

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 9, 2021

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

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

ERDMAN: Thank you, Senator Stinner. Steve Erdman, District 47, 10 counties in the Panhandle.

CLEMENTS: Rob Clements, District 2: Cass County and parts of Sarpy and Otoe.

McDONNELL: Mike McDonnell, LD5, south Omaha.

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

KOLTERMAN: Mark Kolterman, District 24: Seward, York, and Polk Counties.

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

DORN: Myron Dorn, District 30: Gage County and southeastern Lancaster.

STINNER: Assisting the committee today is Brittany Sturek. At each entrance you'll find green testifier sheets. If you are planning to testify today, please fill out a sign-in sheet and hand it to the committee clerk when you come up to testify. If you will not be testifying at the microphone, but want to go on record as having a position on a bill being heard today, there is a white sign-in sheet at each entrance where you may leave your name and other pertinent information. These sign-in sheets will become exhibits in the permanent record at the end of today's hearing. To better facilitate today's proceedings, I ask that you abide by the following procedures. Please silence or turn off your cell phone. Move to the reserved chairs when you're ready to testify. Order of testimony is introducer, proponent, opponent, neutral, and closing. When we hear testimony regarding agencies, we will first hear from the representative of the agency and we will then hear testimony from anyone who wishes to speak on the agency's budget request. We ask that you spell your first and last name for the record before you testify. Be concise. It's my request that you limit your testimony to five minutes. Written materials may be distributed to the committee members as exhibits only while testimony is being offered. Hand them to the page for

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

distribution to the committee and staff when you come up to testify. We need 12 copies. If you have written testimony but do not have 12 copies, please raise your hand now so the page can make copies for you. With that, we will begin today's hearings with LB438, Senator Hansen.

M. HANSEN: Good morning.

STINNER: Good morning.

M. HANSEN: Thank you. Good morning, Chairman Stinner and members of the Appropriations Committee. For the record, my name is Matt Hansen, M-a-t-t H-a-n-s-e-n and I represent District 26 in northeast Lincoln. I'm here today to introduce LB438, which would appropriate funding to the Department of Labor to facilitate hiring additional employees for unemployment staffing services. Specifically, LB438 would appropriate funds for the Department of Labor for Program 31, Division of Employment. This bill would appropriate \$22,238,096 from the General Fund in fiscal year '21-22 and \$22,147,593 from the General Fund for fiscal year '22-23. The goal of this amount is to eliminate the need for contract employees, bringing all Department of Labor unemployment services in-house without the need for contract employees and repeated mandatory overtime. And this was the number the department provided us to do just that. During the COVID-19 pandemic, record numbers of individuals lost their jobs through no fault of their own and filed for unemployment benefits, many for the first time. This increase in filers created an unprecedented amount of new claims for the Department of Labor to process. Very early on, we saw payments delayed and claimants not able to file correctly or reach the department for assistance. I know my office is still getting those requests close to a year into the pandemic. So this is proving to be more than a momentary spike that we need to just keep your head down and power through and quickly becoming some sort of a new normal. In my mind, this is unsustainable and must be addressed. We know from reports from the Ombudsman's office and the State Auditor's office, the department has implemented a series of measures, including mandatory overtime, in order to process claims. As a result, employees are struggling with turnover and low morale, which compounds these issues. Providing more funds for the department to hire additional employees would ease this burden, reduce turnover, increase morale and most importantly, allow for vital unemployment benefits to reach those who need them. This bill is intended to improve outcomes in our unemployment insurance

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

system by ensuring the Department of Labor has an adequate amount of permanent FTEs to handle claim loads. With that, be happy to-- will close and be happy to take any questions.

STINNER: Questions? Senator Clements.

CLEMENTS: Thank you, Mr. Chairman. Thank you, Senator Hansen. I see that this is proposed to come out of General Funds. Wouldn't there be COVID funds that could cover some of this?

M. HANSEN: Sure, I suppose there is. In my mind, I'm not an expert in the various cash funds of the state, so this is the amount it's going to cost. And if there's a better source for it, I'm happy to work with the committee.

CLEMENTS: All right. I was just wondering if you had looked into that. Evidently not. But it could be that they're already allocated. That was my first question about that. Then the number of employees, quite a few employees. Have we had-- have we been contracting for that many people?

M. HANSEN: Yeah, it's the numbers I have is at least 300. Let's see, I see Nelnet, the numbers I have, Nelnet, we've contracted about 200 adjudicators; North End Teleservices, about 60 claims specialists and a handful of other, 6 different other support personnel. And then a company called Robert Half, another 50 adjudicators, another 20 hearing officers. So as I understand it, recently we've contracted so well over 300 contract employees for the department.

CLEMENTS: And do you think those have been full time?

M. HANSEN: Yeah. It's my understanding that this fiscal note is the cost of shifting all of these employees full time. There's a little bit of an extra cost in the sense that there's not physically the space in the Department of Labor. So they wanted to hire a few more management staff to facilitate overseeing remote workers and people working from home. But my intent to basically make this pool of contract employees kind of permanent employees, such that you're not routinely having to train and on-board new contract employees from different agencies and different firms. You would just have permanent staff at the department.

CLEMENTS: All right. Thank you.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

M. HANSEN: Um-hum.

STINNER: Senator Erdman.

ERDMAN: Thank you, Senator Stinner. Thank you, Senator Hansen, for
coming. How many FTEs does the department have now?

M. HANSEN: I'm not sure.

ERDMAN: Did you say I'm not sure?

M. HANSEN: Yeah, I'm not sure. I'm sorry.

ERDMAN: Can you find out?

M. HANSEN: I'd be happy to.

ERDMAN: OK. Thank you.

STINNER: I actually have that number. It looks like on the
appropriation of '20-21, 326 employees is what is listed in this book
for '20-21. And that's an appropriated number. So they've averaged
anywhere from 317 to 330. Any additional questions? Senator Dorn.

DORN: Thank you, Chairman Stinner. Thank you, Matt, for bringing
this--

M. HANSEN: Um-hum.

DORN: --or whatever. I guess this expenditure you said this would
replace contract labor.

M. HANSEN: Um-hum.

DORN: How is that accounted for in the budget? Or maybe he'll answer
it later here. How is that part accounted for in the budget already?
Is this just replacing? If we're replacing workers, we're also
replacing the funds from that, I call it that cost of that or what is
going to happen to that amount of money then that we're not paying to
the contract?

M. HANSEN: So as I understand it, it's not a one-for-one trade in the
sense that with the contract employees, the Department of Labor would
actually want to on-board more people than the contract employees in

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

the sense that they want to have more supervisors on staff to manage the employees if they were in-house. So I do believe at a minimum it would be an increase above the contract employee staff. In my mind, there'd be some cost savings or ultimate efficiencies at a minimum, because I think one of the things with the Ombudsman's report indicated that they were having to, you know, when you hire contract employees, you-- that pool changes and a lot more transitional. You have to keep doing on-boarding and training for them, which is the intent of what I'm trying to eliminate is kind of the perpetual training and on-boarding of contract employees. I think that's where some of the turnover and some of the delays in claims come from.

STINNER: Additional questions? Seeing none--

M. HANSEN: Thank you.

STINNER: --thank you. Any proponents? Seeing none, any opponents? Just a second, Director, please. Got to clean the spot.

JOHN ALBIN: Good morning.

STINNER: Good morning.

JOHN ALBIN: Chairman Stinner, members of the Appropriations Committee, for the record, my name is John Albin, J-o-h-n A-l-b-i-n, and I am the Commissioner of Labor. I appreciate Senator Hansen's efforts to provide more funds to the Nebraska Department of Labor, but I oppose the increase in funds. The department supports the Governor's budget recommendations for FY '21-22 and '22-23. Additional General Funds are unnecessary at this time. The number of department employees compared to contracted employees is not a funding issue, but a personnel and resource need. 2020 saw the highest number of unemployment insurance claims on record in Nebraska. In a typical recession, the increase in unemployment is gradual. The impact from the COVID-19 pandemic to the unemployment system was overnight. For the week ending March 14, 2020, the department received 796 initial claims for unemployment. The next week we received 15,666, followed by 24,533 the next week. The sudden onslaught meant that swift action was necessary. At the same time the workload dramatically increased, the department was trying to give employees the ability to work from home and socially distance in the workplace. Going into the pandemic, NDOL did not have laptops or cell phones for the majority of its employees. NDOL also needed a

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

remote-based call center. The department worked with OCIO to enable this, but we needed an overnight solution. After attempting the in-house approach, the department contracted with North End Teleservices. NDOL also contracted with Nelnet. Due to the pandemic, Nelnet's work model changed and the company had skilled employees with existing capability to work remotely available. This filled an immediate need for the department. With the current funding model, the department is adequately staffed to ensure the timely payment of benefits. For the month of January, the department exceeded federal adjudication timeliness standards, with 91.4 percent of claims adjudicated within the first 21 days of filing. The department also paid 94.13 percent of all new claims within 28 days. The department also met the federal benefit timeliness quality standards for the third quarter of 2020. The fourth quarter review is not complete at this time. Since March 2020, the department is actively hiring new employees, but hiring takes time. The department simply did not have time on its side in 2020. That concludes my testimony and I'd be happy to answer any questions you might have.

STINNER: Thank you, Director. Questions? I have one question. I think at the outset of this big spike in unemployment there was concern that our computer capabilities were not, not up to speed to accommodate all of this. Have we expanded our capabilities from a technology standpoint or where are we at with?

JOHN ALBIN: Actually, Senator, our computers system has been kind of our point of strength in this whole process. By virtue of our contract, we implemented four or three new programs back in March of 2020 without a single dollar of additional cost because of the way our contract was scheduled. We've been taking over 97 percent of those claims through the software system that we have in place. Our issue has been just that-- it was like pouring a lot of water through a funnel and the funnel just wasn't big enough because we didn't have the staff at the time to handle that. And it took a while. I mean, if you look at our standard model before the pandemic, we were usually not taking a adjudicator and getting them up and running on their own until about six months into their tenure with the department. Obviously, six months from March would have put us into October, so we would have been in an awful mess. So the contracting with Nelnet was a lifesaver, that and North End with the teleservice. So our computer system held up. A lot of states did not. And I think that's a common discussion point as the states they talk about their antiquated

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

computer systems or their systems are antiquated because they sat on their hands and tried to make due with an antiquated system. And we went out proactively and launched a new system last Oct-- or October of 2019.

STINNER: Thank you. What is the-- what now is the weekly claims? I tried to follow that for a period of time. I know you issue a report.

JOHN ALBIN: I think it's running right around 2,600 to 2,800 per week. It spikes a little bit with the new-- four new federal programs. And I would like to comment on that just a minute. I know Senator Hansen mentioned that you're starting to receive calls again. Well, Congress being what Congress is, when they extended the CARES Act programs, they really didn't extend them. They wrote in a whole new set of requirements that basically created four new programs. And if you look at the timing of it, I believe that Congress passed the bill on December 21 and the programs, all the CARES Act programs expired December 26. The President sat on his decision or the latest decision, I guess a better way to put it, until December 27. So we'd already coded all of the shutdown of the CARES Act programs because they went into effect on December 27. That afternoon, the President signs it so suddenly we have four new programs that were effective at 12:01 midnight the same day. So we have been in the process of building those four new programs. We are now paying out benefits on all the-- all the new programs, the new PUA or PUA 2.0, however you want to talk about-- PUC 2.0, FPUC 2.0. Those are all paying. The only one that is not up is the MEUC, which will take a while longer because that was a midnight, literally, I think a midnight addition to the bill that no one saw until the bill was introduced on the floor of the Congress.

STINNER: OK. Any questions? Senator Clements.

CLEMENTS: Thank you, Mr. Chairman. Thank you, Director. I want to start off with a comment that, yes, through the summer, my office had numerous people who said they hadn't had any benefits for two months or so. And when we contacted your department, usually within a week they were paid. And I had a lot of compliments from constituents who were pleased that we were able to help them. And thank you for identifying ability for senators to be able to get expedited treatment and just want to thank you for that.

JOHN ALBIN: You're welcome.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

CLEMENTS: And the only thing was that how is the budget of the department? Have you been able to have enough financing to do what you need to do?

JOHN ALBIN: Well, with the Department of Labor, you almost have to be a person of faith because of the way the feds set up the funding. I mean, under the wonderful federal funding formulas, they technically are reducing our base grant for next year, even though we've just been through this COVID-19 explosion. But saving grace in the system is they then add in what they call above base funding. And so our above base funding last year was actually more than our base grant, I think, by the time you added it all up. So we've done the projections. It looks like the federal funds that we have are sufficient to handle our current workload through the end of the fiscal year. And then, of course, Congress randomly shoots down some extra money every once in a while because of the caseload. And we've got some extra money sitting in the trust fund now that we can pull out for administration in the event of emergency if we underestimated our expenditures. So we're in good shape financially.

CLEMENTS: Yeah, the trust fund is one thing I wanted to mention. It was commented when this first hit that Nebraska was in a stronger position because of our trust fund strength. And how has that continued?

JOHN ALBIN: The trust fund has held up very well. I mean, obviously, in the early days if you were taking 27,000 claims a week, there wasn't any trust fund that wasn't going to go broke. Fortunately, that level did not happen. One of the big saving graces in the process was the Governor exercised his discretion under the CARES Act funds to use CARES Act funds to pay for the difference between what we would have normally paid and what we ended up paying. So there was, I believe, 250, \$258 million in CARES Act funds that were put in there. So as of yesterday morning, we still had \$400 million in our state trust fund and the total benefits paid for everything in fiscal year 2020 that ended on September 30 for our purposes was \$358 million. So I think we're in really good shape all things considered--

CLEMENTS: Thank you.

JOHN ALBIN: --at this point.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

STINNER: I will note that the Department of Labor is up next. So this is just a hearing on the bills. So anyhow, direct questions on the bill, please. Senator Vargas.

VARGAS: Thank you very much for being here, Commissioner. One other thing that you referenced in your testimony is regarding Nelnet, North End Teleservices and the sort of contracting we did as a reactive measure. You might have said this already, but what is the total amount of the contracted services that we did with Nelnet or with North End Teleservices, sorry, and with Nelnet, actually?

JOHN ALBIN: I apologize, Senator. I do not have that number in front of me at the moment.

VARGAS: Do you have like a ballpark figure, talking about hundreds of thousands?

JOHN ALBIN: Oh, no, I would-- if I had to hazard a guess, and I don't want to be held to this, but I think it was around \$3 million.

VARGAS: OK.

STINNER: Any additional questions on the bill, pertains to the bill? Senator Dorn.

DORN: Thank you, Chairman Stinner. Thank you for being here, Commissioner. I'll ask the same question again I asked Matt. The contract labor and stuff that was above and beyond like your budget from a year ago or two years ago, so was CARES funding able to cover a lot of that or how did you, I call it handle that situation?

JOHN ALBIN: We used it with almost exclusively from existing mainline grants, administration grants from U.S. DOL. There's a little bit of a special grant that was given to us as a part of the CARES Act. We used some of that, but we've held most of that in reserve for an emergency.

STINNER: Very good. Additional questions? Seeing none, thank you.

JOHN ALBIN: Thank you.

STINNER: Any additional opponents? Seeing none, is there anyone in the neutral capacity? Seeing none, would you like to close, Senator?

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

M. HANSEN: Yes, briefly. Thank you, Chairman Stinner, and thank you, members of the committee. And first, let me thank, make sure I thank Commissioner Albin and his staff, including Katie Thurber. Working with them over the past year, I do believe that they've responded well and they took basically a unprecedented, "unsentimentable," you know, unfathomable challenge and handled it very well. So none of this is designed to be necessarily critique or poke in the eye or criticism of the department. I do want to flag, for example, in the fiscal note of LB438, it's-- it's not the number. But it says, you know, they view this as temporary and there's a big if. It says if the vaccines are successful and if the economy continues to rebuild, this will be temporary. What we're seeing right now is, and Commissioner Albin mentioned it, you know, we're certainly below our peak 2020 numbers in terms of claims. But we're still two to three times our 2019 numbers. So we've-- we've gone back down a little bit, but we're not back to the kind of the before times. We're not back to our 2019 numbers. And so the question is, how long is that going to persist and how long is that going to be the case? This is kind of blending a lot of information from a lot of different sources. But you know, for example, with the vaccine rollout in Nebraska, I mean, I think we're-- I think I saw a headline that we're well into the summer and fall before we even just get out of the 65-plus age group. So we're looking at more than 2021 for the vaccine rollout, for example. So with that is all a broad way to say, you know, we can't just say this was a blip. We got through it. We got to the other side. I know my proposal of \$22 million is higher than is-- would be reasonable probably; but it's also kind of intended to show the scope and size of what it could be. You know, if there's some sort of backslide, if there's some sort of variant, if there's some sort of, you know, God forbid a, you know, a different economic recession, some sort of other, you know, bubble burst that I can't predict, you know, and we're back to back to this, we're going to be right back to the same problem. And we're going to have to be contracting out services and building and bundling all these different federal funds and temporary funds. And so, in my mind, it was appropriate to say we're going to be well above where we were at 2019. Is some of this going to be permanent? And if so, would it be appropriate to bring it within the Department of Labor to kind of get rid of that continual transition on-boarding training regimen? And with that, I'd be happy to close and take any questions.

STINNER: Questions? Seeing none, thank you.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

M. HANSEN: Thank you.

STINNER: I do not have any letters or anything to read in so that
concludes our hearing on LB530 or LB438, excuse me. We will now open
the hearing on Agency 23, Department of Labor.

JOHN ALBIN: Good morning again.

STINNER: Good morning.

JOHN ALBIN: Senator Stinner, members of the Appropriations Committee,
for the record, my name is John Albin, J-o-h-n A-l-b-i-n, and I'm the
Commissioner of Labor. Come here today in support of the Governor's
budget recommendation for the Department of Labor. 2020 saw the
highest number of unemployment insurance benefit claims on record in
Nebraska. In a typical recession, the increase in unemployment is
gradual. The impact from the COVID-19 pandemic to the unemployment
system was overnight. Nebraska was in the fortunate position of having
a solid trust fund and recently modernized UI system. Without the
modernized system, the department would not have been able to respond
as timely as they did. The committee's previous appropriation for the
upgraded system significantly benefited Nebraska during the pandemic.
To put the impact in perspective by numbers, as of January 23, 2021,
NDOL paid 152,688 individuals benefits for a total of \$1.2 billion.
Department has assisted 144,256 individuals at their job centers,
either virtually or in person. The department was one of the few
states that was able to keep job centers open throughout the entire
pandemic. To respond to the pandemic, the department has hired
approximately 425 employees, including contractors. Currently the
department is working to hire even more new employees. This concludes
my testimony. I'll be happy to answer any questions or at least try
and answer any questions that you might have.

STINNER: Thank you. Senator Hilkemann.

HILKEMANN: Yeah, Director, thank you for being here. And I-- and I
echo what Senator Clements said. I, I think the response that your
department gave was excellent. And thank you. And I appreciate the--

JOHN ALBIN: Thank you.

HILKEMANN: --fact that some issues when I was contacted, I had my
staffers work with your office and they were generally able to get

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

that resolved relatively quickly. And I know on several of those cases you personally got involved in it. And I thank you. And it was-- it was good to see that, that this department-- your department responded well to this crisis. It was one of the bright spots, I think, in this whole thing. So thank you very much for your good work and continue on with that.

JOHN ALBIN: All right. Thank you.

STINNER: Additional questions? What did the unemployment rate get to in the state of Nebraska? What was the high point?

JOHN ALBIN: I think the peak in April was 8.4 percent.

STINNER: What's it currently?

JOHN ALBIN: 3.0 percent.

STINNER: So we're almost back to where pre-COVID unemployment.

JOHN ALBIN: For all practical purposes, the unemployment rate is the same as it was pre-COVID.

STINNER: OK, and your claims are still relatively high, people are saying 2,600.

JOHN ALBIN: Yes, the number of claims continues to be high. I mean, one of the things that you have to factor into that is the PUA program did not exist prior to the pandemic. And so that whole class of claimants couldn't even have filed a claim back before the-- before the CARES Act was passed. So that's a large additional group. Another thing that has contributed to the number of claims is the PUC program, which was a federal extension of the state unemployment, PUA was for the people, the gig workers and the self-employed who were never in the system. The PUC was an extended benefit with the Continued Assistance Act. Now it's up to 24 weeks for individuals who were eligible for regular unemployment claims but had exhausted the regular unemployment amount. So that's contributed to the numbers. Also, the numbers are a little bit higher than or sound a little bit higher than they actually are just because Congress, I mean, I suppose they were doing it because they wanted to keep the cost of the federal programs down. But every time you come up on a quarter change, anybody who's on PUA has to reapply or PUC have to reapply for benefits. So they have

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

to file a new initial claim. And again, I assume Congress decided to do that to try and cut their costs. I understand that. But it makes a lot of extra workload when we run through it. We're about probably three or four iterations down on how we handle that. I think we've got it to the point, or at least we did before the Continued Assistance Act came in, the afternoon that it was effective where the system automatically rolls in. You know, if you come in and you file-- have to file a regular claim and it finds you monetarily ineligible, it just rolls you straight into the PUA or PUC now. So we've cut down on the work, but it's still in the federal counts shows up a little bit. So it's a little bit higher than it actually or shows a little higher than it actually is.

STINNER: Could you remind me the trust fund balance at the beginning of COVID and now where it's at?

JOHN ALBIN: I believe we were last October, we were-- or excuse me, October of '19, I think we were sitting around \$454 million, if I remember right.

STINNER: Where are we today?

JOHN ALBIN: As of yesterday, we were at \$404 million and so it's pretty close to that now because yesterday was not a, a large payroll day.

STINNER: Now, you say in your comments that you're-- that you have hired approximately 425. Is that additional employees over the 337 or is that the total number of employees you have?

JOHN ALBIN: It's a blend of that number, Senator, because there's approximately 200 contracted adjudicators through Nelnet. I think there's around I want to-- I think Senator Hansen's numbers were pretty close. There's around 50 through Robert Half. They're working overpayments and appeal hearings. And I believe by the time you count supervisors there's about 40 at North End Teleservices in Omaha that does our call center for us. And so those numbers would be included in there. We've been hiring actively within our own department to increase the number of employees that we have. We recognize, you know, two years from now, I don't expect to see these sorts of numbers, but it's not going away at least through September, I would guess, because the President's proposal, and I understand it may be part of the

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

Budget Reconciliation Act, will be to extend all the current programs through September. I hope this time they just extend them instead of create new programs like they did the last time. But Congress will do what Congress does.

STINNER: So I would classify Nelnet and Robert Half as contract labor, not full-time equivalents. What I'm trying to get to is what-- you're at 337 full-time equivalents prior. Where are we going? I mean, how many full-time equivalents are we going to have on permanent employees? Is that expanding or are you going to kind of keep [INAUDIBLE]

JOHN ALBIN: It's expanding. I mean, we're trying to hire up with base staff and lessen our reliance on contracts. I don't know exactly how far we can go with that. The contracts are different. I mean, the contract with Nelnet, we pay for the actual adjudicators. We don't pay for their supervisory staff or any of their computer equipment and all that. The contract with North End is a little different in the sense at North End we actually contract for the cost of the supervision in there. So it's not a one to one. But that explains a little bit why, hate to go back to LB438, but by LB438 we'd be adding supervisory staff because we're not directly contracting for supervisory staff with Nelnet. Those are included as part of the base rate for the hourly rate on the employees.

STINNER: OK, so the fed, the federal government funds most of that, if not all. You've got a little bit of cash funds being spent as well. Is that kind of the mix as opposed to General Fund?

JOHN ALBIN: We don't put any General Funds into the unemployment program.

STINNER: Right.

JOHN ALBIN: And I don't think we ever have, quite honestly.

STINNER: And you don't see any reason to do that at this point.

JOHN ALBIN: You know, assuming the above base comes in at what we anticipate above base is and our budget analyst has gotten pretty good at projecting that for us, he's pretty spot on through the last few quarters, we should have sufficient additional funds through the above

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

base funding to cover anything that we anticipate coming in up this
year.

STINNER: OK, thank you. Any additional questions? Oh, Senator Dorn,
sorry, I didn't mean to jump.

DORN: Thank you, Chairman Stinner. Thank you for being back again. In
the, I guess in the press or in the news lately, there's been now that
I call it the end of the year income tax paperwork, I don't know, it's
a 1096 or something that's come out, particularly in California,
that's where the main article is from, that there's been fraud or
whatever in there. Are you concerned with ours here at the state of
Nebraska or have you been hearing it much?

JOHN ALBIN: Well, we're always concerned with fraud. It's a part of
the system. You know, the federal guidelines for the funding that they
set up, they put a premium on speed of payment rather than accuracy.
Just for example, if you get 75 percent of your adjudications right,
they consider that a passing score so that-- and they do it because of
the speed. So there's a little built in error expected. I mean, I
think the improper payment rate that the feds put in as your
[INAUDIBLE] guideline is 10 percent. So there's-- there's some
assumptions for error. And I think this is the fourth recession I've
been through with the department. Every recession sees an increase in
fraud just because of the volume of claims that come through and the
fraudsters figure out if there's more people coming through the gate,
you're more likely to be able to slip that extra benefit in. So we've
been concerned with fraud. We've made several measures. With the PUA
claims in particular, we started doing-- requiring PUA claimants to
appear personally in the offices. They couldn't just go through
online. With the new Continued Assistance Act, we're actually going to
be able to do something we wanted for a long, long time. The auditor
thought we had it. We didn't. But-- and that is income verification so
we can pull in people. Because quite honestly, under the CARES Act, if
you're a guitar player on the street corner collecting money, you
could claim to be unemployed. And Department of Labor told us we had
no authority to verify whether you were really self-employed.
Fortunately, under the Continuing Assistance Act, we have authority
now to do that. So we're in the process of setting that up. We also
implemented before the Continued Assistance Act, now it's required
under the Continued Assistance Act, an identification process where
claimants have to, I mean, it runs it through an algorithm. I think if

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

you're in the unemployment business, you've got about 8 million emails from a group called GIACT, which is probably the best one out there right now that does identi-- online identifications for you. And then if it doesn't pass the test, we require uploads from the individuals. The 1099s are going to be an issue for everyone. They are in every state because there was an incredible amount of identity theft nationwide. The fraudsters have gotten really good at plucking people's identities. I was just working with one yesterday. They actually invaded this poor woman's claim and hacked her claim. And they-- I don't know where they got their information, but they even made through-- were able to figure out her challenge questions for resetting her password. So that claim is going to be a special case to deal with. But there has been-- there was a lot of fraud in the system. There was a lot of identity theft. I think every state anticipates that when they issue their 1099s there's a lot of people going to get a 1099 and they're going to go, but I didn't file a claim. And we have identified I think it's a few hundred right now, maybe several hundred, I can't remember the exact number of claims that we know of known identity thefts. And so we're working through those. In fact, my first meeting this morning was to go over our 1099 process and make sure reconciliation, because we're trying to minimize the number of 1099s that go out to people who were actually not the recipient of unemployment benefits, but rather got their information hijacked, I mean, my son got his-- I don't know where they got his Social Security number, but they-- somebody in Massachusetts filed a claim under my son's name. We've had executives of large companies that have called us, one who was the HR director and said, I really know that I didn't file an unemployment claim yesterday. So fraud has been a big issue. We've been battling it. The Continued Assistance Act has given us some new authority to try and go in and-- and battle it. But we do anticipate that when the 1099s are issued, there will be quite a few people who are going to see, get a 1099 and call us and say I didn't file. We've done some measures. I don't really want to put them on the record as to what we're doing now to-- you learn from the fraudsters and you try and go in and combat some of the tactics that they take. So we've done some things. We've add-- the auditor mentioned the prisoners. We've added back in a prisoner crossmatch through the NCJIS system. We were using the Social Security Administration's prisoner records to crossmatch. For some reason, they're not nearly as good as the NCJIS record. So we've added NCJIS with cooperation from the Crime Commission now. So we're using NCJIS

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

to crossmatch on the prisoners and it gives us a much more robust
file. So we're taking a lot of measures to try and combat fraud, but
it's a problem that every state faces right now.

STINNER: Very good. Senator Clements.

CLEMENTS: Thank you, Mr. Chairman. Thank you, Director Albin. I had
just wondered what the new-- the current enhanced unemployment benefit
weekly benefit is. It had been \$600 at one time. And what is the
current amount?

JOHN ALBIN: The current amount through March 13 is \$300. I think in
the President's proposal, he is wanting to increase that to \$400.
We're just hoping that whatever they decide, they decide soon so we
have a couple of weeks to program before the new system-- new numbers
go up. Because even-- it sounds pretty simple, but in the computer
world, it really isn't. When you got all this automation, it takes
about two weeks just to change that amount. So if you go from \$300 to
\$400, it's about a two-week lag to get that amount up. And I mean,
even just restarting the FPUC program took about three weeks to get
the programming done. It's all going now, but it took a while to
reprogram.

CLEMENTS: Thank you.

STINNER: Any additional questions? Seeing none, thank you and thank
you for all the work this last year. I know it's been a tough one.

JOHN ALBIN: It's been a year like no other.

STINNER: Thank you.

JOHN ALBIN: Thank you.

STINNER: Any additional proponents? Any opponents? Anyone in the
neutral capacity? Seeing none, that concludes our hearing on Agency
23, Department of Labor. We'll now open with hearing on Agency 37,
Workmen's Compensation Court.

JILL SCHROEDER: Good morning--

STINNER: Good morning.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

JILL SCHROEDER: --Senator Stinner and members of the Appropriations Committee. I'm Jill Schroeder, J-i-l-l S-c-h-r-o-e-d-e-r, and I'm the administrator of the Nebraska Workers' Compensation Court. I have to begin by letting you know that the appropriation this committee has proposed is in line with our budget. But we did want to take the opportunity this morning to tell you a few things that do make our funding unique. And we understand that these issues can change throughout the course of the legislative session as you search for money from different places. And as you go through that process, there are some things that we want to make sure you keep in mind. So I'm hoping today to first tell you some of the things that make us unique. Second, talk a bit about our sources of revenue, and then also give you a bit of a word about our expenditures. So to make sure that each of you is aware of who we are and what we do, we are a court of specialized jurisdiction, the Workers' Compensation Court. We resolve disputes as to injuries that are claimed to have arisen out of and in the course of employment. We have two separate divisions. We have an adjudication division that includes seven judges, the clerk of the court, and support staff. And then we have the administration division, and that is the part of the court that I lead. Within the administration division, there are several different functions that we perform, so we ensure that employers have proper coverage in place. If they don't, the Attorney General's office pursues compliance cases. We accept reports of workplace injuries. I would-- I'm going to come back to that part of our function a bit later because there are some unique things about that. But we accept reports of claimed injuries. We regulate self-insured employers. We provide information to the public. We monitor vocational rehabilitation plans to ensure that if someone has been injured at work to the point where they're unable to return to the labor market, there can be assistance provided to those individuals. We administer a federal grant program that includes maintaining statistics as to workplace injuries in Nebraska, as well as a separate statistical analysis of fatalities within Nebraska. And then we do have a legal staff that provides legal advice to the judges as well as the administrative side of the court. And then there are others like our business office, who support the court in other ways. You have information in the Legislators Guide about our functions. We do produce an annual report that is available on our website, wcc.ne.gov, and our annual report describes further what our activities have been during each fiscal year. And then, of course, I'm available at any time after the hearing to answer any questions you

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

may have. So let's turn to our funding for a minute. We are primarily funded through assessments on insurers and self-insured employers. That-- those assessments constitute 96 percent of our revenue comes from court funding. When you-- when you think about it, we are a court in which claims about whether people have been injured are being litigated. So we don't have filing fees. Many times the-- the individuals who are bringing claims aren't working. And so the system is set up to say, because these individuals may not be working, there will not be a system of filing fees, as you would see in other courts. The only time we have filing fees would be as to settlements. Last year, these settlement fees were approximately \$24,000. So as you can see, that is a small part of our budget and we'll talk about it a bit. That does cause some-- some practical issues. But turning back to the assessments for a minute, so those assessments are made against insurers, risk management pools, and self-insured employers. There is an accountability, so we have our Workers' Compensation Cash Fund. As to that fund, there is an accountability. So we receive the assessments, but then there is an abatement provision. And that abatement provision says that as of the last day of the fiscal year, we must look to make sure that our funding hasn't gone above three times the amount of expenditure we've had in the fiscal year then ending. And if our funding does go above that point, there is an abatement provision. I'm not an expert in your cash funds, but I did review the Cash and Revolving Fund publication; and I couldn't identify another fund where there was a provision like that. It does add a level of accountability toward our fund. And I think it does say that should the fund raise to a certain level the protection against it just getting bigger and bigger and bigger is that those who pay the assessments get to sit out. They get that abatement. It's happened twice. It happened in 1999 and it happened in 2009. We-- we respectfully assert that because of that abatement provision, when you go looking to money during the legislative session, please don't turn to our cash fund because it already has a mechanism. I would also want to make sure that you understand that it was in 1996 that we most recently requested General Fund money and that was at approximately the same time as the cash fund was becoming established. So our Workers' Compensation Cash Fund we believe operates differently than the other cash funds that you are looking at. Talked about the fact that we don't have filing fees. We do regulate self-insured employers in Nebraska. The number varies slightly from year to year. In fiscal year 2020, I believe there were 37 self-insurers we regulated. The

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

application fees from those totaled \$74,000. So that was one source of our revenue. The-- the self-insurance fund is important because of the assessments we receive from self-insured employers, part of that is directed to the General Fund already. So for fisc-- for the most recent assessment that we made, which is a calendar year assessment, we've got to watch that, that we have already-- those assessments have already contributed approximately \$2.3 million to the General Fund. So please be aware that those assessments do get routed. A certain percentage of them gets routed to the General Fund. And in 2020, the amount that those assessments, it was \$2,379,756. So again, we just want to remind you, as you go looking for money, please don't look to our General Fund. In terms of revenue, the one other thing I would point out is that we have-- we split. For the federal grants that we monitor, we share the funding for those with the federal government. So it's a 50/50 split between the cash fund and federal funds. In terms of expenditures, the area of expenditures where I am most proud to come and talk to you is with respect to our IT plan. We have virtualized our servers and we have migrated to cloud-based services. When we look at fiscal year 2017 when we really took serious steps to begin to position for that and then worked our way toward the end of fiscal year 2020, we have experienced net annualized savings of \$187,000. So we have really taken some steps. Part of that will be absorbed by some things that we'll need to do to make sure that we are as capable as we can be to conduct video hearings. So there will be-- we're in the midst of a program to make sure all of our conference rooms and all of our courtrooms are equipped for video hearings. Our pandemic transition just by itself from an IT perspective, we were able to transition all employees to have the ability to work from home if needed for \$17,000. We have our project that I started to mention with making sure that our conference rooms are equipped, that our courtrooms are equipped to conduct video trials. And over the course of doing that, there will be four courtrooms and approximately the same number of conference rooms that will, at the end of the day, probably cost us approximately \$39,000. We do continue to try to identify ways. We are serious when we hire people, we look to see whether we need to fill positions. We certainly are in transition with respect to our IT technologies. So when we hire, we instead of hiring people who have physically entered data, we're hiring people who can help us manage that data electronically. We try to enter into contracts when contracts make sense to do so, and we try to do things in-house when that makes sense. We were very fortunate to have shifted

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

our system for receiving electronic reports of injury to a, a contractor who can perform many of those functions. It frankly ensured that when we had to shift to remote work in March of 2020, we were able to do so quite promptly because we had that contract in place. Services were already continuing. We didn't have to have manual functions that we would have had prior to fiscal year. It would have occurred in 2019. It saved us in 2020. So that is the Workers' Compensation Court in summary. Certainly I would like to thank our staff for their pandemic response. I would take any opportunity to talk about the fact that courts do need to remain open even when a pandemic threatens their operations, both on the adjudication side of the court and on the administrative side of the court. People made that tradition-- that transition very seamlessly. Trials continued. Many of them were held by video. They could be held by telephone when needed. But the litigation in our court continued. Do you have any questions?

STINNER: Questions? Senator Clements.

CLEMENTS: Thank you, Mr. Chairman. Thank you for being here. I was wondering, I see that there's a lot of federal involvement in this. Do the benefits come from what the federal mandate is or does the state get to set their own level of benefits?

JILL SCHROEDER: In terms of-- so the only federal involvement we have is a federal grant that keeps statistics. In terms of the benefits that are paid to injured workers, is that what you're thinking about?

CLEMENTS: Yes.

JILL SCHROEDER: The benefits paid to injured workers would all be a matter of state law. And so that would vary. Each state has its own system. And while there are common themes, the way that they would be administered would be solely based upon the state. I may have made reference to the system of reporting and we do follow a standardized system for receiving reports of injury that would be a system that is nationalized so that the data is in a-- in a consistent format. And it is interesting, I think, that that system for reporting was revised in April of 2020 to specifically have a way to track claims that were claimed to have been because of COVID. So we have been tracking claims that are asserted to be due to COVID related.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

CLEMENTS: All right. Yeah, that's what I thought. I did hear you mention federal and I was wanting to clarify that. Let's see. I had one other thing Senator Dorn had mentioned with the Department of Labor looking for fraud. In unemployment times, I've heard that workers' comp claims, fraudulent claims come up. What do you see about that? Have you had a problem with that area?

JILL SCHROEDER: So the places where we would have a direct involvement in fraud, in fraudulent, potentially fraudulent claims, if we receive a telephone call over our information line and somebody asserts that their neighbor has been out water skiing and they should be able to work, something like that, we may report it to the Department of Insurance Fraud Division because workers' compensation insurance is regulated by the Department of Insurance. And so direct concerns about fraudulent claims would go to the Department of Insurance or, frankly, be litigated in our court. Or there could be allegations of fraud with respect to whether an employer has insurance in place. And that is the place where if we had information that an employer didn't have proper insurance in place, they had employees that they were characterizing as independent contractors, for example, then we would investigate those and refer them to the Attorney General who might conduct further investigation.

CLEMENTS: Thank you.

JILL SCHROEDER: And we do work with the Department of Labor on some of those matters as well, coordinate with them.

CLEMENTS: OK.

STINNER: Thank you. Additional questions? Thank you for that thorough presentation and thanks for the help when we had that revenue shortfall. I promise I won't take any more money out of your fund.

JILL SCHROEDER: Well, I guarantee if you do--

STINNER: I'll hear from you.

JILL SCHROEDER: --I'll come find you. [LAUGHTER] Only to meet with you-- only to meet with you..

STINNER: Thank you for that.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

JILL SCHROEDER: Thank you.

STINNER: Any additional proponents? Any opponents? Seeing none, anyone in the neutral capacity? Seeing none, there are no letters to be read into the-- of support or against to be read into the record. So that concludes our hearing on Agency 37, Workmen's Compensation Court. We'll now open for Agency 75, Nebraska Investment Council. I did not receive a letter from the Investment Council, but I do not see anyone here to testify. Would the page go out and make sure that there's--

_____ : [INAUDIBLE]

STINNER: OK. I don't want to miss anybody. OK, we will conclude the hearing on Agency 75, Nebraska Investment Council. We did receive letters from Agency 77, Commission on Industrial Relations, and Agency 85, Public Employees Retirement System. They have letter-- they sent letters of support for the budget and our actions on the budget. So that concludes our hearings for this morning. We'll conclude again at 1:30 or we'll get together at 1:30. And I would expect everybody to be on time.

[BREAK]

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

CLEMENTS: I'm Rob Clements. I serve District 2, which is Cass County and parts of Sarpy and Otoe.

McDONNELL: Mike McDonnell, LD5, south Omaha.

HILKEMANN: Robert Hilkemann, District 4, west Omaha.

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

KOLTERMAN: Mark Kolterman, District 24. Seward, York, and Polk Counties.

DORN: Myron Dorn, District 30, Gage County and southeastern Lancaster.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

STINNER: Assisting the committee today is Brittany Sturek, our committee clerk. For the safety of our committee members, staff, pages, and public, we ask that those attending our hearing to abide by the following. Due to social distancing requirements, seating in the hearing room is limited. We ask that you only enter the hearing room when it's necessary for you to attend the bill hearing in progress. The bills will be taken up in order posted outside the hearing room. The list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for public-- for the public to move in and out of the hearing room. We request that everybody utilizing-- utilize the identified entrance and exit doors in the hearing room. We request that you wear face coverings while you are in the hearing room. Testifiers may remove their face covering during testimony to assist committee members and transcribers to clearly hear and understand the testimony. Pages will sanitize the front table and chair between testifiers. Public hearings for which attendance reaches seating capacity or near capacity, entrance door will be monitored by the sergeant at arms who will allow people to enter the hearing room based upon seating availability. Persons waiting to enter a hearing room are asked to observe social distancing and wear face covering while waiting in the hallway or outside the building. At each entrance you will find green testifier sheets. If you're a-- if you are planning to testify today, please fill out a-- a sign-in sheet and hand it to the committee clerk when you come up to testify. To better facilitate today's proceedings, I ask that you abide by the following procedures. Please silence or turn off cell phones. Move to the reserved seats when you are ready to testify. Order of testimony is introducer, proponents, opponents, neutral. When we hear testimony regarding agencies, we'll first hear from the representative of the agency. We will then hear testimony from anybody, anyone who wishes to speak on the agency's budget request. We request that you spell your first and last name for the record before you testify. Be concise. It is my request that you limit your testimony to five minutes. Written materials may be distributed to committee members as exhibits only while testimony is being offered. Hand them to the page for distribution to the committee and staff when you come up to testify. We need 12 copies. If you have written testimony but do not have 12 copies, please raise your hand now so the page can make copies for you. With that, we will begin today's hearings with Agency 75, actually sent a letter of-- supporting the recommendations by the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 9, 2021

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

committee. That agency is Nebraska Investment Council. I would like to enter that letter as a-- for the record for Agency 75. So we will begin the hearing with Agency 21, State Fire Marshal.

CHRISTOPHER CANTRELL: I provided my documents to the committee clerk upon entering the room. Good afternoon, Chairperson Stinner and members of the Appropriations Committee. I am Christopher Cantrell. I'm the State Fire Marshal. That name is spelled C-h-r-i-s-t-o-p-h-e-r C-a-n-t-r-e-l-l. The State Fire Marshal agency is charged with helping to promote and ensure public safety through a variety of code enforcement responsibilities and with enforcing state statutes relating to fire investigations, burn permit activities, fire prevention, outreach and education, and fireworks violations. These enforcement efforts are spread throughout the state of Nebraska, encompass many State Fire Marshal agency divisions, and involve numerous State Fire Marshal deputy positions. I support the Governor's budget recommendations and the subsequent Appropriations Committee recommendations for the '21-23 biennium. However, in the Governor's recommendations, the agency's increased cost as a result of the SLEBC step issues that were addressed by providing \$61,956 in General Funds and \$13,300 in cash funds during the first year of the biennium and then by providing 120-- \$123,913 in General Funds and \$26,600 in cash funds during its second year. It is the committee's recommendation to fully fund the increased costs associate-- associated with the SLEBC step issue, using all cash funds from our primary operating budget program. While the program cash funds may be able to cover this expense during the coming FY '21-23 biennium, the agency would like to note that these funds would not be able to cover the expenses in the '23-25 budget and beyond, and would require shifting of cost back to the General Fund in future budget cycles. Thank you for your time and consideration. I'll be happy to try to answer any questions you may have.

STINNER: Any questions? Senator Dorn.

DORN: Thank you. Thank you, Chairman Stinner. Thank you for coming today. Explain that, I guess, a little bit more what you mean there by today, we can cover it in the cash funds. Are you not expecting I call it revenue to be sufficient or what? What-- what's the primary driver behind that?

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

CHRISTOPHER CANTRELL: Well, the primary driver is that we had recognized that our cash fund balance was-- was getting up there. So we had proposed in our budget and have worked with the Governor to provide a \$200,000 less in appropriations out of that cash fund over the next two biennium for the next two years in order to reduce the balance in that cash fund. And so then by compounding that issue with adding or subtracting the \$75,000 in the first year and \$156,000 in the second year, that takes that fund down to a balance that's for us, for me, dangerously low by the end of that biennium. So that's why we're in that-- we support the agency's recommendations. But we would like to shift those to those funds that were earmarked to cover that SLEBC step issue back to General Funds. We think it just positions us better for the future.

DORN: Thank you.

STINNER: Additional questions? What is the funding source for that cash fund?

CHRISTOPHER CANTRELL: We have--

STINNER: How much is that a year that comes in?

CHRISTOPHER CANTRELL: We have Health and Human Services reimbus-- reimbursements for life, safety inspections at medical facilities. Plans review fees, inspection fees due to hospital, nursing homes, day care, and liquor inspections, fire-- fireworks, miscellaneous fees, grain elevator inspections, and some interest income.

STINNER: How much does that generate in fee income per year?

CHRISTOPHER CANTRELL: \$473,000.

STINNER: And you have reduced your request for appropriations by \$200,000.

CHRISTOPHER CANTRELL: That's true.

STINNER: Underground storage tanks subprogram, you've reduced that to \$350,000 from \$550,000 in appropriations, so you will not be spending-- you'll be spending 350 instead of 550.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

CHRISTOPHER CANTRELL: That's correct. We're asking for less appropriations, but there again, as we-- as I-- as I mentioned earlier, you know, we-- we rely on that fund to pay salaries in the plans division. The plans division doesn't take in that same amount of money. In an attempt to keep cost neutral for our customers, we have set our fees at a rate where we can gradually draw down that cash fund rather than to have it all done at once. So.

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

CHRISTOPHER CANTRELL: Thank you for your time.

STINNER: Yes. Any proponents? Any opponents? Seeing none, any one in the neutral capacity? Seeing none, that concludes our hearing for Agency 21. I do not have any letters to read into the record. So then we will start or open with Agency 31, Military Department. Afternoon.

DARYL BOHAC: Afternoon, Senator.

STINNER: Go ahead.

DARYL BOHAC: Ready?

STINNER: Sure.

DARYL BOHAC: Thank you very much. Good afternoon, Senator Stinner and members of the Appropriations Committee. I am Major General Daryl Bohac, D-a-r-y-l B-o-h-a-c, the director of the Nebraska Military Department and the Nebraska Emergency Management Agency. I'll begin today's testimony with Programs 192 and 545 that fall under the Nebraska Emergency Management Agency. General Fund appropriations available to the agency in Program 545 support staffing and operational issues within NEMA. In addition, these dollars provide the matching funds for the Emergency Management Performance Grant, which is critical to the emergency management functions assigned to the agency. Program 545 also supports the operation of the single engine air tanker or SEAT. The Legislature adopted the Wildfire Act of 2013, which established the annual deployment of the SEAT. Subsequent legislation required the state of Nebraska to become a member of the Great Plains Interstate Forest Fire Compact. The compact facilitates exchange and deployment of firefighting resources on a regional level. SEAT operations continue to be a very effective way of mitigating the risk of smaller fires becoming so large they require significant

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

resources to defeat. We have retained sufficient funding in Program 545 to support the annual contract to retain the SEAT aircraft, but have shifted some of the episodic operational expenses to the Governor's emergency program, which is consistent with our approach to funding disaster emergency responses in the state. This strategy also enabled us to shift funds from Program 545 to Program 544, National and State Guard, the use of which I will address in a moment. I fully support the Governor's recommendation with the committee's adjustments for salary and health insurance increases for Program 545. Let me now turn to Program 192, the Governor's Emergency Program. Over the past several budget cycles, our experience shows that maintaining a minimum balance or base of approximately \$5 million is necessary to sustain sufficient resources for initial disaster response and subsequent recovery efforts. This strategy, which has been supported by this committee and the Legislature, has helped us avoid returning for deficit requests, spending requests and more importantly, kept us from suspending payments, which we will do when the available balance is at risk of falling below \$1 million. We do this to ensure that we have enough funding available to respond to those events that none of us can predict. I appreciate the committee's continuing recognition of the need for and the support to maintain the \$5 million base in the Governor's emergency fund. For Program 191, the Coronavirus Emergency Fund created by LB1198 and LB1008, I am appreciative of the committee's recommendation to reappropriate the unexpended cash fund balance. While many of us thought this would not be necessary, the reality is having access to those funds after July 1 will be important for the state's ongoing pandemic response. With respect to Program f544, National and State Guard, this program area provides state funding for our headquarters to include the Office of the Adjutant General, state support staff, as well as match funds for facilities, maintenance, and repair support agreements in the Army and the Air National Guard. I am in full support of the Governor's recommendation for 544, along with the committee's adjustments for salary and health insurance increases. We are also grateful for the Governor's and the committee's support of the General Fund increase to support the Air National Guard environmental position, as well as funding for an Army National Guard FTE in the second year of the biennium, which will be used at the new Bellvue Readiness Center. We plan to break ground this fall and help to take beneficial occupancy sometime in 2022 or early 2023. For Program 548, state tuition assistance, we support the Governor's budget request. I and the soldiers and the airmen of the

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

Nebraska National Guard remain grateful for this committee's and the full Legislature's steadfast support for this critical recruiting and retention tool that makes higher education more accessible to those who serve in uniform in the Nebraska National Guard. I turn next to our capital construction request. These requests will help address our building maintenance and repair backlog for the Army National Guard facilities. Without approval of these requests, we run the risk of closing additional facilities due to the lack of state match dollars. And that would put Nebraska at risk for losing Army National Guard structure and units to other states. I therefore request your support of the capital construction funds in the Governor's budget request for the Nebraska Military Department. Senator, that concludes my testimony. I would be happy to answer any questions you might have.

STINNER: Thank you very much. Questions?

CLEMENTS: Yes.

STINNER: Senator Clements.

CLEMENTS: Thank you, Chairman Stinner. Thank you, General, for coming. Camp Ashland is in my district.

DARYL BOHAC: Yes, sir.

CLEMENTS: And I did tour it after the flooding in 2019. And, you know, could you give me an update as to how the reconstruction is going there?

DARYL BOHAC: I'd be happy to, Senator. So, as you know, the-- all the damage there from the floods is being federally funded with support from our congressional delegation. So we're not having to use state funds because of the way that property is classified. All the demolition work has been completed and we're beginning to do the foundational work for the new buildings that will replace the structures that were damaged beyond repair. We're also in the middle of a contract and, I apologize, I don't remember the completion date, but to do further repairs to the levee along the Platte River so that we can avoid or mitigate the risk, I should say, of future flooding events there. And the levee breached right at the bend in the river. So where all the water was coming down, that's where all the pressure came from, overtopped the levee and scoured out from the back. We had

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

probably the state's largest volleyball court for-- from all the sand.
But I'm really pleased to say that the progress is going along quite
well.

CLEMENTS: And the federal funds are coming in as you need them.

DARYL BOHAC: Yes, sir, they are. I would give credit to Senator
Fischer on the Senate side and Congressmen Fortenberry and Bacon on
the House side to ensure those funds flowed appropriately.

CLEMENTS: And are you back in operation doing training there now?

DARYL BOHAC: We are. Now we're doing it virtually because of COVID-19,
but all the staff has returned to that location and is doing-- is
doing training. We are doing some local training there rather than
what we're not doing is bringing students in from out of state right
now. Typically 50 percent of the course load there is active-duty
soldiers that come through our institution. And so we provide that
service for the United States Army, but we are doing some local
training on that site now.

CLEMENTS: Thank you.

DARYL BOHAC: You're welcome. Thanks, Senator.

STINNER: Additional questions? Senator Wishart.

WISHART: Thank you so much for being here and for everything you're
doing for our state. So it's my understanding that the Space Force
dollars, that \$50 million would be transferred from-- to this
emergency fund. Is that correct?

DARYL BOHAC: Yeah, I don't know the answer. My understanding was the
Governor put in his budget request \$50 million to be used in the
event--

WISHART: OK.

DARYL BOHAC: --the Space National Guard or, excuse me, the Space Force
headquarters was located at Offutt Air Force Base.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

WISHART: OK. My understanding is it would go to the-- to the emergency fund and was just-- just was wondering if you had any thoughts on that or.

DARYL BOHAC: I don't, Senator.

WISHART: That's fine, OK.

STINNER: One of your concerns is to maintain that \$5 million in the emergency fund and we have reduced the appropriation by \$55,240,000, which is the amount we originally put in.

DARYL BOHAC: Yes, sir.

STINNER: And it demonstrates that we are leaving that \$5 million in place.

DARYL BOHAC: That's correct. And actually, the \$55 million remains as well. It's just we're not appropriating another 55 on top of the previous. That's the difference here. So that was the committee's, right?

STINNER: OK. Yes.

DARYL BOHAC: So because we're-- so with respect to the use of the funds to pay state costs share for all the damages associated with the 2019 flood, that is not moving as fast as we had hoped with FEMA, the Federal Emergency Management Agency. And part of the issue there is getting projects through, written, which have to be done by FEMA, through something called the CRC, which is an adjudicating center that reviews the projects and then obligates the federal dollars that which-- by which then the projects can continue. So we're-- we're-- we have about \$200 million in projects obligated at this point. But we think, based on original forecast, that we're going to be in-- in the range of 500 to \$550 million in total dollar cost, not just state cost, but total dollar cost for which the state may have an obligation-- will have-- will have a cost share. We-- local/state split 25, the Federal Emergency Management Agency provides 75 percent of the project cost. And so that's what that money will be for is state cost share.

STINNER: Very good. There was a point of clarification. I think the committee discussed these three new 100 percent federally funded

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

positions. One was in Camp Ashland, one was Silver Creek training site, and GreenLief. The clarification has to be are these civilian positions or are they actually military?

DARYL BOHAC: These will be what we call dual status technician positions, which requires membership in the Nebraska National Guard. So they are funded-- they're federally funded civil servant-- servant in all respects, but have to wear the uniform in order to qualify for the position.

STINNER: Very good. Any additional questions? Seeing none, thank you. Thank you for your service.

DARYL BOHAC: Thank you, Senator.

STINNER: Any additional proponents? Seeing none, are there any opponents? Seeing none, are there any one in the neutral capacity? Seeing none, that concludes our hearing on Agency 31, Military Department. We'll now open the hearing for Agency 35, Liquor Control. Good afternoon.

HOBERT RUPE: Good afternoon, Chairman Stinner, members of the Appropriations Committee. I feel somewhat underdressed after the previous two testifiers, but I'll try to make do. My name is Hobert Rupe, H-o-b-e-r-t R-u-p-e. I'm the executive director of the Nebraska Liquor Control Commission and I appear in front of you regarding our proposed budget as well as the elements that are contained at LB379 for the Governor's deficit appropriation. The easy one is our mainline budget. Thank you. We appreciate the committee's recommendation. And if that was the only reason here, you would have received a letter thanking you in that effect. But we're really here regarding what was originally part of our budget proposal to the Governor that moved to LB379, which is what we call the CAMP project, the Centralized Alcohol Management Project. Give you a little history. You guys are probably getting a little sick of hearing me say this. Our existing licensing software went online in 1987 and we're still utilizing it. It's a C-1 system. Over the years, we have added additional programs, additional methods to try to extend its life and utilize it. And quite frankly, much like a 1987 car, after you put so many parts and upgrades to it, it starts getting more and more expensive to upgrade it than to look at replacing it. The first warning we had really that our system was getting ready to age out actually came from an audit from the State

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

Auditors back in 2009 where they noticed that our system was antiquated and that there were-- and that we were doing a lot of processes which other agencies were doing electronically so manually. As part of that step about three years ago, because we all know that during the early, you know, the interim, there was some really lean budget times so we were not coming forward at that point in time. We looked at-- we had-- we engaged, first off a company called Stone Fin, which has now been bought by yet another computer company, the way they do it, to come in and do an analysis of the steps of issuing a liquor license, just the process of going through the licensing process. They identified licensing went through 69 steps and went through 7 different computer systems or touched on operating systems before the issuance, and they found that would be highly ineffective. What we've done recently, the commission engaged Gartner enterprises because although I might understand how to regulate alcohol, buying a big computer system, upgrading a computer system is outside of my skill set. So I can't thank them enough. They are approved vendor from the state to help, especially smaller agencies work about looking at procurement, identifying what they really need. And really what we need is a centralized alcohol management project, which is going to encompass not only the licensing but also the tax collection purview of the state. As you may-- as you're more than almost anyone else is aware, the commission is the second largest collector of taxes for the General Fund. Last year, just as is the size of what happened during the pandemic, net receipts of the commission are up just below 6 percent, which means that the off-sale-- the on-- the off-sale chain not only covered the losses that bars and restaurants were incurring, but also actually increased actual gallonage imported and produced in the state. So what we're looking at is as part of that we engage Gartner. We also first off engaged the OCIO's office and have them do an analysis. Because once again, they're the people who would understand what we would need. And I'm giving a couple of quotes from them which I thought was very illustrative. [INAUDIBLE] for the needs analysis as follows: The Office of the Chief Information Officer, OCIO, has reviewed all the information regarding their current processes, workflows, applications, and data. We are amazed what the LCC has done over the past 30-plus years to keep up with the changing statute and regulations and a steadily increasing volume. LCC has hit their peak and they're starting on the downhill slide. The paper processes multiple systems and a 30-year-old computer system will no longer support the needs of the agency and their customers. The more

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

realistic path for the LCC is to review and purchase one of the existing COTS systems available, that'd be commercially off the-- off-the-shelf systems for licensing and tax collection. So working with Gartner, we also reached out to both our state and industry partners who deal and would touch with our computer system. People don't realize that we interface quite frequently with the State Fire Marshals who investigate locations, the Department Ag for food, for Health Department, as well as, of course, the State Patrol for their background checks. We also reached out to our wholesale partners, our individual manufacturers and retail partners and local manufacturing partners to get their input as to what kind of system would be best. The main reason we reached out to the wholesale tier and the manufacturing tier in the state is because they are-- they're the payees. They pay into the system. What works for them would make it easier for them to make sure that we are collecting the appropriate tax. We anticipate that if we were to go with the online system that we're looking at, which we have not done, we're just getting I mean, we're getting the parameters ready. We're ready that, of course, depending upon the funding of this to go forward with the RFP. We've been able to-- to do all the background, all the [INAUDIBLE] up to the RFP off our in-house budget. We'd be looking for a brand registration as well as the online taxing. And we believe that conservatively there can be a 2 to 2.5 percent increase in revenue collected, primarily not through malfeasance or people trying to hide the taxes, but for errors. The example I'll give: One of the major wholesalers when they entered in a new product about three years ago, transposed two numbers. Doesn't seem like much, does it? Except by transposing those two numbers, they've been paying a tax on a whiskey, a bourbon technically, as a wine, because the transpose of those two numbers. And so one was being paid at 95 cents a gallon instead of the \$3.75. So there was a substantial tax for their error there. The only reason we found that is because we can roughly check somewhere between 5 and 10 percent yearly under our existing systems of cross-checks, basically cross-checking what's being shipped in versus what they're receiving. This computer system would do most of those cross-checks automatically if-- if we're looking at the systems which are currently available out there in the industry. So we anticipate, although there is an up-front cost that's pretty big and the number we get here comes from Gartner, who looked at other states which have done similar upgrades to their licensing and tax collection software, we believe that eventually it will more than pay for itself because of added

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

efficiencies, which means we could probably look at after the biennium, probably staff, possible staff reductions. You know, during the implementation I certainly don't want to lose anybody because that's going to be a nightmare and also increased revenue as we come out of it. It's going to be a hard lift for the commission to do. We are a very small agency, but we think we've got the backing of the OCIO's office as well as some of the experts we've engaged to make it done. It's going to be hard work, but we think in the end it's going to be beneficial to not only the state on its proper collection and of taxes, but also make it easier to bring the licensees into compliance. I sort of have this theory that if you make compliance easier, you will get more compliance. The more difficult you make people to be in compliance, the more difficulties you have. And so you make it easier for them to pay their taxes. I think they're going to pay their taxes. And I'm here to answer any questions. I also have my deputy director, LeAnna Prange. She is the money person. And so she understands the numbers and she's also my principal, the lead on this project and has done a miraculous job. And so she's also here to answer any technical questions. And if there are some questions that we can't answer, we will endeavor to get that information back to the committee as quickly as possible. With that, I'd be happy to answer any questions.

STINNER: Questions? Senator Clements.

CLEMENTS: Yes. In my notes in our committee, I see that you currently-- the current system takes 69 steps and 3.5 hours to do a license application and projecting that it would go down to a 37-minute process. And my question was, is there any staff reduction or reclassification in staff with that time savings?

HOBERT RUPE: We would be looking at, I believe the analysis we have we would probably overall have a 20 percent after we come through it, a 20 percent decrease in staff as well as then probably reclassification of some of the existing staff to do probably more proactive parts of enforcement and-- and regulation.

CLEMENTS: Do you know when you would expect to implement this if it's approved?

HOBERT RUPE: We would-- we would be ready, if it's approved, we're ready to pull the trigger on the RFP. So we believe we would probably begin implementation probably this fall, depending upon how the RFP

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

goes. So we've tried to do most of the legwork behind the scenes. And we want to bring you something that was pretty well baked, you know, not just here's what we want to do. Here's you know, we've done the background work. We've done the heavy lifting to get us this point. And so and really the-- not only did the OCIO found that, but when the, oh gosh, I always forget their anagram, the computer people who look at-- on the funding mechanisms thought this was a-- a-- a tier one recommendation coming out of the technological committee for upgrade. So that's a lot of the work that LeAnna and the rest my staff have done getting us to this point. So we're locked and loaded depending upon if we go forward. I think we've done a lot of-- we're ready to go, so we're not going to be-- I think that's one reason why the Governor really, I think, put this into LB379, which is the reapportionment fund, to not have a delay until the next biennium so we could start that RFP process earlier.

CLEMENTS: Thank you.

STINNER: Additional questions? Senator Dorn.

DORN: Thank you, Chairman Stinner. Thank you for being here. Just looking at the book here, and you talked about it, wine and I think whiskey, there was a different price or whatever by gallons or whatever. You have a tax revenue on the wine and the spirits and then you also have gallons on the wine and the spirits. Explain that a little bit.

HOBERT RUPE: All three primary liquors are classified and taxed at different rates. Beer is taxed at 31 cents a gallon. Wine is taxed at 95 cents a gallon. Spirits are taxed at \$3.75 a gallon. Nebraska farm wine is taxed at 6 cents a gallon and we divide those up into beer and other beer basically for reporting because that's traditionally the way we've done it. We probably relook to do that in the new system, but that's why it's resulted in that, because generally the same wholesalers who are doing the wine are the guys who do the spirits versus the beer guys traditionally. And so those are the one amount of payees. The other issue is, is although the tax attaches on both, on all those products, whether received in the state, when they have to be paid is a different time. Beer, the tax attachment lands at the warehouse, but they also then have to pay tax on that that month they receive it because beer is perishable, whereas wine and spirits will, although the tax will attach, it's only payable when it leaves their

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

bonded warehouse because it can stand-- stay there for months. And so
there's a, a slow-- whereas beer is bang bang, there's a-- there's a
slowdown. That's one reason why those two [INAUDIBLE], those two
categories are kept separate.

DORN: But do you-- do you-- you tax everything based on a gallons or
do you tax some based on I call it cost, you know, beer is whatever?

HOBERT RUPE: We are-- ours is all based on gallon.

DORN: All on gallon.

HOBERT RUPE: By statute is based on gallon. We charge the same tax on
a \$20 bottle of wine as we charge on a \$200 bottle of wine. Sales tax
revenue at the retail, that tax is on the value. But we just keep it
basically on its alcohol source. Was it from fermentation, from
"vinting," or from distillation?

DORN: Thank you.

STINNER: You indicated 2-- 2 percent to 2.5 percent. Would you
quantify that for me?

HOBERT RUPE: \$650,000 per year.

STINNER: Just in the 2.5 percent or?

HOBERT RUPE: I believe that would be 2.5 percent.

LeANNA PRANGE: Yeah.

HOBERT RUPE: Yeah, if we had that high rate, it's normally between
\$600,000 and \$650,000 I think would be a safe assumption.

STINNER: When you were telling Senator Clements that the efficiencies
that you realize out of this system you'll reposition some people--

HOBERT RUPE: Um-hum.

STINNER: --and I remember you coming to the-- to Appropriation, I
think my first year or second year, asking for additional auditors.

HOBERT RUPE: Yes.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

STINNER: And you were indicating, and refresh my memory, that for each auditor they would actually bring in a revenue. And I can't remember, it was well in excess of what their salary is.

HOBERT RUPE: And we're seeing that.

STINNER: Do you have those numbers? Is it like--

HOBERT RUPE: I can look. I would have to get back to you on that. One thing this last year, auditing was somewhat impacted. We're doing what we call more desk audits because we aren't actually going on field audits--

STINNER: Right.

HOBERT RUPE: --especially because of the COVID. A lot of the warehouses were completely shut down. But we can get back the how much revenue we caught-- we caught. I don't have it off the top of my head.

STINNER: Yeah, you may want to also try to analyze how many more auditors you will have.

HOBERT RUPE: Yeah.

STINNER: Is it one or two or so on and so forth. Any additional questions? Seeing none, I did read your report, by the way, and it was very good.

HOBERT RUPE: Thank you very much.

STINNER: Thank you. Any additional proponents? Good afternoon.

JOE KOHOUT: Chairman Stinner, members of the Appropriations Committee, my name is Joe Kohout, K-o-h-o-u-t, registered lobbyist, appearing today on behalf of our client, the Associated Beverage Distributors of Nebraska, those beer guys that Mr. Rupe just referred to. From our association's perspective, we want to just acknowledge the hard work that both Ms. Prange and Director Rupe have done to bring in individuals from across the industry to develop the CAMP project. It has been something that our membership has had strong desire to see a new computer system for some time. The industry has changed. No one around the table can-- can say that any industry is the same as it was ten years ago. And so the idea of having being able to use this system

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

to pull down additional data to get things right as we move forward is really important to our membership. So we want to acknowledge that for our association, this computer system is one of our highest legislative priorities during this session. So I just wanted to get up and say thank you for what you have done so far and encourage you to keep the money in as you move forward.

STINNER: Very good. Additional questions? Seeing none, thank you.

JOE KOHOUT: Thank you.

CLEMENTS: Samples.

STINNER: Any additional proponents? Seeing none, any opponents? Seeing none, anybody in the neutral capacity? Seeing none, we do have letters of support, a letter of support signed by the Nebraska Grocery Industry Association, Nebraska Petroleum Marketers and Convenience Store Association, Nebraska Retail Federation, and the Nebraska Restaurant Association. And that concludes our hearing on Agency 35 and also concludes our hearings for today. Thank you very much.