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Transcriber's Office

Appropriations Committee
March 31, 2010

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The Committee on Appropriations met at 12:30 p.m. on Wednesday, March 31, 2010, in Room 1003 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing regarding the expenditure of bond funds for a student housing project at the University of Nebraska at Omaha. Senators present: Lavon Heidemann, Chairperson; John Harms, Vice Chairperson; Danielle Conrad; Tony Fulton; Tom Hansen; Heath Mello; Jeremy Nordquist; and John Wightman. Senators absent: John Nelson. []

SENATOR HEIDEMANN: I think we're going to go ahead and get started here. We have enough members to go ahead and start. Welcome to the Appropriations Committee. We're going to go ahead and start with introductions. We'll start over to the right. Senator Jeremy Nordquist will join us later. He's from Omaha, District 7. And then we have...Senator Hansen, self-introduction. []

SENATOR HANSEN: Self-introduction? []

SENATOR HEIDEMANN: Yeah. []

SENATOR HANSEN: Oh, Tom Hansen from North Platte, District 42. []

SENATOR CONRAD: Danielle Conrad, north Lincoln. []

SENATOR WIGHTMAN: John Wightman, Lexington, District 36. []

SENATOR HEIDEMANN: This is Anne Fargen. She's the committee clerk. To my left is Kathy Tenopir. She's the fiscal analyst. My name is State Senator Lavon Heidemann, District 1. []

SENATOR HARMS: John Harms, 48th District, Scottsbluff. []

SENATOR HEIDEMANN: Senator John Nelson will be coming later on, and then we have... []

SENATOR FULTON: Tony Fulton, District 29, south Lincoln. []

SENATOR MELLO: Heath Mello, District 5, south Omaha and Bellevue. []

SENATOR HEIDEMANN: Our page for the day is Matt. If you need anything, he's always helpful and willing to help. At this time I would like to remind you, if you have cell phones, to please shut them off as not to be disruptive later. Testifier sheets are on the table or near the back doors. Fill them out completely and put them in the box on the

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table when you testify. At the beginning of your testimony, please state and spell your name. Nontestifier sheets near the back doors if you do not want to testify but would like to record your support or opposition, you only have to fill this out if you will not be publicly testifying. If you have printed materials to distribute, please give them to the page at the beginning of testimony. We need approximately 12 copies. In a matter of time, we ask you to please keep your testimony concise and on topic. With that, we will open up the public hearing to consider requests by the University of Nebraska to issue revenue bonds pursuant to Section 85-404. Representing the university, I hope? []

RON WITHEM: Members of the Appropriations Committee, my name is Ron Withem, that's R-o-n W-i-t-h-e-m, representing the University of Nebraska. On a personal note, I wasn't feeling all that well yesterday, gave an indication that I might not be here. I was impressed with the uniform look of disappointment on everybody's face (laughter) when they walked in and saw me here, so I'll work on whatever that indicates. This committee very graciously gave us an opportunity to make a formal presentation on this project on, I believe it was, February 24. So with your permission, I'm just going to say a few words on behalf of this project and then we have people here available to respond to questions. We will...me being...trying to be considerate of your time and the fact that you've taken a lunch hour to give us this opportunity, we don't want to take any more of your time than we need to. On the other hand, if there are questions that need to be responded to, we do have individuals here who are very conversant at the technical aspects of this project. They'll be happy to come forward. It's just that we don't want to infringe upon your time by subjecting you to a complete and total rerun of the hearing that you gave us on February 24. This is a project that requires legislative approval. The constitution actually gives us the authority to issue revenue bonds for projects like parking, athletic facilities, student housing. These are projects that are not funded through General Funds but are paid off through the fees of students and the population using those. We have an opportunity at the University of Nebraska at Omaha to build, along with the...a partner, the Scott Foundation, a 480-bed residence facility that will house a number of students. We're particularly excited about targeting the Bright Futures Avenue scholars who are not normally a college-attending population, and we feel it's important that we be able to work with those students. With that, I guess I will quit and if you have...let me introduce the people from the university who are here today. We have Rebecca Koller, our facilities director; Bill Conley from UNO, who's kind of been the cleanup hitter on this project all along, he's the vice chancellor of business and finance; we have Dave Lechner, who is the vice president for business and finance for the university system; and Scott Keene, who works for our fiscal office and can respond to any...not our fiscal office, excuse me. He's our fiscal agent and he will be happy to respond to any technical questions that you might have. With that, I just thank you for your time and would urge you to give favorable consideration. []

SENATOR HEIDEMANN: Thanks, Ron. Ron, I appreciate what you've said today and especially all the prior information you got to us. I think we're fairly up to date on

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everything. There looks like there might be a question or two so, Senator Wightman. []

SENATOR WIGHTMAN: I'll just ask two or three right off the bat, if that's okay. []

SENATOR HEIDEMANN: There's always one in the crowd. []

SENATOR WIGHTMAN: I need to be reminded the cost of the project and that may have changed. I know you said it's a 480-bed... []

RON WITHEM: Let me ask Bill to come up and... []

SENATOR WIGHTMAN: That would be fine. []

RON WITHEM: ...respond to those, if I could please. Thank you. []

BILL CONLEY: Good afternoon. Bill Conley, C-o-n-l-e-y, vice chancellor of business and finance at UNO. I guess the first question that I heard was the cost of the project. It's a \$23.5 million project. []

SENATOR WIGHTMAN: Okay. Then I have some follow-up questions. What would be the amount of the bond and the rate of...probable rate of interest, if you know. []

BILL CONLEY: The amount of the bond would be about...I'm going to look back at Scott Keene...\$18 million? []

SCOTT KEENE: \$18 million at 4.5 percent. []

SENATOR WIGHTMAN: How much? []

BILL CONLEY: Four and a half percent. []

SENATOR WIGHTMAN: What was the amount of the funds? []

BILL CONLEY: \$18 million. []

SENATOR WIGHTMAN: \$18 million and 4.5 to 5? []

SCOTT KEENE: Correct. []

BILL CONLEY: Right. []

SENATOR WIGHTMAN: And then what's the probable ratio of revenue to annual payment that would be required? What? []

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SCOTT KEENE: 1.4. []

BILL CONLEY: Well,... []

SENATOR WIGHTMAN: 1.4? []

BILL CONLEY: Well, the cash flow, the cash flow to debt service... []

SENATOR WIGHTMAN: Okay. []

BILL CONLEY: ...is this project really is built around a, and if you recall last time we were here, the concept of a 1.4 debt service coverage. []

SENATOR WIGHTMAN: That's what I was asking. []

BILL CONLEY: And so we would...this project will really guarantee that and ensure that. []

SENATOR WIGHTMAN: Okay. That answers my questions. []

SENATOR HEIDEMANN: Any other questions? Speak now. Seeing none, thank you, Bill. []

BILL CONLEY: Thank you. []

SENATOR HEIDEMANN: Is anyone else wishing to testify on this request? []

MIKE WEMHOFF: I'm Mike Wemhoff. I'm the facilities officer for the Coordinating Commission for Postsecondary Education. I'm simply here to offer to answer any questions that you may have on the commission's recommendation on this, which was a vote of 8 to 3 to support a recommendation for approval of the project. []

SENATOR HEIDEMANN: Could you spell your last name for us? []

MIKE WEMHOFF: It's W-e-m-h-o-f-f. []

SENATOR HEIDEMANN: Senator Fulton. []

SENATOR FULTON: Why was there any disapproval? What was the rationale? []

MIKE WEMHOFF: I believe the rationale for the 3 votes for disapproval had to deal with the cost of the project. In the view of the commission, the overall purchase price of the

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project in terms of both the revenue bond and the long-term development fees that are being paid for the project are estimated by the commission to be approximately \$23 million in current dollars, and by our estimate the actual cost of the project is likely to come in somewhere in the \$21 million range. []

SENATOR HEIDEMANN: Senator Conrad. []

SENATOR CONRAD: Thanks for coming in and I think this is actually a really helpful hearing because I don't know if we've had a chance to see this process up close and personal in terms of how these types of projects are proposed and worked through the Postsecondary Coordinating Commission and otherwise. But can you tell me, does your process require unanimous vote for approval or just a simple majority or... []

MIKE WEMHOFF: No, it's a simple majority. []

SENATOR CONRAD: Okay. []

KATHY TENOPIR: And, Senator, it is a recommendation. It is not approval. []

SENATOR CONRAD: Okay. []

KATHY TENOPIR: It is just a recommendation for approval where other... []

SENATOR CONRAD: So it's more advisory. []

KATHY TENOPIR: ...other capital projects, the Coordinating Commission has...if the Coordinating Commission says no, it's no. But this is a revenue bond project and so it is a recommendation to rather than a yes, a strict yes or no. []

SENATOR CONRAD: That's helpful. Thank you. []

SENATOR HEIDEMANN: Senator Wightman. []

SENATOR WIGHTMAN: I'm looking at this and it is about \$50,000 per bed. It would appear \$24 million would be \$50,000 per bed. Are these individual like apartments or suites or...? []

MIKE WEMHOFF: The university could...well, it's going to be similar to the rest of UNO's student housing, which is a suite style in which there are individual bedrooms and typically four bedrooms along with the living room, kitchen. []

SENATOR WIGHTMAN: Kind of a pod type? []

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MIKE WEMHOFF: Yes. []

SENATOR WIGHTMAN: How many square feet on an average? []

MIKE WEMHOFF: I think the university would be better to answer that. []

SENATOR WIGHTMAN: Here, maybe this tells me. []

REBECCA KOLLER: Each suite is about 1,250 square feet. []

SENATOR WIGHTMAN: Each suite of four rooms? []

SENATOR MELLO: About 1,250 square feet? []

SENATOR WIGHTMAN: But that's housing four students. []

SENATOR MELLO: Yes. []

SENATOR CONRAD: You want to come up and clarify? []

SENATOR MELLO: I have a question more for the Coordinating Commission before the university comes. Is that all right? []

SENATOR HEIDEMANN: Okay. Senator Mello. []

SENATOR MELLO: How did you arrive...I mean it's a fairly significant amount of money, \$2 million, that you're saying the university is overspending on. How did you guys arrive at that and how...you know, is it using...just share more information I guess with us. []

MIKE WEMHOFF: In terms of the purchase price, it's based on the information provided by bond counsel in which what the net proceeds are going to be. In terms of the development fee, it's based on our estimate of what the likely net present value of those fees would bring in over a 30-year life span of the contract, versus the cost of the project is based on commission staff's estimate of what the likely construction costs are going to be based on the current climate, construction climate in the area. []

SENATOR MELLO: I guess my...what...I mean so the...maybe I'm not connecting the dots as well as I should be. So the university's project, the estimates are \$23 million. You're saying they're \$21 million. The \$2 million gap is development fees then, is what you're saying, even though some...I know this is a unique project but since they have a private donor who's helping finance the project. []

MIKE WEMHOFF: Correct. []

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SENATOR MELLO: So... []

MIKE WEMHOFF: Well, I think the number that you heard from the university is the developer's estimate on...early estimate I think on what he felt it would cost to construct the project. []

SENATOR MELLO: Yeah. []

MIKE WEMHOFF: But that estimate is based on...there's no receipt of bids, there's no actual construction complete yet, so... []

SENATOR MELLO: Okay. []

MIKE WEMHOFF: ...there is no actual cost that is known. It's all based on estimates at this point. []

SENATOR MELLO: Okay. Okay. That's helpful then. Thank you. []

SENATOR HEIDEMANN: Any other questions for Mike? I received the report from the Coordinating Commission and, as I was going through it, it appeared to be quite negative. And it just astonished me to no end that in the end you end up approving it. Can you share some light on that? []

MIKE WEMHOFF: There were concerns with the cost and that's reflected in the vote. I would say that the recommendation for approval by the remainder of the commissioners was based on its knowledge of who the developer is and the potential long-term benefits that that developer can bring to the university over the years. []

SENATOR HEIDEMANN: Okay. Any other questions? []

SENATOR MELLO: Can we get a copy of that report? []

SENATOR HEIDEMANN: You've got one. []

SENATOR CONRAD: We got one. []

SENATOR NORDQUIST: (Inaudible) e-mailed it. []

SENATOR MELLO: Three steps ahead of me. []

SENATOR HEIDEMANN: Do you have a question? []

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SENATOR WIGHTMAN: Well, yes. []

SENATOR HEIDEMANN: Senator Wightman. []

SENATOR WIGHTMAN: (Exhibit 1) I notice in the draft resolution, we're talking about bonds of \$18 million. You talked about a cost of \$23,500,000, and then it says the purchase price to be paid by the university is approximately \$15,670,000. I guess I don't understand the differential in the cost of \$23.5 million and the purchase price of \$15.670 million. I assume there's a logical explanation for that. []

KATHY TENOPIR: And there is. []

MIKE WEMHOFF: We consider the purchase price of the project, both the initial bonds that you just quoted, the \$15.67 million in proceeds, plus the long-term development fees that are being paid to the Scott Foundation over a 30-year span. We estimate that the present value of that...those development fees at about \$7 million, \$7.5 million by our estimate. []

SENATOR WIGHTMAN: The difference between the \$23.5 million and the \$15.670 million, is that...? []

MIKE WEMHOFF: The \$23.5 million I think that you heard from the university is their estimate on what the project will cost to construct, which is higher than our estimate on what we believe the actual cost of construction will be. []

SENATOR WIGHTMAN: Okay. []

SENATOR HEIDEMANN: Are there any other questions? Senator Fulton. []

SENATOR FULTON: Well, it's been talked about before but I just want to be clear. In the event that revenue bonds planned to be utilized for debt service do not come to fruition, comes back to responsibility of the university and what's plan B? Or maybe that's not a question for you. []

MIKE WEMHOFF: Yeah, I think the university could probably better answer that. []

SENATOR HEIDEMANN: Any other questions? Seeing none, thank you. []

MIKE WEMHOFF: Okay. []

SENATOR HEIDEMANN: Could we get somebody from the university to come back up, because I think there might be a question or two here. If you could answer Senator Fulton's and we'll just go from there. []

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BILL CONLEY: I'll start there. Could you repeat the question though? []

SENATOR FULTON: Plan B, revenue if debt service is not coming in per expectation, what's plan B? []

BILL CONLEY: If we don't generate the revenues to cover the debt service, what do we do then? []

SENATOR FULTON: Yeah. Yeah. []

BILL CONLEY: Well, the...and again, this project is built around a 1.4 debt service coverage and so we think there's plenty of cushion there. The development fee won't be paid to the Scott Foundation if...or it will be reduced by any amount needed to get to the 1.4, so that's one protection that we've got there. You know, if for some reason we exhaust all that and the ratio is lower than 1.4, that's not a fatal issue. We just wouldn't be at an ideal debt service ratio that we would want. But we could...we could be a little bit lower and still achieve the project. []

SENATOR HEIDEMANN: Senator Wightman. []

SENATOR WIGHTMAN: I'm still not sure I understand the difference between the \$15,670,000 and the \$23,500,000, and I understood that's some development costs to the Scott Foundation but... []

BILL CONLEY: Yeah. Let me... []

DAVID LECHNER: Can I help a little bit, if I can just edge in here with comment? []

SENATOR HEIDEMANN: You're more than welcome to pull a chair up. If you could identify yourself and... []

DAVID LECHNER: My name is David Lechner, D-a-v-i-d L-e-c-h-n-e-r, and I'm with the university. I'm vice president from business and finance. Senator Fulton, there's even more backstops behind that. Besides having the fee be part of the guarantee, this is part of a master trust indenture. There's about \$60 million-some of student fees, unions and everything, from all the campuses that are cross-collateralization. So if this one comes in a little weak, we planned high at 1.4 but if it comes in a little weak, we've got that cross-collateralization and that will take this. And then there's other backstops behind that. So we built a lot of protection in this and this 1.4 is raising the bar extra high and our partner in this stepped up to the bat, so it is a good question. []

SENATOR FULTON: Yeah, and I understand the partnership and this somewhat of a

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doomsday scenario, but I need to ask the question. []

DAVID LECHNER: Senator Wightman, on the \$18 million to the \$15.6 million, my financial advisor back there at Ameritas, he makes us lock a certain amount into a debt service reserve when we issue the bonds, so if you take \$18 million, you subtract out the cost of issuance and the debt service reserve we have to lock away that basically pays our last payment on the bonds, that's how much we're going to net. []

SENATOR WIGHTMAN: Okay. []

DAVID LECHNER: And that's how you get to \$15.6 million. []

SENATOR WIGHTMAN: The balance would go into this escrow or trust fund. []

DAVID LECHNER: Yes, sir. It goes into the construction fund and that construction fund is locked up. It can only be used for this project. []

SENATOR WIGHTMAN: Thank you. []

BILL CONLEY: Let me add one other point on that. The \$15.6 million is the net contribution by the university to a project that is estimated to cost \$23.5 million. The difference between the \$23.5 million and the \$15.6 million is the discount or donation being made by the Scott Foundation. []

SENATOR WIGHTMAN: Thank you. []

SENATOR HEIDEMANN: Senator Conrad. []

SENATOR CONRAD: You know, it's just striking to me today, after we first heard about this project earlier in the session, that you've been able to put together such a complete plan in terms of not only the project but the financing as well, and if you could refresh the committee's memory as to...you started this project in December. Is that right or...? []

BILL CONLEY: About mid-December, yes. []

SENATOR CONRAD: That's when it first kind of landed on the drawing board or went from idea to closer to reality. I just think it's remarkable that all of the people involved have been able to put such a fine, sharp detail to both the financing and the construction plans. And I know it's been a few extra steps in the process along the way to get to where you are today, but appreciate you going through that process and for the good work that's before us. []

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BILL CONLEY: Thank you. []

DAVID LECHNER: Thank you. []

SENATOR HEIDEMANN: Any other questions or comments? Seeing none, thank you.
[]

DAVID LECHNER: Thank you. []

SENATOR HEIDEMANN: Was there anyone else wishing to testify on this request?
Seeing none, we're going to close the public hearing on the request by the University of
Nebraska to issue revenue bonds pursuant to 85-404. Thank you. []