just try to give you a little bit of facts of why it's important to Omaha. In the city, we maintain and operate about 4,200 lane miles of streets and about 140 bridge structures. In the past few years, we've had increased cost of material and energy and manpower, etcetera, which drives up the overall cost, if you will. We're charged with trying to maintain a dependable, safe, and efficient transportation system for our community, not only for our own citizens but our visitors to the community as well. In addition to the amounts of money that we receive from the state, which we greatly appreciate, we've had to look at increases in costs on the local level. Our increases in fees and taxes, if you will, to help with the increased cost, we've raised our wheel tax, our street cut fees and even development fees to try and keep up with the shortfall. In 2004, there was a Metropolitan Area Planning Authority study, if you will, where they look at basically the metro area, including parts of Council Bluffs, Iowa, and they've looked at existing capacity and things like that, addition to what changes we may need, and just for Omaha alone they estimate that we need to spend an additional \$325 million over the next 25 years just to try and meet these needs. And so I just wanted to come in and raise awareness to this committee about roads funding. Likewise, we've testified in other committees on other proposals on how we should try to make increases or at least maintain where we are with the Highway Trust Fund. And so with that, I just wanted to

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

Appropriations Committee
February 04, 2008

offer our two cents today, if you will, and I'll try to answer any questions. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Are there any questions? Senator Wightman. [LB959 LB960 LB961]

SENATOR WIGHTMAN: We have several bills, appropriations bills, that some of them would increase the state tax on gasoline, some that would implement a 5 percent, I think, sales tax on the wholesale level. [LB959 LB960 LB961]

JACK CHELOHA: Right. [LB959 LB960 LB961]

SENATOR WIGHTMAN: What's your position on those bills? [LB959 LB960 LB961]

JACK CHELOHA: Senator, LB846 is the bill that would put the 5 percent wholesale tax in. We, the city of Omaha, did support that bill and we testified in favor of it. In terms of a flat-out increase per gallon, we've kind of stepped back from that, if you will, and haven't taken a position on those bills just because, as state elected officials are leery of tax increases, so are local governments. So we didn't testify in favor of those but we're monitoring them all closely, just to see where we end up. [LB959 LB960 LB961]

SENATOR WIGHTMAN: Either one is likely to be an increase in tax. One of them you call it a tax at the retail level and the other one, since it's at the wholesale level, a pass-through tax, I assume. Is that...? [LB959 LB960 LB961]

JACK CHELOHA: Right. [LB959 LB960 LB961]

SENATOR WIGHTMAN: So I'm not sure that both of them don't address an increase in taxes but in different manners. [LB959 LB960 LB961]

JACK CHELOHA: I see the point you're making, Senator. I do. [LB959 LB960 LB961]

SENATOR WIGHTMAN: Now one of the things I guess I like about the tax on the...sales tax on the gasoline is that as prices move up, which they seem to be prone to do, the amount of the tax revenue will also increase. [LB959 LB960 LB961]

JACK CHELOHA: Right. That is a good point. We could tie it to the inflationary factor on the price per gallon as opposed to just having a set amount of cents per gallon. That's a great point. [LB959 LB960 LB961]

SENATOR WIGHTMAN: Thank you. [LB959 LB960 LB961]

SENATOR HEIDEMANN: I think sometimes there's a frustration in this body that you

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

Appropriations Committee
February 04, 2008

have counties and cities and people of this state that want and demand better roads, but when it comes time to step up and fund them there's a little reluctance there. So I guess we're just going to have to search out the best solution, go with that. [LB959 LB960 LB961]

JACK CHELOHA: Absolutely. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Any other questions? Seeing none,...Senator Harms. [LB959 LB960 LB961]

SENATOR HARMS: I would just say that I think taking \$15 million out of reserve bothers me just a little bit because if we are...if what we're projecting is absolutely true and the economy goes into a deep recession, I think that \$15 million will become a risk pretty quickly and you might want to look at something that might be a little more permanent. But I think it's something you need to consider, because I think it will be a risk. [LB959 LB960 LB961]

JACK CHELOHA: I see your point. Thank you. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Thanks for coming in today. [LB959 LB960 LB961]

JACK CHELOHA: Right. Thank you. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Is there anyone else wishing to testify in support of LB959, LB960, and LB961? Is there anybody wishing to testify in opposition of LB959, LB960, or LB961? Is there anyone wishing to testify in the neutral position of LB959, LB960, or LB961? [LB959 LB960 LB961]

JESS WOLF: Thank you, Senator Heidemann. My name is Jess Wolf, J-e-s-s W-o-l-f. I'm the president of the Nebraska State Education Association and I am here to speak in opposition to LB961. Actually, our opposition to LB961 goes directly to some of the questions of the very first testifier that you had here today that were offered by the committee. We're not particularly opposed to trying to curtail the increases in property tax. And, in fact, we're in favor of trying to reduce those costs overall. Our major concern is exactly what we talked about in terms of the economic potential that we have right now, what appears to be happening in the country, and that is that there's a very strong potential that we may have a downturn. And the \$75 million that we're talking about here now coming out of the reserve would certainly go a long way to help alleviate that problem and keep from happening what happened back in 2000, 2001 and '02, when we had a major turndown and schools, in particular, lost \$432 million, I believe, in terms of state aid. So our major concern is that \$75 million we think ought to remain in the reserve at this particular time until we know that the economy is in fact going to be able to maintain. We're certainly not opposed to looking at ways to curtail

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

Appropriations Committee
February 04, 2008

the property taxes. In fact, the NSEA has had a strong position about a three-legged stool for a number of years about the taxes that ought to be funding schools, and that those three legs on the stool ought to be somewhat equal, and they're not now. Thank you. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Thanks for coming in today. Senator Synowiecki. [LB959 LB960 LB961]

SENATOR SYNOWIECKI: Mr. Wolf, just for the record, you are testifying in opposition? [LB959 LB960 LB961]

JESS WOLF: Opposition to LB961. [LB959 LB960 LB961]

SENATOR SYNOWIECKI: I just want to make sure that the record is clear,... [LB959 LB960 LB961]

JESS WOLF: Okay. [LB959 LB960 LB961]

SENATOR SYNOWIECKI: ...because I think you... [LB959 LB960 LB961]

SENATOR HEIDEMANN: I did say neutral position. [LB959 LB960 LB961]

SENATOR SYNOWIECKI: ...offered up neutral position. [LB959 LB960 LB961]

JESS WOLF: Yeah. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Yeah. [LB959 LB960 LB961]

SENATOR SYNOWIECKI: And for purposes of the record, for you to be an opponent. [LB959 LB960 LB961]

JESS WOLF: Okay. Yes, I'm opposition. I just wasn't very fast jumping up. (Laugh) [LB959 LB960 LB961]

SENATOR HARMS: Jess, have a question though. You're in opposition to this. Where are you in regard to taking \$200 million, or whatever it might be, out of reserve for public schools, salaries? And is this...are these two issues tied together? [LB959 LB960 LB961]

JESS WOLF: Well,... [LB959 LB960 LB961]

SENATOR HARMS: Are you not wanting to touch this because you want maybe that \$75 million to be over to the \$200 million, or whatever it is you're asking for? [LB959

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

Appropriations Committee
February 04, 2008

LB960 LB961]

JESS WOLF: Actually, no. We're in favor of having that \$200 million that we're asking there to remain in the reserve as well. We're asking that it be set aside so that the interest off of that could be used for teacher salaries or to increase salaries. And in fact, if the economy were to go down, that \$200 million would still be accessible to the Legislature and the Governor to look at in future years if you needed to take it back. Our preference, of course, would be that you wouldn't need to take it back, but at this particular time that's what we're looking at on that particular bill. So I don't really think we're in opposition to the \$75 million, but it might sort of appear that way to some. [LB959 LB960 LB961]

SENATOR HARMS: Okay. [LB959 LB960 LB961]

JESS WOLF: (Laugh) Okay. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Senator Nelson. [LB959 LB960 LB961]

SENATOR NELSON: So if I understand you correctly, if we have \$500 million in the reserve... [LB959 LB960 LB961]

JESS WOLF: Yes. [LB959 LB960 LB961]

SENATOR NELSON: ...that the interest from \$200 million of that would be allocated to schools, whatever, and the remaining interest then would be added to the reserve or go wherever it goes. Is that what you're saying? [LB959 LB960 LB961]

JESS WOLF: That's correct. [LB959 LB960 LB961]

SENATOR NELSON: Okay. So you don't consider it really a transfer out of the reserve. [LB959 LB960 LB961]

JESS WOLF: Not really, no. It would still be there. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Senator Wightman. [LB959 LB960 LB961]

SENATOR WIGHTMAN: I asked the question earlier of...as to Nebraska's standing with regard to how much they're funding out-of-state revenues in public education as opposed to other states in the nation. Are you familiar with those figures? [LB959 LB960 LB961]

JESS WOLF: Yes, I am. [LB959 LB960 LB961]

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

Appropriations Committee
February 04, 2008

SENATOR WIGHTMAN: Where do... [LB959 LB960 LB961]

JESS WOLF: Well, Nebraska ranks somewhere between 48th and 50th in terms of the amount of state dollars that fund public education, so... [LB959 LB960 LB961]

SENATOR WIGHTMAN: There aren't a lot of numbers in between 48 and 50, as I recall. [LB959 LB960 LB961]

JESS WOLF: Well, (laugh) I suppose that's true. It depends on the source that you look at. But the original source when we were looking at the LB1100 did say that Nebraska ranked 50th. Since then, I've seen a couple figures since then that says we're actually 48th. So we're somewhere in that range. We're near the bottom. [LB959 LB960 LB961]

SENATOR WIGHTMAN: Now my follow-up question there was, is that a percentage of the total cost of public education that we're looking at? [LB959 LB960 LB961]

JESS WOLF: Yeah. If you have 100 percent of what the total cost is now, the state currently is applying about 35 percent, somewhere in that...34-35 percent. I think that the state has had a goal for about 20 years now to get that up to 50 percent. In fact, I think the highest we ever got was about 41 or 42 percent. It's been slipping back down since then and now we're back down to about 34-35 percent. [LB959 LB960 LB961]

SENATOR WIGHTMAN: Thank you. [LB959 LB960 LB961]

JESS WOLF: Yes, you're welcome. [LB959 LB960 LB961]

SENATOR HEIDEMANN: You talked about a loss of \$432 million during the lean years. Was it a loss to the school or just a loss that the state wasn't putting in at that time? [LB959 LB960 LB961]

JESS WOLF: It was a loss to the actual school districts and they had to cut their budgets because it was an actual decrease in the amount of dollars that were coming from the state. And so that money has not been recouped since that time by the school districts. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Senator Nantkes. [LB959 LB960 LB961]

SENATOR NANTKES: Jess, thanks so much for coming down. It's always good to hear your perspective. And I was wondering if you could elaborate maybe a little bit more upon the dialogue points that I started with Gerry Oligmueller earlier this afternoon in terms of framing issues when it comes to the TEEOSA funding formula. And if you could discuss maybe, in, you know, a brief sense kind of, what we've asked teachers and educators and all of the professionals that you represent to do in terms of increased

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

Appropriations Committee
February 04, 2008

duties and increased activities and the different public policy decisions that we've come together and said it's a good idea for schools to look at early childhood and nutrition and all of the other different things that are out there, and just talk about the frame a little bit, I'd appreciate that. [LB959 LB960 LB961]

JESS WOLF: Okay. [LB959 LB960 LB961]

SENATOR NANTKES: It's a really broad question, so... [LB959 LB960 LB961]

JESS WOLF: Yeah. (Laugh) In terms of TEEOSA itself, I'm not a very good scholar on the actual distribution of the funds and those type of things, but I do know that in terms of the requirements that have come down from the federal government and from state government in relationship to what educators have had to do, in terms of their time they've spent on assessments and developing standards and those type of things, has been exceedingly increased in recent years. In fact, that's the number one complaint we've heard from some of our members over our years. But by and large, most of our members also think those have been good changes. It's just that they don't think they've been compensated for those changes over the time. In other words, they were things that were added on as opposed to, you know, taking the place of one thing and putting in this in place of it. It's been added-on work that they've had to do. I think it's been good for the state. I think it's been good for the students, and most educators feel that way, but it's just been additional...a great amount of additional time and effort that they've had to put in to meet those standards. [LB959 LB960 LB961]

SENATOR NANTKES: Thank you. [LB959 LB960 LB961]

JESS WOLF: Thank you. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Any other questions? Senator Fulton. [LB959 LB960 LB961]

SENATOR FULTON: Yeah, thank you for testifying. [LB959 LB960 LB961]

JESS WOLF: Sure. [LB959 LB960 LB961]

SENATOR FULTON: The \$432 million, it's a lot of money that was lost in the early part of this millennia. What...how did that affect the educating of our kids? Or, I mean, can you...do we know that or... [LB959 LB960 LB961]

JESS WOLF: Well, I can tell you a few things. I mean there were some school districts that had to cut programs. Class sizes went up in those places that had maybe...I come from a small school district, maybe we had two 1st grades once upon a time now we might have been down to one. Those were changes that took place because of those loss of funds at that particular time. [LB959 LB960 LB961]

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

Appropriations Committee
February 04, 2008

SENATOR FULTON: And do we have any...is there empirical data that we can look to that...regarding the kids specifically? I mean, I know it's going to hurt the schools' budgets, but how have we measured...how has that hurt the education of the kids that were...? [LB959 LB960 LB961]

JESS WOLF: Well, I guess the evidence that we would have is that there is some evidence out there that class size does make a difference in terms of student performance and in terms of closing achievement gaps. And so in those respects, we could provide some data that would indicate that by increasing those class sizes, by decreasing some of those programs that were offered, we did in fact affect the students. [LB959 LB960 LB961]

SENATOR FULTON: Okay. [LB959 LB960 LB961]

JESS WOLF: Thanks. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Wasn't some of that \$432 million actually made up, not coming from the state, but from the local side? Because part of that, wasn't that we was supposed to go to from \$1.05 down to \$1.00 but we stepped...we kept it at \$1.05 and so you was actually able to access some local money instead of coming from the state? So would the \$432 million actually be a true figure? [LB959 LB960 LB961]

JESS WOLF: Senator, I don't actually know the answer to that. I think you are correct in terms of the fact that there were some provisions originally that they were going to cut the property tax rates and they didn't, in fact, get cut in some of those years. So that, what you're talking about, is probably true. But in terms of the dollars that actually came from the state, it was decreased. And shortly before that we had a measure where the state did take...replace a great deal of the state aid...or the state aid replaced a great deal of the property taxes over a short period of time. I mean there was a great infusion of dollars. And the state a lot of times talked about, well, we've certainly increased our state aid. And so the amount of aid to public education was greatly increased, but, in actuality, in terms of the local school district, they didn't have any more money. It was the same amount of money. It was coming from the state as opposed to the property taxes at that particular time. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Are you aware of any, through that very tough times, that both the state and the school districts are going through that, schools actually had a budget that was flat or actually reduced in money? Wasn't they actually able to even still gain in, as far as percentagewise, a percent or two? [LB959 LB960 LB961]

JESS WOLF: That I do not know. I would be making a guess. I think some of them didn't...were still able to increase their...by a percent or two, yes. [LB959 LB960 LB961]

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

Appropriations Committee
February 04, 2008

SENATOR HEIDEMANN: Okay. [LB959 LB960 LB961]

JESS WOLF: But I don't know if it was universal across the whole state. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Seeing no further questions, thanks for coming in today, Jess. [LB959 LB960 LB961]

JESS WOLF: Okay. Thank you. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Is there anybody else wishing to testify in opposition of any of these three bills? Okay. Now is there anybody wishing to testify in the neutral capacity on LB959, LB960, or LB961? [LB959 LB960 LB961]

DUANE HOVORKA: (Exhibits 5 and 6) Good afternoon, senators. My name is Duane Hovorka, that's D-u-a-n-e H-o-v-o-r-k-a, and if I have my numbers right, I'm testifying neutral on LB959, which is the Governor's deficit appropriations. Correct? Okay. I'm here representing the National Wildlife Federation, which is the nation's largest, member-supported, conservation organization, and here to bring to your attention a serious omission from the bill and that is funding to put in place the Nebraska water depletion plan which is required under the Nebraska...under the Platte River Recovery Program to be in place by the end of this year. And I've got a handout that's got some information. This is a publication that National Wildlife Federation and Nebraska Wildlife Federation put out last year, and it does a pretty thorough job of explaining what the Platte River Recovery Program is all about. The gist of the program is to address endangered species issues in the Central Platte and the Lower Platte River of Nebraska through a program that also provides other benefits for fish and wildlife and people in the state. It provides for 10,000 acres of land to acquire water and retime river flows to improve the river flows in the Platte for fish and wildlife, and a pretty robust research and monitoring program. It's a 13-year program. It's...the cash costs of the program are about \$187 million over 13 years, and the entire \$187 million is going to be paid by the Department of Interior, by Colorado water users, and by the state of Wyoming. So Nebraska does not share in the cost of putting the program operations in place. And what it does, though, is that...and the vast majority of that money is going to be spent here in Nebraska on land acquisition and the science and the other things that are involve. What it also, however, requires each state and the federal government to do is to put in place a depletion plan, and the idea is if we're going to be leasing water and retiming flows to try to improve the flows in the Platte for fish and wildlife on one hand, we should not, on the other hand, continue to take water out of the river because that would defeat the purposes of the program. So the program puts in place a July 1, 1997, date, which is when the original cooperative agreement was signed. That's the date when we have to protect for future water uses anything that would impact the minimum

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

Appropriations Committee
February 04, 2008

critical wildlife flows for fish and wildlife. So since that time, of course, we've had a lot of wells and water development in Nebraska, and Nebraska and the other states are all responsible for basically offsetting that new water development to the extent that it impacts those minimum flows in the Platte. So it's not every gallon of water of new water development, but it's just the impact of those developments on those critical minimum flows. So under the agreement and under the program that Nebraska depletions plan has to be in place by December 1 of 2008, so we have to have it up and running by the end of this year. Some of the offset is going to come over the long term through those integrated management plans that were required under LB962, so the NRDs and the Department of Natural Resources are developing those plans and over time those will reduce the impact of that new development, but that's a long process. Those NRDs have basically a ten-year time line to try to get back to 1997 levels, and then they only have to protect Nebraska surface water rights that are in place. So they have to go back, basically, to the Game and Parks in-stream flow right, whereas the Fish and Wildlife Service minimum target flows are actually higher than that, and so there's more water at stake. I know this gets pretty complex but...and hopefully the information there will help explain it, but some of the water also will come through the program itself; is developing water projects to try to retime flows, things like pumping water out of the ground water mound down in central Nebraska, putting it into the river at times like during the summer when it would be particularly valuable, and Nebraska has said we're going to reserve a portion of those projects for our own depletions. But between those two sources we still won't have enough water to meet our obligations to put in place our depletion plan, and the plan needs to be in effect by the end of this year. So we can't do it for free. Even...these are all voluntary programs basically, and so we'll either be finding projects, like pumping out of the ground water mound or retiming existing river flows or leasing water from willing farmers, we can't do it for free and so we're going to have to have some money in the budget in order to accomplish this by the end of this year. So we are to ask you...we supported Governor Heineman's decision in 2006 to sign on to the Platte River Recovery Program. We were strong supporters. We spent the last ten years helping to negotiate that agreement and we think it's a fair one for Fish and Wildlife and it's a good one for the people of Nebraska, but in order to meet that promise that Governor Heineman made and that the state made to be part of this program, we need to have that depletions plan in place by the end of this year. And so we'd ask your support to put that money into this bill, to put that money into the budget so that we can honor our obligations and have our depletion plan up and running by the end of the year. And that concludes my statement. I'd also like to offer you a short statement from Dan Stahr, who's the executive director of the Nebraska Wildlife Federation and who couldn't be here today but wanted me to offer that as well. [LB959 LB960 LB961]

SENATOR HEIDEMANN: I maybe have missed it but exactly how much money do you think we should put in here? [LB959 LB960 LB961]

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

Appropriations Committee
February 04, 2008

DUANE HOVORKA: Good question, and I have...we've asked the Department of Natural Resources to give us an estimate and we're still waiting to get the estimate, and part of the reason is because we're still working out the details of just what projects would be involved in the depletion plan. Unfortunately, those estimates can't wait on the process. The Legislature, you've got 60 days and you've got to throw something in there. My guess is that we're talking probably \$2 million to \$3 million would be a pretty good down payment on the plan. The estimates that we've seen, and they're probably two-year-old estimates so they hopefully could be updated with more recent information, is that we're looking at maybe \$10 million to \$20 million over 13 years in order to meet those obligations. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Senator Nelson. [LB959 LB960 LB961]

SENATOR NELSON: So this, we would obligate \$2 million to \$3 million and how long would that last? I mean, do you have an idea of...would that be for two years or three or how does it play out? [LB959 LB960 LB961]

DUANE HOVORKA: Well, I think the \$2 million to \$3 million would be to get the program up and running, so that would be a one-year appropriation. Hopefully, by next January we'd have a better estimate as to just what the costs were going to be long term and then... [LB959 LB960 LB961]

SENATOR NELSON: This is going to require people to get it up and running? What could you possibly spend \$2 million to \$3 million on, on just getting the program going? Are you talking about buying land and things during that initial period? [LB959 LB960 LB961]

DUANE HOVORKA: We're not talking about buying land. We're more likely talking about leasing water. Because in the short term the fastest way to get water would be to lease it from willing farmers or from irrigation districts. [LB959 LB960 LB961]

SENATOR NELSON: You're not talking about doing that by the 1st of December, 2008, arranging all that leasing, it would be after that date, I suppose, in the ensuing year? [LB959 LB960 LB961]

DUANE HOVORKA: Right. The offsets that we have to meet start in January of next year, and so presumably, at least if you were leasing irrigation, you would be looking at the 2009 growing season. [LB959 LB960 LB961]

SENATOR NELSON: Thank you. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Senator Wightman. [LB959 LB960 LB961]

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

Appropriations Committee
February 04, 2008

SENATOR WIGHTMAN: One of the things you mentioned during your presentation was that...how you would get flow back in the stream, and one of them was pumping water out of the mound out in central Nebraska and nobody has agreed to do that yet. There's been no agreement that they would pump water back from that mound into the Platte River, have they? [LB959 LB960 LB961]

DUANE HOVORKA: Well, yeah, part of the water action plan that's in the program that Nebraska agreed to provided for a small amount of water, and my recollection is maybe 5,000 acre-feet, so it's not a huge amount. [LB959 LB960 LB961]

SENATOR WIGHTMAN: On an annual basis or...? [LB959 LB960 LB961]

DUANE HOVORKA: Yes, on an annual basis of water that would be pumped out of the ground water mound area in places where we've got fairly high ground water, and then put in the river at times when it would benefit the fish and wildlife. [LB959 LB960 LB961]

SENATOR WIGHTMAN: Could you enlighten me a little on what Nebraska has agreed to? Did they...did Nebraska agree under the terms of the compact to provide this funding that you're talking about, was it \$30-some million over the next 13 years? [LB959 LB960 LB961]

DUANE HOVORKA: Well, what we agreed to do under the Recovery Program was that the other states and the federal government would pay for basically the program costs, but each state would pay for their own depletion plan. And so Nebraska...we didn't tell the other states, here's exactly how we're going to offset these water impacts so there certainly are alternatives, but what we did say is we are going to offset our impacts on those flows dating back to 1997. [LB959 LB960 LB961]

SENATOR WIGHTMAN: So would the NRDs go out and, on behalf of the Wildlife Federation or someone, buy up water rights, either on a permanent basis or year leases? Is that your idea on how we would come into compliance? [LB959 LB960 LB961]

DUANE HOVORKA: That's...yeah, that's one of the options, would be for the state to go out and basically buy up water leases or irrigation rights from irrigation districts and then presumably that water, if it could be stored, say, in Lake McConaughy, then it could be released at a time when it was beneficial for wildlife. [LB959 LB960 LB961]

SENATOR WIGHTMAN: Aren't some of the NRDs already buying some of that or...? [LB959 LB960 LB961]

DUANE HOVORKA: I think that the plans under the integrated management plans are to do some of that, but I don't know that any of the Platte River plans have been

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Transcriber's Office

Appropriations Committee
February 04, 2008

finalized. I think in the Republican River we've got those plans final; I don't think they are in the Platte. [LB959 LB960 LB961]

SENATOR WIGHTMAN: I know Central Platte is out buying up some permanent water rights to provide additional flow, I think, but I don't know whether it's for this program. [LB959 LB960 LB961]

DUANE HOVORKA: It's actually...I think it's related to this program, because the Central Platte NRD said that in order to allow for new water development in the area they were going to have to meet this offset obligation. And so they have created a water bank and they're trying to lease some water rights so that, as people come in and want to build a new ethanol plant or want to do some new water project, they would have the water in place and be able to offset those new uses. [LB959 LB960 LB961]

SENATOR WIGHTMAN: Thank you. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Senator Fulton. [LB959 LB960 LB961]

SENATOR FULTON: Thank you for testifying. For the record, I want to point out that Nebraska Wildlife Federation's office does reside in my district. Thank you. (Laughter) The federal...will there be any federal dollars if we were to appropriate some money? I know that there are federal concerns and will there be any federal dollars? If so, what kind of match are we talking about? [LB959 LB960 LB961]

DUANE HOVORKA: Well, the federal dollars, as part of the program, is \$157 million over 13 years. So that's the federal obligation. The federal government would not be paying for any of the Nebraska depletion plan projects, so what...and what we're asking for specifically is money for that depletions plan. [LB959 LB960 LB961]

SENATOR FULTON: So this is a state obligation. [LB959 LB960 LB961]

DUANE HOVORKA: Right. [LB959 LB960 LB961]

SENATOR FULTON: Which leads into the second question then. We passed legislation last year, LB700, and there is a lawsuit pending in that, that originates out of that Republican River Basin area. Would it be prudent to wait until that lawsuit comes to fruition before we understand whether to move forward appropriating money for the Platte River Initiative? [LB959 LB960 LB961]

DUANE HOVORKA: I think I'd say it depends on the source of funding. In the Republican River is a little different situation and the authority for NRDs to basically establish local fees in order to pay for part of that, I would say that I don't know that it would make sense to wait because I think that in the Platte River you've got a

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Appropriations Committee
February 04, 2008

different...basically a different situation. You've got a state obligation there to put in place this depletion plan. One way you could do it would be to give those NRDs similar authority to the ones in the Republican River in order to establish those taxes, but I'm not sure that that would...I would be surprised if the NRDs would use that authority in most of those districts. [LB959 LB960 LB961]

SENATOR FULTON: Okay. All right. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Senator Harms. [LB959 LB960 LB961]

SENATOR HARMS: Duane, thank you so much for being here. In regard to the depletion plan that we have to have done by this year, do you think the NRDs are going to be able to meet this schedule? Because, from what I'm seeing, they're really struggling with this project. [LB959 LB960 LB961]

DUANE HOVORKA: I think, I agree, I think they are really struggling and what I think is that even if they get those integrated management plans done, they're working on a different time line. They're working to offset those increased obligations since '97, but over the next ten years, and so I don't see any of them having a plan that would meet all of the requirements for the Nebraska depletion plan essentially by next year. [LB959 LB960 LB961]

SENATOR HARMS: So do they meet the law requirements? [LB959 LB960 LB961]

DUANE HOVORKA: They do, because LB962 gave them ten years in order to put those...to have those plans back to that level. [LB959 LB960 LB961]

SENATOR HARMS: Thank you. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Are there any other questions? Seeing none, thank you for coming in, Duane. [LB959 LB960 LB961]

DUANE HOVORKA: Thank you. [LB959 LB960 LB961]

SENATOR HEIDEMANN: Is there any other testimony in the neutral capacity on LB959, LB960, or LB961? Seeing none, if Gerry doesn't want to close, we will close the hearing on LB959, LB960, and LB961. And we are going to open up the hearing on Agency 10, the State Auditor. [LB959 LB960 LB961]

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February 04, 2008

Disposition of Bills:

LB959 - Advanced to General File, as amended.

LB960 - Advanced to General File, as amended.

LB961 - Advanced to General File, as amended.

Chairperson

Committee Clerk