

Appropriations Committee February 26, 2019

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

ERDMAN: Steve Erdman, District 47; I represent 10 counties in the Panhandle.

CLEMENTS: Rob Clements, District 2, from Elmwood and have Cass, part of Otoe, and part of Sarpy.

McDONNELL: Mike McDonnell, LD 5, south Omaha.

HILKEMANN: Robert Hilkemann, District 4, west Omaha.

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

BOLZ: Kate Bolz, District 29.

WISHART: Anna Wishart, District 27, west Lincoln.

DORN: Myron Dorn, District 30, Gage County and the southeast fourth of Lancaster.

STINNER: Assisting the committee today is Brittany Bohlmeier, our committee clerk. And page-- excuse me, Cadet is our page for today. On the cabinet to your right, you will find cream testifier sheets. If you are planning to testify today, please fill out a cream 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 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 that you abide by the following procedures. Please silence or turn off your cell phone. Order of testimony: introducer, proponents, opponents, neutral, and closing. When we hear testimony regarding agencies, we will first hear from the representative of the agency, and we will then hear testimony from anybody who wished to speak on the agency's budget requirement. Since we're only hearing the Governor's budget today, we don't have very many agencies. When you come up, please spell your first and last name for the

record before you testify. 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 testifying-- testimony is being offered. Hand them to the page for distribution to the committee and the staff when you come up to testify. We will need 12 copies. If you have written testimony, but do not have twelve copies, please raise your hand now so the page can make copies for you. With that we will begin today's hearing with LB293, Deficit Appropriations.

GERRY OLIGMUELLER: Chairman Stinner 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 am the state budget administrator and administrator of the Department of Administrative Services Budget Division. I'm appearing here today on behalf of Governor Ricketts in support of LB293 through LB299, which along with LB153, LB245, LB263, and LB300 constitute the Governor's budget recommendations for the 2019-2021 biennium. Senator Stinner, if it's okay, I prepared my testimony to cover the breadth of the bills.

STINNER: That would be fine. Thank you.

GERRY OLIGMUELLER: OK. The funding for the operations of state governments, state aid to individuals and other governments, and capital construction are contained in these legislative bills. The contents of this legislation have been summarized and presented to you in a printed publication entitled "Executive Budget in Brief, 2019-2021 Biennium" and dated January 15, 2019. I provided a copy of that printed publication along with my prepared remarks to the committee clerk for your record. In addition, we have posted a more comprehensive publication entitled "Executive Budget, 2019-2021 Biennium" dated January 15, 2019, along with a complete copy of the individual state agency board and commissions biennial budget requests on the state budget division Web site at "Budget.Nebraska.gov." Several tables are also included on our Web site summarizing the Governor's recommendations for 2019 through 2021 biennial appropriations on an agency program and fund-type basis. I've also attached two technical amendments to my written testimony for LB294 for your consideration as you prepare your amendments to the introduced legislative bills. The Governor's recommendations for 2019-2021 biennial appropriations are contained in LB293 through LB297. Recommendations for fund transfers and changes to certain funds are included in LB298 and LB299. LB298 includes a General Fund transfer in each fiscal year of the biennium to increase the Property Tax Credit Fund

from \$224 million to \$275 million each year. LB299 transfers \$54.7 million from the Cash Reserve Fund to the Nebraska Capital Construction Fund for 2019-2021 new capital construction projects, including the high security housing expansion at the Department of Corrections. Additional legislation including Governor's 2019-2021 budget related recommendations have been referred to other legislative committees. LB153 and LB263 contain specific recommendations regarding taxation of military retiree pay. These legislative bills have been referred to the Revenue Committee. LB245 makes changes to the Medicaid Preferred Drug List and has been referred to the Health and Human Services Committee. LB300 provides for increases to judges' salaries. It has been referred to the Judiciary Committee. The Governor's budget recommendations for the 2019-2021 biennium provide for a two-year average increase in General Fund appropriations of 3.1 percent. The Governor's recommendations provide for a \$348 million balance in the Cash Reserve Fund. I know that the many state agency budget requests and the provisions of LB293 through LB299 have been subject of your committee working sessions these past several weeks. In addition to this information, your preliminary recommendations will be subject to your committee hearings for the next four weeks. Today, I will not repeat information already provided to you and not review in detail the Governor's recommendations. Agency directors will be prepared to discuss specific recommendations related to their agencies during your upcoming budget hearings. In addition, the staff of the Budget Division and I will be available throughout your committee process the next two months to assist as may be necessary in your further work in developing your recommendations for the 2019-2021 biennium. On behalf of Governor Ricketts, I do want to share our appreciation for the work of the Appropriations Committee and we look forward to working with you over the next two months as you finalize your recommendations to the Legislature. Thank you. Do you have any questions you'd like to ask regarding LB293 to LB299?

STINNER: Senator Wishart.

WISHART: Director, first of all, thank you so much for being here today, for your diligent work over the years on our budget process. One of the questions that I asked the Governor during his budget briefing, and we didn't really have the time to go into the details on it, was I know that you spent quite a bit of time during our deficit budget discussion looking at how we would build-- rebuild the Cash Reserve. And I remember the Governor kind of projected out what the road map was for how we would get there. Does this budget reflect that road?

GERRY OLIGMUELLER: Well, I think you're referring to the discussions we had, and when we actually constructed this financial status that show rebuilding into the following biennium, up to about a \$500 million level, if I'm not mistaken, or maybe it was even higher, I can't remember specifically.

WISHART: Yes. Yeah.

GERRY OLIGMUELLER: That could have been done with this General Fund financial status because there was a variance from the required reserve in the following biennium. And I suppose we could have built in a transfer showing that commitment to direct that to the Cash Reserve Fund. That's, you know, that's an option as you construct your recommendations, certainly, to the floor of the Legislature as well. It's just-- it just wasn't the way we constructed that financial status is all this time.

WISHART: So, is that something that-- that your office would be willing to-- to work with us on. Because I do think it's important for Nebraskans for us to show the road map for how we're going to get back to a comfortable place with the Cash Reserve.

GERRY OLIGMUELLER: Right. It simply becomes-- as you prepare your recommendations to the floor, it would be a consideration of what you show for spending in the following biennium, you know, what your commitment to spending is versus a Cash Reserve Fund balance or anything else that affects that following fiscal period.

WISHART: Yeah, okay.

STINNER: Additional questions? Senator Hilkemann.

HILKEMANN: I'd like to probe into the Property Tax Relief Fund. I need to get some clarification on that because this is, in essence, that's what you're talking about here, I think you want to transfer \$53 million to that, I think, it's talked about in this budget. And I want some historical perspective because I was-- I was not a part of this body when that Property Tax Relief Fund was established. But the first year that I was here as a state senator, we-- we had a bill or we had a-- we put in 62.5 additional money into the Property Tax Relief Fund. That was in 2015. And in 2016, we added another 62.5 for a total of \$128 million over '15 and '16. And in '17 and '18, \$128 million has continued on. And that \$128 million in this year's budget, plus we're going to add another \$53 million to it, is it, I

guess, maybe it was naivete on my part, I thought the reason-- I-- I-- when we did that, I was thinking that this was a more of a one time-- I'm sorry, I can't see through that book, the-- the-- it looks like more-- because we had-- we had the-- the-- we had the-- the large amount of money in our rainy day fund that we were transferring it for the-- when the original Property Tax Relief Fund was set up, and I'm not sure what year that was set up in.

GERRY OLIGMUELLER: 2007.

HILKEMANN: 2007?

GERRY OLIGMUELLER: Right.

HILKEMANN: OK. Was there something in that bill at any time money is put into it that you can never take back out of it or you made its ever added to it, it automatically becomes a permanent part of it?

GERRY OLIGMUELLER: It becomes a decision of how much funding-- funding you feel is available to put into it in essence.

HILKEMANN: So it's showing up in our budget-- it's just been, it's just been basically, as a-- as a line item transfer the last four years we've been here.

GERRY OLIGMUELLER: It's a transfer and the practice has been to show the continuing cost of that transfer in subsequent bienniums for planning purposes. So, it's a decision each time you meet either to prepare a biannual appropriation or each time you meet in a mid-biennium session whether or not you elect to increase that funding with available revenues.

HILKEMANN: So we as a-- as a committee could recommend that that line item not continue on, is that correct?

GERRY OLIGMUELLER: You could reduce the level of funding or transfer, if you will, to the Property Tax Credit Fund.

HILKEMANN: OK.

GERRY OLIGMUELLER: There's a bill that will be heard in the Revenue Committee tomorrow, introduced at the request of the Governor, to establish a floor-- a threshold on that--

HILKEMANN: I'm aware of that.

GERRY OLIGMUELLER: \$275 million.

HILKEMANN: Right, OK. I just-- so that-- so that's-- so that it-- that transfer continues automatically unless this committee takes a specific-- or the Governor took the decision not to pass a-- is that correct?

GERRY OLIGMUELLER: It's a decision you make each time you construct the biannual budget. So, LB298 has a transfer in it, not only of the increased \$51 million but the full transfer amount for each of the fiscal years of the biennium.

HILKEMANN: OK. Thank you.

GERRY OLIGMUELLER: That is one of your budget bills that is in front of you.

HILKEMANN: OK. Thank you.

STINNER: Senator Dorn.

DORN: Just to follow up, what was the number of the bill tomorrow that it's going to be?

GERRY OLIGMUELLER: LB303.

DORN: LB303. OK. But as a follow up, then too though, if that bill is passed, then that would make that permanent and then it would take-- then the Appropriations Committee could change that, or that would take the Legislature to change that?

STINNER: Legislature.

GERRY OLIGMUELLER: It would establish a floor in substantive law. You could transfer amount greater than that and provider-- provide relief in an amount greater than \$275 million.

DORN: But the Appropriations Committee then could not transfer less than that?

STINNER: It's in permanent law at [INAUDIBLE].

DORN: Unless or until it was changed by the full body.

STINNER: It would take legislation to be passed by the body.

GERRY OLIGMUELLER: That's correct. In fact, when we bring our budget package every two years, sometimes there are recommendations that require a change to substantive law and they oftentimes get referred to other committees. Sometimes they could actually be referred here. But-- so we bring a complete package of bills, most of which come to Appropriations Committee, but some that would go to other standing committees if it involves a substantive law change that's in an area of jurisdiction of another committee.

STINNER: Anybody else? Senator Clements.

CLEMENTS: Thank you, Mr. Chairman. Thank you, Mr. Oligmueller. On the-- as I've been going through reviewing the Governor's budget, I've noticed that a lot of the agency's requested more than the Governor provided to them. And I was wondering as to what you saw in their request. Were they requesting to get back to where they were before they had some cuts, or to restore the cuts plus some extra dollars in general? What did you see?

GERRY OLIGMUELLER: Well, I imagine it maybe isn't much different than what you saw as you went through individual agencies and that some of them-- I think there were instances of just a direct request to restore prior cuts to reestablish a funding level that existed previously. That generally wasn't our tact in reviewing requests submitted to us certainly. And then there are agencies that have, you know, a variety of issues that are presenting themselves that are unique unto them. And so even, I guess, we encountered just a number of different examples of what motivates an agency to ask for additional appropriations.

CLEMENTS: OK, thank you. Were there particular areas in the budget that were prioritized by the Governor?

GERRY OLIGMUELLER: Well, certainly you can-- it's probably evidenced by the-- some of the largest dollar adds in this biennial budget would include fully funding the TEEOSA school aid formula; the costs of Medicaid expansion; the costs of Medicaid beyond Medicaid expansion; and those probably represent the areas of most significant appropriation increase. And then clearly property tax relief by way of the \$51 million transferred each year to the Property Tax Credit Fund.

CLEMENTS: And how does the Correction budget fit into that proposal?

GERRY OLIGMUELLER: There were significant increases there, both on the operations and construction sides. So, the Department of Corrections' request, as it came to us, was essentially financed with one adjustment that Director Frakes presented during our discussions with him regarding a capital project, that being the need for high security expansion at the Lincoln Correctional Center as opposed to making renovations and modifications at the state penitentiary. So he made an adjustment in his request as we talked to him about his biennial budget request. But, yeah, Corrections was another significant area of a dollar add; as was the Board of Parole, specifically as it relates to their work and continued financing in the Supreme Court related to LB605, which passed several years ago with regards to justice reform. So there were some adds made in those three areas specifically.

CLEMENTS: Thank you.

STINNER: Additional questions? Senator Bolz.

BOLZ: May be asking what Senator Wishart was asking just slightly differently. Could you just explain a little bit more about how you arrived at your cash reserve number for me, please.

GERRY OLIGMUELLER: We made one single transfer from the Cash Reserve Fund, and that was to finance new capital construction in the upcoming biennium, which has been the most part of the practice with regards to financing of capital construction over the past several biennium. So, that-- the budget package was put together without a reliance on the Cash Reserve Fund to meet the operations and aid appropriations recommended by the Governor. So the estimate for the Cash Reserve Fund, of course, is based on-- we built all of our budget recommendations based on the forecast provided by the Forecast Board in October of 2018. That forecast was \$69 million greater than the certified forecast that resulted in, I think, a cash reserve balance estimated of over \$400 million, and there's about a \$54 million transfer for capital. And consequently, our recommendation on the Cash Reserve Fund was \$348 million.

BOLZ: And given the forecasts we've had over the last year, that's a number that the administration stands behind, that's a number that is practical from your perspective?

GERRY OLIGMUELLER: It's actually greater than that adopted during the 2018 session.

BOLZ: So we-- we've all been following the receipts coming in, we-- we expect that maybe Thursday won't be as good of news as we'd hope for; if we get a downward forecast is-- does that change your perspective on what the Cash Reserve should land?

GERRY OLIGMUELLER: It will be-- it will be a-- necessary to both look at your priorities with regards to spend, and your priorities with regards to save, I think. So, It's a, you know, it's something that would be difficult for me to speculate about today. The number could change again in April as well when the Forecast Board meets at that time, so. I don't think my perspective necessarily is changed today, thinking about what could occur on Thursday, and if it were revised downward. It comes down to a balance of between what you want a package of spending versus what you're able to save.

BOLZ: Thank you.

STINNER: I just have a few questions or observations. Obviously, a normal budget year or an average budget year would have growth somewhere in that 4.5, 4.7. Our budget deals with 3.1 right now, which is a percent and a half or better below a normal number. Then with this-- with the 3.1 then, you have to take a look at priorities. And you've outlined priorities being TEEOSA, Medicaid expansion, property tax, Corrections as priorities in building your budget. Was there any consideration in the places where we cut to restore some of those, for an example, provider rates took 58 million; higher ed took a fairly substantial cut. Code agencies, for example, your State Patrol sitting there right now, the last I looked, 46 vacancies in the Patrol side of things. Actually, their budget request didn't-- didn't come back and ask for additional dollars so that they can put their Patrol back up to at the level that they were at. When you're constructing a budget, you have to talk about that. Where does that come out in the mix?

GERRY OLIGMUELLER: Well, it's-- you-- they're really unique to the individual agency you're dealing with. With State Patrol, for example, they've experienced the difficulty with the labor market, like many agencies are; law enforcement, in particular. And so they were not cut, although arguably the current staffing pattern and their current rate at which they're recruiting and replacing Patrol officers might have actually suggested an opportunity to do that. So the strategy there was to allow them to grow back to that staffing level over time as a recruit to fill classes of troopers. Using that as an example and giving you some sense of the sort of unique character of the State

Patrol. In some respects a similar issue presented itself with regards to the Parole Board because they've been trying to bring up services on a fairly expedited fashion as well and were provided appropriations that they haven't fully utilized in that regard. So, in some of those instances, for example, they're carrying reappropriations and we allowed them to continue to do that so that they can leverage themselves over time back to and-- and-- and hit that service level, which is their objective. That doesn't necessarily require you, obviously, to add as much new appropriations as you construct your recommendations or the committee would construct its decisions for individual agencies. As a general rule, the reductions made across state government over the course of the current biennium weren't necessarily viewed from our perspective as needing to be restored, that there were reductions made that should be made permanent, and then you're starting from a new base of consideration of additional, whatever it might be, they're presenting as a request. I don't have the specific numbers in hand, but there are a number of agencies that made adjustments in the manner in which they are conducting their operations to make those changes permanent by reassignment of work, by improvement in process, and by using their staff more efficient and-- efficient and effective manner. So, there are fewer field positions than there were certainly at the beginning of the biennium. And I think there's clearly intent not to fill those or to re-establish positions necessarily on an agency-by-agency basis. That arguably isn't the case for each agency, but they're-- they kind of present themselves as with their unique set of issues in that regard. But as a general rule, our objective wasn't to kind of re-establish a base, if you will, of operations. And-- but there were decisions made to add appropriations or make recommendations for additional appropriations. Governor's recommendation did include additional money for provider rates, OK? for funding of provider rates. Forget the exact amount, but it was 30 to 40 million across the biennium. So, there are examples of where now we're operating from a current base and we're making decisions to include in the recommendation additional funding.

STINNER: You wouldn't have a list of the permanent cuts that you made in the agency so I would know what they are? I'm not saying that in jest. I mean, I would like to know, as you work with your code agencies, you see an opportunity to downsize on a permanent basis, I'd kind of like to know who they are. So, as we start to look through everything we--

GERRY OLIGMUELLER: Yeah, and I think it's not just code. I mean, I think it's code and noncode.

STINNER: OK.

GERRY OLIGMUELLER: I would like to suggest that there are a number of noncode agencies that understand-- understood the need to operate at a lower level of appropriation-- in direct consequence of the fact their appropriation was lowered during fiscal year '18 and '19. So, it wasn't just cabinet member agencies that looked for ways to reduce their cost to live within the reduced appropriations.

STINNER: When we met, our Legislative Council met before session, we kind of set up several different things that we could pick from that were priorities for the Legislature. The number one item on that list of priorities was the Cash Reserve restoration. Now the 69 I think is off the table. You still have the 54 million that you're requesting to take out. You still have the request to put \$51 million per year in the biennium; \$102 million into the rainy day fund. If you had to do it over again, looking at what we're looking at, is there a reconsideration of those numbers?

GERRY OLIGMUELLER: Today, I'm not looking at anything different than I looked at in preparing the Governor's recommendation.

STINNER: Very good. I figured that. You know, we-- one of the things we struggle with in this committee is we look at an appropriation's number and we try-- try and guess, especially-- and I'm going to use Corrections for an example, tremendous amount of vacancies, growing vacancies, as we look over a two-year trend. We still provide a heck of a lot of appropriations in hoping that they'll fill those positions. When we're short of appropriations dollars, how prudent is that for us to continue to try to appropriate into something that hasn't happened over my four years and maybe into the future.

GERRY OLIGMUELLER: Well, you know, I'll say this perhaps as a compliment to Director Frakes, I can't remember getting the deficit requests from Director Frakes.

STINNER: But I do remember \$3.6 million in carryover that could have been applied other places. Now, I remember being criticized when we went to a three-year step out. So, that would be my comeback to that.

GERRY OLIGMUELLER: Yeah. I just think he's-- he's doing quite a bit better job of managing the resources that are being provided to him, you know, as best he can given the challenge that faced the Department of Corrections. My experience up to that point in time had been perennial ask for additional money. And a sense of that that-- you know, the use of it could be a bit more strategic. And I think that Director Frakes is, at least in-- in my engagements with him, has demonstrated that he is applying some good strategy in the use of the resources that he's provided. And he faces some pretty significant challenges, obviously, in-- in that regard.

STINNER: Any additional questions? Seeing none, thank you. Oh, Senator Dorn.

DORN: Thank you, Chairman Stinner. I guess, I don't know, we've had a Health and Human Services in here, and different people in here talk expanded Medicaid. Go through a little bit how you came up with your numbers, I guess, for that dollar amount. I think it's 19 million, or maybe I'm wrong there a little bit, the first year.

GERRY OLIGMUELLER: Yeah, it's considerably more than that.

DORN: It's more than that, that's different, yes.

GERRY OLIGMUELLER: Yeah. I could maybe hit on it real quick just to get an idea of the total dollar add over the biennium, but it's \$63.1 million General Funds; \$526 million federal funds, so a total of about \$584 million for Medicaid expansion. And that's net of some offsets that were provided. But the estimate of costs related to Medicaid expansion were developed by the Department of Health and Human Services and they were funded as presented. And we did, in the Governor's recommendation, fewer offsets than I know the Legislative Fiscal Office had projected or suggested with regards to Medicaid expansion. So we actually have more money in the Governor's biannual recommendation related to Medicaid expansion than I think was originally costed going into the ballot conversation in November, obviously, with the voters and the preliminary estimates that have been established over last summer, so. That's funded-- anticipate in an effective date of January 2020, so you effectively have a half year of financing in the first year of the biennium and a full year in the second. And it will undoubtedly be wrong by some amount, a little bit higher or a little bit lower, depending upon how all of this is executed. So it's an estimate as best can be made. And that's how much it was.

DORN: Thank you.

GERRY OLIGMUELLER: Yeah.

STINNER: Any additional question? Seeing none, thank you.

GERRY OLIGMUELLER: Thank you very much.

STINNER: Any additional proponents? Good afternoon.

JILL SCHROEDER: Good afternoon. Members of the Appropriations Committee, I'm Jill Schroeder. J-i-l-l S-c-h-r-o-e-d-e-r. I'm the administrator of the Nebraska Workers' Compensation Court and I'm here today to testify in support of LB293. My comments today are focused on the section of LB293 that begins on page 9 at line 2 and it eliminates a Cash Fund transfer slated to take place from the Cash Fund-- from the Compensation Court Cash Fund to the General Fund. I'll be returning to this committee on Friday to more fully discuss our budget. My discussion of LB293 begins in Nebraska Revised Statute, Section 48-1,116 which currently provides that between June 15 and June 30 of this year, the State Treasurer will transfer \$1.5 million from the Compensation Court Cash Fund to the General Fund. LB293 proposes that the slated Cash Fund transfer would be eliminated. The Compensation Court wholeheartedly supports the elimination of that Cash Fund transfer. The court is primarily funded through assessments made against insurers, workers risk management pools, and self-insured employers. Those assessments comprise 96 percent of the court's revenue. The court was established to address disputes involving claimed workplace injuries. Many of the individuals who are litigating claims of the injured workers who are litigating claims in our court are not working because of their injuries. For that reason, our court does not assess filing fees when litigation is filed. The only filing fee is a \$15 settlement fee that is paid by employers or insurers and, frankly, accounts for a very small portion of our revenue. The funds collected through these assessments are placed in the Compensation Court Cash Fund. Section 48-1,116 provides that that Compensation Court Cash Fund shall be used to aid in providing for the expenses of administering the Nebraska Workers' Compensation Court-- or Act, and the payment of the salaries and expenses of the personnel of the Workers' Compensation Court. The Compensation Court Cash Fund was established for a specific purpose and its use should be restricted to that purpose. The Compensation Court Cash Fund is self-sustaining. The court has not had General Fund appropriation since 1996. Of concern to the court is that if

this transfer would take place, we would be in a deficit situation. If the Cash Fund transfer is eliminated, and assuming that the appropriation is indicated in the amount of this committee and the Governor, then the-- in his budget, then the court will again be able to function within its means and would not require any General Fund appropriation. For perspective, which is particularly important given the person that I have testified behind, for perspective consider that that slated transfer of \$1.5 million represents 26.3 percent of our appropriation for this year, 2018 and '19. That Cash Fund transfer would significantly impact and impair the ability of the court to carry out its statutory duties. Examples of the important services we provide that could be compromised if we're faced with funding shortages include approving job retraining plans for individuals who are injured at work, processing of injured workers' court cases, and ensuring workers' compensation coverage is in place for those working in Nebraska. Additionally, we may not have adequate staff to answer telephonic and written inquiries from injured employees, employers, medical providers, and other shareholders in the workers' compensation system. Our current staffing is very lean, so understand that if the Cash Fund transfer takes place, jobs of very capable, non-judicial employees would be threatened. Planned advancements in technology to create efficiencies for the court and the public would be delayed. Accountability as to the level of funding within the Compensation Court Cash Fund is provided in Section 48-1,117 which provides that there would be an abatement of assessments into that fund if the fund reaches a certain level. So that-- that section provides that if as of the close of business of June-- on June 30 of any year, the balance in the fund is equal to or exceeds three times the sum expended in that fiscal year than ending, then those appropriations-- or those assessments would abate. Eliminating this Cash Fund transfer ensures that the system envisioned when the Cash Fund was created would remain in place. And if the funds reach a certain level, the assessments would cease and those companies who were responsible for paying those assessments would experience the abatement as intended. For these reasons the Workers' Compensation Court supports the provisions of LB293 that eliminate the scheduled Compensation Court Cash Fund transfer. Thank you for taking the time to carefully consider the unique aspects of the Workers' Compensation Court and the difficulties the Cash Fund transfer would have presented to the court and to the public it serves. If you have any questions, I would be happy to answer them.

STINNER: Thank you, Miss-- Ms. Schroeder. We'll probably see you again Friday. Any questions?

JILL SCHROEDER: Thank you so much.

STINNER: Seeing none, thank you. Any additional proponents? And this is a hearing, again, from LB293 on through LB299. So, we've kind of opened that whole budget discussion up since it all relates to each other, so. Seeing none, is there are any opponents to the Governor's budget?

DANIELLE CONRAD: Hi. Good afternoon.

STINNER: Good afternoon.

DANIELLE CONRAD: Hi. My name is Danielle Conrad, D-a-n-i-e-l-l-e C-o-n-r-a-d. I'm a registered lobbyist on the behalf of the ACLU of Nebraska. But I'm really here today more with a personal perspective and a personal reflection. It's a joy to return to what I consider the friendly confines of the Appropriations Committee room having labored here with my colleagues for eight long years and a few special sessions to attend to budgetary matters. I know how hard your job is. I know how diligent you are in your work. And I'm here to thank you for your leadership in restoring integrity to the budgetary process, to focus on key budgetary matters, and to respect the institution and the rules in the process of the Legislature which allows for us to take up difficult issues, substantive issues before the jurisdictional standing committees that compliment your work in the Appropriations Committee. So thank you so much for your time and I'm happy to answer any questions.

STINNER: Any questions? Seeing none, thank you.

DANIELLE CONRAD: Thank you so much. Well now I'll have to come back more often.

STINNER: Any additional opponents? Seeing none, anybody in the neutral capacity?

RENEE FRY: Good afternoon, Chairman Stinner, members of the Appropriations Committee. My name is Renee Fry, R-e-n-e-e F-r-y. I am the executive director of Open Sky Policy Institute. I hadn't prepared any remarks for today, but I did want to step up and speak briefly with regard to the questions around the Property Tax Credit transfer. So we've been spending a lot of time in Revenue Committee this year, and I have a whole list of

bills that are addressing what address property taxes in the Revenue Committee of LB182, LB314, LB420, LB497, LB507, LB508, LB614, and so-- I'm probably leaving some off of the list as well, but those bills are all comprehensive attempts to address property tax reform with revenue that would be dedicated to addressing property taxes in a more structural manner. And we believe, I mean, the Appropriations Committee, I think, has done its best for a very long time to put some money toward the Property Tax Credit program. I think, you know, you've done a great job getting through some budgetary problems and in doing what you can without a whole lot of assistance from the Revenue Committee. But I think that they're recognizing that if we want to do something structural that they will need to be part of that solution and I think you've got-- you've got a vast majority on the Revenue Committee that are committed to putting out a bill that will address property taxes. So given-- given receipts and given the forecast that's upcoming, and possible changes in April, as well, we would encourage you to think about leaving the property tax issue to the Revenue Committee. So to the extent that receipts are revised downward and you have to make tough choices, I think that one is definitely something that you should consider as they're-- from every indication, will be a bill coming out of Revenue Committee to deal with property taxes. The range on those bills is from \$400- to \$600 million, big dollars, more than what you would be able to do with the Property Tax Credit. Will from our office will be coming up to speak specifically about the Cash Reserve. But you know that is a priority that we share with all of you as well. So with that I'd be happy to answer questions.

STINNER: Questions? Senator Erdman.

ERDMAN: Thank you, Senator Stinner. So, let me see if I can conclude your remarks are: you're opposed to us leaving the \$275 million in the Property Tax Credit program?

RENEE FRY: For putting 275 in?

ERDMAN: Leaving it in there? You're recommending that we wait to see what the Revenue Committee is doing before we make a decision about contributing \$275 million to the Property Tax Credit Program?

RENEE FRY: Given that you're likely going to have to make significant adjustments to the Governor's budget, if receipts continue to be down, we do believe that that issue is best left to the Revenue Committee and we would not-- we think it would be

fair to not put additional dollars into the Property Tax Credit program. I will tell you in lots of the conversations that we had with senators and with other members-- community members over the interim, including ag, lots of ag leaders, there was no expectation there would be additional dollars put into the Property Tax Credit program this year. So all of the efforts have been focused on structural change in the Revenue Committee. So, yes, we would say if that-- if the forecast is revised down, if you need to make cuts to the budget that is an area where we could look at taking that additional \$51 million increase as the Revenue Committee is-- is trying to tackle that issue.

ERDMAN: So by your answer, I can conclude that you're not-- you wouldn't be at all happy if we passed it out with a 275 in it for Proper Tax Credit?

RENEE FRY: Well, so let's say that on Thursday the forecast is revised upward and we have millions of billions of dollars. I mean it depends on what happens. But what our position would be and why I am here in a neutral capacity is if it is revised downward, as we are anticipating, we think that the-- believe the priority of the committee is to pay the bills and leave that issue to the Revenue Committee. We-- we do believe that we need to address property taxes, but to keep putting money in the Property Tax Credit program we don't see as a sustainable solution and therefore believe it's better suited to be dealt with by Revenue Committee.

ERDMAN: So, I haven't been very clear on what I'm trying to say.

RENEE FRY: OK. Sorry.

ERDMAN: When people like yourself come in and testify neutral, it's actually not neutral. OK. So if you're neutral and we pass this bill out, you wouldn't have any concession you'd say it's fine. I have a difficult time understanding why people come in neutral when they have a position one way or the other.

RENEE FRY: So, it depends--

ERDMAN: Does that makes sense?

RENEE FRY: It makes sense, but my-- our position is contingent on-- on things that will happen in the future. Right? So receipts will continue to come in, forecasts will change-- or could change in February and again in April. And I wish I had a crystal ball. If I had a crystal ball, I could be more

definitive, but our-- what I'm-- what I'm trying to share today is, because you are an appropriations committee, and you may not be engaging on a daily basis with members of the Revenue Committee like we are, I wanted you to be aware of the conversations that are happening in Revenue Committee as you're thinking about the changes that you need to make. So, I do have that caveat. If it is revised down then this would be one of the first places that I would look for trimming back because there are conversations happening in other committees. But again, that's prefaced on-- that's assuming a revision down. So again, if I-- if I knew exactly what February and April were going to bring, I would be more definitive.

STINNER: Senator Dorn.

DORN: Thank you, Chairman. Thank you, Renee. I guess I'm going to ask a question a little bit along that line, I guess maybe being new on here I don't quite understand this all, I guess, so, and maybe John will have to help. The preliminary budget came out with a \$51 million per year in there, and now if we don't bring that to the floor, and yet we're going to rely on the legislative body passing a property tax relief bill that we haven't been able to do for six or seven or eight years, then what happens? We come out without the \$51 million. We don't pass a property tax bill.

STINNER: Two hundred and twenty five million gets distributed instead.

DORN: Yeah. And I guess I'm-- I'm looking at it also from that perspective. I understand your point. I would just as soon not do the Property Tax Credit amount either, but then we're also sitting here and we're going-- we're going to pass something out there on the floor.

RENEE FRY: Well, you have LB303 as well. Right? Which was referenced earlier, which is in Revenue Committee. And that hearing is tomorrow. So there is-- there will be a bill in Revenue. So, I guess my suggestion is this is not the only bite at the apple. Right?

DORN: OK.

RENEE FRY: There are other opportunities if it looks like the Revenue Committee-- I think that they're committed to getting something to the floor. If that doesn't pass, but there may be opportunities for smaller revenue pieces that could pay for

that. Plus you have-- plus you have-- I mean it's a-- it's a line item. Right? So in your budget you can choose, in your final appropriations budget, if it looks like the Revenue Committee isn't making any progress, you could always change the number there and you'd have a much better sense at that point, you know, before the budget gets to the floor in May, you would have a much better sense at that point of what February receipts and-- and-- or February forecast and April forecast are going to look like. So-- so, it's not-- there are other opportunities to adjust, but I think this also--

DORN: And I fully realize that. But I guess I'm a little hesitant today to sit here and say, if we need to cut, this is where we're going to cut. But that's also, I think, will be in our repertoire or thoughts as we go forward. But I guess today, until I'm more confident in the body out there in making the property tax relief that I think we need, I'm a little hesitant yet to take this and go-- that will be my first [INAUDIBLE]. So that's me.

RENEE FRY: Sure. And I understand that. You know on the flip side, I guess I'm just going to throw it out there. So if it's in the budget, is that an easier for the Revenue Committee to not have anything out? I mean, you know, right. But I think that there are a lot of people who are working hard to try to come to consensus around something that's sustainable and doesn't depend and rely on the Appropriations Committee having to scrape together pennies for the Property Tax Credit program each year.

STINNER: You've done some work on property tax and property tax relief. The 51 million, what's that equate to for an average person in Nebraska as far as their refund or whatever we want to call it.

RENEE FRY: Yeah. So that-- an average home in York, that increase-- I don't-- I can't remember right off the top of my head, but I can get this to you. We actually-- we have it as we're preparing for LB303, but average house in York, for example, that increase, that \$51 million increase, is going to be about \$22.

STINNER: How about on an acre of ground in York county?

RENEE FRY: I don't know that off the top of my head, it's not significant.

STINNER: OK.

RENEE FRY: But I can-- Senator Stinner, I'd be happy to-- after the hearing I can send that to the entire committee with the numbers that we have.

STINNER: Senator Bolz.

BOLZ: Just along the same lines, I appreciate you coming in because we don't always have the opportunity to talk about the policy behind the goal that we're trying to achieve by funding the Property Tax Credit program in this committee. And so my-- my challenge has less to do about the dollar amount that we put into the Property Tax Credit program and more with the idea that, at least from my perspective, the Property Tax Credit program is a little bit of a blunt instrument. It's sort of the best we can do through the appropriation process. And I think some of what you're representing to us is that the Revenue Committee is better positioned to provide meaningful tax relief, which is what is my priority, not just tax relief, but tax relief that actually makes a difference to Nebraska farmers and families. At sort of a high level, can you talk about some of the opportunities that you see in the Revenue Committee so that we can compare and contrast that?

RENEE FRY: Yeah, absolutely, I'd be happy to. So take us back just a minute to the Tax Modernization Committee from 2013. Right? Number one recommendation on property taxes was to increase state aid to schools to reduce property taxes. Also on that list, number two or three was a circuit breaker like you have introduced, and I think it's LB420, but a circuit breaker is another alternative. So both of those, so-- so you have your circuit breaker bill that's in the mix as a possible mechanism to provide property tax relief. You have Senator-- Senator Briese has a bill, LB314, that eliminates a lot of sales tax exemptions and income tax exemptions, increases the cigarette tax. And what he does is he puts money from the short term into the Property Tax Credit program; increases the allocated income tax which would fulfill the Tax Modernization's recommendation to increase state aid. But then also requires a study be done of how we fund schools. And the intent of that bill is to park the money in the Property Tax Credit program for a couple of years, have the Department of Education do a study, and then come back and you have the revenue already allocated, it's already been pre designated and voted on-- right? --where you get enough consensus from the committee, and then you have the Department of Education make recommendations, and then you have the revenue ready to fulfill those recommendations. Of course, again, that would come back to the Legislature, obviously, to approve those

recommendations or to put them into effect. Senator Friesen has LB497 that makes a number of changes around K-12 education. It reduces the taxable value of ag land in the TEEOSA formula. I think it also-- I think it increases the allocated income tax, although I can't swear to that. And it also has a number of revenue raisers. Both of those bills, I think, raise about \$600 million and just take a different-- a couple of different tax for sending the money back out. Senator Crawford has a bill, LB614, which is being heard on Friday. I will say LB314 and LB497 have both been heard. Her bill has not been heard yet. It has a lot of overlap with LB314 in terms of the revenue, but directs all of the revenue immediately to property-- to school districts for the purpose of reducing property taxes. So actually create something called supplemental state aid which is foundation aid-like, increases the allocated income tax and then increases the reimbursement for special education. Senator Briese has LB507 and LB508. Those bills are being heard, I think, Friday as well, later this week. Both of those bills would eliminate a number of sales tax exemptions and that money would then be dedicated to the Property Tax Credit program. There aren't any fiscal notes out there yet, so I'm not exactly sure how much those would raise. So, I think, in the-- and then you have local option income tax-- surtax which would allow school districts to, if they wanted to, to create a local option income surtax to reduce property taxes. So there are a number of bills in the Revenue Committee that really are looking at more structural reform. You know, I think-- I've said here before that we have sort of this love/hate relationship with the Property Tax Credit program. I think that a lot of people do. So we're looking for-- I think the Revenue Committee is committed to looking for ways that which we can move away from the Property Tax Credit program in a way that really is providing real property tax reform.

BOLZ: I appreciate the rundown, and we never know now that we're live streamed who is or isn't listening, but if-- if anyone actually is listening to the Appropriations Committee today, I hope that there will be other testifiers when we have similar bills up in front of the Appropriations Committee so that we can have that policy-based conversation within the Appropriate Committee as well. Thank you.

STINNER: Senator Hilkemann.

HILKEMANN: Thank you, Senator Stinner. Renee, thank you for being here. I want to have a conversation. You've had-- you and I have had this conversation in the-- in the Chamber at

different times. And at one time, when I was first here, the first year I was here, I was told that about 40 percent of the dollars under the Property Tax Relief Fund actually leave the state. And then I've been told, well, it's not quite that high. And then at some-- so, can you tell me a little bit about the research that was done and are we closer to, you know, what would you say, what number-- we know some of it goes out of state. We know that there's out-of-state landowners, there's-- you know, corporation so forth that own buildings. What number? Do we have-- do we-- is there-- have we ever come down to where that number really is?

RENEE FRY: It's very difficult to identify a number. I will tell you what we did last interim. We worked with UNO for those-- for some counties that run their information through NACO, we were able to-- to work with them to get the data and then UNO looked at it. And so in about 38 counties, the average was about 10 percent out of state. But I think it varies significantly from county to county. And so, and again, I-- I can pull that up and send that to you, but obviously it is not comprehensive. It would take a tremendous amount of work to actually try to discern-- try to discern that number. The other complicating factor, you have four landowners, right? So they live out of state, that's a little bit easier. Where I think it gets a little more complicated is when you look at commercial--

HILKEMANN: Right.

RENEE FRY: --because a lot of that-- any income that's being derived is flowing to shareholders who are going to live out of state. And so, I think that makes it more difficult and I think that's why that 40 percent number is taking into account some of that, sort of, pass through. But in terms of physical address outside of the state in terms of where the-- who's getting mailed to, it's in those 38 counties was about 10 percent. But I can look back. I'll send that to you. I don't recall what the range was from those counties and I'm not sure, you know, some counties, I think, where you have Ted Turner, who's a major land holder that number is going to be significantly bigger. Mormon Church is a very large landowner in Nebraska. In those counties where they have land, those numbers are going to be significantly higher. And so it's just a matter of-- it's a challenge to get the information. But we can send to you what we have. It's just not anywhere close to being comprehensive.

HILKEMANN: So we could say that-- you said it was-- you evaluated in 38 counties, so this-- so we may have counties where 60 or 70 percent of that money is leaving the state.

RENEE FRY: Yeah, right.

HILKEMANN: And then we have probably at the low end, 10 percent.

RENEE FRY: Yes, I think that's fair.

HILKEMANN: OK. But we don't know whether that's in five counties it's 10 percent or whether it's--

RENEE FRY: I mean, for the 38 counties we can tell you what the breakdown is. Outside of that, we don't know. You would have to do somehow-- I don't know, maybe you can work with NACO and see if they can help facilitate that conversation with those counties. But we actually had to, you know, had to go and-- and make the requests and we had to pay for some of that data to get it. It's very time consuming.

HILKEMANN: So it's unfair for me to say, as I have a couple times on the floor, they're up to 40 percent of it goes-- well, I could say that.

RENEE FRY: Well, up to 40-- it could be, it could. I just--

HILKEMANN: [INAUDIBLE].

RENEE FRY: But I think probably--

HILKEMANN: [INAUDIBLE] I could say-- I mean, sometimes we hear really outrageous things on the floor. I can say there's up to 80 percent of this money that leaves the state and probably be OK.

RENEE FRY: Probably wouldn't be-- well up to, yes. That's a big range. Right? Anywhere between 0 and 80 percent. So, I think confidently at least 10. Beyond that, I think it's going to vary significantly from county to county. But I'm happy to share what we have with you. And, you know--

HILKEMANN: I can understand why it's difficult to come up with that particular number. It would be interesting to study by county, I guess. Would probably would be easier to come up with what happens by county than it is by state. Is that fair to say?

RENEE FRY: Yeah. I mean that-- the information just isn't reported centrally. So you actually need the county to be able-- and, you know, they're not going to-- I mean you do have where, you know, if you look at an assessor's Web site, right, there is public information. But in terms of looking at the address, I mean that's as sophisticated as you can get is actually looking at those addresses, you know, all the parcels and who's-- who that's getting mail to. I would say some counties probably have a better idea. They probably-- where there aren't as populous probably, no, you know. But again, time consuming.

HILKEMANN: So you [INAUDIBLE] for example will have-- will-- will get money from the Property Tax Relief Fund--

RENEE FRY: Yes.

HILKEMANN: --as a corporation. But how many of those people live in Omaha or--

RENEE FRY: Versus out of state, right. That's a-- and that's a complicating factor in that we would not-- we wouldn't know the answer to that question. My understanding is that the railroads do get a pretty big chunk of that property tax credit program.

HILKEMANN: Yeah. That's my understanding, too. Thank you.

RENEE FRY: Yes.

STINNER: I have a different question on a different subject. And I know you've done work on this. It's called the Cash Reserve. What would be the minimum-- would be your interpretation of a minimum reserve?

RENEE FRY: Well, so I will answer that question, but then Will Kay in our office will-- will be testifying specifically on that bill and has some pretty-- has a pretty chart for you. So, you know, obviously, 16 percent is the recommended amount. And do we-- I mean, that is a recommended level from-- from-- from LFO; 16.7 percent recommended by Government Finance Officers Association. That's ideally what we have in a recession which potentially is around the corner. Is there a magic number? I don't think so. I mean, obviously, I think that the challenge is balancing, and the hard job that you have is balancing the-- being able to pay our bills right now while socking money away for what may be a downturn around the corner. And so, I don't have a magic number. But I think one thing we were troubled by with this budget was that we were not putting more money into

the Cash Reserve, but rather we were taking it out. And that's a concern. Even though the reason for taking out the Cash Reserve was a valid reason. But for us that should be a priority. I will also note LB497, I forgot, actually, LB497, Senator Friesen's bill, does actually in the immediacy put some money into the Cash Reserve. So I will flag that as well. So that's one of the Revenue Committee property tax bills. So, I think Revenue Committee is also cognizant that we need to build that up.

STINNER: OK. Thank you. Any additional questions? Seeing none, thank you.

RENEE FRY: Thank you.

STINNER: Good afternoon.

WILLIAM KAY: Good afternoon. Senator Stinner and members of the Appropriations Committee, my name is William Kay, W-i-l-l-i-a-m K-a-y and I'm the Weitz Fellow at Open Sky Policy Institute. We are testifying today in a neutral capacity on LB299. While we recognize the need to make investments in important capital construction projects, we are concerned that this bill depletes the Cash Reserve at a time when we should be building it up. A strong Cash Reserve is essential to the fiscal health of the state. In fiscal year '08-09, during the Great Recession, Nebraska had about 17 percent of annual General Fund revenue, or \$578 million saved in the Cash Reserve, and we still spent \$986 million, equivalent to 29 percent of General Fund revenue and federal stimulus Cash Reserve and other onetime money on top of cuts to schools and other services to get through the recession. In the early 2000s, the recession hit and there were no federal stimulus funds. At that time, the state had a small Cash Reserve of about \$110 million, less than 5 percent of annual appropriations. Faced with a \$759 million budget shortfall, legislators increased sales and income tax rates, as well as other taxes and made painful cuts to K-12 and higher education, property tax relief, and other services. Having at least the recommended amount in Cash Reserves will help prevent major cuts and economic downturns. This is particularly important considering that a federal stimulus package is unlikely to occur the next time we enter a recession, which many economists are predicting to occur in 2020. The Cash Reserve currently sits at about \$334 million, which is equivalent to 7.5 percent of the General Fund, or 7.2 percent of projected receipts. This could finance the General Fund for 27 days. This is well below recommendations. The Legislative Fiscal Office recommends at least 16 percent of projected receipts, while the Government

Finance Officers Association recommends at least two months of appropriations, or 16.7 percent. I have included a chart with my testimony demonstrating the historic and projected balances of the Cash Reserve. This transfer is projected to bring the Cash Reserve to \$348 million, or 6.64 percent of projected receipts by the end of the biennium. This is represented by the red dotted line. However, this assumes a deposit of \$69 million due to revenue projections exceeding forecasts. If there are no deposits made into the Cash Reserve, the ending balance would be \$279 million, or 5.9 percent of estimated receipts. This is represented by the green dotted line. As you can see, these transfers would put the state in dangerous fiscal health, especially with a possible recession in 2020. Capital investments are an important policy consideration for the Legislature. However, now is not a prudent time to withdraw from the Cash Reserve without the guarantee of an offsetting deposit. Thank you, and I would be happy to answer any questions.

STINNER: Questions? Senator Bolz.

BOLZ: Thank you, Mr. Kay. And I appreciate the neutral testimony. It's kind of challenging when it's a moving target.

WILLIAM KAY: Yeah.

BOLZ: I did want to ask, you are-- you are the first testifier-- or perhaps the first person who's talked to us-- talked to me or talked to us on record who's been willing to say-- to talk about a predicted recession. Would you elaborate on that just-- just a little bit. Can you tell us a little bit more about the research you've done that leads you to make that statement.

WILLIAM KAY: Yeah. So from what we've been seeing in the news and among economists, it's, you know, these things are pretty impossible to predict, but from what we've seen, there is talk of a potential recession in 2020. We're not saying that it necessarily will happen then, but there's talk of an economic downturn, and it would be prudent to build up the Cash Reserve anticipating that.

BOLZ: Thank you.

STINNER: One of the things when I started to analyze over the four years I've been here, and we hit this 759 million, whatever the balance was, it was 750 somewhere in that neighborhood. We can't, as a state, borrow money.

WILLIAM KAY: Right.

STINNER: So, we've been using well over 50 percent of the drawdown went to onetime spends on prisons, on a host of other things.

WILLIAM KAY: Right.

STINNER: The thing that you're demonstrating to me is more of an economic shock absorber.

WILLIAM KAY: Yeah.

STINNER: So should we then add dollars in contemplation of a capital construction budget for an example?

WILLIAM KAY: Can you repeat the last part, I'm sorry.

STINNER: Capital construction budget, which I think we have a six-year projection on that.

WILLIAM KAY: I should be add dollars to that.

STINNER: That would be well over this 16 or 17 percent you're recommending.

WILLIAM KAY: Right.

STINNER: What I'm asking is, maybe we should start to incorporate that analysis in this one as well.

WILLIAM KAY: Into the Cash Reserve. Yeah, that does make sense to incorporate that analysis. And we could look into that. But I don't have an answer for you right now on that.

STINNER: It just takes a lot of money.

WILLIAM KAY: Yeah, absolutely.

STINNER: Thanks. Anybody else? Senator Hilkemann.

HILKEMANN: Yeah. Thank you for your-- looking at your chart here, I guess I would just point out, and I go back to my earlier comments I made about the property cash tax refund. In '15 and '16 when we had 62.5 in '15 and another 62.5 in '16, that \$128 million continued on, was never-- and so, if you look

at '17 you can see that drawdown. I would maintain that the bulk of our-- well our-- it's down. Most of that property tax-- most of this was actually given back-- or not given back, but placed back in the taxpayers' hands because this-- the drawdown, if we've had our rainy day fund, basically, has gone to the property tax relief-- to fund the Property Tax Relief Fund that we have, not just-- not the-- just the added amount that we did in '15 and '16--

WILLIAM KAY: Yeah.

HILKEMANN: --has taken the bulk of our-- from the \$750 million that we had when I was a freshman senator to the \$350 million now has gone to property tax relief, which has been given back to taxpayers.

WILLIAM KAY: Right. And so we would-- we would just say that-- I would echo kind of the importance of building up a cash reserve in anticipation, kind of, as a shock absorber in anticipation of a recession. Because as I mentioned in my testimony, if that cash reserve is not there, you can actually-- not only would there be like possible spending cuts in order to balance the budget, but there's the possibility of even talking about revenue raisers. And so that would seem-- if the purpose of that was to take money out and provide taxpayer relief, it could be putting the state in a dangerous fiscal position where the opposite could-- might actually occur in future.

STINNER: Additional questions? I will say this, you have on your list, it says Legislative Fiscal Office suggested minimum. That's fully funded at 16. So it's not a minimum, it's fully funded for-- that's what they recommend in the Legislative Office.

WILLIAM KAY: Right.

STINNER: So I just wanted to maybe correct that for the record.

WILLIAM KAY: OK. I will look into that.

STINNER: Senator Dorn.

DORN: Thank you, Chairman. I guess my question more for history because when you're not here you don't watch some of this stuff as close.

WILLIAM KAY: Sure.

DORN: For years here, it looks like for about 20-plus years, we were at the 6 percent funded. Then we were able to increase that. And we, the, you know, the Legislative Fiscal Office comes out at 16 percent, basically, would be fully funded. But now we're back down around 8 percent, yet we're still higher than for 20 years there.

WILLIAM KAY: Right.

DORN: What-- what-- I mean is it the more dollars that are going through the budget; or why-- why now, maybe, is that recommendation?

WILLIAM KAY: Yeah. So I can speak a little bit to the basis behind the recommendation. And so the Cash Reserve is relatively new. It started in the 80s. And part of the reason why certain organizations are recommending states build up their cash reserves is because they've seen that revenues can be more volatile than they were in the past. So that's one reason. And just to speak to where the 16 percent came from-- from the Legislative Fiscal Office, that's assuming a 4 percent for 4 years based on how they look at cycles of receipts being below forecasts. They tend to clump in four-year cycles on average.

DORN: Well, I will make a comment, without that fact that you would have been-- I mean without the fact that you were funded at that 700-and-some million, the last several years would have been more of a challenge than what they were.

WILLIAM KAY: Right.

STINNER: Absolutely. I will say this about a cash reserve, and the reason you have a cash reserve is, we're passing long-term legislation. So the agencies over a long period of time have to comply with that legislation; they have a mission, so on and so forth. What this does is provide a buffer so that those long-term decisions and commitments that we're making are not-- not always whipsawed up and down with-- with what revenue does.

DORN: Thank you.

STINNER: But also there's been a reluctance to go seek tax dollars, so.

DORN: And then he also--

STINNER: Somebody told me that.

DORN: I'm going to make one more comment and this is more in fun than anything. Looks like we just need to figure out how to merge with Wyoming.

WILLIAM KAY: Yeah, that 137 percent.

STINNER: That's coal, that's coal severance.

WILLIAM KAY: Yeah. Yeah.

STINNER: That shows you what something you can do. I mean, yeah. Senator Bolz.

BOLZ: Just super briefly--

WILLIAM KAY: Sure.

BOLZ: Senator Dorn, it-- I will share with you a copy of their most recent revenue volatility report. It's-- it's maybe worth just articulating briefly for some of the new members on committee or make sure the whole committee has it. It may be worth articulating that according to our revenue volatility report, 2004 was a year in which we had upward revenue growth. And so it only makes sense that we would also use that opportunity to increase our cash-- Cash Reserve so the-- there might be part of the answer to your question in the revenue side of it.

STINNER: Yeah, and I will add this too, just for the sake of adding it, is the only way we add to our rainy day fund it is by-- is by error. OK. There is no methodology other than that to it. Now we can add to it any time we elect to do that and if we're able to pass it through the budget and go through that process that would be another way. But it's mostly by forecasting error, so. Any additional questions? Thank you for your testimony.

WILLIAM KAY: Thank you.

STINNER: Anybody else in the neutral capacity? Seeing none, we do have letters for the record, LB294 there is opposition from Mary Boschult, The League of Women Voters of Lincoln and Lancaster County. LB297, their support from David Salak, Nebraska Veterans Council. And this concludes our hearing on LB293, LB294, LB295, LB296, LB297, LB298, LB299. And thank you all for coming.