

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Appropriations Committee January 24, 2022

**STINNER:** --shows up on time, so.

**McDONNELL:** Early. I was here early.

**STINNER:** Yeah. That doesn't happen when I'm meeting with you. I'm just kidding. So welcome to Appropriations Committee hearing. My name is John Stinner. I'm from Gering and I 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:** Thank you, Senator Stinner. Steve Erdman. I represent District 47, nine counties in the Panhandle.

**CLEMENTS:** Rob Clements, District 2, Cass County and eastern Lancaster.

**McDONNELL:** Mike McDonnell, LD 5, south Omaha.

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

**STINNER:** John Stinner, District 48, now it's going to be Scotts Bluff, Banner, and Kimball Counties.

**WISHART:** Anna Wishart--

**STINNER:** Used to be all of Scotts Bluff County.

**WISHART:** Anna Wishart, District 27.

**VARGAS:** Tony Vargas, District 7, downtown and south Omaha.

**DORN:** Myron Dorn, District 30, Gage County and part of Lancaster.

**STINNER:** Assisting the committee today is Tamara Hunt and to my right is my fiscal analyst, Keisha Patent. I always get that wrong, so that's why I had that look at her. Our page today is Jason Wendling. He's from Chicago. He's going to be our page I hope the whole time and stay here and go to law school, get married, and become a productive taxpayer. At the entrance, you'll find the green testifier sheets. If you are planning to testify today, please sign-- please fill out a sign sheet and hand it to the committee clerk when you come up to testify. If you will not be testifying at the microphone, but would want to go on the record as having a position on a bill being heard today, there are white sign-in sheets at each entrance 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 hearings. To better facilitate today's proceedings, I ask that you

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abide by the following procedures. Please silence or turn off your cell phones. Move to the reserved chairs when you are ready to testify. Order of testimony will be introducer, proponents, opponents, neutral, and closing. When we hear testimony regarding 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. We ask that you please spell your first and last name for the record before you testify. Be concise. I am requesting that you limit your testimony for today and today only five minutes. Write-- written materials must be distributed to committee members as exhibits only while testimony is being offered. Hand them to the page for distribution to the committee and the staff when you come up to testify. We need 12 copies. If you have written testimony, but do not have 12 copies, please raise your hand now so the page can make copies for you. With that, we will begin today's hearing with LB1011. That's actually my birthday, 10/11.

**LEE WILL:** Happy birthday.

**STINNER:** See how that works? Budget, last time.

**LEE WILL:** I see how that works.

**STINNER:** OK, I'll get serious now.

**LEE WILL:** Ready, Senator?

**STINNER:** Yes.

**LEE WILL:** All right.

**STINNER:** Good afternoon.

**LEE WILL:** Good afternoon. Thanks for having me. Chairman Stinner and members of the Appropriations Committee, my name is Lee Will, L-e-e W-i-l-l, and I'm the State Budget Administrator for the Department of Administrative Services' Budget Division. I'm appearing today on behalf of Governor Ricketts in support of LB1011, LB1012, and LB1013. The recommendation comprised by these bills integrates the recommendations for the American Rescue Plan Act or ARPA funds articulated and LB1014 and also includes funding to support-- excuse me-- significant tax relief in the state by addressing Social Security tax exemptions, individual and business tax relief, and an increased property tax incentive floor. These pieces of legislation comprise the Governor's mid-biennial budget package to include adjustments to the currently enacted biennial budget. These contents have been summarized

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in the Governor's mid-biennium budget adjustments '21-23 biennium publication dated January 13, 2022, and are included on our website, [das.nebraska.gov/budget](https://das.nebraska.gov/budget). The state budget for the '21-23 biennium was enacted during the '21 Legislative Session and since that time, the state collected \$958 million more in General Fund tax receipts than the certified forecast for FY '21. This allowed for \$533 million to be transferred to the Cash Reserve Fund in July '21, while also allowing for the LB1107 property tax incentive credit to reach \$548 million in annual tax relief to Nebraska property owners. In November '21, the Nebraska Forecasting Advisory Board, or NeFAB, meeting indicated an anticipated increase in General Fund tax receipts of \$475 million in '22 and \$428 million in '23. This provides for an estimate of \$475 million to be transferred to the Cash Reserve Fund, raising the balance to an estimated \$1.5 billion in '23. The Forecast Board will meet again on February 28 to review current tax receipt forecasts for '22 and '23 prior to final consideration of mid-biennium budget adjustments by the Legislature. The Governor, Governor's recommendation contained in LB1011 includes a \$8.6 million net reduction in General Fund appropriations in '22 and a \$42.1 million net increase in General Fund appropriations in '23. In addition, the recommendation includes a General Fund reappropriation increase of \$75.3 million to the Department of Health and Human Services. The bill also provides for transfers from the General Fund for \$500,000 in '22 and \$196.7 million in '23. Included in part of these '23 transfers are \$150 million for STAR WARS projects, \$40.7 million for the Nebraska Capital Construction Fund, and \$5 million for the Peru levee. LB1012 contains the Governor's recommendation to provide for transfers or changes and the creation and use of certain funds to carry out recommendations provided for in LB1011. LB1013 contains transfers from the Cash Reserve Fund, including transfers of \$400 million to the Perkins County Canal Project Fund and \$175 million to the Nebraska Capital Construction Fund, with \$155 million for the replacement of the Nebraska State Penitentiary facility and \$20 million to finance mental health beds in the correctional system. The Governor's recommendation includes significant investment in the Medicaid and child welfare aid programs, providing \$121.8 million between ARPA and State General Funds to respond to the needs of these programs. Also included is significant funding for-- from both ARPA and State General Funds to support the investment of increases in wages for state teammates, namely in 24/7 public health and safety fields, and investing \$16.9 million in General Funds for the state's crime lab. The recommendation is based on all appropriation policy legislation considered each year by the Legislature and utilizes the ongoing tax receipt forecast of the Nebraska Economic Forecasting Advisory Board

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for '22 and '23. A 3.5 percent annual growth factor for '23-25 biennial period was used to reflect econometric forecasts and historical growth trends for net General Fund tax receipts. In summary, the Governor's recommendation provides for a '21-23 biennium ending General Fund balance of \$349 million or a 3.4 percent balance and a variance of \$40.4 million above the minimum General Fund reserve of 3 percent. In addition, it provides for a '21-23 biennium ending Cash Reserve Fund balance of \$941.2 million. My understanding is you have been briefed on the mid-biennium request and recommendations and have completed your preliminary decisions. Also, I understand you have scheduled hearings over the next few weeks with individual state agency boards and commissions for your further considerations of the requests and the Governor's recommendations. Members of the Governor's cabinet will be providing additional information and answers to your specific questions regarding recommendations that affect their agencies during their upcoming budget hearings. The Governor remains available to work closely with the Appropriations Committee on the mid-biennium budget and with the Legislature to provide significant tax relief measures during the '22 Legislative Session. As always, we look forward to working with you as you consider the mid-biennium budget adjustments during the '22 session of the Legislature. Thank you and I'd take any questions.

**STINNER:** Questions? I see none, but I have a few.

**LEE WILL:** Sure.

**STINNER:** Have you-- you've looked at the, the prepared study that we asked for, might-- actually, we asked for the useful life of the, of the State Pen. And in that, they actually gave us this is what you can do and on a rebuild, reback, make it like new, I think, is how they, they explained it, at \$230 million. And obviously, you have taken that estimate up by \$40 million. Now that new replacement prison is \$270 million.

**LEE WILL:** Correct.

**STINNER:** I-- any reconsideration of dollars in-- that we would invest in one or the other?

**LEE WILL:** No, I don't think a reconsideration. Obviously, with supply chain and construction and materials and things, I think the construction industry and buildings are going up as a whole. I think we're seeing that for the 230 to 270. Now, I will say putting almost a similar amount of money into a 100-year facility that doesn't have the

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same sightlines and the technological improvements of a replacement facility, I think would be unwise investment by the state.

**STINNER:** You know, when looking at that engineering study, it looked like they addressed site lines and technology and all the rest of that, that they were basically just raising a lot of the structures. Certainly the biggest part was the housing units, except for the one we just-- I think we just appropriated and just built some three years ago, which was minimum security. So they were going to do a re-- redefinition of how the, how the sightlines were done, technology, etcetera.

**LEE WILL:** Yeah. If, if I could, Senator, Director Frakes can obviously speak more towards the project, but putting \$200 million or what have you into a facility that's over 100 years old when you can have a brand new facility that's going to provide quality of care and programming to inmates and our state teammates, I think is critically important as compared to putting over \$200 million--

**STINNER:** Extra \$40 million that-- is that an engineering estimate?

**LEE WILL:** Yes.

**STINNER:** OK.

**LEE WILL:** That's, that's my belief. I'll, I'll get with Director Frakes and make sure that's the case, Senator.

**STINNER:** No mention in the report that I could see. The Governor's Emergency Fund, we put \$83 million in. We took 60 back, leave in your 23. Is there are some accounting that I can go to to find out what the balance is or what it's being used for?

**LEE WILL:** Yeah, I believe there's about \$10-12 million in the Governor's Emergency Cash Fund, I believe, the LB1198 funds I think you're referring to, Senator.

**STINNER:** Right.

**LEE WILL:** The \$10-12 million balance-- and I'll follow up with you-- is being utilized for hospital capacity, surge capacity issues, and close out of the public health emergency. But I can give you, you know, specifics on that. We're hedging also a little bit of money in that fund in the event that ARPA money didn't get out, you know, April/May timeframe. So if we have to utilize funds, that's a particular area we can go to for COVID mitigation.

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**STINNER:** OK. You and I talked about this \$61 million that the Governor is now trying to get a Medicaid waiver so we can send out to nursing homes, DD, etcetera, for this six months that we're sitting in right now. And you in-- there is no request that I saw that you-- that they made so tell me where that money was or is or--

**LEE WILL:** Sure.

**STINNER:** --how could that all of a sudden just appear?

**LEE WILL:** Just one second, Senator. So the DD rates were actually financed with an existing DD grant that was provided to the Department of Health and Human Services outside of the state and local financing from ARPA. So Health and Human Services got an allocation of funds that can provide for the DD portion of this provider rate increase. The Medicaid portion, as long as the recommendation in your preliminary decisions hold firm, they, they believe Program 348, Medicaid has the existing funds to be able to support a six-month increase in rates within the Medicaid program.

**STINNER:** So if I broke it down, this grant that the DD-- that does not need a waiver, does it?

**LEE WILL:** No. The only one that I'm aware of that needs a waiver CMS and Medicaid.

**STINNER:** OK, so DD is-- out of the \$61 million, is there a breakdown that I can look at?

**LEE WILL:** Yes and do you want total funds or, or I can give you-- so overall, \$61.2 million. The total amount of funding given to DD in total funds was \$30.3 million. State funds, which were the ARPA funding of HHS's allocation, was \$13.5 million, and then their federal funds match was \$16.7 million. And this is where we discussed previously that you can actually use these funds to match this other federal source. So it is federal money, but it's technically a state grant because it already came into HHS. And then the assisted living per diem increase, that is \$2.3 million in General Funds and \$4 million in federal funds. Nursing homes is \$21.4 million with \$7.8 million coming from General Funds and \$13.6 million coming from federal fund sources. And then the child welfare rate increases, which was the \$25 and \$50 rate for travel and family support rates, was \$3.2 million, with \$2.8 million in General Funds and \$317,000 in federal funds. So it comprises around \$61.2 million and then \$10 million in General Funds.

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**STINNER:** I don't know if everybody's writing that down as fast as I can--

**LEE WILL:** I can get, I can get--

**STINNER:** I would, I would like a copy--

**LEE WILL:** Yeah.

**STINNER:** --of that. That was very good. Thank you. I--

**LEE WILL:** Sure.

**STINNER:** --at least clarifies that. On the DD grant side of things, let's just take that. You've spent \$30 million of it. How much is left?

**LEE WILL:** I believe that allocation was either \$80 million or \$90 million and I have to get with HHS to see what their other program needs are in relation to that grant. But they had, you know, more than sufficient area in order to meet the \$13 million.

**STINNER:** OK. And then you referred to ARPA money. That isn't the million-- the billion-dollar-- it's a whole different ARPA--

**LEE WILL:** Yes.

**STINNER:** --concept.

**LEE WILL:** Correct.

**STINNER:** And how many dollars did-- was that ARPA money?

**LEE WILL:** Like, outside of what went directly to HHS? I'd have to give you a--

**STINNER:** Well, no, just what went directly to HHS.

**LEE WILL:** Yeah, hundreds of millions of dollars. I'll have to get-- I can get you and the committee those--

**STINNER:** Is all of that ARPA money now spent or no?

**LEE WILL:** The-- all that ARPA money has been either in program or is currently being programmed. A vast majority of those funds are through existing programs. It's just an additional allocation or additional award through those programs. But I want to say about 10 percent can

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be utilized for things at your discretion and a large part of that was that DD grant that I mentioned.

**STINNER:** OK. So normal operating is gen-- you know, we, we make this allocation to Medicaid every year and it goes into this big pot. General Funds, how much is-- I mean the, the ARPA money comes in. Does it take the place of General Funds and now we have excess General Funds sitting in there?

**LEE WILL:** They were pretty explicit on Medicaid specifically. You cannot "surplant" Medicaid funds with these ARPA dollars, otherwise we probably would explore that avenue.

**STINNER:** Hundreds of millions of dollars tells me that that's a lot of money that either should have gone out that we're hanging on--

**LEE WILL:** Yes.

**STINNER:** --to or it has gone out.

**LEE WILL:** It has gone-- you know, past-- you know, child care stabilization grants are one them, but there, there's a lot.

**STINNER:** We'll make sure we check on that.

**LEE WILL:** I will, I will get you a handout, sir.

**STINNER:** I'm, I'm a little bit confused on the State Patrol Crime Lab. We're going to double the size of the crime lab?

**LEE WILL:** Yeah. Well, yes. Part of that is, I think right now we're operating under capacity. So you'll-- you know, you can speak to the colonel when he gets up--

**STINNER:** All right.

**LEE WILL:** --if you wouldn't mind. He has a little bit more project specifics on that, sir.

**STINNER:** I-- that just left me a little bit flat footed because in, in the time that I've been here, we allocated money or appropriated money for the crime lab and now all of a sudden the demand has outstripped what we were anticipating. So I just want to see what that looks like--

**LEE WILL:** Sure.



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**STINNER:** --what the growth is, so on and so forth.

**LEE WILL:** Yep.

**STINNER:** One of the things I talked about on the floor of the Legislature the other day-- and you know, if a-- as, as a business person, if a report is supposed to be out at a certain date and it isn't, I get concerned.

**LEE WILL:** Sure.

**STINNER:** When a report isn't issued on the date and they tell me that there's 100 items that are still outstanding, we got \$7 billion of adjustments and there is a qualified opinion on an agency that derives 93 percent of their dollars from the federal government, I get my hair on fire.

**LEE WILL:** Sure.

**STINNER:** And I haven't heard anything from that side of the house saying there's a sense of urgency about this. I don't know-- you know, we allocated or appropriated for five more state auditors because of what happened in DAS last year.

**LEE WILL:** Right.

**STINNER:** Now, I'm not sure what the Legislature could do at this point--

**LEE WILL:** Yeah.

**STINNER:** --but to say that we're incredibly unsatisfied, we need some answers.

**LEE WILL:** Sure.

**STINNER:** We need a report and I don't want to have two qualified opinions in a row.

**LEE WILL:** Right.

**STINNER:** I mean, just think of yourself sitting in Washington, D.C., looking at two qualified opinions. What are these guys doing with the money?

**LEE WILL:** All right.

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**STINNER:** And how are they managing on a monthly basis or a weekly basis? I mean, we all manage from numbers, don't we? This is just mind boggling. You got money that comes in you have to account for, put it in a checking account. I don't care.

**LEE WILL:** All right.

**STINNER:** The debits and credits then could flow to the various accounts. Write the checks out. Put it in a checking account, put it in the right accounts. I mean, QuickBooks can do that for crying out loud.

**LEE WILL:** Sure.

**STINNER:** Then at the end, you take that and the cash basis, which is what we go on, and convert it to accrual basis.

**LEE WILL:** Yep.

**STINNER:** This isn't rocket science, but we can't get it right?

**LEE WILL:** Sure. You know, I heard your speech on the floor, Senator, and I have to say that I agree with it. I mean, the thing is they have two qualified opinions and they have \$8 billion as erroneous reporting. I would agree that it has to be fixed. Director Jackson and State Accountant Phil Olsen are working right now with a consultant as well that they brought in to try to clean up the books, if you will. Now I want to provide a little bit of context. This isn't an excuse because I do think that they have to get the house in order so-- to get the audit report or I'm sorry, the ACFR in order and the annual financial report. But \$5 billion of the \$8 billion was from an erroneous report that was pulling property tax receipts as compared to State General Funds. Now again, I'm not excusing that, but that was one report that accounted for \$5 billion out of \$8 billion. The other thing is the state accounting system has stringent controls that a dollar will not go out without knowing. So it's not like the state lost money. And again, I'm not, I'm not excusing this. Director Jackson will be up to talk about the mitigations that they have been-- put in place to try to, you know, prevent this in the future. But yeah, I agree it has to be improved and has to be improved quickly.

**STINNER:** Well, I'm going to contradict you on one thing.

**LEE WILL:** Yeah.

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**STINNER:** I know the Department of Labor had fraud and that's what it said--

**LEE WILL:** Yeah.

**STINNER:** --in the report.

**LEE WILL:** Sure and I think the Unemployment Trust Fund is going to have fraud. Every state in the nation, because of the amount of unemployment claims that we have, will have an abundance of fraud. Now I can tell you in Nebraska--

**STINNER:** So every, every state in the Union is going to have a modified opinion, is that--

**LEE WILL:** I don't know if they'll have a modified opinion, but I can tell you there was rampant fraud within that program. I mean, just the amount of-- if you look at any analysis on that program in any state, the unemployment trust fund was ripe for fraud just from the amount of expedited nature that you had have, the amount of claims that were coming in.

**STINNER:** I'm just going to state this. We as a committee depend on numbers--

**LEE WILL:** Sure.

**STINNER:** --the quality of the numbers that we get. The, the, the idea that we've misclassified something doesn't settle with me at all.

**LEE WILL:** Right.

**STINNER:** Because what we look at is the numbers that are coming out of these agencies, that they have to be classified correctly, that we have to know where those dollars are going. We have to look at the appropriations that we've done. And then the question I always have as a manager, how do you manage your agency if you don't know the numbers--

**LEE WILL:** Right.

**STINNER:** --or it isn't quality? I mean, this has, this has gone way too far.

**LEE WILL:** Yeah.

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**STINNER:** And to have somebody come in now to try to fix it, you should have fixed it last year. We tried to tell you to fix it last year and now I'm-- yep, I'm being unkind to you.

**LEE WILL:** No.

**STINNER:** I'm sorry about that, but I hope you carry that message.

**LEE WILL:** Yep.

**STINNER:** There isn't anybody on-- I don't think anybody on this committee that's real happy right now.

**LEE WILL:** Yep. We understand the priority of it, sir, and we're going to get working on it. And Director Jackson will speak on it a little bit more for you.

**STINNER:** OK. Any additional questions? Senator Dorn.

**DORN:** Thank you, Chairman Stinner. Thank you for being here today. I thought of a question when he talked about the building of maybe a new state penitentiary. Has there been a decision made, assuming we build a new one or if, whenever-- what will happen to the current one or has there been a decision made as far as, yes, we're going to still maintain part of it or is it going to all go by the wayside? Any, any thoughts or comment?

**LEE WILL:** Yeah, I think that's a frequent question that we kind of get with the replacement. And I think right now, you know, first I'd have to ask Director Frakes that question. I think it'd be an appropriate question for him. We do see a lot of funding that would have to go into that facility in addition to this replacement. So again, it's trying to throw a lot of money into a dilapidated building, if you will, a 100-year-old building. And my understanding is-- and Director Frakes has more context-- is you would essentially have to move that to more of a minimum security only because it's not retrofit for maximum security beds at this time, so.

**DORN:** We'll try and remember to bring our question up to Director Frakes. Thank you.

**LEE WILL:** Thanks, Senator.

**STINNER:** Senator Wishart.

**WISHART:** Thank you for being here.

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**LEE WILL:** Sure.

**WISHART:** Can you walk me through the conversations you had around the Cash Reserve--

**LEE WILL:** Sure.

**WISHART:** --being at that level, what the comfort level is at the administration in terms of the Cash Reserve--

**LEE WILL:** Sure.

**WISHART:** --where you'd like to see and go with that in the future? We recognize with inflation that things cost-- are going to cost more. So what was once comfortable for a Cash Reserve in my mind isn't anymore.

**LEE WILL:** Sure, I think-- I mean, that's one that I, I have trouble answering just a definitive dollar amount because I think it's all dependent upon economic factors. You're government services. You have to provide the tax relief package that they're coming out. So I-- when I first came here about five years ago, the number was \$500 million. Obviously, in the Governor's recommendation, there's \$941 million. So it's about double what the Governor was comfortable with, you know, when he first came into office. And I think that's reflective of the economy, right? And the need for, for governmental services and tax relief so you can maintain a healthy balance, around 20 percent of, you know, revenue-- General Fund revenue while maintaining services and finance the things you want to do. So I think it's all dependent on economic factors and what you think that that balance should be, but I can't disagree with you on inflation.

**WISHART:** OK. Thank you.

**STINNER:** Additional questions? Senator Erdman.

**ERDMAN:** Thank you, Senator Stinner. Thank you for coming. You know, Senator Stinner thoroughly explained our discontent with what has happened there and so we appropriated five more accountants for this year. So what reassurance do we have that it's going to be fixed for next year?

**LEE WILL:** Yes, so the five positions were the auditors within the audit-- Auditor's Office. The only assurance I can tell you, Senator Erdman, is we're working with the agencies we found within labor and other agencies where it was being misreported. So the only thing--

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**DORN:** You only used if you're under five years--

**LEE WILL:** In my opinion, the only thing you can kind of do is learn from the things that you experienced last year. And I-- granted, the year before, we were \$27 billion or something like that in the same qualified opinion so it has to get better. Your an-- your question last year is what's the acceptable amount of funding to be off by? The answer is zero dollars and it remains that, that way. And I, I will talk to Director Jackson and the Governor is well aware of this issue and we're going to mitigate it.

**ERDMAN:** Because at this point--

**LEE WILL:** Sure.

**ERDMAN:** --I'm not at all comfortable that we'll have a clean audit next year. I mean, we have no history to prove that this group that's doing that now can come with a clean audit. So somehow you have to convince us that we should continue to do what we've always done and expect different results. This is not working.

**LEE WILL:** Yeah. I think the only way we could do that is showing you, Senator.

**STINNER:** I think you have to make an assessment of the ranks. All the agencies that are--

**LEE WILL:** Yeah.

**STINNER:** --you have to come with a certain amount of reporting and make sure they have quality-- qualified people to do the appropriate things on the accounting side. I don't know what that looks like from a money side of things, but somebody needs to do an HR study of what, what the state looks like.

**LEE WILL:** Gotcha.

**STINNER:** Senator Clements.

**CLEMENTS:** Thank you, Mr. Chairman. Thank you, Mr. Will. You mentioning that-- using 3.5 percent for projecting the future budget items, would you discuss why you picked that number?

**LEE WILL:** Sure. Looking at historical growth factors, it's around 4.75 percent if you include the indexing of income tax. We looked at the, the last couple of years, saw a 19.6 percent increase and part of that

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was the \$275 million in deferred tax receipts. So that was a little bit of an aberration. Now, the one thing-- 3.5 percent seemed like a conservative hedge in looking at the econometric, which are the models from Moody's and IHS that looked to lend a hand at 3.5 to 4 percent. So I think we were a little conservative and looking at those models and putting it in for the out-years. The other thing is this month alone, we're trending about \$75-100 million up in General Fund net tax receipts. That's in addition to the \$75 million collected for the first two months. So it keeps coming in. I do think at some time it's going to slow down, but I don't-- in the LFO projections from fiscal year '23-24, it was an increase of only \$11 million in General Fund net tax receipts and that's over a \$5.5 billion base. So a very small amount that was anticipated in the projection by LFO. So we went with a number we felt that was fairly conservative yet kind of reflective of where we're at today.

**CLEMENTS:** Thank you.

**LEE WILL:** Sure.

**STINNER:** Any additional questions? Senator Hilkemann.

**HILKEMANN:** Chairman, are we going to have an opportunity to address the situation like the Perkins Canal Project again or is this our, is this our one?

**STINNER:** You can ask both, both times. You can ask now.

**HILKEMANN:** OK.

**STINNER:** And actually, that's probably a little different place, though. The Cash Reserve is LB1013, so--

**HILKEMANN:** You want to wait until then?

**STINNER:** --probably close and then open on those--

**HILKEMANN:** OK.

**STINNER:** --subject materials, but--

**HILKEMANN:** OK.

**STINNER:** --I do want to make a positive statement. I think everybody here understands something has to be done on the overcrowding situation, which might be a little bit different than just replacing,

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but there was a list of thing-- of, of reports that we needed to have and apparently we're not going to get the master facility plan until August. I don't-- we also won't get the classification study that UNO is doing until I think June. So those are two very important pieces of the puzzle for us because the classification then kind of project-- then you start to project out what your facility needs are. The other thing that we don't have a real good handle on is what kind of reforms can we possibly do? What we have to do is lower that trajectory. Otherwise we need to build double the size of prison that we're talking about. Do you, do you see any acceleration of those reports or how do we, how do we come down with a final decision without those reports?

**LEE WILL:** Sure. So I'll have to work with Director Frakes to make sure he is giving you the information that you need, even if it isn't a formal report, if you will, so you can make the best, you know, decisions for the state. The other thing that-- you know, the Governor indicated a couple of months ago that Nebraska State Penitentiary was cut off for water for the inmates for about three days. So those are kind of issues that we're seeing within the, you know, older facility is, you know, things tend to break and it's a lot more costly to fix them. My other concern, as you saw, the State Penitentiary go up from \$230 million to \$270 million. And I can't guarantee if we don't-- if we keep delaying this, that's it's not just going to keep going up in cost.

**STINNER:** I, I, I get that and I will tell you that there was a time and I think it was my second year. And Senator Hilkemann and I were on this committee and we looked at a deferred maintenance report on the Pen that was \$80 million. So when you say, gee, all of a sudden we had a service line break, no kidding.

**LEE WILL:** Yeah.

**STINNER:** That's because you didn't do the appropriate repairs when, when you should have, but that's beside the point. I'm not picking on you again, but I'm making the statement for the record that, that that argument doesn't work with me. I'm sorry. But in any event, that's-- probably talked way too much, so anybody else? OK. That-- we'll-- I guess-- I'm not sure how to do this, but I think what, what I'll go to is open up for proponents, opponents for just the budget. So if you got it on the budget--

**WISHART:** Could have opened on all three.



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**STINNER:** I probably could open on all three--

**WISHART:** Yeah.

**STINNER:** --couldn't I? He opened--

**WISHART:** Yeah.

**STINNER:** --or he opened on all three.

**WISHART:** Yeah.

**STINNER:** Let's just-- since the, the Budget Director did open on all three of 11-- of LB1011, LB1012, and LB1013, we'll open it up for proponents testimony.

**WISHART:** Well, Senator Hilkemann had a question on the, on the canal.

**STINNER:** OK.

**HILKEMANN:** OK. Yeah, when--

**STINNER:** Thank you for that.

**HILKEMANN:** When I look at this, at this expenditure taking 400, why is this all of a sudden a critical issue?

**LEE WILL:** Sure. So one thing I want to-- I'll let you know, Senator Hilkemann, is Director Macy with the Department of Ener-- Environment and Energy will be in tomorrow to testify after me and Tom Riley, Director of Natural Resources, will be in to testify after me tomorrow as well and they have a lot more information on the project. The one thing I can tell you that I think-- you know, listening to the Governor and listening to Director Riley speak, it appears that Colorado has a lot of projects on the docket that they want to build or have projected or proposed, whatever the verbiage you want to use, and that will cut our water nearly 80 to 90 percent if those are built. So the critical mass nature is right now we are seeing across the river, pardon the pun, that folks are starting to earmark our water for lack of a better term. So it's time for us to make sure that we're putting in measures to make sure we can keep it. But they will talk about also the timelines and, you know, all the construction and everything like that, so.

**HILKEMANN:** I'll wait till tomorrow.

**LEE WILL:** Awesome. Thank you.

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**STINNER:** Thank you for your testimony. We'll take proponents of LB1011, LB1012, and LB1013. Good afternoon.

**JALENE CARPENTER:** Good afternoon, Chairman and senators. I am Jalene Carpenter, J-a-l-e-n-e C-a-r-p-e-n-t-e-r, and I am the president and CEO of Nebraska Health Care Association, new kid, so in case you didn't-- I'm not bald, so not the old guy. On behalf of our 190 nonprofit and proprietary skilled nursing facilities, I am here to testify in support of the Governor's budget proposal. We want to thank Governor Ricketts for all of his support during the pandemic. He's understand that the human impact and the financial impact that has really faced our facilities throughout. We appreciate the 2 percent proposed increase to the current provider in the biennium, but have to tell you it is simply not sufficient to address the crisis that's happening in our skilled nursing facilities today. Like many other businesses, skilled nursing facilities saw a large increase in costs during the pandemic, none greater than the cost of labor. And to be competitive in the labor market-- and you all know this-- nursing facilities cannot simply raise their prices to pass them on to consumers when 55 percent of Nebraskans in their care rely on Medicaid funding. We, we know we've been underfunded for a period of time and so not able to cover the cost of care now has put us into not even able to compete in the labor market to attract and retain staff. Our state 24-hour-run facilities were in a very similar situation early last year. The only difference is they were able to fund a large increase in their base wages. The situation for workforce in Nebraska, we all know, is in a difficult place. For our skilled nursing facilities, it is, quite frank, dire. We had four facilities-- skilled facilities close last year. Last week, another facility announced that it would be closing. I spoke with every single one of these providers. Consistently, the message is we do not have staff. We cannot compete to even attract staff. We can't even compete to get contract staff to come here. I look forward to talking with you all on LB989 about some solutions that we want to put forward to try and address this crisis and I appreciate your time and I'd be happy to answer any questions.

**STINNER:** Thank you. Any questions? Senator Dorn.

**DORN:** Thank you, Chairman Stinner. Thank you for being here. About what is the total overall employee number with your facilities?

**JALENE CARPENTER:** So if you look at from prepandemic levels to now, we're seeing a-- anywhere from a 10 to 15 percent decrease, so that's roughly 3,000 to 3,500 team members needed.

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**STINNER:** And it's not just the workforce, but it's the census of how many patients that you have, right? That has decreased as well?

**JALENE CARPENTER:** In our recent closures that have happened, specifically the ones last year and more specifically, the one that was just announced, the demand-- so the residents needing care-- was not the issue. The issue was specifically not staff available to be able to take care of those residents.

**STINNER:** OK, thank you.

**JALENE CARPENTER:** I think we're-- can I-- may I add one more thing on that?

**STINNER:** Sure.

**JALENE CARPENTER:** So we're also seeing that we-- because of staffing, nursing facilities are not admitting patients. So we-- that-- there's a trickle-up effect. So now hospitals aren't able to discharge and it's simply due to the fact that they don't have staff to be able to continue to admit.

**STINNER:** So nursing homes are-- especially skilled nursing homes are 24/7 facilities, right?

**JALENE CARPENTER:** Yes.

**STINNER:** And how much of a percentage increase did the Governor negotiated were for-- was that 30, I think because-- it was 30 wasn't it?

**JALENE CARPENTER:** It was and if you looked at specific positions, so housekeeping and dietary, some of them were upwards of 45 percent increases in that base starting wage. So it varied. It averaged to 30 percent, but in a lot of our categories where we would compete, it was closer to the 40 percent mark.

**STINNER:** OK, very good.

**WISHART:** I do have a question.

**STINNER:** Senator Wishart.

**WISHART:** Thank you for being here and welcome to your new position. You and I had a meeting over Zoom before session starts-- started and one of the things we discussed was whether there was a way to create

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sort of an automatic system in which when the state makes decisions internally about 24/7 care facilities, that automatically it's reflected that increase as well in those that we contract with since it's the same services provided. Have you, since we had that conversation, done any research into that? Are there other states that are doing this? And, and just interested in, in your perspective on that.

**JALENE CARPENTER:** So we did do some research into that. It, it appeared that there was something similar done in Nebraska with DD provider rates, but we weren't-- we didn't have any progress as far as, like, anybody else that has a direct tie to what you were talking about. And I can have Cindy from our office get you some more information on what we found out.

**WISHART:** And just to, to clarify, when the state made this decision to, to drastically increase the, the salaries for those that are working within the state system, is that when you saw a drastic decrease and loss of your, your staff from providers?

**JALENE CARPENTER:** So we-- our largest increase or excuse me, decrease in our workforce came in summer of-- let's see. Let me make sure I say this correctly. It came this last-- this past summer. So we made it through almost 18 months of the pandemic before we really hit the cliff of losing a lot of staff. And I, I, I'm not going to say it's 100 percent directly correlated to just that as far as, like, those rates increasing because we are also seeing with agency contract labor, it is going to the highest bidder. And I will tell you, our nursing facilities are never the highest bidder as far as, like, being able to pay. So we, we began losing a lot to hospitals as well as to contract agency. And then again, I mean, you can't, you can't argue if somebody is paying that much more.

**STINNER:** OK. Any additional questions? The \$20 per Medicaid patient per day, tell me about that. Is that a stopgap? Is it going to be helpful? Does that solve your problem?

**JALENE CARPENTER:** I'm never going to say it won't be helpful. Number one, it has not been approved so we have not seen those dollars yet. And with the Omicron wave and what is happening with the number of facilities who are in outbreak status, those dollars are really slowly being used for COVID response, which is what they were intended for, but when you have a facility in outbreak, there's not just labor cost, there's PPE costs and so many other things that are in play. It, it is

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a step in the right direction to hopefully get us to this summer where we can be looking long term.

**STINNER:** But it just drops off at the end of the fiscal year, 6/30/22, right?

**JALENE CARPENTER:** Yes.

**STINNER:** There's no other plan that you're aware of to--

**JALENE CARPENTER:** Correct.

**STINNER:** OK, thank you. Any additional questions? Seeing none, thank you very much.

**JALENE CARPENTER:** Thank you.

**ALANA SCHRIVER:** Good morning, everyone.

**STINNER:** Good morning.

**ALANA SCHRIVER:** Good morning, Chairman Stinner, members of the committee. My name is Alana Schriver, A-l-a-n-a S-c-h-r-i-v-e-r, and I am executive director of the Nebraska Association of Service Providers, which is the statewide trade association for the developmental disability service providers. So I want to echo everything that the previous testifier just said. So first, I want to thank Governor Ricketts for that additional 15 percent rate increase. It is temporary, January through June, like we were just talking about, coming out of that ARPA FMAP 10 percent funding. And just like the previous testifier, I don't want to sound ungrateful. Of course, every little bit helps and that was absolutely a lifeline, but it just doesn't go far enough. When something is temporary, you can't use that to increase wages, which is the real issue, as I'm sure you're all aware. So amongst all the rush and noise of a new session, we do call upon legislators to not look away from an important reality that people with intellectual and developmental disabilities who rely on home- and community-based services are drowning in the dual crisis of an emaciated workforce and an unrelenting pandemic. While we support the proposed budget and don't want to sound ungrateful, we do ask that you support LB1172, sponsored by Senator Hilkekmann. Thank you for that. That will appropriate ARPA funds from the general pot to help us support those programs that require employees. So things like shared living, they're doing OK right now, but when we have to pay staff members, that's where we're really struggling and we just aren't able to meet the need. And also LB893, sponsored by Chairman Stinner--

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thank you for that-- to make that temporary 15 percent rate increase permanent so that we could try to solve some wage crisis issues there. Such investments are the minimum necessary for Nebraska to build back a sustainable home- and community-based services infrastructure that can address the magnitude of unmet needs in our communities. This funding would not only strengthen the ability of people with disabilities to live a life with dignity in their homes and communities, as well as attract the desperately needed staff and boost local economies. A temporary rate increase only offers a temporary fix. We do need to fund rates at a level that will prevent a cliff effect moving forward into future budget cycles. NASP remains committed to protecting and strengthening supports of people with disabilities like my son who's currently on the registry waiting to get into the system and we request the same commitment from state leadership. I'm happy to answer any questions if you have them.

**STINNER:** Any questions? Senator Hilkemann.

**ALANA SCHRIVER:** Yes.

**HILKEMANN:** Not really a question. I'm aware of what's happening in the real world for the people who are providing disability, could you just tell the committee what-- yeah, I was at, I was at your luncheon this noon--

**ALANA SCHRIVER:** Sure.

**HILKEMANN:** --which was very eye opening as far as what-- could you just give a real quick summary to those who did not have that opportunity to be there?

**ALANA SCHRIVER:** Sure. We are about 30 percent of the direct care workforce needed worth, about 30 percent short. And actually, that's from a survey we did in September. The situation is much worse now with the fresh wave of Omicron just decimating everything and coming out of the holidays, which is a hiring desert anyway. So we're desperate for that frontline direct care workforce. And these are people-- just like if you need someone to watch your kid to go to work, we all have family members in this industry who require that 24 hours, 7 days a week care and so other states who haven't fared as well as Nebraska-- I think Nebraska as a culture, we just sort of make it work. But Wisconsin, Minnesota, they've had to call in the national guard to make sure group homes don't go unmanned. Some states have had to drop people off at the ER on a Friday night and then pick them up on Monday because they don't have the staff to get through the

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weekend. My brother-in-law is president of Hands of Heartland, which is the fastest growing provider. He's doing overnight shifts as the president, trying to just make sure there's bodies in the room. And, and when everyone's that stressed and that overworked and doing 80 to 100 hours a week of overtime, not the safest. You know, everybody's trying their best, but we're-- it's not great. And as a parent myself, it's a little bit worrisome, just the reality of it. And so the pandemic is not over. I feel like sometimes people talk about it in the past sense and it's worse now than ever. We have just huge amounts of staff who are on forced quarantine because people with DD are at a higher mortality rate risk of COVID as well. So we have to be extra careful and we really can't take risks if someone's been exposed of having them come into work.

**HILKEMANN:** Thank you.

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

**ALANA SCHRIVER:** Thank you.

**STINNER:** Any additional proponents? Seeing none, anybody in-- opponents? I got to come up with the name someday.

**CRAIG BECK:** Before I get started, Chairman Stinner, I've got two pieces of testimony on the budget and then on the Cash Reserve, so I'm just going to read them both.

**STINNER:** That would be fine.

**CRAIG BECK:** OK, great. Thank you.

**STINNER:** Yeah, we've, we've kind of combined those.

**CRAIG BECK:** OK. All right. Good afternoon, Chairman Stinner and members of the Appropriations Committee. My name is Craig Beck. That's C-r-a-i-g B-e-c-k, and I'm the senior fiscal analyst at OpenSky Policy Institute. We're here to testify in opposition today on LB1011 because it relies on aggressive growth projections and uses federal funding for ongoing expenses that should be paid for from the General Fund while simultaneously leaning too heavily on the Cash Reserve in order to create the illusion that we can afford tax cuts and other big-ticket items during what is potentially a fiscal bubble. Nebraska's economy is currently propped up by \$21 billion from the federal government, which is about twice our state's total annual state and local tax collections. This aid, combined with other factors, means there is a potential that we are, in fact, in a fiscal

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bubble, as some experts believe. According to Lucy Dadayan, a senior research associate with the Urban Brookings Tax Policy Center at the Urban Institute, the contributing factors are high revenues from a strong stock market, income shifted from-- to 2021 from 2022 by taxpayers in anticipation of rate increases in both corporate and capital gains taxes, and increased sales tax receipts due to a recent shift by consumers buying more goods than services. The Legislative Fiscal Office projections better reflect this possibility, showing conservative revenue growth in the next biennium. The Governor's budget does not, instead assuming 3.5 percent in each year. You can see from the chart that I handed out how the Governor's projected growth outpaces LFO estimates in the out-years. This optimistic growth creates a projected surplus nearly \$400 million higher in the next biennium than what LFO projects. While not in LB1011 specifically, the Governor's budget includes nearly \$613 million in tax cuts in fiscal years '23 through '25, of which nearly \$550 million is in the following biennium alone. The revenue the Governor's budget relies on to fund these cuts is not currently projected by the Forecasting Board and isn't enough to cover what's proposed. We're concerned a possible bubble combined with overly optimistic revenue growth as the basis for tax cuts could force future legislators to make tough decisions like cut services or raise taxes. The Governor's budget also proposes using ARPA funding for ongoing spending that will grow more costly over time, squeezing our state's revenue. For example, the Governor's budget proposes putting \$25 million of ARPA money toward increasing provider rates in FY '23. Our concerns with this proposed maneuver is utilizing one-time funds for what likely need to be an ongoing expense, thereby making the General Fund look more flush than it actually is and making it harder to sustain our, our obligations when the ARPA funds dry up. Finally, the Governor also proposes \$580 million in transfers out of the Cash Reserve in fiscal year '23 for a variety of projects, at least one of which is already accounted for in the General Fund budget. Upgrades to the Capitol's HVAC system have been underway for, for years and are already covered by the General Fund in the appropriations budget for the current biennium. But the Governor now, however, proposes to fund it through the Cash Reserve in order to free up dollars in the second year of the biennium, contributing to the fiscal picture looking rosier than LFO's. All of these issues combine to create some real concerns about the sustainability of the Governor's proposal. We therefore oppose LB1011 as introduced and urge the committee to be cautious in its approach to these proposed expenses. Spending like this during what could well be a fiscal bubble may force tax increases or cuts to services relied on by our residents and our economy down the road. I will shift into my



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Cash Reserve testimony very quickly. We're here also in opposition to LB1013, the Cash Reserve bill, because it authorizes huge transfers from the Cash Reserve at a time federal funds are propping up our economy to an unknown degree, threatening our ability to weather future downturns or cover any attempt by the federal government to recapture American Rescue Plan Act dollars. A robust cash reserve is needed to weather future economic downturns, which is why the Legislative Fiscal Office recommends keeping at least 16 percent of forecast revenues in our Cash Reserve Fund. While we're currently above that threshold, the proposed transfers in LB1013 would draw it down significantly at a time, again, when our economy is being held up by temporary federal dollars. Specifically, the Governor's projections would take the fund down from an expected 26.5 percent to 16.9 percent, as you can see on the other chart that I've handed out. While that's still above the LFO recommendation, we're in an economic period of significant uncertainty. As I said earlier, there is a risk that we are in the middle of a financial bubble and we'll see revenues drop if it bursts. We also don't know the extent to which federal funds are supporting our economy and face the prospect of the federal government clawing back some of the ARPA money if it's spent improperly and having a higher than recommended cash reserve would certainly help smooth the recovery should any of these things happen. We believe the Cash Reserve is an important tool to help the state in an economic downturn and because we're concerned LB1013 may set us up to have less in the fund than needed, we are in opposition to the bill and urge the committee to allow the fund to build up more than it is currently. Thank you and I'm happy to answer any questions.

**STINNER:** Senator Wishart.

**WISHART:** Well, thank you for being here. In, in terms of your, in terms of your testimony on the Cash Reserve, with your colleagues at OpenSky, have you done any looking into what your comfort level would be with the Cash Reserve and are you looking at what other states are doing in anticipation that we may be in a fiscal bubble?

**CRAIG BECK:** That's a really good question, Senator, and we have actually been discussing what, what we think would be an appropriate level. I think it's, it's a really good suggestion to look at other states. You know, as you mentioned earlier with-- just with the inflation alone that we're experiencing, we think probably a balance of greater than 16 percent would be warranted at this point. As far as a specific number, I could chat with the team and get you a specific number, but again, I think safe to say that we would most definitely

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support a balance of greater than the historical precedent of 16 percent.

**WISHART:** And you-- one follow-up question and you might not know this because I don't believe you were with OpenSky when we went through this, but-- and maybe my colleagues can help, but what was the number in terms of what we had in our Cash Reserve when I came in as a freshman senator-- so it would be 2017-- when we ended up needing to draw down those phone-- funds significantly?

**CRAIG BECK:** In 2017-- it is on the chart here. I don't have a dollar amount, but--

**WISHART:** OK.

**CRAIG BECK:** --we were above the 16 percent in 2017-- or going into the 2017 Legislature, where I think we had to cut about \$1 billion--

**WISHART:** Um-hum.

**CRAIG BECK:** --out of the budget. So, so--

**STINNER:** 1.2 just to make, make it clear.

**CRAIG BECK:** 1.2.

**STINNER:** Yes.

**CRAIG BECK:** OK. So we were above that 16 percent threshold. As far as exactly what dollar amount that equates to, I can get that to you, Senator.

**WISHART:** Yeah and I-- it would be helpful to know what a 16 percent-- in terms of that-- yeah, that would be helpful. Thank you.

**CRAIG BECK:** OK.

**STINNER:** \$775 million, I believe--

**WISHART:** \$775 million?

**STINNER:** --just to answer your question. Any additional questions? Well, I'm going to make this observation. The Governor needed to have the 3.5 inserted in there to make his numbers work, so there you go. It is, it is a recommendation. I think that-- I think Forecasting Board is actually going to up that. The big problem I have, unless we do something with LB1107, any increase in the next, next year of this

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biennium will actually go 100 percent into, into the property tax. And so that ends up being a deduct as you go out to those next two years from revenue.

**CRAIG BECK:** Right.

**STINNER:** And so there's some, some work we have to do to kind of work with what the legislation is and see where we're at, so.

**CRAIG BECK:** OK.

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

**CRAIG BECK:** Thank you.

**STINNER:** Any additional opponents?

**SHIRLEY NIEMEYER:** Hello. Shirley Niemeyer, N-i-e-m-e-y-e-r S-h-i-r-l-e-y, and I have a point of clarification. I prepared to come up for two different bills, the LB1011 and LB1012, but I have to do it all in three minutes?

**STINNER:** You have to do it in five minutes--

**SHIRLEY NIEMEYER:** OK.

**STINNER:** --and we have opened it up for all three bills--

**SHIRLEY NIEMEYER:** OK.

**STINNER:** --OK?

**SHIRLEY NIEMEYER:** Thank you.

**STINNER:** Uh-huh.

**SHIRLEY NIEMEYER:** OK. The first-- I want to make some comments. And thank you for opening it up for the public. Honorable senators, I'm against two or three sections within these bills and I just wanted to point out before I start I support the State Crime Lab. I think we need that money to go into the State Crime Lab. I think that's critical. I support revamping, renovating old structures. I live in a 100-year-old house and it's fine. It's better than anything else that will stand up now today, built. It will last another 100 years. I think that we can renovate a 100-year-old structure. There's things on the East Coast that are 400 years old. You go to Europe, I've seen a lot of 700-year-old structures. So I think you're just going to end up

spending more money tearing it down and then rebuilding because you're-- because it doesn't-- the new building evidently would not hold enough prisoners so you're still in the same spot. So I'd really encourage you to look at the renovation of that structure and the loss of resources. OK. One of the things I wanted to talk about-- and this is difficult-- is sex education and I don't think I quite understand your intent here. I think you're trying to limit a particular kind of standard here in your legislation. It's program number 25, Section 35, I believe-- or 39-- to prevent research or adopting or implementing state sex education standards for Nebraska schools. The prohibition of the use of funds applies regardless of whether the standards are proposed as mandatory or voluntary. So I'm unclear as to whether these standards are about the proposed ones or whether the existing standards stay in place and just exactly how that might be interpreted by local people. So I'm going to say a few things. Sex education is widely supported by the vast majority of people in the United States. In Planned Parenthood's most recent poll on sex education, 93 percent of the parents supported having sex education taught in middle school and 96 percent of parents supported sex education in high school. Overall, in 2011-2013, 43 percent of adolescent females and 57 percent of males did not receive information about birth control before they had sex for the first time. There's no increase in the proportion of teens who discuss these same sex education topics with their parents and the Guttmacher Institute Journal of Adolescent Health talks about there are fewer U.S. teens receiving formal education now than in the past. Center for Disease Controls have documented declines in the share of schools teaching. What are the benefits of sex education to students? Promoting and implementing well-designed programs positively impact student health in a variety of ways. Students who participate in these programs are more likely to delay initiation of sexual intercourse, have fewer sexual partners, have fewer experiences of unprotected sex, increase their use of protection, specifically condoms, and improve their academic performance. Quality programs include information on high-risk substance abuse, suicide preventions, and help prevent people from becoming victims of violence and that includes kidnapping and the kinds of things that go on here in Nebraska. In or out of school, sex education does not increase sexual activity. We're in a world where gender-based violence, gender inequality, early and unintended pregnancy, HIV, and other sexually transmitted infections still pose serious risk to your health and well-being. Equality-- equally, a lack of high-quality age and developmentally appropriate sex--- sexuality and relationship education may leave children and young people vulnerable to harmful sexual behaviors and sexual exploitation, including being kidnapped

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and that happens here in Nebraska. If you're going to pass a bill, I suggest you increase the funding for family living courses and this includes home economics, family science, and so on, where they learn about navigating finances and they learn about health and care of infants and legally-- the legal information about parental support and the developmental stages of children, safety, time management, and so on, so that children who are pregnant and teens have a better chance of-- have a-- whoops-- have a better chance of succeeding in the world than they would without that education. And I have a lot to say about the Perkins Canal and I can only hand out the information that I have with it and about the lake with your \$500 million effort and what the environmental concerns are about that and what Dave Aiken and some of the researchers at the university say about that.

**STINNER:** Thank you.

**SHIRLEY NIEMEYER:** So I will pass that out and I thank you so much for listening to me.

**STINNER:** We do have a question. Senator Erdman.

**ERDMAN:** Senator Stinner, just a statement. I don't think she stated and spelled her name.

**STINNER:** I thought she did when she was sitting down, but--

**ERDMAN:** Could you--

**STINNER:** --if you could--

**SHIRLEY NIEMEYER:** Yeah, I'll state it. My name--

**STINNER:** And spell it.

**SHIRLEY NIEMEYER:** Spell it? OK. Shirley Niemeyer, S-h-i-r-l-e-y N-i-e-m-e-y-e-r, and I'm representing myself.

**STINNER:** Any additional questions? Senator Hilkemann.

**SHIRLEY NIEMEYER:** Yes.

**HILKEMANN:** Seeing how you mentioned that you did not have an opportunity to tell, tell us why you opposed the lake, can you tell us a little bit about that?

**SHIRLEY NIEMEYER:** Yes. I'm not-- we don't know if it's going to happen. We don't know if-- excuse me-- if and where it's going to be.

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But my concerns has to do with the research that I found from the Great Lakes, from other lakes and the pollutants and the plasticizers and everything that goes into herbicides, the pesticides, increasing salt levels. When you open up groundwater, if you look at the groundwater that's been opened up through the lakes, even at around Ashland and all those lakes, I wouldn't swim in them now and some people don't because the pollutant levels happen every time you open up our groundwater, which means we have less ability to pull that out and drink it. And when you open it up and it's near the Platte-- I got another point, too-- near the Platte, then when it floods and we will see devastating floods again from the Platte, Platte. And I have-- we have land next to the Platte. It's a historic property, Linoma Beach, and we saw that Platte raging through us and it cost \$500,000 to \$1 million to repair, repair that. We got no outside funds. And when you see the damage and you're thinking, OK, you have this lake here, well, that will help. How will a lake next to the Platte River when it floods help stop the water? It's nothing I don't think that helps with flooding downstream and I understood-- I was on the committee originally. We didn't talk about a-- digging a lake before the STAR WARS Committee got formed. We didn't talk about that at all. We talked about other ways to help manage water; building small ponds and riparian areas and through grasslands and, you know, all sorts of things that you can do and through helping people reduce their water use. But when you open that up and it's going to flood, it can't absorb into the ground because the ground is not there. And as I see it, if we're going to build some houses around it, that's in the floodplain, you're going to have to berm it up; how high and how far away from the Platte River will those berms be, 500 feet? You've all driven over the interstate and seen the Platte River there, I'm sure. I have. And so if you put up a berm on the-- what I'd call the Sarpy County side, then the water goes there, stops, and comes back towards the other side, which is Saunders County, comes back towards things like Big Sandy, Sandy Point, comes back towards the guard camp and comes back towards Linoma Beach. I don't know how you stop that water. And so I think-- and it could even bust through their berms. So I guess I have a lot of questioning, both from an environmental standpoint-- \$500 million would do so much to help the people that lost their jobs, lost their businesses. And I thought some of that money, the \$100 million, was supposed to go for that person-- that purpose of helping people because of COVID and I don't see how putting it into recreation will help. One more point and then I'll be quiet. You can ask another question. They said, well, recreation is going to bring in all this money. And I looked at the following states: South Dakota, where they can go to Lake McConaughy; Colorado, they've got so

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much recreation already-- I mean, we go there-- and maybe went up to Lake McConaughy; Kansas, they've got a lot of lakes; Iowa, they have their big lake; Missouri, they have, they have all their tourist areas and lakes. So I would say that estimate is high on the part of that committee to bring all that money in. I wouldn't count on that. I just don't think it's going to happen. And I think you're going to see-- and I'm glad, I'm glad I'm at the end of my lifespan because I do not want to see my beautiful environment and what's going to happen to it. I only believe through people like you and through scientists can we solve problems of the future and our environmental critical issues that are happening and are going to happen. So that's my answer. I'm sorry--

**HILKEMANN:** Thank you.

**SHIRLEY NIEMEYER:** --it took so long.

**HILKEMANN:** Thank you for your comments. Thank you.

**SHIRLEY NIEMEYER:** Thank you.

**HILKEMANN:** Appreciate you answering my question.

**SHIRLEY NIEMEYER:** Anything else?

**STINNER:** All right. Any other questions? Seeing none, thank you.

**SHIRLEY NIEMEYER:** And you're welcome. The Perkins area, it's not-- it's going to dry up on the South Platte River. Thank you.

**DANIELLE CONRAD:** Hello. Good afternoon.

**STINNER:** Good afternoon.

**DANIELLE CONRAD:** My name is Danielle Conrad. It's D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d. I'm here today on behalf of the ACLU of Nebraska. So a little challenging to know it's-- I know it's always a little art and science to know exactly how to come in on these committee statements. But with the Governor's budget package as a whole, no doubt there are some good things there that we can find some common ground to help move this state forward, but am coming in on-- in-- instead of the neutral, in the opponent capacity, first to sound a global note and then more specifically. But first of all, I, I think it's important to look at the Governor's package overall, the Governor's budget proposal, including the utilization of COVID relief funds. And I, I think that our general concern, our most significant

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concern from the ACLU's perspective, is that the Governor's budget proposal is misguided. It's focused on prisons. It's focused on politics. It's focused on pet projects. And it may be shored up by suspect fiscal projections. I think what the Governor's budget proposal is light on is people, is equity, is ensuring that we are utilizing these historic opportunities to make a positive difference to move our state forward and to provide particular support for those that were most impacted by the pandemic. And you can look at the statistics to see exactly who that was: frontline workers, people of color, women, people who living with disabilities, etcetera. And I think that we, we definitely can and should do more to improve our approach to the utilization of our budgetary resources right here as state dollars in Nebraska and through the COVID relief funds that are available under the federal programs. So that would be just kind of an, an overview perspective. And I know that we'll have a chance to visit in greater detail about the Corrections budget and the prison proposal during the agency hearings so I won't belabor that point. But I do want to note that it really should be a red flag for this committee that here we are with yet another change in narrative about what has been termed one of the most historic and largest earmarks in Nebraska state history and we still don't have a plan. We have a changing narrative, we have ballooning costs, and we still don't have a plan. We still don't know exactly what the Governor's proposal is to address Corrections writ large. The master plan that you asked the administration to complete has not been completed. This-- the classification study that you asked the administration to complete has not been completed and we can't get a straight answer, even from the Governor's Budget Director who has a tough job, about what the plan is that Senator Dorn asked very clearly. First, it was we're going to have a private-public partnership then it was we're going to have a massive new prison then it's we're going to replace NSP because it's old and it's in need of repairs. Well, are you also going to close NSP? Well, we don't know and we're not going to tell you or we'll take that up later. That is shocking for a small budgetary request to have that kind of dialogue emanate from the executive branch. But on this-- one of the state's most largest, complex, and significant earmarks to not have those basic outlines clearly understood by all stakeholders so that we can have a thoughtful and honest debate about the impact of that proposal and how it impacts all the other issues before this state, that, that really is shocking and should raise many, many red flags. A project of that magnitude has to be handled in a collaborative sense and in a collaborative spirit with the legislative branch. And we urge you to utilize all skepticism and due diligence before deciding to commit those funds. The committee was very



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thoughtful in utilizing a pause button, so to speak, on carving out some funds to address public safety and prison overcrowding, but not committing them until we have a clear, well-thought-out plan. And we'll be happy to work with the committee and other stakeholders to continue that dialogue through this session. Happy to answer any questions.

**STINNER:** Any questions?

**DANIELLE CONRAD:** OK.

**STINNER:** Seeing none, thank you.

**DANIELLE CONRAD:** Thank you so much.

**STINNER:** Any additional opponents?

**GREGORY C. LAUBY:** Good afternoon--

**STINNER:** Good afternoon.

**GREGORY C. LAUBY:** --Senator Stinner, members of the committee. My name is Gregory C. Lauby, G-r-e-g-o-r-y C Lauby, L-a-u-b-y. I'm testifying on behalf of myself in opposition to LB1012, LB1013 and LB-- or portions of LB1011. I'm going to express my opinions in general terms rather than figures because I really have not had time to review all of the figures in the various bills, but the general principles are, to me, shocking. This is a time where there are those who can't afford to go to their doctor's office. They don't have medical insurance or if they do, they can't afford the deductibles and copays. They, they are not in the lifestyle where ever expect to buy a brand new car, let alone a boat. Small businesses are operating at a loss. Employees are struggling to pay their property taxes or their mortgage or their rent and are paying bills like credit cards and yet, the Governor has proposed to spend over \$1 billion on increasing and enhancing playgrounds for adult boys where they can play with their toys, a ditch for a water and land grant-- grab most in Colorado and by the time he buys-- develops the reservoirs that are-- been undefined, it will also include Nebraska land as well, as well as a new prison box, again, that is undefined as to the parameters, instead of releasing those who are aged, infirmed, or reformed and pose little to no danger to public safety or any plan to reduce the influx of individuals into the prison system. One consequence of this appears to be diverting over \$400 million, which otherwise would go to property tax relief, while reducing income taxes on the most profitable corporations and individuals and, and benefiting specifically Offutt Air Force Base,

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which has far more resources than the owners of property in Gage County, which have received no consideration in the budget or even a bill being introduced in this session. As the times of COVID, severe weather events, statewide property tax inequity, I feel advancing the Governor's proposals would result in a widespread betrayal of trust that you have enjoyed by those who put you here and the confirmation of the fears of those who didn't. If there are no questions, I appreciate your attention and I thank you for it.

**STINNER:** Is there questions? Seeing none, thank you.

**GREGORY C. LAUBY:** Thank you.

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

**CHRIS COSTELLO:** I do want to speak, but I didn't--

**STINNER:** You certainly are welcome to come up.

**CHRIS COSTELLO:** Hi. My name is Chris Costello, C-h-r-i-s C-o-s-t-e-l-l-o. I'm neutral. I come here at my own accord to help promote green energy and I think we're on the right path. A few senators have picked up on it and I hope that as time goes on, it gets considered. I think it's a self-sustaining water park. It's called Green Energy Water Park and I'd be willing to meet anybody that's trying to give direction to the state. I mean, I think if you would classify our river ways, I'd consider them boring. Our tourism is lacking and we have an opportunity to really meet that mark and be a leader in the green energy field. We can clean the water, return it back to through the river ways, and at the same time, provide entertainment. Really was kind of a gift to me from above, you know, and I'm just an advocate for it, but I hope that, you know, as senators, you take the time to look over it and I'm more than willing and I've come here at my own, like I said, accord to be open to have a conversation. It's a little bit-- you know, when you talk about the scope of this, it's quite big and well beyond the capacity of just an advocate for a better tomorrow, I guess, where you could classify me as an individual, what I'm doing. I've been in government. I know government. It's more of a-- you know, and it's a lot of hurry up and wait and it's a long of-- an idea like this is a political football and I hope somebody grabs a hold of it, takes it, runs with it, and goes as far as they possibly can with it because I think it's a winning idea and I think it's going to benefit this state and the

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whole country once it's up and running. And I'm here for-- like I said, if you have any questions, please let me know.

**STINNER:** Questions? Seeing none, thank you. Thank you for your testimony.

**CHRIS COSTELLO:** Thank you.

**STINNER:** Any additional people in the neutral capacity? I do not see anybody that hasn't come up here, so I-- I'm-- I have three letters: Connie [SIC] Wardian from Omaha is an opponent of LB1011. Rebecca Meinders is also an opponent and that is Nebraska Chapter of National Association of Social Workers. And I have a proponent, Michelle Weber, representing Nebraska County Attorneys Association, is a proponent of LB1011. And that concludes our hearing on LB1011, LB1012 and LB1013. Thank you. Thank you, Director, for coming in and testifying.