

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Appropriations Committee
February 27, 2015

[AGENCY 71]

DAVID BRACHT: Good afternoon, Chairman Mello and members of the Appropriations Committee. My name is David Bracht, and that's spelled D-a-v-i-d B-r-a-c-h-t, and I serve as the Director of the Nebraska Energy Office. I'm here before you this afternoon to support the Governor's recommendation and the committee's preliminary recommendation, to provide additional background or to answer questions you may have related to the Energy Office's proposed budget. I appreciate this opportunity to discuss the budget and I would be happy to answer any questions. [AGENCY 71]

SENATOR MELLO: Thank you for your testimony, Director Bracht. Are there any questions from the committee? Senator Haar. [AGENCY 71]

SENATOR HAAR: Yes. These are some questions that were brought to me. And if you don't immediately know the answer because you're new, we'll talk about this separately. But during the stimulus money that we got, there was some money for energy code enforcement. And apparently that money is not there anymore. Or what do you do in terms of energy code enforcement? [AGENCY 71]

DAVID BRACHT: I can't speak to the budget impact of that. I do know that the Energy Office, the Nebraska Energy Office has a statutory obligation to essentially enforce the energy code. And there's a process that either in those districts that have adopted them by those municipalities, for instance, that have adopted an energy code, they take care of the enforcement. Those parts of the state where that hasn't been done, Nebraska citizens have some rights. And in fact, I've been involved in one of those already. But I can't really speak much further than that nor give you very much. And I can go into more detail on that if you'd like. But otherwise, I can't really go a whole lot farther. [AGENCY 71]

SENATOR HAAR: We can meet on that and just talk about that. [AGENCY 71]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Appropriations Committee
February 27, 2015

SENATOR MELLO: Senator Stinner. [AGENCY 71]

SENATOR STINNER: Thank you, Senator Mello. Back in 2011-12 and 2012-13, we show other private sources as revenue of \$1.2 million and \$1.2 million. Do you have any clue what that was? [AGENCY 71]

DAVID BRACHT: I can't talk to the specifics of that, but I might just in general, at least a little bit...and again, I'm going to take the same excuse that your prior testifier did with his department. I'm not quite into two months, so this is fairly new for me. The Energy Office works primarily though administering different grant funds. And we administer a revolving loan fund, that actually those funds have been accrued for some programs back during the '80s, and then also grant funds that come from the Department of Energy. And I get a little bit lost. In fact, I've tried a few times. It hasn't quite sunk in yet how the accounting of all that relates, but that's where that comes from. Those are our sources of funds. [AGENCY 71]

SENATOR STINNER: Okay. And it again, built up cash to about \$2.8 million in 2013, the end. But I don't know what your cash reserve is. [AGENCY 71]

DAVID BRACHT: Sure. And to that point there, when funds come in, the state funds that actually come from state-appropriated funds I think exclusively or almost all come from the oil severance fund. The cash funds, that relates to how the funds are flowing through. For instance, we make a loan under our revolving loan fund. So while it's represented in the cash fund, it's still a restricted or an obligated fund that has to be and can only be dedicated to that use because of the terms of the program that it came in under. [AGENCY 71]

SENATOR STINNER: Okay. Thank you. [AGENCY 71]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Appropriations Committee
February 27, 2015

SENATOR MELLO: Any other questions from the committee? Senator Kintner.
[AGENCY 71]

SENATOR KINTNER: Thank you, Mr. Chairman. I wasn't even going to ask a question until Senator Haar asked a question. Now I've got a question based upon what he answered. What's an energy code and why would the state enforce it? [AGENCY 71]

DAVID BRACHT: So an energy code, you might be familiar that just in general, if you're going to build a house in...anywhere that there's a building code set up. And an energy code is the code that establishes, for instance, minimum insulation might be an example of that. I'm new enough that's about the extent of my ability to do that. So the essence of it is is that the state has adopted, the state of Nebraska, the Unicameral has adopted...the most recent adoption that we've done is the 2009 international energy--there's an acronym--energy code commission's recommendation. You see that in a lot of other areas. I'm a lawyer. I'm familiar with that in the law area where you'd have a common uniform commercial code: similar to that. So the state has adopted some basic energy standards. And that's an appropriate role for the state I would say because of the fact, someone builds a house, that house is going to be there for a long time. We don't want a substandard house built. Many homeowners aren't going to be in a position to know just exactly what should they be asking for. So the state has taking that, set a minimum standard. And say Omaha, I believe, they've adopted that energy code as part of their building code. They take care of enforcement. But we shouldn't allow a citizen that's outside of one of those areas to not have any protection. So if they feel they haven't been treated properly, they have the right to request that we review their building and see if in fact the contractor followed the code they were supposed to.
[AGENCY 71]

SENATOR KINTNER: Now I understand codes. You don't want a deck collapsing. You don't want a wall coming down, a chimney falling over, stairs collapsing. I totally understand that. That's what we should be doing. But why do we need to protect

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Appropriations Committee
February 27, 2015

someone from having four inches of insulation instead of six inches of insulation? Why would we want to protect someone because their house doesn't have enough insulation? [AGENCY 71]

DAVID BRACHT: Again being new, but I'll give you what, just to respond to the question, Senator, is I think the...think again or though, it isn't so much about protecting that individual, but rather that house is going to then be eventually probably sold and back into the marketplace. And that has an aggregate effect within actually the broader community when we look at just what homeowners can expect to be able to have when they have a house and setting a minimum standard. [AGENCY 71]

SENATOR KINTNER: Wow. Okay. I never knew we were protecting people from not enough insulation. It's... [AGENCY 71]

DAVID BRACHT: And again, I... [AGENCY 71]

SENATOR KINTNER: ...or something...or windows that leak or something. I don't know what we're protecting them from. I'm not sure what the health hazard is there. [AGENCY 71]

DAVID BRACHT: I'm not sure that I have a whole lot more I can add. But I'd be happy to spend more time and kind of talk through that with you some more. [AGENCY 71]

SENATOR KINTNER: Yeah. We'll look at it later. We don't need to talk about it now. Thank you very much for coming. Appreciate it. [AGENCY 71]

SENATOR MELLO: Any other questions from the committee? Senator Haar. [AGENCY 71]

SENATOR HAAR: I can debate with him a little later, but buildings and houses and so

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Appropriations Committee
February 27, 2015

on are intergenerational. And so there need to be standards, certainly. But I wanted to thank you very much because just as we talked about in the earlier session, you come from a successful law practice where you could obviously be making more than you are now. So you're here to do a public service. And I appreciate that very much. [AGENCY 71]

DAVID BRACHT: Thank you, Senator. [AGENCY 71]

SENATOR MELLO: Any other questions from the committee? Director, I guess I just have one question. It's a partial follow up to Senator Haar's, is when the Legislature passed in 2011 the updated International Energy, I believe it's called, Conservation Code which was part of the American Recovery and Reinvestment Act, part of our agreement with the state was that we were going to be able to meet a certain threshold of compliance. I know the department has been working very diligently to meet that compliance. And the question I guess just as partial follow up to Senator Haar is, you can get back to the committee, I'm not expecting an answer today but, what...I guess the question I need to know is, is the agency running into any difficulty meeting that compliance because if they are, my general understanding of the issue was that we may be put in a position to have to repay federal funds that we took in respects to being in compliance with the stimulus bill. I know that was, give or take, years, four years ago. I just want to make sure that...I know the department is working diligently to do this. They've been...I've been on the codes collaborative e-mail for the last couple years. You do great work. It's just a matter of if we don't meet that threshold, what happens then to the state? What liability does the state pick up and/or does the department need any additional support or resources from the Legislature to help us meet that code compliance threshold? [AGENCY 71]

DAVID BRACHT: And again I'm...thank you for the question, Chairman Mello, but I don't have a specific answer for you other than to say I know that the short tenure makes me less able to really elicit it, but we've...or to be very detailed. But I know that we've talked

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Appropriations Committee
February 27, 2015

about it. We are making progress. We haven't met that threshold. I can't answer you today, but I appreciate and we will...you know, what I view is exactly what you're saying, is making sure that our...that the agency I'm privileged to work with is conscience of the obligations that we have and we are representing the state for and that we'll take the actions to make sure we don't have anything negative. It is also my impression that it isn't very clear exactly how that will work out. So I don't know that there's a definitive answer of, you know, if you don't meet that 100 percent, and there's a minimum threshold. I think it's we had to show some increase of percentage, which again, we're not there yet but we've been making progress as a state. And that's done on surveys. But I will...we are conscience of that and working on that. [AGENCY 71]

SENATOR MELLO: Okay. Thank you, Director. Any other questions from the committee? Seeing none, thank you. [AGENCY 71]

DAVID BRACHT: Thank you. [AGENCY 71]

SENATOR MELLO: Are there any other testifiers today on behalf of Agency 71, the Nebraska Energy Office? Seeing none, that will close today's public hearing on Agency 71, the Nebraska Energy Office, and take us to our last agency hearing today, Agency 16, the Nebraska Department of Revenue. [AGENCY 71]