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Appropriations Committee
March 09, 2017

[LB611]

The Committee on Appropriations met at 1:30 p.m. on Thursday, March 9, 2017, in Room 1003 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB611. Senators present: John Stinner, Chairperson; Kate Bolz, Vice Chairperson; Rob Clements; Robert Hilkemann; John Kuehn; Mike McDonnell; Tony Vargas; Dan Watermeier; and Anna Wishart. Senators absent: None.

SENATOR STINNER: (Recorder malfunction)...Appropriations Committee hearing. My name is John Stinner. I'm from Gering and represent the 48th Legislative District. I also serve as the Chair of this committee. I'd like to start off by having members do self-introductions, starting with Senator Clements.

SENATOR CLEMENTS: Hello. I'm Rob Clements from Elmwood, Nebraska. I represent District 2, Cass and Sarpy County mostly.

SENATOR McDONNELL: Mike McDonnell, LD5, south Omaha.

SENATOR HILKEMANN: Robert Hilkemann, District 4, west Omaha.

SENATOR STINNER: John Stinner, District 48, all of Scotts Bluff County.

SENATOR WISHART: Senator Anna Wishart, District 27 in the great west Lincoln area.

SENATOR VARGAS: Senator Tony Vargas, representing District 7, great downtown and south Omaha.

SENATOR STINNER: We have a few senators that are either in meetings or presenting bills. They will be joining us shortly. Assisting the committee today is Jenni Svehla, our committee clerk. And on my left is our fiscal analyst, Phil Hovis. On the cabinets to your left you'll find green testifier sheets. If you are planning to testify today, please fill out a green sign-in sheet and hand it to the page when you come up to testify. If you will not be testifying at the microphone but you would want to go on the record as having a position on a bill being heard today, there are white sign-in sheets on the cabinet where you may leave your name and other pertinent information. These sign-in sheets will become exhibits in the permanent record at the end of today's hearing. To better facilitate today's proceedings, I ask you to abide by the following procedures. Please silence or turn off your cell phones. The order of testimony will be the introducer, proponents, opponents, neutral, and closing. When we hear testimony regarding

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agencies, we will first hear from the representative of the agency. We will then hear testimony from anybody who wishes to speak on the agency's budget request. When you come up to testify, please spell your first and last name for the record before testifying. Be concise. It is my request that you limit your testimony to five minutes. Written materials may be distributed to committee members as exhibits only while testimony is being offered. Hand them to the page for distribution to the committee and staff when you come up to testify. We will need 12 copies. If you have written testimony but don't have 12 copies, please raise your hand so the page can make copies for you. With that, we will begin today's hearings with Agency 19, Department of Banking.

(AGENCY BUDGET HEARINGS)

SENATOR STINNER: Any additional questions? Seeing none, thank you. I obviously did not have detail enough on my agenda, but I will take proponents of both OCIO and the Capitol Commission. And if you come up here, at least state that you're a proponent either of OCIO or the Capitol Commission. So we will entertain proponents. Is there any proponents of OCIO or Capital Commission? Seeing none, are there any opponents? Seeing none, is there anybody in the neutral capacity? Seeing none, that ends the Agency 65 hearings for the Department of Administrative Services. We next will have testimony on LB611. [AGENCY 65 LB611]

SENATOR HILKEMANN: We will begin testimony now on LB611. Senator Stinner. [LB611]

SENATOR STINNER: (Exhibits 1 and 2) Good afternoon, Senators and fellow members of the Appropriations Committee. My name is John Stinner. It's spelled J-o-h-n S-t-i-n-n-e-r. I represent District 48 which is comprised solely of Scotts Bluff County. LB611 would require annual reporting of federal dollars received by agencies which are a part of the state budgeting process. As part of this process, the bill ties the report into the budgeting mechanism included under the Department of Administrative Services budgeting forms. There are a number of items which are required under this report, including: the aggregate value of federal receipts and the ratio of federal to state funds; a summary of state match requirements with the federal government; operating plans in the event the federal receipts are reduced by 10 percent or more, and 25 percent or more; and obligations entered into between the budgetary agency and the federal government; and the statutory objective being met by accepting federal funds. It is important for agencies to examine their obligations and reevaluate priorities from time to time to ensure responsible stewardship of the agency's mission. As a business owner, I understand that oversight measures must be in place to provide accurate reporting of obligations and maintain a commitment to organizational stakeholders. The intent behind the legislation is to better prepare the state for fiscal stresses further down the road. As a legislator, I understand the complexities that often surround federal programs, sometimes with unintended consequences. Just as in

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business, there is a cost and a benefit side to each of these funding activities. As you will see, I've drafted an amendment that would exclude the University of Nebraska and state colleges from the provision of the bill. It was brought to my attention by the university and a college that much of the provision under the bill are already in place in those institutions, and require the reporting of each federal receipt could become onerous and burdensome. By eliminating that it also brings the fiscal note down to almost zero. Due to the nature of these institutions, they received hundreds, even thousands of federal grants. Much of these are tied to research or even students themselves. This amendment is part of that compromise. It is my intent that we would be brought as a committee...it would be brought as a committee amendment. LB611 continues the tradition of responsibility of the Nebraska Unicameral Legislature, as envisioned by George Norris, creating an open and transparent government. It allows for greater accountability for what has become nearly one-third of Nebraska's budget and measures the impact of these federal programs. It gives elected officials more information at their disposal to review and understand federal grants being awarded and allows for measurement of federally funded programs. In addition to the benefits to citizens and elected officials, the bill also establishes formal contingent plans for agencies when analysis is necessary to identify the root causes of various issues agencies will face, including disruption of federal funding. To give the committee a snapshot of Nebraska's growing liability, during the last fiscal year federal receipts were approximately 30 percent of the state's total budget. That's the biggest source of revenue in the state budget. I think I believe that individual income tax is \$2.2 billion. Currently, the federal grant applications are initiated and managed by each agency individually. While federal funds are identified in budget bills, they are typically shown as estimates and the commitments incurred and other maintenance of effort requirements are typically only known to agencies dealing directly with the funds. LB611 would standardize the report of federal funds and place Nebraska more in alignment to its legacy of transparency. I would appreciate your consideration of LB611 and would be happy to answer any questions. I believe I've also handed out a summary of what agencies, federal agencies, that supply us with funding and what agencies actually are dependent upon or at least have agency fundings associated with those. Hopefully everybody has that. But anyhow, I will take some...any questions. [LB611]

SENATOR HILKEMANN: Do we have questions? Senator Wishart. [LB611]

SENATOR WISHART: Well, thank you, Chairman Stinner, for bringing this legislation. Can you walk us through the fiscal note because I noticed... [LB611]

SENATOR STINNER: The fiscal note predominantly has to do with the university and state colleges saying this is burdensome, this is how many hours we would have to commit to it. Two full-time FTEs, I believe, is in that fiscal note; \$650,000 is what their estimate is to comply with this. What I'm trying to get accomplished here is to make sure that we understand the appropriations and grants by the federal government so that we can measure stability,

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sustainability, those types of things that we need to know. And especially with the new administration, we have to know what's in play. Many times we are started, length of time of those grants need to be analyzed and how much of a commitment the state has. Interestingly, in talking to the Budget Office, they have accumulated the information so now we need to take it one step further, get familiar with it, do the cost-benefit analysis, understand what the programs are about and what the outcomes are. And if the federal government decides to pull back 10 percent, there's an action plan. If they pull back 25 percent, there's an action plan associated with it. So we're more informed. But I will tell you a lot of the information is available just the way that they accumulate the information. I know that Mike Calvert also has that information. It's cataloged, it's inventoried. So we've taken care of a lot of the accounting part of this. It's now up to us as legislators to further measure what these programs are about and what the potential is on us. [LB611]

SENATOR HILKEMANN: Additional questions? Senator. [LB611]

SENATOR CLEMENTS: I was wondering how many years back are we going to be able to look at to see trends in data. [LB611]

SENATOR STINNER: That's a good question and I'm sure that we can dig that information out in total and probably get this down. I would have to defer that question really to the Budget Office. They're the ones who really accumulate this data. The detail behind it and so that we can understand what those grants are about, I think that's another step in the process. I believe they have some of that information. [LB611]

SENATOR CLEMENTS: The information is available back maybe five years or so? [LB611]

SENATOR STINNER: I would say so but I'm not going to overcommit to that. [LB611]

SENATOR CLEMENTS: Yes. Well, part of the work on this, though, will include reviewing past history. [LB611]

SENATOR STINNER: One would have to understand what the past is to understand where we're at today and maybe what the future holds. With changes in administration, many times you get changes in programs. Many times the federal government has an initiative that the states get involved in and all of a sudden it's terminated. So we need to understand what those are about, trying to look at what the stability of those programs are or the instability, for that matter. And if they start to cut it, then we have a mechanism to go in and say: Hey, that's a 10 percent cut; what's our commitment now at the state level? Now from the Appropriations standpoint I can tell

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you our general policy is when the federal government cuts a program we don't make it up with state dollars. That's been our stance. Can't say it's 100 percent all the time that we do that, but that has been...that's the way Appropriations has handled it. [LB611]

SENATOR CLEMENTS: All right. I was just concerned that only getting data going forward, there's going to be a delay in time... [LB611]

SENATOR STINNER: Yeah. [LB611]

SENATOR CLEMENTS: ...being able to use it. So that's good. [LB611]

SENATOR STINNER: It's kind of like we need that inventory. We have the inventory now. We, as legislators, need to become more aware and more familiar with what's out there and what the outcomes might be. [LB611]

SENATOR CLEMENTS: Thank you, Chairman Stinner. [LB611]

SENATOR HILKEMANN: Thank you, Senator Clements. Any additional questions? I have one. Would you anticipate that doing this study might help us keep us from having the surprises like we've had from HHS over the years and those type programs? [LB611]

SENATOR STINNER: Well, I think all of us have read about a new approach to ACA, for an example. What programs do you have in HHS that are going to be affected? How are those dollars going to be allocated? You know, what's the state, especially now, what's the state's obligation, what it has been, and then trying to measure what the outcomes are as we move forward is absolutely critical, in my mind. [LB611]

SENATOR HILKEMANN: Okay. Additional questions for Senator Stinner? Thank you very much. Proponents for LB611. [LB611]

SARAH CURRY: (Exhibits 3 and 4) Good afternoon. My name is Sarah Curry, S-a-r-a-h C-u-r-r-y, and I'm the policy director for the Platte Institute and I'm here to testify in support of LB611. We all know that we're in a budget shortfall situation right now in Nebraska and so I firmly believe that if we enact this legislation and have a federal funds inventory, this will help Nebraska prepare for what could be worse, and that's if the federal government ever cut back their funding. The federal government has a spending problem. We all know that. Remember the sequester and the shutdown? Those things affected states in ways that a lot of government officials had no idea about. And part of that is because states need to see exactly where this

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money is going and right now it's not completely transparent. Last fiscal year Nebraska appropriated or budgeted, excuse me, \$3.7 billion in federal funds. That's a 17 percent increase over the last ten years when I do it as an inflation-adjusted measure. I have a handout that I've given you along with my testimony. The first page is 34 agencies that I was able to find that receive federal funding in Nebraska, and I calculated out the percentages based upon budgeted and actual. And I also have on there budgeted and actual federal funds and I did an inflation-adjusted measure as well, just so you can see how that is. So an example in Nebraska, you guys have already had to deal with a \$3.5 million developmental disability payment to providers and the federal government came up short on that. And so that's put pressure on the budget this year. A few years ago--Senator, you've already alluded to this--Health and Human Services had some issues. We had an audit that brought up \$15 million that wasn't being spent, according to the Auditor's viewpoints, with TANF. And then we had a chance of losing 17 million in funding because of delayed SNAP applications. And so those are things that I firmly believe would be included in this inventory and at least give us a heads up so that way you don't have to wait for an Auditor's report to come out and then question it after the fact; we can look at it beforehand. When that HHS stuff came out, the Governor even said, "Accountability begins with transparency," and I think that speaks very well to what this bill is about. A member on your committee who is no longer with you even said that maybe more legislative oversight would be needed to make sure that the state doesn't lose this federal funding, and that's exactly what this bill would do. It's a legislative oversight mechanism. It's a way to just measure and see the funds that are coming in. Now on the bright side, Nebraska is doing much better than other states because you appropriate your federal funds. Many states don't even have it on their budget and lawmakers have no idea how many federal funds are in their budget. So you guys are doing really, really well compared to a national standpoint. But there's still that lack of transparency because while we know how much money is going to each agency, you don't know the strings that are attached, what maintenance of effort requirements are tied to that, how long are these grants for. Like Chairman Stinner referenced, with the changed administration and a change in priority for certain federal programs, those funds can be cut. And so understanding that background and getting that additional information just makes it better for you and also the state so that you can be prepared in case something like this happens. According to that summary that I gave you on all the agencies, I found six that over 50 percent of their budget was made up with federal funds, and so one of those being Health and Human Services. The Department of Labor, believe it or not, was 92 percent federal funds. So certain agencies are definitely more exposed to federal funds than others. Now there's been other states that have already done this and Nebraska is not the first one. Back in 2011 Utah--oh, probably before that--but Utah enacted their federal funds inventory. They worked with the Utah CPAs and they got together and did that. Idaho also did something similar. Their governor supported it and so they started it through executive order. Mississippi has been the most recent to do that. Indiana did it a bit differently. They actually hired a full-time person to do the inventory along with a cost-benefit analysis simultaneously. And so from that I've got some examples from Indiana that they found that I wanted to share

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with you. There was a preschool grant program of \$20 million over four years, so a total of \$80 million. And the state realized it really wasn't a good deal because they would have to pay for the teachers, the infrastructure, and other costs long after the federal grant was expired. And so they decided to continue with the idea but they did it with state funds and got some private funds. And so they were still able to give that service to the pre-K children. They just weren't tied with the federal funds and the strings that were attached to that money. Another one that Indiana had was they wanted to purchase land for conservation purposes and they were trying to use federal funds and they found that the strings attached to that were actually going to make it more expensive. And so the state had to go back and really reconsider that. I just wanted to let you know, I've invited Wayne Hoffman. He's here from Idaho. Idaho has passed this. They've put it into place and they've seen some...had some issues with federal funds. So I invited him here to talk to you about that so you could see a state that's actually done it. I've also invited Jonathan Williams from the American Legislative Exchange Council. He's here to give you a national overview on federal funds and the impact they've had on states. So I'd just like to close quickly--I see my light has turned red--and really just say that the point of this inventory is for you to see the federal funds, be able to measure the federal funds in their entirety, and then be able to act on the best interest of your constituency. And after that, I'd take any questions if you have them. [LB611]

SENATOR HILKEMANN: Do we have...does the committee have any questions for Ms. Curry? You're getting off light. [LB611]

SARAH CURRY: All right. Thank you. [LB611]

SENATOR HILKEMANN: Additional proponents? [LB611]

WAYNE HOFFMAN: (Exhibit 5) Good afternoon. It's an honor to be with you today. For the record, I'm Wayne Hoffman, that's W-a-y-n-e H-o-f-f-m-a-n, and I'm the president of Idaho Freedom Foundation, which is located in Boise, Idaho. We're kind of, like your Platte Institute, also a free-market, public policy research organization. One of the issues we worked on rather extensively over the last several years is this issue of reliance on federal grants and federal programs with the realization that in Idaho we didn't have a real comprehensive understanding of what grants we were getting from the federal government or at what level or what programs were being served by those grants, and that issue really came home to roost for us rather unexpectedly. It was three years ago and the legislators had just arrived in Boise for their regular legislative session and they expected a pretty expedient, easy session. You know, you had everything kind of greased. You know how that goes, right? And then, of course, the wheels fall off because the federal government had informed us, the state of Idaho, that the Federal Communications Commission has stopped paying for this education broadband system that connects our schools to professionals and teachers and experts in subject matters all over the nation, all over the world.

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And so what it was, was the FCC was questioning the nature of the contract that we had with the broadband provider. No one really expected this to happen. As a result, though, the federal government decided to withhold money from the state and what it meant was that the Legislature was going to come up with millions of dollars to replace the federal dollars that were being withheld. If they didn't do that, the system would go entirely dark. So you had all these students that were depending on these classes, some of them, just to be able to graduate, were being told that if they couldn't get the system turned back on again they would be plumb out of luck. Well, our Legislature decided to kick in some extra cash to keep the system going, which was kind of nice, but what it meant, though, was that there were other priorities that year that simply went to the wayside. That included tax cuts, included general public school support, state police. There were a lot of different priorities that year that simply went and took a back seat because they had to fill the coffers back up with this money for the broadband service. And what we learned from that is that there's a real possibility that any federal grant could go away at any time and any program being serviced by those grants would be vulnerable. The other interesting thing about that is that those dollars didn't show up anywhere in any of the budget documents. So there were legislators who were saying, gosh, if this is a program that could go away, what other programs might be going away? What else don't we know, was essentially the question. So that prompted our governor to sign an executive order that said, essentially, that the state agencies needed to delineate all the federal grants they got and the language in there says that that includes anything that's continuously appropriated, programs supported by federal funds, the loss of which may impact the continuity or delivery of services. Those agencies were also directed, as your bill in front of you does, to come up with contingency plans: What happens if you lose 5 percent, 10 percent, or more of the federal grants that are coming in to support a program? And that executive order was passed in 2014. We codified that in 2015 and it's substantially similar to what you're voting on this afternoon. So I could tell you definitively, one of the big questions that of course is asked is, how much is this going to cost? And as far as Idaho was concerned, it did not result in additional cost to the agencies. It didn't result in having to hire new employees. It didn't result in having money and resources diverted from one project to another. The requirement has been very, very successful and it's helped our agencies contemplate what would happen if they were to lose federal support. Before we had this inventory, we were really in the dark. Our legislators didn't know what they were being asked to support. They didn't know what would happen if the programs went away, if the grants disappeared. And today at least we have a guidebook. It's an inventory of all the grants going into the state. The Legislature has it every year, what programs are being funded by grants, where the money is going, what happens if something comes along to interrupt that flow of money. And again, it hasn't cost anything and it's been very, very enlightening for our members of the legislature. So it's a program that we're very supportive of and we've been supporting and working with other think tanks across the country, including Platte, and trying to explain why this is such an important program for you. So with that, I'd be happy to sit for any questions. [LB611]

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SENATOR HILKEMANN: Does anyone on the committee have questions for Mr. Hoffman? Does this include programs such as the Rails to Trails? [LB611]

WAYNE HOFFMAN: It would include any of the programs that are funded by federal grants and I believe that, at least in Idaho, that is a federal grant program that comes in through the state. So if it's a grant that goes through your state then, yes, it would be included. If it's a grant that goes directly to a nongovernmental agency in your state, it probably wouldn't be included; or it goes directly to your local government, wouldn't be included. [LB611]

SENATOR HILKEMANN: Okay. I had a marvelous experience in the state of Idaho this year around your Coeur d'Alenes Rails to Trails which is, what, rated the second or third best in the country? [LB611]

WAYNE HOFFMAN: Were you up on the Hiawatha Trail? [LB611]

SENATOR HILKEMANN: I didn't get to Hiawatha, just went around the Coeur d'Alenes,... [LB611]

WAYNE HOFFMAN: Oh, is that right? [LB611]

SENATOR HILKEMANN: ...that hill. [LB611]

WAYNE HOFFMAN: It's a beautiful place to come visit. I invite you all to come. [LB611]

SENATOR HILKEMANN: Any other questions for...? I'll be back to Coeur d'Alenes for that one. That was the best I've ever ridden. That's beautiful. [LB611]

WAYNE HOFFMAN: Thank you very much and appreciate your time. [LB611]

SENATOR HILKEMANN: Any other questions? [LB611]

WAYNE HOFFMAN: Thank you, committee members. [LB611]

SENATOR HILKEMANN: Thank you. Other proponents. Are there any opponents for LB611? [LB611]

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GERRY OLIGMUELLER: (Exhibit 6) Senator Hilkemann and members of the Appropriations Committee, for the record, my name is Gerry Oligmueller. My name is spelled G-e-r-r-y O-l-i-g-m-u-e-l-l-e-r. I'm the State Budget Administrator and administrator of the Department of Administrative Services, Budget Division. I'm appearing here today to share my support for transparency in the state budgeting process; my opposition to legislating the prescriptive content of LB611 and to provide information about the current state budget instructions, forms, and process. LB611 proposes to amend Section 81-132 to: number one, require the submission of information by all state agencies, boards, and commissions about federal funds; and two, to specify in state law the specific content of the forms to be used for this purpose. Section 81-132, along with Section 81-1113 and 1113.01, are the current state laws that form the basis of our current biennial budget instructions. Current state law specifically assigns responsibility for preparation of the budget instructions and forms to the Budget Division and current state law requires the Budget Division to: share a draft of the budget instructions and forms with the Legislative Fiscal Analyst, number one; number two, meet with the LFA and discuss changes to the proposed forms; and three, share a final draft of the instructions and forms with the LFA; and four, include any additional instructions and forms provided by the Legislative Fiscal Analyst. I support transparency. The budget instructions and all state agency, board, and commission budget request documents and attachments, both biennial and mid-biennium, are available on the State Budget Division Web site 24 hours a day, seven days a week, every day of the year. I support the submission of information by state agencies, boards, and commissions regarding federal funds as part of the biennial budget submission. In fact, I didn't hear anything I disagreed with necessarily on the part of the proponents. In cooperation with your Legislative Fiscal Analyst, we already require the submission of federal fund information in our current budget instruction and forms. I've attached the specific instructions, software screenshots, which euphemistically I guess we refer to as forms going back a ways, and examples for your record. A quick review of the current instructions will reveal that we currently require extensive additional reporting related to federal funds and federal grant awards: the purpose of the grant, the grant characteristics, the use of grant funds, grant future outlook and impact of potential reductions, and the related detail with regards to each category of information. Much of what is proposed in LB611 is already part of our current budget instructions and budget forms. All that perhaps isn't, could be simply as a part of our current state laws and process for developing budget instructions, which we do on a biennial basis with the cooperation of the Legislative Fiscal Office. All suggestions for change to our current budget instructions and budget forms by the Legislative Fiscal Analyst have been included in the final budget instructions and forms issued by the State Budget Division. I do not support legislating specific content of the budget forms that must be utilized for this purpose for all future budget request submissions, as proposed by LB611. I believe our current laws and process for development of budget instructions and budget forms is an extremely unique Nebraska executive and legislative collaborative approach to this work. It is an approach that allows for changing circumstance and continuous improvement in the information needed and provided to the Governor, Legislature, and interested public. It is a

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model that might be of benefit to other state governments throughout the United States, including Idaho. As always, I remain open to your further discussion and consideration regarding the proposal. And as required by current state law, any further suggestions by your Legislative Fiscal Analyst to improve upon these instructions and forms that your staff and my division have developed for collection of federal fund information would be accomplished. Thank you. Are there any questions? [LB611]

SENATOR HILKEMANN: Are there any questions of the committee for Mr. Oligmueller? Senator Clements. [LB611]

SENATOR CLEMENTS: Thank you for being here. I'm just wondering then why are we proposing this if we already have the information or why hasn't it been maybe tabulated or put together? [LB611]

GERRY OLIGMUELLER: Okay. I'm not sure why exactly it's being proposed being legislated into state law. I think that becomes a little bit more restrictive than the current model that exists in Nebraska for this collaborative approach with the Fiscal Office every biennium in defining the needed information for this committee and the Legislature. But the information exists and is on-line presently as it's defined in these attachments I've shared with you for every state agency. The data is constructed in the Funds Analysis section of the budget request submission, which would provide a complete financial statement with three years of actual history, current base year level of funding, and then a tie out to the request years, in this case '18 and '19. The data would have a...would be aggregated at the catalog of federal domestic assistance number, which might include multiple grant awards under that catalog number from the federal government. That number also ties back into a reporting element in the state's accounting system, E1, which you probably heard some conversation about earlier today. So there's a link back into the accounting system. As far as historical data, the Nebraska Budget Request and Reporting System dates back to 2008, so we would have information going back as far as 2008 in our custom-engineered Budget Request and Reporting System, and then, obviously, you could go back in the state's accounting system with that tie that exists in terms of the catalog of federal domestic assistance number and capture probably more historical information than dating back to 2008. So the data is in there. It exists as part of a PDF report prepared by each agency. What we are not doing in Nebraska is aggregating that data collectively for all agencies just around federal funds, but it's part of the expression of the agency's annual biennial budget request. And you can see by this first attachment there's quite a bit of detail expected with regards to federal funds and, actually, that's a consequence of previous work with the Appropriations Committee and staff of the Fiscal Office. [LB611]

SENATOR CLEMENTS: Okay. Thank you, sir. [LB611]

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SENATOR HILKEMANN: Senator Wishart. [LB611]

SENATOR WISHART: Well, thank you so much, Gerry, for being here. And actually Senator Clements asked mainly the question I wanted to ask. But taking Chairman Stinner's example in terms of the potential change in our healthcare system and what that would result in terms of what we would be getting from the federal government appropriated to Nebraska, is there a way that we could already show that...that we already show that? [LB611]

GERRY OLIGMUELLER: Well, there's a wealth of information, obviously, available in each agency's budget submission with regards to each of their federal grant awards. So there's a wealth of information to be used to the extent that people take an interest, look at it, and make use of it. And essentially, from the standpoint of a process that exists, you have the opportunity to redefine really the elements or the questions related to the collection of this information and reporting it at least every two years, when we construct these instructions for state agencies. That's my primary objection to LB611. I don't think we should legislate into state law the elements of a form, the needs of which may need to change as a consequence of the interests of this committee, the Legislature as a whole, and the Governor. And so you could pose questions through the instruction perhaps if you're trying to focus in on a specific question regarding what do we anticipate the federal government doing in any particular area throughout state government. [LB611]

SENATOR WISHART: Okay. Thank you. [LB611]

SENATOR HILKEMANN: Did you have a question? Senator Vargas. [LB611]

SENATOR VARGAS: Thank you very much. Thank you for being here. [LB611]

GERRY OLIGMUELLER: Sure. [LB611]

SENATOR VARGAS: I just had a question. So what I'm seeing from this Funds Analysis Instruction and what's in the language here, does some of the Funds Analysis Instructions you have include these operating contingency plans, like what is being requested here in the bill? [LB611]

GERRY OLIGMUELLER: Well, it...not in that terminology. But you can see one of the expectations is that they provide the impact of potential reductions, is that last criteria on that first handout I provided. So there's an expectation that the agency for that specific federal funding would provide an indication of, you know, what's their plan in the event of a loss of

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federal funds. And then I'd reaffirm Senator Stinner's comment and that is the general policy position that's been taken both by the Legislature and the executive branch, including Governor Ricketts, is that... [LB611]

SENATOR VARGAS: Uh-huh. [LB611]

GERRY OLIGMUELLER: ...in the event there's a loss of federal funds, you know, we expect you wind down your costs and expense; that there's not an automatic presumption about replacement of lost federal funds. [LB611]

SENATOR VARGAS: Say the last part again. [LB611]

GERRY OLIGMUELLER: There's not a...there shouldn't be an expectation on the part of the recipients of these grants awards that there's an automatic state General Fund replacement of... [LB611]

SENATOR VARGAS: Yeah. [LB611]

GERRY OLIGMUELLER: ...lost federal funds. [LB611]

SENATOR VARGAS: Yeah, that makes sense. So the way I'm reading this, for the potential reductions, that it's more the impact of services in agencies if we couldn't continue these, you know, if we didn't have federal funds but less contingency plans. Is that correct? [LB611]

GERRY OLIGMUELLER: Right. Right. [LB611]

SENATOR VARGAS: Okay. [LB611]

GERRY OLIGMUELLER: I think that's correct. But again, if there's an interest in reframing the kind of information that's being brought forward as part of the biennial budget process, our current law provides a structure for this to change without needing to legislate the content of a form. [LB611]

SENATOR VARGAS: Have you...have you received feedback from past, you know, groups of senators and a need to have more transparency and actually probably proactive planning for federal funds like this before... [LB611]

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GERRY OLIGMUELLER: I think... [LB611]

SENATOR VARGAS: ...(inaudible) in anticipation of this? [LB611]

GERRY OLIGMUELLER: Sure. Senator, what I'd say is the content you see displayed on this... [LB611]

SENATOR VARGAS: Uh-huh. [LB611]

GERRY OLIGMUELLER: ...piece of paper, Funds Analysis Instructions, and the...you can see that the first paragraph or two relate specifically to all Funds Analysis, so all non-General Funds, Funds Analysis... [LB611]

SENATOR VARGAS: Uh-huh. [LB611]

GERRY OLIGMUELLER: ...that's netted by agencies. Everything from about a quarter of the way down that page to the bottom is a consequence of that kind of conversation with the Legislative Fiscal Analyst in response to an express need on the part of prior Appropriations Committees. So that's the current laws that exist working to be responsive in terms of identifying a communication that appended to the budget process that brings that information forward. So, yeah, I'd say the shorthand answer, yes, in maybe a longhand answer, but. [LB611]

SENATOR VARGAS: That's okay. Thank you. [LB611]

GERRY OLIGMUELLER: Yeah. [LB611]

SENATOR VARGAS: And just in the past has...it seems like this sort of "Impact of Potential Reductions," sort of the forward planning, has that met in your experience...has it been utilized? Has the information that you put together actually been utilized effectively by senators or this committee in the past? [LB611]

GERRY OLIGMUELLER: I think it's utilized on what I characterize as an individual agency-by-agency basis as we consider... [LB611]

SENATOR VARGAS: Uh-huh. [LB611]

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GERRY OLIGMUELLER: ...the information that's brought forward in the process when decision making is occurring with regards to how much state appropriation I'm asking for, for the next biennium,... [LB611]

SENATOR VARGAS: Uh-huh. [LB611]

GERRY OLIGMUELLER: ...for example. So the expectation on the part of my staff is that they're looking at this information. They're understanding it in the context of what the agency is communicating as far as a budget request and whether or not they're being asked to replace, for example, federal funds that are diminishing for one reason or another. And so it's a resource and it becomes a question of whether or not you use it. The element that does not exist is probably collecting it in aggregate and simply reporting on federal funds, you know, in an aggregate kind of sense. That occurs in some part through some of the reports you've seen as you've discussed individual agency budgets or the total state budget. The Fiscal Office issues reports, for example, that identify where the federal fund appropriations are and it's not difficult to calculate what percents it represents in the state budget, for example, so. [LB611]

SENATOR VARGAS: Thank you. That's actually really helpful for differentiating between what you do...what we currently have and do and what this is asking. This is just a perspective question. Do you...is the reason why you're in opposition because you believe it concurrently already...it is currently already being done to the best of its ability, based off of this bill? [LB611]

GERRY OLIGMUELLER: I think we have laws in existence... [LB611]

SENATOR VARGAS: Hmm. [LB611]

GERRY OLIGMUELLER: ...that provide the vehicle for what's proposed in this bill to be accomplished. And then I would further say I don't think we should legislate into state law the specific elements of a form, so. [LB611]

SENATOR VARGAS: Okay. [LB611]

GERRY OLIGMUELLER: Because, as you can see, there are considerable elements, right,... [LB611]

SENATOR VARGAS: Uh-huh. [LB611]

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GERRY OLIGMUELLER: ...on the part of the instructions now, and they can change... [LB611]

SENATOR VARGAS: Okay. That's all I will... [LB611]

GERRY OLIGMUELLER: ...without legislating it, you know? [LB611]

SENATOR VARGAS: And I only asked the question because I think we've had some...at least from my experience, it seems like there's a recurring theme. There sometimes is a disconnect between what the agency is asking and what they currently do. And when a senator is bringing a bill, I think there is a warranted...not necessarily need but, obviously, something is bringing this to the surface that we need to reform, change something, right,... [LB611]

GERRY OLIGMUELLER: Uh-huh. [LB611]

SENATOR VARGAS: ...to provide better transparency, better efficiency. [LB611]

GERRY OLIGMUELLER: Right. [LB611]

SENATOR VARGAS: It sounds like there are pieces that we currently don't do that are in this bill. But just wanted to get your perspective on that. [LB611]

GERRY OLIGMUELLER: Yeah. Yeah. Great. [LB611]

SENATOR VARGAS: Thank you. [LB611]

GERRY OLIGMUELLER: Thank you. [LB611]

SENATOR HILKEMANN: Thank you, Dr. Vargas. Doctor... (Laughter) [LB611]

SENATOR KUEHN: You just got promoted. [LB611]

SENATOR VARGAS: I'm going to take that. I'm going to take that. (Laughter) [LB611]

SENATOR HILKEMANN: Senator Kuehn. [LB611]

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SENATOR KUEHN: Thank you, Senator "Eloquent." That just brings to mind, Mr. Oligmueller, a question regarding if we're not getting in an aggregate and they're already filling out, looks like on the form there's a drop-down menu that they selected to federal funds. I mean would it be something as...and I'm probably oversimplifying, but adding a check box or a query ability in your existing database to aggregate the federal funds submission forms? I mean do you think there's a way in which we could aggregate that data within existing statute if need be? [LB611]

GERRY OLIGMUELLER: Yes. I think with some programming you can, you know, pull this data in a format that is useful in a summary context, other than what you currently see in your budget documents, for example, so. [LB611]

SENATOR KUEHN: Right. So other than having to go agency by agency and pull that out, you think there would be the possibility without significant... [LB611]

GERRY OLIGMUELLER: As long as the appropriations to the Budget Office are adequate (inaudible)... [LB611]

SENATOR KUEHN: Well,... [LB611]

GERRY OLIGMUELLER: ...we're able to accomplish that. [LB611]

SENATOR KUEHN: ...speaking of strings attached, (laughter) I mean that might...maintenance of effort requests, there we go. [LB611]

GERRY OLIGMUELLER: Yeah. [LB611]

SENATOR KUEHN: Okay. Yeah, so you think there is the possibility to make that happen... [LB611]

GERRY OLIGMUELLER: Certainly. [LB611]

SENATOR KUEHN: ...in aggregate. [LB611]

GERRY OLIGMUELLER: Certainly, yeah. [LB611]

SENATOR KUEHN: Okay. Yeah. Thank you. [LB611]

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SENATOR HILKEMANN: Thank you, Senator Kuehn. Additional questions? I think I want to point out and give my question to our testifier from Idaho. Mr. Oligmueller and I did not get together to make the third page... [LB611]

SENATOR WISHART: I know. That is... [LB611]

SENATOR HILKEMANN: ...on the Recreational Trails. (Laughter) [LB611]

SENATOR WISHART: I was just going to (inaudible). [LB611]

GERRY OLIGMUELLER: Although we both cycle, so. [LB611]

SENATOR HILKEMANN: That's correct. [LB611]

SENATOR WISHART: (Inaudible). [LB611]

GERRY OLIGMUELLER: Thank you very much. [LB611]

SENATOR HILKEMANN: Are there additional opponents to LB611? Is there anyone here who would like to testify in the neutral position on LB611? [LB611]

JONATHAN WILLIAMS: (Exhibit 7) Good afternoon, Chairman Stinner, members of the committee. My name is Jonathan Williams, J-o-n-a-t-h-a-n W-i-l-l-i-a-m-s. I am chief economist and vice president of the ALEC State...Center for State Fiscal Reform, and it is great to be before you and provide some comments on what we're seeing across the 50 states. We work with state lawmakers in all 50 states to provide best practices when it comes to enhancing government transparency, protecting taxpayers, and helping you, as budget writers, keep the budget in a way that is pro-taxpayer as well. This is an issue that we think is very interesting. It's very good that you're taking it up. I want to provide some context from a few case studies, especially Utah, especially Indiana, since my colleague, Wayne Hoffman, provided some comments already on the Idaho case study. I think that certainly I commend the work of this committee as you address the difficult task of balancing a budget when revenues are not as strong as you would all like them to be this year. But imagine for a moment another threat to the budget and that threat would be if the federal government cannot continue current support at the levels that you've been used to. Just today Secretary of the Treasury Steven Mnuchin in Washington, D.C., said that the federal debt limit would need to be lifted once again to avoid federal default. I checked the federal debt clock this morning. We've hit \$19.9 trillion in federal debt. We'll hit \$20 trillion very quickly. Certainly if you look at even other nonpartisan observers, whether it's the Government

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Accountability Office, who says that "the current structure of the federal budget is unsustainable"; the American Institute of Certified Public Accountants, AICPA, says, "The U.S. is not exempt from the laws of prudent finance. We must take steps to put our financial house in order." Additionally, according to the Alabama Policy Institute's analysis of data from the OMB in Washington, federal spending directed to states through grants has increased a shocking 4,986 percent over the last 50 years, from \$12.8 billion in 1966 to an estimated \$666 billion in 2016. And of course it wasn't all that long ago we remember the consequences of the government shutdown in Washington and sequestration, what that can mean for state budgets. It's important to note that LB611 does not prohibit or interfere with Nebraska accepting federal funds, but it does bring more analysis and transparency to the equation. A few of the pillars of best practices that we've seen from other states include an aggregation of the data so it was an easy click-through for an individual taxpayer. And certainly you, as policymakers, and your staff have access to see across all agencies the total amount of federal funds. Another best practice is estimating the cost of federal strings: What are the maintenance of effort requirements in the cost of federal dollars flowing to the states? That's something that's not being done adequately in many states across the country. And another best practice is having that contingency plan that's been talked about. If the federal government does reduce aid to Nebraska by 10 percent or 25 percent, which is a realistic scenario given the dire situation that we face in Washington, what are the plans that you have in place to make sure that the truly needy are not affected adversely and taxpayers are not affected adversely? Quickly to the Utah case study, and this is, I think, the best case study to look at. There's a few problems from the Indiana case study I would point out to avoid. But the Utah case study was enacted five years ago. It's interesting, I was just talking to the bill sponsor, Representative Ken Ivory, earlier this week and he told me now that they have a five-year track record there's been zero cost to the state government to implement financial ready in Utah and they've been able to see some great savings through the program. And by the way, one of the things that I recognize I think as one of the key factors of Utah's success is the fact that S&P and Moody's and the bond rating agencies actually pointed to the idea of having contingency plans in state law as a reason Utah kept its AAA bond rating, even through some very difficult times. I see my time is running short so I'd just conclude by saying we think it's a best practice. We think that transparency and giving you, as policymakers, and taxpayers across this great state access to an aggregated amount of information would only be good for the taxpayers in the state of Nebraska going forward. Thank you for the opportunity to be here and I look forward to taking any questions. [LB611]

SENATOR HILKEMANN: Thank you, Mr. Williams. Senator Wishart. [LB611]

SENATOR WISHART: Thank you, Mr. Williams, for coming all the way to Nebraska. Why did you decide to testify neutral? [LB611]

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JONATHAN WILLIAMS: We provide best practices as an organization. We don't support or oppose legislation. But we saw this as something that we've tracked across many states and wanted to provide our kind of feedback, both on the Utah case study and something I somewhat ran out of time to talk about was the Indiana case study. The one caveat I should have mentioned with Indiana is Indiana I think even realized retrospectively themselves that it was a mistake to put this in just the Governor's Office in Indiana. I'm saying nothing bad about the governor of Indiana or your Governor, for that matter. It's just the fact that it's been perceived as a political operation in Indiana by some circles. And so keeping it as nonpartisan as possible I think is a key best practice that we've learned from Indiana. [LB611]

SENATOR WISHART: Okay. [LB611]

SENATOR HILKEMANN: Senator Vargas. [LB611]

SENATOR VARGAS: Thank you much for being here, Mr. Williams. And this is just a follow-up. I was curious about that. What specifically...can you elaborate more on how this process is more nonpartisan, the importance of that and how that was achieved in some of these other states? [LB611]

JONATHAN WILLIAMS: Yeah. So I mean being run by the Legislature, being run through nonpartisan budget offices, for instance, instead of through a political office. That was actually the Office of State-Based Initiatives in Indiana; was funded right through the governor's budget and it was seen really as a wing of the one branch of government, for instance, but also seen as a wing of, in that case, a Republican governor that could potentially be using this for political reasons versus just a nonpartisan budget perspective. [LB611]

SENATOR VARGAS: Have we seen efforts--because I'm looking at the states and considering we do see partisanship sometimes in other states--for these other states being more, won't say Republican, are we seeing this, these initiatives for transparency, in other states that are not more conservative Republican? [LB611]

JONATHAN WILLIAMS: You know, we haven't followed this particular policy being introduced in states. You know there's very few now that are being run by, complete control, by Democrats, for instance. However, that being said, the idea of transparency is something that ALEC has worked a lot on. In fact, probably our most successful model policy in ALEC's 43-year history was a policy that we took from the federal level of Senator Tom Coburn of Oklahoma and, at the time, Senator Barack Obama of Illinois. It became the ALEC Budget Transparency Model Policy. It was introduced and passed now in 49 or 50 states. And so each and every one of those states took up that mantle of transparency. So broadly we've seen a good

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movement towards transparency in both Republican and Democrat controlled states, certainly. [LB611]

SENATOR VARGAS: No, that's helpful. And I was just also curious, thinking about the size of some of these states, if we're seeing...I mean, obviously, we're seeing government transparency as helpful in a lot of instances. With some of these bigger states with larger budgets, why they wouldn't be going down a pathway for increased transparency, figuring out contingency plans and operating plans in case federal funds were decreased or dropped, so. [LB611]

JONATHAN WILLIAMS: Well, and a lot of times it's that it's very difficult for people to know what's not there. If they don't know what they're looking for, if they don't know what they're missing and the kind of data that's available or should be available to policymakers is not being made available in a way that's easily searchable, for instance, in an aggregate format, they don't know a lot of times to ask those kind of questions. And so we hope this best practice will help, you know, go to other states, even larger states, across the country. [LB611]

SENATOR VARGAS: Great. Thank you very much. [LB611]

SENATOR HILKEMANN: Senator Wishart. [LB611]

SENATOR WISHART: So, for example, with after-school funding in Nebraska, almost...the majority of our funding comes from the federal 21st Century grants and a lot of rural after-school programs that qualify for these grants rely pretty much solely on this funding. So are you seeing, using this as an example with states that are creating this contingency plan, that they are starting to look at how they would fund those programs on the state level if those federal dollars went away? [LB611]

JONATHAN WILLIAMS: Uh-huh. Yeah, that's certainly something that Utah has done. In fact in my written testimony I provided a link that you could type in and follow to the Utah interactive Web site that allows anyone to go and actually play around with the different scenarios to say the federal...or federal aid to that state has gone down by 10 or 20 or 30 percent. And then assuming that the state would pick up X percentage of those dollars versus tax increases, let's say, would be enacted in other scenarios and give you an example of what kind of dollars you'd be playing with in those scenarios. I thought that was a very helpful tool with their interactive database. [LB611]

SENATOR HILKEMANN: Additional questions for Mr. Williams? Seeing none, thank you very much for coming. [LB611]

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JONATHAN WILLIAMS: Thank you. [LB611]

SENATOR HILKEMANN: Are there additional persons in the neutral on LB611? With that, I'll (inaudible) and we'll have Senator Stinner close. [LB611]

SENATOR STINNER: Well, you're looking at somebody that doesn't want to pass unnecessary laws. Let's put it that way. However, I do look and if it's the matter that we have one sentence in here talking about forms, we could easily eliminate that. I think there is a lot of data that the Budget Office does put together that is available. It's that 30 percent of the funds that come in on our total budget comes from the federal government. All I'm trying to do is to aggregate...well, first of all, what we're trying to do is say November 1 is the date that we need some information which would give us the opportunity to take a look at it before session. Okay? That's one of my...that's one of my points in this legislation. The second one is I would like to aggregate or have the opportunity to aggregate data against agencies so I can take a look at that. Why do I want to take a look at it? Well, I want to look at significant concentrations. In other words, if I have a program that's significantly funded by the federal government, I want to be able to assess what that program is, what the risk is. Now we don't spend a whole lot of time in Appropriations doing and talking about that, but we could aggregate data that talks about significant concentrations. We could talk about short-term programs. We can put these in different layers so we can understand: this is a short-term grant, it's going to last two years; it's going to last four years; it's funded by X program, so we can assess how reliable it is that it may get terminated or it may continue. We can take a look at intermediate funding, five to seven years, to take a look at programs so that we know how to stagger and what the impact possibly could be. We could develop a watch list that takes a look at not only concentrations, short-term programs, but stuff that comes up that we're talking about right now. Obviously, right now, with the change in administration, we're going to have different funding options out there. So we put those programs into a watch list so we can understand and understand the risk. The other part of this has to do with contingency planning. Cut me 10 percent; you got to come up with an action plan. Cut me 25 percent; you've got to come up with some kind of contingency action plan that has to do with outcomes. Do we need this program or can we cut this program? Just what is going to be the outcomes? Does the state need to fill that gap? How many FTEs are involved in this thing so we know what that impact is going to be. Those are the things that I'm trying to glean out of this whole thing. That's why I put the legislation in place or sponsored the legislation. Lots of states are trying to assess this, what the risks are. That's who I am. I'd like to understand what the risks are. I'd like to quantify those risks. I'd like to put them in pots where I can take a look at them. And we can have an informed discussion as we move forward about agencies and what the funding is going to look like. And if it's highly leveraged to federal funding we need to understand that, because so many times we take a look at cutting a program. For an example, we just cut a program and we ended up having to put it back in place and it was the Commission on (sic--for) the Blind. We cut \$42,000 out and we lost \$120,000 of fed funding. Be nice to have

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that information up-front. So we put the \$42,000 back...or it might have been \$24,000, now that I think about it. But it was significant leverage of federal funding. Stuff that I've been associated with, I think that you all have as well, there's mandates by the federal government. Those mandates, special ed is a primary example of a mandate. They got us on the hook for that. They continued to step out of that program. Now it's one of the biggest items in our school budget. So we needed to understand what special ed was about. The Latchkey Program was a program that used to fund after-school activities and it was federally funded. Latchkey Program is gone. What happened to the after-school funding? Some schools kept going. Now we're getting back into that mode that we have to provide because we have parents that continue to work, single moms and parents that are working after school. What are we trying to do? We're trying to figure out how we fund after-school program. But the Latchkey Program was well before that, was a federally funded program that after a change in administration, boom, it went away. So those would be examples of why I'm trying to do what I'm trying to do in this legislation. So anyhow, that's my story and that's a little bit of my rebuttal. [LB611]

SENATOR HILKEMANN: Senator Vargas. [LB611]

SENATOR VARGAS: Thank you. Thank you very much, Chairman Stinner, for bringing this bill. I might have missed this and I apologize for having to rehash this. But the amendment and the rationale on not applying this to the University of Nebraska, Nebraska state colleges... [LB611]

SENATOR STINNER: Reduces the fiscal note by \$630,000 and maybe even more. The other thing is, is that their grants are generally specified to a research project, ends at a period of time. They're saying it's way too cumbersome. At some point in time we may want to stretch out that way. I'm more interested in that...those agencies that you're looking at in the exhibit I...the agencies we actually deal with on a continuing basis. And I think it's in my handout. You can see the agencies that we deal with,... [LB611]

SENATOR VARGAS: Right. [LB611]

SENATOR STINNER: ...what the federal funding is associated with that. We just need to understand and take our time now. I will say this. The Budget Office does a great job compiling the numbers. We're probably not using that as much as we can. But I'd sure like to put the data in a format, and aggregate the data, with the contingency program so I can better understand what the risks are. [LB611]

SENATOR VARGAS: Yeah. And I appreciate that. I asked because it's such a large budget item, University of Nebraska, to not potentially include it or to not investigate it or learn more about

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how federal programs...even though seems like they specify it, which is something that it seems like we already current do is specify. What I'm most enamored by is the contingency planning and forecasting as a result. Feels like it's a need for us to do the same thing. Not having a full budget picture of something so big, it's just a question mark. But thank you for clarifying that. [LB611]

SENATOR HILKEMANN: Additional questions? Seeing none, thank you very much. Thank you for all the testifiers who came here today. And that will close LB611. [LB611]