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Appropriations Committee
March 01, 2011

[LB414]

The Committee on Appropriations met at 1:30 p.m. on Tuesday, March 1, 2011, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB414 and agency budgets. Senators present: Lavon Heidemann, Chairperson; John Harms, Vice Chairperson; Danielle Conrad; Tony Fulton; Tom Hansen; Heath Mello; John Nelson; Jeremy Nordquist; and John Wightman. Senators absent: None.

SENATOR HEIDEMANN: We're going to start with introductions. Being as there's so many of us here, we're going to actually do self-introductions today.

SENATOR NORDQUIST: All right. Senator Jeremy Nordquist, District 7, downtown and south Omaha.

SENATOR HANSEN: I'm Tom Hansen, District 42, the Lincoln County area.

SENATOR WIGHTMAN: John Wightman, District 36--well, wait, maybe you should have introduced yourself here--District 36, most of Dawson and Buffalo County.

SENATOR CONRAD: Danielle Conrad, north Lincoln.

SENATOR HEIDEMANN: Senator Lavon Heidemann, District 1, southeast Nebraska. To my right is Kathy Tenopir, fiscal analyst. Way over to the left is Anne Fargen. She's the committee clerk. Our page for today and every day is Christina if you need help, always a great help. To my left...

SENATOR HARMS: John Harms, 48th District, Scottsbluff, Nebraska.

SENATOR NELSON: John Nelson, District 6, central Omaha.

SENATOR FULTON: Tony Fulton, District 29 here in Lincoln.

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

SENATOR HEIDEMANN: With that, we ask at this time if you have cell phones please shut them off as not to be disruptive later. Testifier sheets are on the table near the back doors. We ask that you would please fill these out completely and put them in the box on the table when you testify. At the beginning of the testimony, we ask that you would 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 need to fill this out if you will not be publicly testifying. If you have printed materials to distribute, we ask that you please give them to the page at the beginning of your testimony. We need

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12 copies. In an effort to be fair to all that want to testify on the budget this year, the Appropriations Committee will be using the light system. The principal introducer or principal agency representative will not have a time limit. We do urge you, though, to keep your testimony concise and on topic. All testifiers following will be given four minutes on the light system sitting on the testifier table. You will notice a green light when you start your testimony. When you have one minute left the yellow light will turn on. When the red light turns on, we ask that you please wrap up your testimony. Following the principal introducer on bill hearings, we will take testimony first from proponents, then opponents, and then in the neutral capacity. For agency budget hearings, we'll take general comments on the agency budget proposal following the principal agency representative. With that, we are going to open up the first public hearing today on LB414. Senator Conrad.

SENATOR CONRAD: (Exhibit 1) Good afternoon, Chairman Heidemann, members of this distinguished committee. My name is Danielle Conrad, D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d. I represent north Lincoln's "Fighting 46" Legislative District, right here in our Nebraska Unicameral Legislature. I'm here today to introduce LB414. LB414 relates to the University Cash Fund, the University of Nebraska at Omaha Cash Fund, and the University of Nebraska at Kearney Cash Fund. This bill would change the level of funds that are available for contingency cash purposes from a dollar amount to a percentage, in this instance 2 percent. These funds are utilized in several important ways such as for giving money to students who are awaiting financial aid, paying for student travel, short-term loans for student team travel, or emergency payroll, among other reasons. The intent of this legislation is to increase efficiencies and flexibility for the University of Nebraska system business practices as identified as part of the mandate in LB935, which requires agencies to conduct an efficiency report. Senator Mello, I'm sure you'll find that of great interest. I also have an amendment that, drafting in concert with Fiscal staff, I think makes this legislation more user friendly and efficient and strikes an intent section that is permissive, not mandatory, mind you, but hopefully helps to achieve the same purposes in a cleaner and more uniform fashion. We have one copy of that. Mr. Chairman, I'll go ahead and enter that into the record for the committee's consideration. I think that the bill would require the committee amendment, hopefully, as it moves forward, in order to work the best way that it can and to most clearly delineate what our intent and practice is meant to be accomplished by LB414. Thank you. [LB414]

SENATOR HEIDEMANN: Thank you. Are there any questions for Senator Conrad?
Senator Harms. [LB414]

SENATOR HARMS: Senator Conrad, thank you very much for your testimony. Moving from a dollar amount to a percent, what are we actually talking about dollarwise?
[LB414]

SENATOR CONRAD: And, Senator Harms, I think if you...some of this discussion

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happens if you look in the fiscal note to LB414 where fiscal analysts acknowledge that changing from a specific dollar amount to a percent of specified cash funds, although the dollar amount available for working cash purposes would increase, the total amount available for the specified cash funds is not changed as a result of this legislation. So that's why I think if you look at it you can see that there really is no fiscal impact but, rather, this just provides more flexibility with existing funds to the university system. And I know that there will be others who will testify after me today and can provide some more historical background to put this into context, but it's my understanding that these issues have not been looked at for some time. And so it would behoove this body to take these ideas into consideration in order to update and modernize our structure governing these funds. [LB414]

SENATOR HEIDEMANN: Senator Fulton. [LB414]

SENATOR FULTON: Thank you, Mr. Chairman. Thank you, Senator. The Section 1, the intent of the Legislature that unexpended funds be reappropriated, nothing in that would...it is permissive, I recognize, but this would all still be at the prerogative of the Appropriations and Legislature as to whether those funds are, correct? [LB414]

SENATOR CONRAD: Yes. And, Senator Fulton, and I'm sorry I only brought one copy here today but we'll make sure to get copies for the rest of the committee, the committee amendment that I am proposing would strike that section because I think there has been some ambiguity that exists about what was intended by that first sentence. So in order to move forward and keep the focus where it needs to be on the flexibility issue, I'd hope, if the committee moves forward with this, that we'd adopt the amendment which strikes that. [LB414]

SENATOR FULTON: Thank you. [LB414]

SENATOR CONRAD: Yes. [LB414]

SENATOR HEIDEMANN: Any other questions? Seeing none, thank you. [LB414]

SENATOR CONRAD: Thank you. [LB414]

SENATOR HEIDEMANN: Is anyone else wishing to testify in support of LB414? Welcome. [LB414]

DAVID LECHNER: (Exhibit 2) Good afternoon, Senators. My name is David Lechner, spelled D-a-v-i-d, last name Lechner, L-e-c-h-n-e-r. I'm the vice president for business and finance at the University of Nebraska. I'm here today to testify in favor of LB414 and to share background as to how this helps us to be more efficient and effective. First, a word of thanks for the opportunity presented by LB935. We are grateful for the

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Legislature leading the way in understanding that changes in many forms and sizes would be needed in light of the current economic situation. The leadership and debate during the session recognized this with the Speaker noting this is going to require changes in statutes and authority, and the Appropriations Chair challenging us all to see where we can gain efficiencies to do things just a little bit better. The university took the charge seriously and came up with a number of things to be more effective and efficient. Two of those items are contained in this bill. No, these proposals are not game changers, such as the Innovation Campus and other successes President Milliken will share with you later, but are examples of items that incrementally are going to help us do things just that little bit better. The first change deals with the lapsing of funds. Current statutes lapse General Funds not expended at the end of the biennium. This is commonly referred to as use it or lose it. This specter of a sweep creates a mentality and is unhealthy and not what we want to foster in our people and our operations. Both the Governor and the Legislature clearly recognize that lapsing is not the way to prudently position ourselves for unknowns and uncertain times, evidenced by the reappropriation of General Funds in the last biennium and subsequent comments. We all hopefully plan our personal lives with a little longer horizons. If I knew that banker was going to go into my savings account on June 30 and sweep up the money I am religiously saving month after month for future large expenditures or for that rainy day, I'm sure I'd find something I could buy versus losing it. But I'd be sorry in the long run. At the university, we're pushing hard for people at all levels to internalize our strategic agenda and to adopt longer range strategic thinking. Therefore, we need the deans and directors to be unafraid to use planning horizons that are longer than a two-year biennium and look years down the road. Getting rid of lapsing helps do that. These individuals need to save funds for bigger ticket items, such as start-up packages for promising new faculty and the replacement of classroom technologies. Again, without the management tool of being able to save for these eventualities, that entrepreneurial outlook is lost and we create suboptimal choices in deploying precious financial resources. Now I realize the amended form of LB414 introduced today takes this provision out but still believe sharing our thinking with you would be worthwhile. However, in lieu of having this language in LB414, I would urge it be inserted into the appropriations bill to reappropriate unspent funds at June 30, 2011, into the next biennium. The second change in the bill deals with authorized cash balance limits for the amounts held by the university. These are imprest accounts created by statute to allow the university to make timely payments. Uses include refunds to students, textbook buybacks, emergency payroll, payments to vendors that need to be expedited or handled outside of normal processing. An operational example for your consideration is student refunds. The federal government sent the university \$37.5 million in Pell Grants last year with instructions to distribute those funds to specific students. If a student receives a Regents or other scholarship or makes other payments in excess of what is owed for tuition and fees, that net is refundable. We use these accounts to make those refunds and that could be as high as the amount of the Pell Grant, which can be up to \$5,500. Since that federal money is meant to help students cover room, board,

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and other costs, we need to get those process...process those refunds very quickly. To give you a sense of the size of our request, the proposed limitations would allow us to do a \$1,000 refund to about 14 percent of our students. This compares to 26 percent of our students that qualify for Pell. So the limitation proposed should allow processing of this magnitude. Another issue is the current authorizations are fixed dollar amounts, with some of those limits set more than 25 years ago. In that time, the scope and reach of the university have changed. Matter of fact, the existing statutes date from before Kearney joined the system. The proposed changes create a percentage limit and new flexibility that will negate the need to change the law again and again as the university grows. Our proposed threshold equates to 2 percent--and a little more (sic) than a week's cash funds. A final thing that needs to be emphasized about this change, the proposed change only deals with authorized balances and does not necessarily dictate what we intend to carry as a balance. I fully expect campuses to continue to prudently manage cash funds, to sweep unneeded amounts to the State Treasurer's Office to maximize STIP, but the need to change funds is real and the limits. To get perspective, put yourself in the position of UNO where the current authorization is \$175,000. Imagine trying to keep under that authorization when trying to buy back books from students which aggregates to about \$500,000. I realize these proposed changes, in summary, are not the biggest issues you're going to deal with today, but reflecting back to the challenge, each of these makes us a little more efficient. Use it or lose it is antiquated and a concept that creates irrational stop/start approaches to budgeting, planning and spending. Fixed dollar authorization limits for cash funds from the 1980s do not reflect how much the university has changed and will continue to change to better serve its educational, research, and outreach missions. But again, these proposals are very beneficial and common-sense steps forward. Warren Buffett says it this way: "I do not look to jump over seven-foot bars; I look around for one-foot bars that I can step over." He's right, small steps like this can lead to big results. In closing, I'd like to thank Senator Conrad for offering to help us step over these one-foot bars by getting these meaningful improvements up for consideration. Also want to thank the committee for its time. [LB414]

SENATOR HEIDEMANN: Thank you, David. Are there any questions? Senator Hansen. [LB414]

SENATOR HANSEN: David, you used the word "sweep" and I believe Senator Conrad used the word "lapse," lapsing funds. And in the 2009 Special Session we lapsed a lot of funds. The Governor suggested it. We took it from cash-funded agencies. Is any of this money cash-funded dollars? All General Funds then? [LB414]

DAVID LECHNER: Yes, sir. [LB414]

SENATOR HANSEN: Okay. If we pass this legislation then if we get into another severe crunch, this would...this statute would make this not accessible. Is that correct? [LB414]

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DAVID LECHNER: The lapsing part has been removed from LB414, I believe, so we're just talking about, I believe, in the amended LB414 about the limits in the amount of cash I can have. [LB414]

SENATOR HANSEN: We haven't seen the amendment yet, so... [LB414]

DAVID LECHNER: Okay. I apologize. [LB414]

SENATOR HANSEN: That's all. Thank you. [LB414]

DAVID LECHNER: Yes, sir. Thank you. [LB414]

SENATOR HEIDEMANN: Any other questions? Seeing none, thank you. [LB414]

DAVID LECHNER: Thank you, sir. [LB414]

SENATOR HEIDEMANN: Does anyone else want to testify in support of LB414? Seeing none, does anybody wish to testify in opposition on LB414? Seeing none, does anybody want to testify in the neutral position on LB414? Seeing none, would Senator Conrad want to close? (Laugh) [LB414]

SENATOR CONRAD: Briefly. Had to think about it quickly. Thank you, Chairman Heidemann. Thank you, members, for your thoughtful consideration and astute questions in regards to this legislation. I apologize again for not having an appropriate number of copies available on the proposed amendment but, in essence, we (A) will get that to you, and (B) it strikes the first section which is permissive rather than mandatory in nature in the first place but hopefully does in fact clarify the intent of the legislation. And to your question, Senator Hansen, I think you are right and this committee had a long dialogue and a continuing dialogue about the appropriateness of potentially lapsing cash funds into the General Fund for purposes of balancing the budget or otherwise. And I think if memory serves, we did not lapse cash funds from the university system into the General Fund during the special session or otherwise, and I think there are certain cash funds where we have a more open-ended authority to do so and there's other cash funds which have a very, very specific purpose. As the commodities would be a good example, the commodity boards that are out there and the decision that this committee and the body made to not sweep those because those cash funds were for such a specific purpose, I think the same...that would be a clear or a closer parallel to the types of cash funds that are present in the university system so they really should not be utilized to otherwise contribute to the state General Fund or balance the budget even when times are tough. [LB414]

SENATOR HEIDEMANN: Are there any questions? Senator Hansen. [LB414]

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SENATOR HANSEN: Thank you, Senator. I don't think that's a real close analogy there because the cash-funded agencies that we talked about in 2009 were funds from those organizations and from their members, and this money that we're talking about here in your bill is General Funds. [LB414]

SENATOR CONRAD: I think it applies to the cash funds, Senator, and I don't want to...we can talk more off the mike. [LB414]

SENATOR HANSEN: Yeah. [LB414]

SENATOR CONRAD: But say, for example, that one good example of the most significant cash funds available to the university come in the form of tuition, right? And I don't think that... [LB414]

SENATOR HANSEN: No, we're...we wouldn't... [LB414]

SENATOR CONRAD: Right, we wouldn't. [LB414]

SENATOR HANSEN: I don't think we'd touch that,... [LB414]

SENATOR CONRAD: We wouldn't utilize those tuition dollars. [LB414]

SENATOR HANSEN: ...not as long as my grandson is in school, so... [LB414]

SENATOR CONRAD: Yes. Yes. Absolutely. Exactly. So I think we're actually on the same page. [LB414]

SENATOR HANSEN: Right. [LB414]

SENATOR CONRAD: Yes. Thank you. Okay. Thank you. [LB414]

SENATOR HEIDEMANN: Seeing no further questions, thank you, Senator Conrad. With that, we'll close the public hearing on LB414 and open up the public hearing on Agency 47, the Nebraska Educational Telecommunications Commission. Welcome. [LB414]