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Appropriations Committee
January 30, 2018

[AGENCY 37]

SENATOR STINNER: That concludes our hearing on LB674. We will open with Agency 37, Workmen's Compensation Court. Good afternoon. [LB674 AGENCY 37]

JACQUELINE BOESEN: Good afternoon. Shall I begin? [AGENCY 37]

SENATOR STINNER: Might want to wait till things settle down a little bit. [AGENCY 37]

JACQUELINE BOESEN: (Exhibit 1) Senator Stinner, members of the committee, my name is Jacqueline Boesen, J-a-c-q-u-e-l-i-n-e B-o-e-s-e-n. I'm the administrator of the Nebraska Workers' Compensation Court, and I'm appearing before you today to address the \$1.5 million transfer from the court's cash fund that was enacted in 2017, pursuant to LB331. First, though, I would like to thank the committee for your willingness to work with the court. We are mindful of the larger budget issues facing the state. We recognize that everyone is expected to do their part and we want to do our part. So thank you for considering our input. It's our understanding that the committee is now recommending that the date of the transfer be pushed back to June 2019 rather than June of this year. This proposed delay would be very helpful. It would help give the court a little more time to assess our financial condition. And to the extent we are able to make any further cuts than those we are already making, it would give us additional time to identify those. However, we would still run into the problem of running into a shortfall. Our business manager has run the numbers using the 2019 transfer date, and those projections show that, even if the transfer is postponed for a year, our cash fund balance would fall below zero in March 2020. So again, although we appreciate the proposed delay, we would anticipate a likelihood that we would need General Fund money in our next budget request. Just a couple of points to try to summarize some of the items in my written testimony. First, regarding revenue, approximately 96 percent of our funding comes from our annual assessments and these are against workers' compensation insurance carriers, self-insured employers, and intergovernmental risk management pools. These assessments can fluctuate substantially from year to year and there is not a way to precisely determine in advance what our assessment revenue will be. For example, although we had projected that our assessments in 2017 would increase from 2016, as they had in the prior five years, they were actually down by \$89,000. So that was an unexpected drop in

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our prior projections; just didn't anticipate that. And then quickly turning to our expenditures, we have carefully reviewed every category of our expenditures. We've been looking for all possible ways to reduce expenditures. My written testimony goes into a little more detail, showing some examples of cuts that we've made, but generally those come under the areas of personnel cuts and adjustments to our computer systems and storage. And those cuts alone, the ones that I've listed in my written testimony, have or will result in over \$259,000 in savings annually. But I would like to note that this is going back over the past five years so...and a lot of it was personnel. Those personnel cuts accounted for a lot of that. So what could potentially be cut has already, I think, a lot of it has already been cut. And the real problem is that about 88 percent of our expenditures are fixed costs. So that includes salaries, the court's share of employee retirement contributions, health insurance, FICA taxes, building rent, postage, those expenses. So our ability to make any further cuts in the short term is somewhat limited. So for these reasons, our preferred option would still be to eliminate any \$1.5 million transfer from our cash fund, whether it's this year or next year. But as an alternative, we do think we could absorb a smaller cash transfer without jeopardizing our ability to meet our financial obligations. Our projections show that if no more than \$500,000 were transferred from our cash fund either this year or next year, we believe we could stay in the black in the next three years or so. And I would like to just close by noting some of the important services that the court provides that could be jeopardized or compromised if we are faced with funding shortages. Some of these things are possible delays in approving job retraining programs for injured workers, delays in processing of injured workers' court cases, lack of adequate staff to answer telephone calls and written inquiries, and these come from injured workers, employers, medical providers, all the stakeholders in the workers' compensation system. And we hope it wouldn't get to that point where we would have to start letting people go, but at the same time we do think that we have a responsibility to realistically evaluate the potential ramifications of a \$1.5 million cash transfer. And that will conclude my testimony. I will try to answer any questions you might have. And again, thank you for your willingness to work with us. [AGENCY 37]

SENATOR STINNER: Questions? I do have a couple questions. You were suggesting that you cut expenditures. And I just went through and looked at total expenditures, actually have gone from 5.4 to 5.6, and now we're still in that 5.5, 5.6. I also looked at your full-time equivalents. There's 52.6. [AGENCY 37]

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JACQUELINE BOESEN: Uh-huh. [AGENCY 37]

SENATOR STINNER: Tell me...tell me how far you can drop your full-time equivalents, your...and make other adjustments in your budget to make a material...make a 2 to 4 percent difference... [AGENCY 37]

JACQUELINE BOESEN: Uh-huh. [AGENCY 37]

SENATOR STINNER: ...or 6 to 8 percent difference like we're asking everybody else to do. [AGENCY 37]

JACQUELINE BOESEN: Sure. We do have seven judges out of...and then we only have 40 employees right now. So the judges share, which is, of course, set by statute. That accounts for, if we include the salaries in addition to the taxes, FICA taxes, that's about 21 percent of our budget. [AGENCY 37]

SENATOR STINNER: Okay. [AGENCY 37]

JACQUELINE BOESEN: So we're small. I think we're kind of...proportionally, I think the problem is it's just the \$1.5 million is just too big of a chunk for us to take and try to somehow make it up later. Because of the stability of the assessments, they just don't move much. As far as other cuts in staff, we continue to make those cuts. We continue to look for cuts. There's not a whole lot more we can cut. [AGENCY 37]

SENATOR STINNER: Okay. I'm just...I just don't see it in the numbers where these cuts have showed up, but maybe I can do a better job of looking through the numbers. [AGENCY 37]

JACQUELINE BOESEN: And maybe... [AGENCY 37]

SENATOR STINNER: Case...caseload-wise, can you give me some color on what the trends have been, where you were at four years ago, and kind of take me through each year? [AGENCY 37]

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JACQUELINE BOESEN: Uh-huh. Caseload, that could include litigated caseload. That has stayed, I believe, somewhat stable. We do have a reduction in...to the extent that appeals are no longer handled by a review panel within the court, but the other filings and pleadings have actually stayed somewhat stable. Now workload in one of our other sections, the Vocational Rehabilitation Section, has gone down a little bit and that is because the number of plans being requested has gone down a little bit. And in addition, in the Legal Section there has been a reduction in workload because of a statute change that reduced the number of settlements that needed to be reviewed by court staff. And I will say our business manager is here. She's the one who really runs all the spreadsheets and it could be that Ms. Bandiola might be able to provide a little more... [AGENCY 37]

SENATOR STINNER: Okay. [AGENCY 37]

JACQUELINE BOESEN: ...detail on the actual numbers. [AGENCY 37]

SENATOR STINNER: Okay. I'm looking also at the trends. The trends used to be that you were building cash over a period of time. And then between 2014-15, '15-16 we show a substantial decline in what I would call lowest month ended balance, from 2.7 to 1.8. Is that a revenue problem that you had? I mean who sets how the revenue comes in? Can you change the fee structure or... [AGENCY 37]

JACQUELINE BOESEN: Uh-huh. [AGENCY 37]

SENATOR STINNER: ...how does that all work? [AGENCY 37]

JACQUELINE BOESEN: The assessments are determined by statute and... [AGENCY 37]

SENATOR STINNER: Right. [AGENCY 37]

JACQUELINE BOESEN: ...and that's a tax on workers' compensation insurance carriers. It's a 1 percent tax on direct written premiums. And there is a 1.25 percent tax on self-insurers. That is something that we could look at if we needed to. We are hesitant to do that simply because the

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way the court is funded has worked pretty well, I mean since 1993, when the Workers' Compensation Court cash fund was set up. There is a mechanism to prevent overfunding. Contributions to our cash fund do abate if a certain level is reached. I think the assessments just...we have to rely on those assessments and it all depends on direct writing premiums. That's...it fluctuates. [AGENCY 37]

SENATOR STINNER: Yeah. Even if we didn't take the \$1.5 million out, your trends show that at some point in time you're going to have to either adjust your expenses or you're going to have to address your...the rates associated with that. [AGENCY 37]

JACQUELINE BOESEN: Senator, I think that's right. We are looking down the road. The problem is, it's kind of like predicting the weather. I mean we can sort of...we can predict pretty well within the next two to three years, but beyond that it looks like sometimes we might run out. But if we're not going to run out, we certainly don't want to increase that tax on...it's really a pass-through tax on workers' compensation insurers. It's a tax to employers. [AGENCY 37]

SENATOR STINNER: Agreed. Any additional questions? Seeing none, thank you very much. [AGENCY 37]

JACQUELINE BOESEN: You're welcome. [AGENCY 37]

SENATOR STINNER: Are there any additional proponents? Seeing none, are there any opponents? Seeing none, are there anybody in the neutral? Seeing none, any concluding comments? Okay. That concludes the hearing for Agency 37. We'll now open with Agency 86, Dry Bean Commission. [AGENCY 37 AGENCY 86]