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Appropriations Committee October 27, 2023
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CLEMENTS: [RECORDER MALFUNCTION] Committee. This-- in this hearing. My name is Rob Clements. I'm from Elmwood. I represent Legislative District 2, which is Cass County and eastern Lancaster. I serve as Chair of this committee. We'll start off by having the members do self-introductions, starting with my far right.

DORN: Oh. Senator Myron Dorn, District 30, which is all of Gage County and part of Lancaster.

DOVER: Robert Dover, District 19, Madison County, south half of Pierce County.

LIPPINCOTT: Loren Lippincott: Merrick County, Nance County, Hamilton County and Hall.

CLEMENTS: Assisting the committee today is Cori Bierbaum, our committee clerk. To my left is our fiscal analyst, Mikayla Findlay. This hearing is open to the public with invited testimony only. For those who are testifying today, please fill out a green testifier sheet and hand it to the committee clerk when you come up to testify. To better facilitate today's hearing, I ask that you abide by the following procedures. Please silence your cell phones. When you come to testify, spell your first and last name for the record before you testify. Be concise. Request-- we request that you limit your testimony to five minutes or less, but we will be flexible. Written materials may be distributed to the committee members as exhibits only while testimony is being offered. Hand them to the clerk for distribution when you come up to testify. With that, we'll begin today's hearing with LR167 regarding Temporary Assistance for Needy Families funds. Do have one change in the order of testimony. Auditor Foley will be after Senator Conrad. Otherwise, the order of testimony has been posted. With that, Senator Conrad, welcome.

CONRAD: Hi. Welcome. Good morning. Thank you so much, Chairman Clements. And good morning friends and senators on the Appropriations Committee. My name is Danielle Conrad, D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d. I'm here today proudly representing the Fightin' 46th Legislative District of north Lincoln. And I'm really excited to introduce LR167. I wanted-- I'm going to go off script here, which is always a little bit dangerous, but I want to make sure that we open a thoughtful dialogue about this topic. And a couple of key points that I want to kind of help set the table on in terms of teeing up some of the other invited testifiers that you're going to be hearing from

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later today. The purpose of this interim study is to take a look at some of the most important programs that we have in the state to lift our neediest neighbors up and out of poverty and to make sure that they have resources on a temporary basis when they fall on hard times to meet those basic needs that a family needs to meet: transportation, childcare, healthcare, putting food on the table, kids on the clothes back, school supplies, things like that. And it's meant to provide again that, that, that, that hand up for a really short period of time so that families who've fallen on hard times can get the skills that they need to work their way out of poverty and end their reliance on public assistance. So these programs are meant to help families do that while they go to school or job training or get an entry level job that helps them then work their way up the economic ladder. So it's been quite a while since we've updated how these programs work in Nebraska. These programs as we know them today, have been around for a long time. Back in the Great Depression is kind of where the initial origins of these programs, where we came together as a country during the New Deal and said we're going to try and set some minimum standards for our neighbors and our citizens, that they don't fall, fall beneath this extreme poverty to provide for basic needs. Now, those programs have shifted and changed on the federal level and on the state level since that time period. But the other key data I want you to really keep in mind is back in the mid-'90s and you'll, you'll remember this from the headlines. There was a big effort on the federal level when you had congressional Republicans coming together with President Clinton to, quote, end welfare as we know it and to usher in a new era of welfare reform. So some of the key components of that effort in the '90s was (a) it was bipartisan; (b) it came together to ensure fidelity to that initial program designed to help our neediest neighbors. But then it also changed the program to provide states more flexibility with how they use these dollars so we get them more in a block grant kind of way instead of a specific formulary kind of way. And then it also put really strict requirements in place for our needy families who are utilizing these programs: work requirements, time limits for the amount of time that they, they can be on public assistance programs. So that kind of brings us to where we are in Nebraska now. And, and the last time that we saw any real major efforts to change some of these key components in Nebraska was when then-Senator Kathy Campbell was chairing the Health and Human Services Committee. And she helped to steward through some updates to program design. And that's really in line with our values and our approach and our historical precedent in Nebraska, where from time to time we update and evolve programs to make sure that they're meeting

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their intended purpose. And one cool thing that I like about this story about our approach in Nebraska is that over the years, as the Legislature has made policy decisions to help support big businesses, to provide tax relief even to those that are wealthy, we've also had an eye towards equity. And we've looked at ways at the same time to update our programs, helping, helping our neediest neighbors. So the time is really right today because we've just taken historic strides together to provide more support for business and job development, to provide more tax relief for more families, including high-income earners. But what we haven't done is update these programs at the same time to provide that, that equity lens. The other thing that's cool about some of the updates that are available to the Legislature is that they don't come with a significant General Fund price tag, which I know weighs heavily on your minds as Appropriations Committee members. Because Nebraska hasn't updated these programs in many, many years, and you're going to hear a lot about this today, we've, we've built up a reserve fund or a rainy day fund where we're drawing down these dollars from the federal government to help the neediest. But we're not spending them directly to help the needy. So we've built up this big balance. And one thing that I would-- that became very evident to me during last session is that we had a variety of proposals before the Health and Human Services Committee to update the programs, which historically they've been referenced to. And then you also had a host of programs and ideas and bills before you as part of the budget-- before you as part of the budgetary cycle, to look at tapping some of those reserves and rainy day funds. And it just seemed to me that perhaps particularly in the term limits era, that maybe our conversations were getting a little siloed between committees. And so I thought it would be a good idea to bring an open dialogue and some educational information about the background of these programs, not only to the Health and Human Services Committee this interim, but also to the Appropriations Committee. So that's how we find ourselves here today. The other thing that I want to be really clear about is I started my career as a baby lawyer working at Nebraska Appleseed, working on self-sufficiency and public benefits programs. I've served here for almost 10 years and been a practicing attorney for about 20. There's a lot of jargon when it comes to these programs and a lot of acronyms, and it can get very confusing and complex very quickly. I still struggle with it myself. So I want to make sure to keep our dialogue really engaging and really kind of top lines. There's tons of smart people in the Fiscal Analyst's Office, in our respective committees, and in the public policy advocacy community that can help us iron out the details. Maybe once we have a good understanding of

just kind of the basics about how these programs work, how we handle them in Nebraska and how our sister states are handling them. So I think what's really important to remember is that these programs are fully funded by tax dollars. We've always approached updates to these in line with other efforts that we've brought forward to help other Nebraskans; and we've always tackled these in a really bipartisan, nonpartisan kind of way. And we have an opportunity before us because this rainy day fund, this reserve fund, has risen so significantly that we can tap into that without drawing it all the way down so because we can and we should protect for a rainy day. Right? But we, we can draw upon that a little bit in legislation together next session without burdening the General Fund, helping our neediest neighbors, and addressing this unobligated balance that has languished for many, many, many years. And you'll hear from Auditor Foley when he was last in that office who provided really, really thoughtful analysis about that fund. So I don't want us to get too caught up in TANF and ADC and Employment First and all the different federal poverty levels. I want us to keep in mind ways that we can work together using existing funds to help mete fidelity to the program. And part of fidelity to the program includes providing direct support to families, recognizing their dignity and their autonomy, and recognizing that parents and families know best what they need more so than the government. And so when utilizing these funds, we shouldn't just be growing government. We should really be putting them directly into the hands of the families who need them to help cover gaps that other programs don't cover. You know, say you have a blown tire. That's a big deal when you're living right on the edge in terms of making ends meet; and food benefits, SNAP benefits don't cover things like that, but employ-- but ADC payments do. They're meant to provide flexibility and fill gaps where those other programs don't cover things. So if you have a blown tire and you're outside of Lincoln and Omaha, transportation can be challenging anyway. But if you can't fix that tire, you're not getting the kids to school, you're not showing up at your job. And that puts the family farther behind instead of farther ahead. So these are the really tangible, real-life examples of how families use direct cash assistance programs in this very time limited way to help end their reliance on public assistance. So there's three great bills pending before the Health and Human Services Committee that will carry over to next year. I know you'll continue to have proposals before you as you make budgetary adjustments in the biennium next year. And I know that the Pilleen administration also has some very thoughtful ideas about utilization of these funds. I want to compliment and thank the Governor's Office and his staff for being

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very engaging in opening a dialogue on this topic. This is an issue that's languished in Nebraska for too long. That's the bad news. The good news is I think we really have the right stakeholders brought together to address it and make a positive difference in 2024 and moving forward. So I'll stick around, of course, and I'm happy to answer any questions.

CLEMENTS: Are there any questions from the committee?

CONRAD: OK. Thank you.

CLEMENTS: Seeing none, thank you, Senator. Next testifier would be Auditor-- Auditor's Office and Mike Foley. Welcome, Auditor Foley.

MIKE FOLEY: Thank you, Senator Clements. Good morning, Chairman Clements and members of the committee. For the record, my name is Mike Foley, M-i-k-e F-o-l-e-y. And I'm accompanied today by Ms. Pat Reding, P-a-t R-e-d-i-n-g. Ms. Reding is an audit manager and assistant deputy state auditor. Ms. Reding is a certified public accountant, certified fraud examiner, has been a vital member of the APA team for some 35 years. So thank you for this opportunity to participate in this important interim study hearing. And thank you to Senator Conrad for introducing this study resolution. I asked my staff to prepare three charts to give you kind of a visual image of-- that will focus on what this is all about today in this hearing. Each year over the past 12 years and probably for many years prior to that, the state of Nebraska, like all states, has received its proportional allocation of federal spending authority under TANF. The allocation was determined by the U.S. Congress and has not increased over all these years. In our case, the annual allocation is just under \$57 million per year, with the exception of the year 2021, when Congress allocated some extra monies for TANF during the pandemic. Looking back over the past 12 years, you can see in the first chart Nebraska rarely spends all the money allocated to us. And the unspent-- and the unspent spending authority rolls over into future years. That's sometimes referred to as the TANF Rainy Day Fund, as is shown in the second chart. During my prior tenure as a State Auditor, my office issued a report noting that as of 2014, nine years ago, Nebraska had about \$56 million in our TANF Rainy Day Fund. Today, our unexpended spending authority, our Rainy Day Fund, is well in excess of \$120 million. This presents you as policymakers with a number of options. As State Auditor, I defer to the Legislature and the administration to determine how best to address this matter. But it seems clear that the trajectory of our TANF spending is likely to fall below the federal dollars available,

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and the Rainy Day Fund is probably going to continue to grow, absent policy changes. Nebraska is certainly not alone in not spending all of its TANF allocation. Just earlier this month, the Congressional Research Service, which is a division of the Library of Congress, reported that nationally all the states are sitting on over \$6 billion of unspent TANF funds. However, in the third chart that I've provided to you, it is clear that the issue is considerably more pronounced in Nebraska than in any of our six border states and three times higher than the national average. Nebraska is sitting on TANF balances well in excess of 200 percent of the annual allotment of federal funds made to us. No other state in our region even comes close to that. Outside of our region, the report from Washington, D.C., identifies three other states with higher Rainy Day Fund balances as a percentage of their allotments. Those three states are Hawaii, Tennessee and Oklahoma. All the other states are below the allocation percentage that we have. The third chart that I provided you shows, for example, the state of Missouri, a state with a much higher population than Nebraska, receives \$216 million in TANF funds every year and essentially spends it all with no Rainy Day Fund balance. Our neighboring state of Kansas, with a population about 3 million people compared to our 2 million, that state receives \$101 million in TANF funding and has a rainy day balance of only 61 percent of its annual allotment versus Nebraska's 214 percent Rainy Day Fund balance. I think it's important for me to emphasize that these charts do not prove that Nebraska HHS is doing something wrong. This chart simply proves that Nebraska is doing something very different from most states. In Nebraska, we've chosen to spend less and save more in our Rainy Day Fund while the overwhelming number of other states have chosen to spend less, excuse me, to spend more and have a lower Rainy Day Fund balance. Policymakers and the Legislature and the administration have several courses of action available to them, including increasing the spending in one or more of the programs currently operating with TANF funds, starting some new TANF-funded programs, or simply just staying the course and allowing the funds to grow and con-- continue to expand. These are policy options outside the scope of my office and certainly within the authority of the administration and the Legislature. With that, I thank you again for this opportunity to testify on this important study resolution. Thank you again to Senator Conrad. And Ms. Reding and I would be pleased to take any of your questions.

CLEMENTS: Are there questions? Senator.

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DOVER: Thank you for coming today. What determines the proportional allotment that Nebraska-- that states receive in this type of program?

MIKE FOLEY: It's basically population based. The Congress invented this formula decades ago and it's just they set the allotments and we get \$57 million every year.

DOVER: Is it-- is it strictly population? Are there other factors involved?

MIKE FOLEY: Pat, can help me?

PAT REDING: I'm not sure.

MIKE FOLEY: Yeah, it goes back.

DOVER: [INAUDIBLE] seemed there was a variation [INAUDIBLE].

MIKE FOLEY: It goes back long, long ago and it just hasn't changed over all these years. So the \$57 million comes in like clockwork every year.

DOVER: All right. Thank you.

MIKE FOLEY: Sure.

MIKAYLA FINDLAY: [INAUDIBLE] case in the '90s.

CLEMENTS: All right. And I think our fiscal analyst will be up to testify, may have some comments about that as well.

MIKE FOLEY: All right. Thank you.

CLEMENTS: And do you audit the use of our TANF funds annually?

MIKE FOLEY: We do. We do.

CLEMENTS: To--

MIKAYLA FINDLAY: Ms. Reding--

CLEMENTS: --for compliance with federal.

MIKE FOLEY: Yes. Yes, exactly.

CLEMENTS: [INAUDIBLE]

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MIKE FOLEY: And there have been-- there have been findings, but nothing all that significant, I would say,

PAT REDING: For the single audit it would be every three years or more if they have findings. But we test [INAUDIBLE]

MIKE FOLEY: We do test every year. We do a federal single audit every year. It's the biggest audit that we do. Pat heads up that effort, so we do a sampling of all of our federal programs every year.

CLEMENTS: All right. Any other questions? Senator.

LIPPINCOTT: The reserve balance, it's not a use it or lose it type scenario, is it?

MIKE FOLEY: That's correct. The fund-- the funds just carry over. The spending authority carries over one year to the next. And I don't believe it ever lapses either to my knowledge. It just carries over.

LIPPINCOTT: And that excess money, \$121 million, is it in a fund where it's making interest?

MIKE FOLEY: Well, we don't actually have the money. We have the spending authority.

LIPPINCOTT: Yeah.

MIKE FOLEY: We can draw down the funds from the federal government.

LIPPINCOTT: So it comes from the feds, correct?

MIKE FOLEY: Yes, that's correct.

CLEMENTS: All right. Senator Dorn.

DORN: Thank you, Senator Clements. Thank you for being here. Senator Clements, I'll kind of piggyback on his a little bit on his questions. So when you do these samplings or you do this to, to make sure that the TANF funds are, I call it, accurately spent, are you looking at so that they fall within the scope of what we can use them for?

PAT REDING: Yes.

DORN: Is that what you're looking at? OK.

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LIPPINCOTT: And also, is there specific criteria that it qualifies one to be able to tap into this fund?

MIKE FOLEY: Yes, there are federal regulations that govern the use of the money, but it's pretty broad. It's basically a block grant program, which gives us a lot of discretion, as to how to spend those dollars.

CLEMENTS: Other questions? Seeing none, thank you, Auditor Foley.

MIKE FOLEY: All right. Thank you, Senator Clements and members. Appreciate it.

CLEMENTS: Next, we welcome Mikayla Findlay with the Legislative Fiscal Office, who works with this area on a daily basis. Welcome.

MIKAYLA FINDLAY: Thank you. Thank you for having me. Chairman Clements, my name is Mikayla Findlay, M-i-k-a-y-l-a F-i-n-d-l-a-y. I'm a budget analyst in the Fiscal Office. Temporary Assistance for Needy Families, also known as TANF, is a block grant of approximately \$56.6 million that Nebraska receives each year from the federal government. Though some changes have been made, the grant has been stable over time. States have flexibility to use TANF funds within its four purposes. The first is assisting needy families so that children can be cared for in their own homes; two, reducing the dependency of needy parents by promoting job preparation, work, and marriage; three, preventing out-of-wedlock pregnancies; and four, encouraging the formation and maintenance of two-parent families. Nebraska Department of Health and Human Services reports prior activities and spending plan for the upcoming year to the Federal Administration for Children and Families. States are at risk of penalties to TANF if they, one, use funds in violation of the purposes; two, fail to meet the maintenance of effort; three, fail to satisfy minimum work participation rates; four, fail to participate in the income and eligibility verification system; five, fail to enforce penalties requested by the Child Support Agency; and six, fail to comply with the five-year lifetime limit on assistance and so that's 60 months. Additional detail on maintenance of effort and work requirements can be found in the full report. Federal law allows transfers of TANF of up to 32 total percent to the Child Care and Development Block Grant and the Social Services Block Grant. Aid to Dependent Children, referred to as ADC, is Nebraska's TANF program for temporary cash assistance to low-income families. ADC is used for family living expenses like rent, utilities and other necessities. All ADC adults

who are able must participate in work activities such as the Employment First program. The calculation of ADC payments is restricted by statute to no more than 55 percent of the standard of need. The standard of need is adjusted based on the Consumer Price Index in odd-numbered years. So every other year they adjust the standard of need. As of July 1, standard of need is \$843 for a two-person family and \$160 for each additional person in the unit. In order to qualify for ADC, the family unit's income must be below the standard of need for their unit size. Based on the current restriction of monthly payments to 55 percent of the standard of need, the maximum monthly payment is \$464 for a family of two. For a family of four, the current standard of need is \$1,163 and the maximum monthly payment is \$640. I passed out a chart that shows all the unit sizes and the standard of need and maximum monthly payment based on the statute limit of 55 percent. If a family unit's earned income increases above the standard of need but still is below 185 percent of the federal poverty level for their unit size, the family remains eligible for five months of transitional ADC. As wages rise due to economic factors like increases to the minimum wage and low unemployment, the number of ADC cases and expenditures will decrease without a corresponding increase in eligibility. The report includes two charts that show ADC cases and expenditures. The report also includes a chart of actual expenditures by federal fiscal year. The percent of TANF spent on ADC has decreased in recent years from 42 percent in 2020 to 21 percent in 2023. During my observation of the LB1140-- LB1173 Reimagine Well-Being workgroup, a publication by the Center on Budget and Policy Priorities was shared indicating states can promote equity and improve child well-being by investing a higher percentage of TANF in direct cash assistance. Nebraska operates separate state programs in a solely state program which are not allowed to be paid for from TANF funds. The separate state programs, one, exempts certain ADC recipients: single and minor aged, pregnant and new parents from work requirements; and two, allow postsecondary education in lieu of work. These separate state programs count towards the maintenance of effort, but participants do not count towards their work participation rate. The solely state program exempts ADC recipient parents who have significant barriers such as physical or mental impairment from work requirements and time limits. The solely state program does not count towards the maintenance of effort or work participation rate. The separate state and solely state programs are paid for out of General Funds. The full TANF report includes excerpts describing most programs that are currently supported by TANF funds, as well as three programs the Legislature designated TANF funds be used for in federal fiscal

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year '24, which are the child advocacy centers, domestic violence programs, and emergency food assistance. The programs that expended the highest amount of TANF dollars in the most recent year are childcare, \$17 million; ADC, \$13 million; Employment First, \$12 million; child welfare services, \$7 million; and administration, which is \$4 million. All other expenditures were less than \$2 million each. Existing programs that are not detailed in the full narrative include Social Service Block Grant programs, Mommy and Me and Community Response and the Crisis Pregnancy Program. New programs that are not detailed in the full report narrative are CASA, Cedars Pregnant Youth, and Reimagine Child Welfare. The grand total of TANF expenditures in federal fiscal year '23 was \$62.3 million, and it was not the first time that the expenditures were more than the grant. It looks like that last happened in 2015 based on Senator Foley's report. The reason Nebraska was able to spend more than our annual grant amount, which is \$56.6 million, we spent 62.3, was because of the Rainy Day Fund, also known as the carryover TANF Block Grant funding, it decreased from \$131 million at this time last year to \$125 million currently. Nebraska has had a carryover balance since the start of TANF. The final page of the-- my report includes a chart by DHHS, which shows the projective TANF balance of the Rainy Day Fund over the next seven years, which shows that the Rainy Day Fund will be fully expended in federal federal fiscal year '28, based on the estimated expenditures for existing and planned future programs. So if the estimated expenditures were fully expended, as the department lays out in the report, then the Rainy Day Fund will be totally gone in federal fiscal year '28. I would like to note finally, that future TANF Block Grants are contingent on federal renewal. A benefit of having the Rainy Day Funds is being able to continue programs as is in the case of federal government shutdown or other interruptions and changes to the TANF Block Grant. Thank you for your attention and the opportunity to share the summary of my full report, which is available if you contact our office. To address an earlier question, the \$56.6 million for Nebraska was calculated based on welfare caseload in 1994. So when welfare was reconfigured in '95 at the federal level, they used the AD-- what we now refer to as ADC, the welfare case counts at that time. And so in the full report, you'll see that in Nebraska we had about 15,000 families cases at that time. And we currently have 3,000 ADC cases.

DORN: That was the answer to your question. It was population.

MIKAYLA FINDLAY: And Senator Lippin-- Lippincott had a question about the Rainy Day Funds and where they live. You might be wondering if there's any chance of the federal government sweeping that money. That

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would be a large departure from standard policy. I would say it's not impossible. Anything is possible, but it would be a large departure from-- for them to take away the Rainy Day.

CLEMENTS: Thank you, Ms. Findlay. Are there other questions from the committee? Senator Dorn.

DORN: Thank you, Senator Clements. Thank you, Mikayla, for being here. Looking at some of your charts and thank you for passing them out ahead of time. We can look at them. And I noticed the very last chart, and I believe you said that came from Department of Health and Human Services now.

MIKAYLA FINDLAY: Yes.

DORN: I call it the balance-- our Rainy Day Fund balance in here it was originally ten years ago, \$50 million, as the Auditor noted, and it's climbed up to \$130-some million. And this year, one of the things we did in Appropriations was there were some programs that we funded out of TANF, and you, I call it, did the research on a lot of those to make sure that they fit. If I look at this chart here, though, in another about six, seven years or five years, we're going to be at a negative balance. We're spending more than what we're going to have. I, I fully agree that we don't need \$125 million sitting there at the end of the year, but that shows that uh-oh, we're going to be spending more in these next few years because of some programs that we've funded that we're going to really decrease that. So am I looking at that right, or is that just a projection that Health and Human Services is putting out to warn us or what?

MIKAYLA FINDLAY: So all of the charts in my report originate at the Department of Health and Human Services.

DORN: Okay.

MIKAYLA FINDLAY: And this final chart is based on expenditures on the prior page. So assuming that all of these estimated expenditures are fully expended at this level, we'll be spending close to \$90 million each year. And so if you see, like, the line for ADC, that's assuming we get up to about \$18 million a year, whereas the actual chart for '23, we spent \$13 million.

DORN: OK.

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MIKAYLA FINDLAY: And so it is assuming this-- they are warning us if we spend as much as we pretty much possibly could with the current programs and the planned future programs, yes, the Rainy Day Fund will be expended.

DORN: So, so these are, in future years, are projections.

MIKAYLA FINDLAY: Definitely.

DORN: We know what we did this budget cycle, these two years. We know that. But some of these others are in future years. And then it depends on as much, I call it, the qualifications, whether people meet them and that type of thing.

MIKAYLA FINDLAY: Utilization, yes.

DORN: Whether or not these numbers are achieved.

MIKAYLA FINDLAY: Yes.

DORN: OK. Thank you.

CLEMENTS: Other questions? Seeing none, thank you, Ms. Findlay. And our next testifier will be from Health and Human Services. Please come forward. Welcome.

JOHN MEALS: Morning. Morning, Chairman Clements and members of the Appropriations Committee. My name is John Meals, J-o-h-n M-e-a-l-s, and I'm the chief financial officer for the Department of Health and Human Services. I appreciate the opportunity to provide updates on the sustainability of the Temporary Assistance to Needy Families or TANF funds. The TANF program is designed to help low-income families achieve self-sufficiency. And DHHS is committed to using funds for this purpose. As of October 1, 2023, Nebraska had a total TANF grant balance of \$125,896,578. The TANF balance has decreased since October 1, 2022, when it was approximately \$131.6 million. This is due to DHHS spending \$62.3 million in federal fiscal year 2023, which is \$6 million above the annual grant amount. Several programs were expanded to serve additional families, and I'll discuss a few of those today. Attached to my testimony is the approved TANF expenditure plan that will be made public after this hearing. It details current, pending, and future spend. First, the plan outlines current services funded by TANF, including allowable block grant transfers. Two programs that have recently increased expenditures and expanded services are the Healthy Marriages and Responsible Fatherhood Initiative and Jobs for

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America's Graduates. Lutheran Family Services of Nebraska administers the Fatherhood Initiative Project, which aims to strengthen positive father-child engagement, as well as improve employment and economic mobility opportunities for noncustodial fathers. As of June 2023, 170 fathers have participated, and in addition, 39 fathers have gained employment while participating in the initiative. JAG is a national nonprofit organization administered in Nebraska by the United Way of the Midlands. Youth who face significant challenges learn to develop skill sets and overcome hurdles leading to economic and academic success. During state fiscal year 2023, JAG Nebraska provided services to approximately 1,000 students through 24 programs and within 12 different school districts. The graduation rate for students participating in JAG is 98.5 percent. Second, there are five pending services awaiting a response from the federal administration of Children and Families. Three of these five were the newly appropriated programs in this year's budget bill, totaling \$21 million for fiscal year 2024. Copies of the submitted state plan amendments are included as appendices in the attached plan. Third, child welfare prevention services are an anticipated recommendation from the Reimagine Wellbeing workgroup from LB1173 in 2022. The three branches of government are tasked with collaborating as part of the workgroup to transform child and family well-being in Nebraska. A final report is due to the Health and Human Services Committee on December 1, 2023, and is expected to outline prevention activities that could be funded by TANF. This funding is reflected in the future spending category in the attached plan. The plan illustrates the reduction in TANF surplus and the increased spending year over year. If spending continues as projected, the surplus will be successfully reduced by 2027, requiring a reevaluation of services to match the annual TANF award at that time. It should be noted that the plan may have to be adjusted due to future federal regulation changes, actual program expenditures, and evaluation of program effectiveness. Because TANF funds have some flexibility, the department will be responsive to all of these factors and revise allocations accordingly. DHHS is working diligently to help Nebraskans achieve self-sufficiency and will continue to ensure funds are well utilized to assist families. Thank you for the opportunity to testify today. I'm happy to answer any questions.

CLEMENTS: Thank you. Are there questions from the committee? Senator Dorn.

DORN: I hate to be the only one. Thank you, Senator Clements. I guess-- I don't think you have the charts. Thank you for being here. I

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don't think you had the chart that Auditor Foley had provided, but I'm sure you probably know the amount here, whatever.

JOHN MEALS: Yep.

DORN: We, we roughly get in \$55 million, spend approximately that amount or have. We did that. He gave a ten-year chart and in the first five, six years, we were spending about that. The last three years, four years, we decreased by quite a bit and we actually did just about only \$32 million here a couple of years ago. Any explanation or why, what happened that we decreased by so much?

JOHN MEALS: Yes, sir. Thank you for the question, Senator. So one of the primary drivers, I think Ms. Findlay mentioned it, is we spent \$17 million in childcare this past year in fiscal year '23. For those three-year period before that, we spent considerably less on childcare out of the TANF grant. And that was mainly due to the excess federal funding that we received during the pandemic. I mean, we had in excess of \$300 million direct for childcare during the pandemic, which is why we used less out of the TANF grant for that period, which is one of the primary drivers of the balance. Increasing is not the only reason, but it's one of the primary drivers. And this past year we spent the full \$17 million again, which is why we, we actually exceeded the \$56 million grant amount.

DORN: We spent over the \$60 million the chart shows this last year. So that was part of the reason then why we have the Rainy Day Fund in here we do have then.

JOHN MEALS: Yes, sir.

DORN: OK. Thank you.

CLEMENTS: Other questions? What is your-- we're looking at an outlook of a negative balance by 2028. What do you think you will be having for recommendations to equalize that so it's not needed?

JOHN MEALS: Yes, sir. So at that point, when-- whenever that moment comes, whether it's fiscal year '27 or '28 or whenever in the future, we're able to spend it, you know, fully down, the surplus that is, it would require reevaluation of, of services, you know, in conjunction with the Legislature and the Governor's Office and our DHHS team. That's-- it would have to be a reevaluation of the services provided.

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CLEMENTS: All right. And Auditor Foley said that this fund, we don't really have the money, we don't earn interest on it. It's just unspent allocation that, that we can draw down from federal.

JOHN MEALS: Correct.

CLEMENTS: I see. Any other questions? Well, thank you for your testimony. Next, we have a representative from Voices of the Children. Welcome.

KATIE NUNGESSER: Good morning. Good morning, Chair Clements and members of the committee. I'm Katie Nungesser. I'm a policy coordinator for Voices for Children. Voices for Children, we know that kids do better in school and in life when their parents can go to work or school and supplement income temporarily through work programs like ADC, which helps them make ends meet. It helps parents provide the most basic needs like housing, food, clothing, childcare and transportation. Almost 60,000 children in Nebraska are living in poverty, and over 30,000 of those are living in extreme poverty. The TANF program was designed to address this issue to lift more kids and families out of poverty when they fall on tough times and to help parents find a job that can end their participation in the program. The Nebraska Aid to Dependent Children Program, ADC, which provides time-limited, direct cash assistance to families with children in deep poverty, is funded by these TANF dollars. Over the last few decades, national data shows that the number of families participating in ADC has dropped by over 49 percent. This is not because of lack of need, as our poverty data shows. The current participation in ADC is low, in part because of administrative barriers, difficulty for participants navigating a sanction-based program, and a very low standard of need formula used for determining eligibility and benefit levels, which, as Senator Conrad mentioned, has not been updated in many years. For example, in 2020, more than 90 percent of Nebraskans that applied for the TANF ADC program were denied. We are in the top five states with the highest number of denials for those applying to participate. Our state can fix this without spending new tax dollars, but by updating these programs with existing funds like the TANF Rainy Day Fund, which we have done from time to time, as Senator Conrad mentioned. In addition to the policy framework and statistics, I know how many obstacles exist for these working families because I'm a former recipient of these benefits. I was a young mom living in western Nebraska, raising an infant. I received \$281 a month from the ADC program for a household of two. To receive this money, I was required to complete work skill hours, 30 hours per week, which was at a county

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hospital. That equated-- that equates to me being paid \$2.34 an hour for that work. The benefit levels were and continue to be extremely low. It is frustrating to me to now learn as an advocate that instead of putting these funds into the hands of the families that they were designed to help, our state has not updated the policies and has let this balance grow each year. Direct cash assistance is part of what TANF funds were designed for. As Senator Conrad outlined, over time our state has updated these rules and put a little more cash assistance directly into the hands of families. But this has not been done and this is our opportunity to do that now. Studies and common sense tell us that direct cash assistance recognizes parental autonomy, dignity, and improves children's long-term educational and health outcomes. Quite simply, when the state provides a little more direct assistance, our struggling families have better opportunities to succeed. One issue that I wanted to highlight was how child support is handled in the ADC program. And in 2021, thousands of cases-- of child support cases in Nebraska involved ADC participants. Noncustodial parents are paying child support to the parent participating in ADC. When you participate in ADC, the state reassigns that incoming child support back to the state. Rather than the parent on ADC receiving those dollars, they are used to reimburse the state. To some, this policy makes sense. I, as a mom, received ADC and the state redirected that my child support that was coming into my home to reimburse themselves. But when you dig into how this works, the result is not cost recovery. The actual result is the state making money off of families living in extreme poverty while sitting on a Rainy Day Fund with millions of dollars in it. I received \$281 per month. Child support was ordered at \$900 a month. When I applied for ADC, my ex-husband was not paying child support, so I was not concerned about the state intercepting any of the funds. A month into my participation, he began paying. I was never notified. Over the course of six months, I received a total of \$1,686 from the state through the ADC program, and the state received \$5,400 from my ex-husband in child support. The state reimbursed themselves \$3,714 more than they paid me in ADC cash benefits. These were dollars that I missed out to care for my family. Last session, a few bills were introduced to update these programs. LB233 would address how child support is handled in the ADC program. There were also two bills that would impact eligibility limits and benefit levels, LB290 and LB310. While the fiscal notes for these bills were significant, they also made it clear if direct cash assistance were the top priority for our TANF funds, our state could afford dramatic improvements in the ADC program with minimal impact on the General Fund. In conclusion, the time is right to update how

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Nebraska handles these issues through one or a combination of the carryover bills in 2024 session and perhaps married with ideas from the administration. These are low-cost ways to lift more families out of poverty and help address our workforce needs. We thank Senator Conrad for introducing this interim study and the committee for your time and consideration of this matter to make life a little better for Nebraska's kids.

CLEMENTS: Thank you. Are there questions from the committee? The-- you were talking about changing eligibility. The, the-- this-- the need formula, this 55 percent figure, what ways would you recommend we change eligibility? Some-- aren't some of these federally mandated?

KATIE NUNGESSER: I believe the state sets that. I don't have the details on some of that. I know Senator Conrad has spent some time-- I know she proposed a bill that would increase that and kind of a compromise. And I know Senator Machaela Cavanaugh presented another bill that I think had a two-pronged approach that was.

CLEMENTS: All right. Well, I'm sure we'll be looking into that in the-- it's-- it is hard to to figure why you would have been better off with no ADC payments and received the child support. That is an interesting situation that I think should be looked into that the state could recover maybe the portion of the ADC payment but not an excess. But that was the first I've heard about that scenario. Anybody else with questions? Thank you for your testimony

CORI BIERBAUM: Can you spell your name?

KATIE NUNGESSER: Yes. K-a-t-i-e N-u-n-g-e-s-s-e-r.

CLEMENTS: Thank you.

KATIE NUNGESSER: Yes, thank you.

CLEMENTS: Next testifier is the Nebraska Catholic Conference. Would a representative come forward?

PAIGE BROWN: Good morning, everybody.

CLEMENTS: Welcome.

PAIGE BROWN: Thank you. Good morning, Chairman Clements and members of the Appropriations Committee. My name is Paige Brown, P-a-i-g-e B-r-o-w-n, and I am here on behalf of the Nebraska Catholic

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Conference, which advocates for the public policy interests of the Catholic Church and advances the gospel of life in engaging, educating, and empowering public officials, Catholic laity and general-- and the general public. I am delivering testimony in place of Tom Venzor and Marion Miner, who could not make it here today. If you have any questions about our testimony, I would direct you to those two in our office who would be happy to follow up with any questions you have. We appreciate Senator Conrad's invitation to offer testimony today on the state's use of TANF funds. The church teaches that the family, the natural community in which human social nature is experienced, makes a unique and irreplaceable contribution to the good of society. Tax policy and public spending should be directed to the common good and must also pay greater attention to families, designating an adequate amount of resources for this purpose. The goals of the Temporary Assistance for Needy Families Program, as stated by 42 U.S. Code Subsection 601, are in principle in accord with this teaching about families. When a child is conceived, society receives the gift of a new person who is called from the innermost steps of self to communion with others and the gift of self to others. Because in the family, the person is always at the center of attention as an end and never as a means, the child learns in the family what it means to be a person and how to live in communion with others as persons in a way that is not replicable in any other society or institution. The family is the place where persons are first recognized and learn responsibility and the wholeness of their personhood. It is the condition itself for the existence of society and the center of social life. Marriage, likewise, in addition to the benefits it brings to the husband and wife, is irra-- is the irreplaceable foundation for strong and healthy family life and therefore also for society. The conference encourages the committee to investigate how TANF dollars might be better used to support the goal of helping marriages and families form and stay intact, especially among the poor who contribute to and are responsible no less than anyone for the raising of children and the maintenance of the family, our most foundational community. The conference also asks the committee to remember that children are a gift. They are, in a very meaningful sense, the gift perhaps most treasured by the poor. And the conference discourages and opposes any use of government programs to even subtly coerce or incentivize the poor to have fewer children. We feel compelled to emphasize this point in the face of growing conversation around the United States about using government programs, including TANF, to suppress the fertility of poor men and women. TANF is meant to encourage and support marriage and family life for those

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who need help. To use it as a tool to suppress new human life, the greatest gift of marriage, would be intolerably disrespectful to the dignity of these families and would betray the purpose of the program itself, which is for their benefit. Thank you for your time and consideration this morning. Again, if you have any questions, I would ask that you direct those to Marion Miner or Tom Venzor in our office.

CLEMENTS: Thank you, Ms. Brown. Next, I would like-- the previous testifier Voices for Children talked about having child support payments retained by the state. Is HHS interested in discussing that policy? Mr. Meals, would you care to comment on that?

JOHN MEALS: Do I need to do this again? J-o-h-n M-e-a-l-s. I, I don't know all the specifics of it. I believe that aspect of the rules is a federal requirement, but I'm happy to get you more detail on, on the relationship between ADC and child support.

CLEMENTS: We would appreciate finding out if-- how that procedure, you know, is, is done and why. So thank you very much.

MIKAYLA FINDLAY: I can speak to it a little bit.

CLEMENTS: All right.

MIKAYLA FINDLAY: There is a bill currently to change the way Nebraska treats child support in ADC calculations for-- I think, John.

CONRAD: Yes.

MIKAYLA FINDLAY: Senator John Cavanaugh was the introducer.

CONRAD: Yes.

MIKAYLA FINDLAY: I think it's on-- is it in committee?

CONRAD: It's in committee.

MIKAYLA FINDLAY: It's in committee. So other states do disregard child support in their calculation.

CLEMENTS: All right. Senator Conrad, would you like to close?

CONRAD: Just very briefly. Thank you so much to the committee members for your thoughtful consideration and great questions this morning. I also want to thank Chair Clements for his leadership in hosting this hearing and working collaboratively to put together, I think, a really

dynamite set of testifiers that you got to hear from today. Want to compliment Katie for her incredible good work and report; appreciate HHS coming down to share their ideas; and really appreciate Katie sharing her personal lived experience as a recipient of these programs and services, which takes a lot of guts and a lot of courage to share that in a public forum. But I think it really helps paint the picture of what a lot of our families in need are really struggling with. And I'm so excited that our friends from the Catholic Conference were also able to come and participate today and really lift that from a strong faith perspective, how we can and we should be working together to ensure we utilize the resources we have available to help families in need. And I think Auditor Foley's continued great work and leadership on this is really impressive. And those charts were really draw-- jaw dropping to see in total. So last few points I want to leave you with, today as the program stands in Nebraska, we're only using about 30 percent of the dollars that we get available to provide direct cash assistance to families in need. So of that allocation that we get year over year over year over year, we're seeing a move from less and less money to less and less families. And that-- that's really the core original intent of these programs is to put cash assistance-- bless you, Senator-- right into-- to families' hands. So we've seen a diminution of that core intent over the years. And we need to kind of keep that in mind and get that perhaps back in a better balance as we have in the past when we made adjustments. The other thing that I think is important to remember is that-- and you heard Katie talk about this and we've seen some of these headlines play out recently in Nebraska and beyond-- but we're seeing a really scary statistic pop out. And that's the fact that childhood poverty is actually on the rise in Nebraska and taking a pretty big jump, and, and that's for a lot of reasons. A big part because the child tax credit on the federal level that was adopted as part of pandemic relief and which has proven to be one of the best anti-poverty and child poverty tools available, has gone away. But, but we need to be really thoughtful about that and ensure that child poverty does not increase or worsen on our watch together in Nebraska. So I want us to keep that in mind. And then just to put that into context, when Katie talked about the fact that there's 60,000 Nebraska kids now living in poverty or about 30,000 in extreme poverty, it's kind of hard-- I mean, it's not hard for you all because you think about numbers all the day on Appropriations. But, but let's really put that into context, right? So a population of, you know, 60,000, that's a sig-- that's the entire city of Bellevue. Think about that. Or it's more than the city of Grand Island, which is just over 50, 50,000 in population. When we talk about 30,000 Nebraska kids

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living in extreme poverty, extreme poverty, that's about the size of Kearney, that's about the size of Fremont or Norfolk, where Senator Dover hails from, or Hastings or Columbus. That-- that's a pretty big number when we start to think about it in that context. I fully agree with the leaders from HHS who came forward and rightly encouraged all stakeholders to not be fiscally irresponsible with these funds. We absolutely have no disagreement about that. We should not pilfer these funds. We should leave a cushion there as intended, to help address unexpected occurrences. But we should also make sure we're fully utilizing them to their best and highest purpose. And we should make sure that Nebraska is drawing down the dollars we're entitled to. Because if we're not, they're not going to go to other states. They can't be utilized for any program under the sun. They're to be utilized for these four broad purposes. And that may require some policy changes with bills like the one Senator John Cavanaugh has before the Health and Human Services Committee. So there's three bills over there. Senator John Cavanaugh has one related to the calculations on child support. I have one that does not change eligibility but would make adjustments to the standard of need to keep up with things like inflation and the minimum wage increases. And then Senator Machaela Cavanaugh has a bill in that would actually change the eligibility to allow more people to come into the program since we've seen a slide from 15,000 families on the program to now about 3,000. So I think working with Senator Ben Hansen, Speaker Arch, members of the Health and Human Services Committee and this committee we'll be able to find the right path forward with one or a combination of those bills to address the policy changes that, that we need here. And then the final, final piece I'll leave you with is one thing that I think is really exciting about working on these issues, and these are issues where you see incredible support across the political spectrum. And that's always a good sign that something powerful and interesting is happening. So when you see progressive advocates, faith-based advocates, all of those people come together and say, hey, we can do a better job with these programs to help neighbors in need. I want to remind this committee and reaffirm for the record the really exciting opportunity I had to do just that when I was coming up and, and working as an attorney on behalf of low-income families. Then-Senator Foley, before he was in the Auditor's chair, worked really hard to change a policy in the ADC and TANF program-- and you heard a little bit about it from the representatives at the Catholic Conference-- that punished families for having more children. And actually he was a very innovative leader in removing that punitive restriction in our TANF program to support big families and put autonomy and dignity in

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the hands of parents. And that was an example where we came together across the political spectrum to do a better job. We can build on that, and we should build on that because that's how we've done it in Nebraska. And that's a good story for us to take home to our constituents next year to show despite all the rancor, despite all the acrimony in our politics, we're still finding ways to work together and to make a positive difference. This helps to address a lot of key issues from family sufficiency to workforce development and to do it in a fiscally responsible way. So I'm happy to answer questions and thank you for your time.

CLEMENTS: Any questions from the committee? Senator Dover.

CONRAD: Yeah.

DOVER: So you had said that we're only spending 30 percent and we're not drawing down. But the charts we were provided says that by somewhere 2027, 2028, we will have used up the balance. So are you suggesting that it's a base misappropriated funds and they need to be realignment to the cause and use of TANF funds? Is that your point?

CONRAD: Yeah. Thank you so much for the question, Senator. And just to clarify, so in our existing funds that we are allocated in drawing down, over the years we've directed less and less of that allocation to direct cash assistance. So the 30 percent that I mentioned, and sorry if that was confusing, is about what we're paying in direct cash assistance from within that allocation. So that wouldn't-- that wouldn't necessarily change in terms of the projections. In terms of the projections themselves, you'll be familiar with how this plays out in, say, for example, the budgetary decisions you make for like Medicaid utilization. That's probably a pretty good example of one that the Appropriations Committee is pretty familiar with, where you kind of plan for the worst-case scenario, right? You kind of plan that that price tag is going to come in at that highest watermark so you don't cut your-- cut things short. That's kind of what the projections in regards to TANF have demonstrated over the years as well. We're kind of planning for the worst-case scenario, but usually when we look back at the actual utilization for a bunch of different reasons, those numbers are coming in a lot lower. So I don't blame HHS for bringing forward their projections in that regard. But I will let you know this has been a big part of the conversation in Nebraska in years past where the HHS kind of took a very, very conservative approach and said, oh, gosh, we can't make any program changes because it will spend down the funds to nothing that actually hasn't come to fruition

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when you look at-- when you look at the data and for a lot of different reasons. But I think that might be some of the discrepancy there, first, on the 30 percent what I was talking about, and second, kind of how the projections play out. Is that helpful?

DOVER: Yeah.

CONRAD: OK.

DOVER: And my last question was, I'm sure you're familiar with the legislation that's being proposed. Does that legislation with the ADC situation that was explained to us today? So if they would get-- does the legislation say that if they would get this child support, then that the ADC payment would be dropped then? Or would they still continue to receive money in addition to that child support?

CONRAD: Yeah, that's a great question. So the measure that Senator John Cavanaugh introduced, basically, as I understand it, and I'd be happy to follow up if I misstate it, it basically kind of changes the formula for how you calculate household incomes and assets and it would essentially kind of disregard that child support payment for purposes of determining the ADC payment. So it would give families a little bit more breathing room and access to that child support payment. So I think that that's an idea that has generated a lot of support in our sister states and would be a great place to start together in 2024.

DOVER: So you're saying that, that they-- that once they receive child support then there's still assistance for ADC that they would also receive on top of that? Is--

CONRAD: Yes, that's right.

DOVER: Thank you.

CONRAD: Yes, that's right.

CLEMENTS: Seeing no other questions--

CONRAD: OK. Thank you so much.

CLEMENTS: --that concludes the hearing--

CONRAD: Do you want me to stay in the chair?

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CLEMENTS: --for LR167. Do you have an opening for?

CONRAD: I would. Yeah, and Senator, I was just going to ask you how-- what's the best way for us to organize this? Because I know that we have similar interim studies and I definitely don't want to step on the toes of the Appropriations Committee Chair.

CLEMENTS: I'm not going to do an opening--

CONRAD: OK.

CLEMENTS: --for my LR and ask Mikayla Findlay here to do that.

CONRAD: Very good.

CLEMENTS: You go ahead--

CONRAD: And I will keep it very brief.

CLEMENTS: --and open on what you have.

CONRAD: OK. Thank you so much, Chairman Clements, members of the committee. 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 representing north Lincoln's Fightin' 46th Legislative District. And I am proud to introduce this interim study. You'll have the opportunity to hear from some incredible experts in this room and other stakeholders who've been invited to provide testimony to you today so I won't belabor the point. But I just want to tee up a couple of kind of key issues to help set the table for that testimony. I think it's really important that from time to time, and particularly in the term limits era, that we're providing consistent awareness and education about some of these key governmental programs, particularly for, for new colleagues. And the Health Care Cash Fund is a really, really important success story that we have to share in Nebraska. Unlike some of our sister states who came together years ago and kind of grabbed that tobacco settlement money for various and sundry purposes, Nebraska took a different path. And it was a really, really smart path. We came together in a joint way. At that time, Appropriations worked with the Health and Human Services Committee. There was actually a joint reference to both committees at that point in time, and those committees came together with a very, very broad and diverse cross-section of state senators to put together the infrastructure policy and plan to use these tobacco settlement funds in a long-term and thoughtful way to ease pressure on healthcare costs that come from the General Fund, but to really make

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sure that we had a judicious use of these funds, including things like medical research, biomedical research, and providing direct assistance to important healthcare programs. That thoughtful approach has worked and served us well. We have been able to really leverage those dollars farther than many of our sister states because of that prudent planning and thoughtful approach. Over the years, there have been more demands on the Health Care Cash Fund and maybe the corpus would allow to ensure that those funds can carry forward in perpetuity as intended. So it has been appropriate that I think every two years we kind of get an update from state leaders to let us know kind of where we are with the Health Care Cash Fund in terms of revenue and in terms of obligations and expenditures. We have made strides together in Nebraska in recent years to move that long-term projection from a riskier lens to a more solid lens. You'll hear more about that today. But we still have a little bit of work to do to get the balance sheet right there. But what I want people to know about the Health Care Cash Fund is this is a huge success story where we did it right in Nebraska. It has been fiercely and carefully guarded by senators across the political spectrum throughout the history of this Health Care Cash Fund. And we need to be very, very careful and guard against any attempts to raid or draw down this fund to a point of instability. So you're going to hear some really exciting testimony from people who have utilized these funds. I'm happy to answer any questions, and I thank the Chair for introducing the measure and hosting a hearing today.

CLEMENTS: Thank you. Are there questions at this time? Seeing none, thank you, Senator Conrad. We will now have the fiscal analyst, Mikayla Findlay. I failed to mention these-- there are two LR's, LR169 and LR182, are both involved in this hearing at this time. But they're both regarding the Health Care Cash Fund. Welcome.

MIKAYLA FINDLAY: Thank you. Thank you, Chairman. My name is Mikayla Findlay, M-i-k-a-y-l-a F-i-n-d-l-a-y. I'm a budget analyst in the Legislative Fiscal Office. The Nebraska Health Care Cash Fund in its current form was established in 2001 by LB692. The following section of Nebraska Revised Statutes establishes the legal framework for the fund: (1) The purpose of the Health-- Nebraska Health Care Cash Fund-- Funding Act is to provide for the use of dedicated revenue for healthcare-related expenditures. Any funds-- (2) Any funds appropriated or distributed under the act shall not be considered ongoing entitlements or obligations on the part of the state of Nebraska and shall not be used to replace existing funding for existing programs. (3) No funds appropriated or distributed under the

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act shall be used for abortion, abbreviated. (4) The Nebraska-- the Department of Health and Human Services shall report annually to the Legislature and the Governor regarding the use of funds appropriated under the act and the outcomes achieved from such use. The fund currently has three revenue sources. From smallest to largest they are (1) the Nebraska Medicaid Intergovernmental Transfer Trust Fund; (2) a portion of cigarette taxes; and (3) the Nebraska Tobacco Settlement Trust Fund. Though they are referred to as trust funds in statute, the two funds are not actual trust funds. The Medicaid Intergovernmental Transfer Trust Fund no longer collects revenue. The funds have been spent down since 2017. Its balance as of June 30 is \$43, which is residual investment income. In 2015, the Legislature directed \$1,250,000 of cigarette taxes each year for the Health Care Cash Fund. The main source of funding for the Health Care Cash Fund is the Tobacco Settlement Trust Fund. Its revenue source is payments from the tobacco man-- from tobacco manufacturers that Nebraska is entitled to due to participat-- participation in the Tobacco Master Settlement Agreement, also known as the MSA, which was established in 1998. The basis of the settlement was to reimburse states for additional Medicaid costs states incurred for treating smoking-related illnesses. The terms of the MSA require participating states to perform enforcement activities. In Nebraska, enforcement is paid out of the Health Care Cash Fund and expended by the Attorney General and the Department of Revenue. The payments from the settlement vary from year to year, but payments are guaranteed in perpetuity as long as manufacturers who have settled with the states continue to sell cigarettes. Nebraska's ten-year average annual MSA payment is \$39.3 million. In the last five years, payments have ranged from \$38 million to \$44 million. The balance of the Tobacco Settlement Trust Fund as of June 30 is approximately \$547 million. A chart showing the combined funds' beginning balance, deposits, earnings, transfers, expenses, and end balance can be found in the full report. The State Investment Officer is required to report to the Legislature on or before October, October 1 of every even-numbered year on Health Care Cash Fund transfer sustainability. The full 2022 sustainability report is available online or by contacting the Legislative Fiscal Office. According to the State Investment Officer, the funds supplying the Health Care Cash Fund can sustain an annual transfer of \$51 million. The Legislature establishes in statute the total amount to be transferred into the Health Care Cash Fund from its funds previously described. The transfer amount is based on existing statutory obligations and new appropriations that are set by the Legislature. A full list of programs with Health Care Cash Fund appropriations from

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fiscal year '23 through fiscal year '25, as well as estimates for fiscal year '26 is provided in the report, along with descriptions for the programs. In 2022-- in the 2022 legislative session, the transfer amount was set for \$66 million for fiscal year '22 with legislative intent to reduce the transfer to \$51 million annually in subsequent years in accordance with the sustainability report by the State Investment Officer. In the 2023 legislative session, the finalized transfer amounts became approximately \$57 million for fiscal year '23; \$56 million for '24; and \$55 million for '25 and each year thereafter. The current appropriations from the Health Care Cash Fund exceed the recommended level of \$51 million. In conclusion, I would reemphasize that the current and future appropriation levels exceed the recommended expenditure level. In order to continue utilizing the fund for years into the future, the Legislature should continue-- should consider reducing annual appropriations to the \$51 million expenditure limit recommended by the State Investment Officer. The Legislative Fiscal Office will continue to monitor revenues, expenditures, and fund balances to ensure the Health Care Cash Fund remains viable-- a, a viable source of funding into the future. Thank you for your attention and the opportunity to share this summary of the report. I'm happy to answer any questions anytime.

CLEMENTS: Are there questions from the committee? I have a little question about which fund, what, where is the money, really? You're talking about the Tobacco Settlement Trust Fund--

MIKAYLA FINDLAY: Yes.

CLEMENTS: --having \$547 million.

MIKAYLA FINDLAY: Sir.

CLEMENTS: So the Health Care Cash Fund that we talk about doesn't have any money in it?

MIKAYLA FINDLAY: So the majority of the money, the \$547 million I believe it is, quote unquote, lives in the tobacco-- Nebraska Tobacco Trust-- Settlement Trust Fund. Each year, funds are transferred into the Health Care Cash Fund to be spent as according to the statutory obligations.

CLEMENTS: OK so--

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MIKAYLA FINDLAY: So when we set the budget, we include a transfer level that corresponds with the spending level from one mil-- \$1.25 million comes from cigarette taxes, and that goes separate.

CLEMENTS: Yes.

MIKAYLA FINDLAY: And then the majority of the money lives in the Tobacco Master Settlement Trust Fund.

CLEMENTS: So our appropriation is from the Health Care Cash Fund.

MIKAYLA FINDLAY: Yes.

CLEMENTS: But there's a transfer into that fund to supply the money. OK. That-- a little bit of new information to me, but that's good to know.

MIKAYLA FINDLAY: And just to clarify, the annual payments are around \$40 million. But the reason the sustainable level is about \$50 million is because of earnings on that half billion dollar fund, which does vary from year to year. So if you look at the full chart, we actually lost money on earnings this year quite a bit. I think it's over 100. Yeah, the earnings was -60 million in the fund. But two years ago, we earned over a million-- over \$100 million. So it evens out. But the pay-- the deposits are the payments from the tobacco companies for this settlement and they are pretty level.

CLEMENTS: Pretty level.

MIKAYLA FINDLAY: Yes.

CLEMENTS: Around the \$38 million number?

MIKAYLA FINDLAY: Yeah.

CLEMENTS: Is that it? All right. But then we get earnings on the fund balance--

MIKAYLA FINDLAY: Yes.

CLEMENTS: --that we are able to spend as well.

MIKAYLA FINDLAY: Because it's cash funds, not trust.

CLEMENTS: Right. Questions? Senator Dorn.

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DORN: Thank you, Senator Clements. Thank you for being here again, Mikayla. Explain the earnings a little bit. When you talk about earnings, you're talking about we have basically \$547 million out there that's being invested. Is that where the earnings all come from?

MIKAYLA FINDLAY: Yes.

DORN: Because we also have the other, what I call the deposits. That's a separate. That's the tobacco fund deposits. So the earnings, explain that a little bit.

MIKAYLA FINDLAY: Yes. So these funds are invested by the State Investment Officer. And so year to year, the earnings varied.

DORN: Yes.

MIKAYLA FINDLAY: We had a really long stretch in the 2010s of positive earnings, didn't go down really at all. But this past year we did. I'm sorry, the, the earnings were actually 16, -16, not 60.

DORN: Yeah, not 60.

MIKAYLA FINDLAY: Yes.

CLEMENTS: I thought you said 60 and [INAUDIBLE].

MIKAYLA FINDLAY: I did. That was actually the transfers. So that was the spending that we transferred into the Health Care Cash Fund to be spent.

CLEMENTS: Other questions?

DORN: So the earnings are, I call it, strictly dependent upon--

MIKAYLA FINDLAY: The market.

DORN: --the investments, the market, those types of things that they're doing. That's what those earnings are so--

MIKAYLA FINDLAY: Yes.

DORN: --yes, you're exactly right. There were a period of eight, probably eight years there where we had tremendous earnings and they were pretty consistent in the 30 to \$50 million range. And two years ago, we had \$116 million--

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MIKAYLA FINDLAY: Positive.

DORN: --really positive, a really good number. Even last year you had at 43.

MIKAYLA FINDLAY: Yeah.

DORN: And now this year they're down so.

MIKAYLA FINDLAY: Right.

DORN: But-- so that is part of why-- that is how they come up with, I call it the formula for the sustainability.

MIKAYLA FINDLAY: Yeah. The \$51 million sustainable transfer spending level transfer to be spent. And so that came out last October every even numbered year. So we'll get a new report from the State Investment Officer on the sustainability of the Health Care Cash Fund in 2024. So we'll see then if it's still the \$51 million or if that changes for any reason.

CLEMENTS: And so we had \$60 million-- \$60.8 million withdrawals in our last fiscal year.

MIKAYLA FINDLAY: Yeah.

CLEMENTS: Do we have a chart of projecting future years beyond that?

MIKAYLA FINDLAY: So the, the chart on the next page shows the programs funded. And it shows the actual appropriations for fiscal year '23, which were-- which has passed and what we're currently in fiscal year '24 and '25, which we just set last session in the budget. And then what I show is '26 an estimate based on what was agreed upon to go forward, which of course is not set in budget or statute. That's an estimate.

CLEMENTS: OK. I see fiscal year '24 is what we're in now, \$56.6 million.

MIKAYLA FINDLAY: Yes, sir.

CLEMENTS: And 56.4 the second year.

MIKAYLA FINDLAY: Yes. So I rounded, I pretty much said 57, 56, 55.

CLEMENTS: Right.

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MIKAYLA FINDLAY: Which is still--

CLEMENTS: And they're exceeding the \$51 million.

MIKAYLA FINDLAY: Yes.

CLEMENTS: Those are the numbers that we should compare to the \$51 million--

MIKAYLA FINDLAY: Yes, sir.

CLEMENTS: --recommendation. All right. Very good. Any other questions? Thank you--

MIKAYLA FINDLAY: Thank you.

CLEMENTS: --Ms. Findlay. Next, we'd like Health and Human Services representative. Please come forward. Welcome.

CHARITY MENELEE: Thank you. Good morning, Chairman Clements and members of the Appropriations Committee. My name is Charity Menefee, C-h-a-r-i-t-y M-e-n-e-f-e-e, and I'm the director of the Division of Public Health within the Department of Health and Human Services. Today, I will highlight some of the important programs funded by the Health Care Cash Fund while illustrating its wide and varied impact. In the current fiscal year, the Division of Public Health is overseeing \$32.7 million of the \$56.7 million in total appropriations from the Health Care Cash Fund. The Tobacco Free Nebraska program receives \$3.6 million in Health Care Cash Funds, which is its primary funding source. The program works to prevent first-time tobacco use, as well as offer tools to Nebraskans seeking to reduce or quit their usage. While tobacco use has trended downward over recent decades, nearly 14 percent of Nebraska adults were smokers in 2020. In 2022, the Nebraska Tobacco Quitline received nearly 4,000 calls for counseling, questions, referral or support. Nearly 2,000 Nebraskans registered for services and one of-- and of these, 69 percent of participants received medication to help them quit. Beginning this year, Tobacco Free Nebraska began receiving approximately \$1 million of additional money from the fund because of the Juul settlement, which will be used for youth prevention activities. This demographic has seen a substantial decline in cigarette usage, but e-cigarette use increased significantly in recent years. In 2022, 14 percent of youth self-reported as e-cigarette users. Slightly over \$9 million is appropriated to this to support basic public health infrastructure via pass-through funds to Nebraska's 18 local health departments and the

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state's federally qualified health centers or FQHCs. While most public health spending takes the form of disease or condition-specific federal grants, these dollars allow substantial, substantial latitude to tailor uses to community needs. This flexibility makes the Health Care Cash Fund an essential source of support for the local public health system in our state. The University of Nebraska Medical Center receives approximately \$4 million in annual funding support from pass-through efforts, including support to the Perinatal Quality Improvement Collaborative, the Brain Injury Trust, the Poison Control Center, and two new allocations this year: pediatric cancer research and statewide cancer screening and prevention. The Health Care Cash Fund also supports medical research, including \$15 million distributed to the University of Nebraska System and Creighton University/Boys Town National Research Hospital for biomedical research. Nearly half a million dollars supports nonembryonic stem cell research grants throughout the state. Additional details can be found in the DHHS Health Care Cash Fund reports for fiscal year 2022 attached to my testimony. All this work results in real impact to the lives of present and future Nebraskans. To protect the ongoing viability of the fund, the department supports the Legislature's commitment to responsible usage of these dollars. It is essential that we continue to partner together to ensure long-term sustainability of this vital resource. Thank you for the opportunity to testify today and I'd be happy to answer any of your questions.

CLEMENTS: Questions from the committee? Senator Dover.

DOVER: When you talked about receive medication to help them quit tobacco, is, is that vaping?

CHARITY MENEFEE: It's for typical tobacco cessation, quit medicines. So for cigarette usage, that kind of thing. I'll have to check, Senator, if that is also effective for vaping. I'm not sure of the answer to that, but I can get that to you.

DOVER: I didn't know if vaping would be considered not using tobacco.

CHARITY MENEFEE: Oh, I see what you're saying. No, sir, we would not recommend vaping being a pass-through or a path for that because of the health effects that are related to vaping as well.

DOVER: And you could follow up on that one question--

CHARITY MENEFEE: Yes, sir. Yes, sir.

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DOVER: --that you actually posed. Thank you.

CHARITY MENELEE: Yeah.

CLEMENTS: Did you have a question, Senator Lippincott?

LIPPINCOTT: The whole vaping issue, I don't know if there's federal standards in terms of the nicotine percentage in vaping. I talked the other day with a superintendent at one of the schools and he says it's very common for kids to sneak these vapes into school and use it. And the vaping, I don't have the numbers memorized, but you know, nicotine in cigarettes has X number of nicotine in it.

CHARITY MENELEE: Yes.

LIPPINCOTT: But these vape instruments can be wildly more than what cigarettes have, which makes them much more addictive. And these kids are sneaking these things into school. And I don't know if there's a standardization federally or if it's state to state, but I would be very interested to hear about that because that is very addictive. And, and the superintendent told me, he says it directly impacts the performance of students, obviously.

CHARITY MENELEE: Yes, sir. Yes. That's been a real concern that we've had as well. We've heard that. I have a child in school who's witnessed that himself and told me about that. And so I think that's one of the reasons we're so grateful for the additional funding that came with the Juul settlement dollars to be able to target youth prevention activities for that, because it is such a health risk for our youth and a concern for that. And we want to make sure that we're trying to get ahead of that. As far as standardization, we'll have to follow up with that for you. I know that that's been something that the government has been looking at, the federal government side. I think we're from my perspective, a little behind the eightball on that and wanting to continue to get more data and information. But absolutely with you on wanting to try to prevent that usage in schools.

CLEMENTS: On the Juul settlement, the tobacco settlement is in perpetuity. Do you know if the Juul, Juul settlement has a limitation of how many years?

CHARITY MENELEE: I would have to defer. We don't know the answer to that so we'll have to follow up with you, Senator.

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CLEMENTS: I'd be curious about that. Hopefully, it's a continuing allocation.

MIKAYLA FINDLAY: I do know that the Juul money is intermingled in the tobacco fund.

CHARITY MENEFE: I know that as well. I was about to say that. I just don't know how that works for the long-term piece.

CLEMENTS: All right. Very good. Well, thank you for your testimony.

CHARITY MENEFE: Thank you, Senator.

CLEMENTS: Next, we welcome University of Nebraska Medical Center. Welcome.

KEN BAYLES: Thank you. Good morning. This is my first time sitting in this chair, so I appreciate the opportunity to talk about something that I'm very passionate about. My name is Ken Bayles, K-e-n B-a-y-l-e-s. I'm the vice chancellor for research at the University of Nebraska Medical Center. Today, I appear on the behalf of the University of Nebraska Medical Center, Creighton University, Boys Town National Research Hospital, University of Nebraska-Kearney, University of Nebraska-Omaha, and of course, the University of Nebraska in Lincoln in support of the Nebraska Health Care Cash Fund. As I mentioned, we greatly appreciate this opportunity to appear before the committee and discuss economic as well as scientific impact of the Health Care Cash Fund. I wasn't around when this first was established, but I want to echo Senator Conrad's comments about how well I feel like this has been managed. I think this, as you'll hear me say, I think this has been such a great thing for research in Nebraska. And it makes us stand out amongst the crowd of, you know, 50 states so very much appreciate that. Since 2001, Nebraska Tobacco Settlement Funds have been directed through the Nebraska Health Care Cash Fund to, to the Nebraska Biomedical Research Development Fund. The intent behind these funds, as designated by the Legislature, is to provide state investment in research that would benefit the health of all Nebraskans, leverage new federal funding, enhance biomedical research capacity in the state, and stimulate economic development and employment opportunities. I can assure you these funds have done all that and more, proving to be a beneficial investment of state resources. I have provided for you an extended version of this testimony that highlights some additional data about the intent, uses, outcomes of this funding, but first thought it might be helpful to

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give you a specific example of how these funds stimulate research growth. When I was thinking about how to illustrate this, I realized that my own path to Nebraska provides a perfect example. I am not only the, the, the vice chancellor for research at UNMC, but I'm also an active researcher myself who was recruited to Nebraska using these funds 19 years ago. So back in 2005, I was perfectly happy at the University of Idaho, but UNMC came calling and enticed me to move to Nebraska with a nearly \$1 million startup package it's called. And that package is meant to replicate what I built in Idaho in my lab there. So I wouldn't want to move to a new place and have to rebuild. Oftentimes, the way researchers are recruited is to help them build what they already had, plus some. And that's what these tobacco settlement funds are used for. They're startup packages to help recruit. While I'm proud to say that after 19 years I'm on the verge of turning that \$1 million investment-- I get choked up talking about it-- into over \$100 million in grants and contracts from the NIH and DOD. In fact, I'm hoping to hear from NIH soon about the recent grant that I just submitted to put me over the top. So I'm very proud of that. It is important to note that there are multiple-- oh, thank you very much-- important to note that there are multiple other faculty who have similar stories, and we recruit all the time and they have similar journeys as I do. I might be a little bit of an outlier. The average is 16 to 1 ROI, which is still pretty darn good. But, you know, we recruit, you know, we try to recruit the top talent. And without these funds, just wouldn't be possible. So I think, you know, all these examples make it even more apparent just how important these funds have been to stimulate research and economic growth in Nebraska. You know, the \$100 million over the past 19 years goes to a lot of research supplies and equipment; but the bulk of it goes to personnel, right, to our researchers that actually conduct the research. So great economic stimulus. So, unfortunately, inflation, inflationary pressures have dramatically reduced the impact these funds will have on future research growth. Although the allocation for research was increased from \$10 million to \$14 million in 2004, it has remained at that level since then. And again, this is the only source of funding that we have to really recruit. It will be no surprise to you that \$14 million in 2004 does not have the same purchasing power today. Examples of this include the amazing technological advances that we see every day. It's incredible. Lots of really, really exciting advances in scientific technologies. These things are expensive and we have to invest in them in order to be competitive with our-- with our peer institutions across not only the Big Ten, but across the country. Other examples is the cost of recruiting talent to Nebraska. What was

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once a million dollar investment 19 years ago is probably more than double or triple that now. I share all this with you to highlight the growing need for this type of research funding, which has proven to provide outstanding investment in the economic growth and health of Nebraska in addition to providing important scientific achievements. These funds truly support a remarkable partnership between the state and our research institutions that is essential to the future economy of Nebraska. Thank you again for allowing me to testify on behalf of this fund. Happy to answer any questions.

CLEMENTS: Thank you. Are there questions from the committee? Senator Dorn.

DORN: You, you talk about-- you talked a little bit about when you came here, you were recruited and had somewhat of a package or something like that so-- but you talked about inflation and other things, that the funding just isn't, I call it, at the same level.

KEN BAYLES: Yeah.

DORN: How is recruiting going? Or I mean, are we still able to compete on a national level or what? Tell us a little story about that.

KEN BAYLES: Yeah, so we, we use those funds as best we can, but it has to be supplemented. And we supplement-- we have a very generous philanthropic community that helps bring in big name players. But, but it's still-- it's very hard to compete. Those dollars don't go as far as they used to. For the future, I worry about our ability to compete. We can't simply rely on our philanthropic community to, to make this happen.

DORN: Thank you.

CLEMENTS: Other questions? Senator Dover.

DOVER: I tag in on Senator Dorn's question. So when you-- you're talking about philanthropic, so between this assistance and philanthropic, what percentage would be the split between the two?

KEN BAYLES: I'd say right now the, the Tobacco Settlement Funds comprise 75 percent of our recruitment dollars that we have, yeah.

CLEMENTS: Very good. Thank you for your testimony.

KEN BAYLES: Thank you.

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CLEMENTS: Thank you for coming. That's all the testifiers we had. Senator Conrad, do you have a close?

CONRAD: Just very briefly. Thank you again, Chairman Clements, and thank you, members of the committee, for your kind attention and thoughtful questions in regard to this important interim study that we heard today. I want to thank fiscal analysts and representatives from the university for illuminating us with a little bit more about the dollars being spent and the impact of those dollars and cents. Just a couple quick points of clarification for the record. I do think that one thing that may have put some additional recent pressure on the fund was a recent one-time allocation of about \$15 million that our friend Senator Mark Kolterman helped to steward through in regards to bolstering pancreatic cancer research. So since that's a one-time versus an ongoing, that, that may kind of impact the overall projections. And it's been a while since I've had a chance to look at the details. But since AG settlement funds is an issue I'm always very interested in, I think the Juul settlement was a bit different than the tobacco settlement from years ago. I think it was, excuse me, more of a lump sum payment instead of an ongoing, but we can triple check on that to make sure that that part's right. Overall, thank you again for your time and attention. Thank you, Senator Clements, for hosting the hearing and putting in a competing interim study and happy to answer any questions.

CLEMENTS: Any questions?

CONRAD: Thank you so much.

CLEMENTS: Seeing none, thank you, Senator Conrad. That concludes the hearing for LR169 and LR182. Thank you for coming.