

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Appropriations Committee January 30, 2024

**CLEMENTS:** Welcome. Thank you all. Welcome to the Appropriations Committee. My name is Rob Clements. I'm from Elmwood, and I represent Legislative District 2, which is Cass County and eastern Lancaster County. I serve as Chair of this committee. We'll start off by having the members do self-introduction, starting with my far right.

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

**DOVER:** Senator Robert Dover, Madison County, south half of Pierce County.

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

**LIPPINCOTT:** Loren Lippincott, District 34.

**ERDMAN:** Steve Erdman, District 47.

**CLEMENTS:** Assisting the committee today is Cori Bierbaum, our committee clerk. To my left is our fiscal analyst, Keisha Patent. And our pages today are Cameron Lewis and Ella Schmidt. If you're planning on testifying today, please fill out a green testifier sheet located at each entrance and hand it to the page when you come up to testify. If you will not be testifying but want to go on record as having a position on a bill being heard today, there are yellow sign-in sheets at each entrance where you may leave your name and other pertinent information. These sign-in sheets will become exhibits in the permanent record after today's hearing. To better facilitate today's hearing, I ask that you abide by the following procedures. Please silence your cell phones. Move to the front chairs when your bill or agency is up their testimony. When hearing bills, the order of testimony will be introducer, proponents, opponents, neutral, and closing. When you come to testify, please spell your first and last name for the record before you testify. Please be concise. We request that you limit your testimony to five minutes or less, but we will be flexible at times. Written material may be distributed to the committee member as exhibits only while testimony is being offered. Handing them to the page for distribution-- hand them to the page for distribution when you come up to testify. If you have written testimony but do not have 12 copies, please raise your hand now so the page can make copies for you. With that, we will begin today's hearing with LB1412, introduced by Speaker Arch. But the Governor's representative will be presenting. Welcome.

**LEE WILL:** Thanks.

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**CLEMENTS:** Welcome.

**LEE WILL:** Thank you. Chairman Clements and members of the Appropriation Committee. My name is Lee Will. L-e-e W-i-l-l. And I'm the State Budget Administrator for the state of Nebraska. I'm appearing today on behalf of Governor Pillen in support of LB1412 and LB1413. Accompanied with the budget package is the Governor's commitment to all Nebraskans to deliver on expectations for sustainable property tax reform. Property taxes are driving Nebraskans who have worked here and raised their families out of their homes because they can't afford their tax bill. We can no longer strive to only slow down property tax increases. We must be bold and provide a 40% property tax reduction. The Governor is also committed to growing the state's workforce through several initiatives. These include retooling the Imagine Nebraska Act to allow for tax credits to be utilized for childcare, workforce housing development, and rural manufacturing. This will be combined with lowering the amount of credits authorized in recognition of the state's commitment to lower the corporate income tax rate. Accompanying these changes is an investment of \$25 million in the Rural Workforce Housing Investment Fund to spur economic growth. Additionally, the Governor is proposing regional workforce development areas that will bring together the Department of Economic Development and the community colleges to provide a solution to fit each community's workforce needs. The Governor is recommending an investment of \$2.5 million to ensure Nebraska is on the forefront of the emerg-- emerging bio economy, and leveraging the billions of dollars in federal funding opportunities. The recommendation also provides for an income tax exemption for the over 4,200 Nebraska Air National Guard members. These pieces of legislation comprise the Governor's Mid-biennial budget package to include adjustments to the currently enacted biennial budget. These recommendations have been summarized in the Governor's Mid-Biennium Budget Adjustments, 2023-2025 Biennium, publication dated January 18th, 2024 and in-- and are included on our website at [das.nebraska.gov\budget](https://das.nebraska.gov/budget). The Governor's recommendation contained in LB1412, includes a \$14.6 million net increase in General Fund appropriation in '24, and a \$34.1 million net reduction in General Fund appropriation in '25. The Mid-Biennium Adjustment provides for an overall reduction of \$19.6 million in General Funds. The recommendation includes a significant investment in the Department of Transportation, providing for \$87.3 million in ARPA funding to ensure we have well-maintained, modern roadways. In addition, the recommendation includes a total General Fund reappropriation reduction of \$31.3 million for the Military Department. Supreme Court and Crime

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Commission. The Governor's mid biennium package provides for transfers from 31 different cash funds for \$213.6 million in '24 and \$60.3 million in '25 to kickstart revenue necessary to provide for property tax reform. Also included is \$9.6 million in FY '24 and \$33.9 million in '25 and General and Lottery Funds to provide supplemental funding to the Education Future Fund, which provides \$1,500 in foundation aid per student and long overdue special education funding to every school district. I would like to note two transfers totaling \$9.5 million that are no longer recommended because of conflicts with federal grant provisions. These funds are managed by the Game and Parks Commission, and included the interest earning balance of the Habitat Fund and State Game Fund. In summary, the Governor's recommendation provides for the '23-'25 biennium ending balance of \$679.3 million, or a 5.8% reserve balance and a variance of \$336 million above the General Fund minimum reserve of 3%. In addition, it provides for a '23-'25 biennium ending Cash Reserve Fund balance of \$891.7 million. This means that, all told, between the General and Cash Reserve Fund, we have 1.571 or sorry, \$1.571 billion. My understanding is that you have been briefed on the mid-biennium request and recommendations, and have completed most of your preliminary decisions. Agency hearings are scheduled over the next few months with individual state agencies, boards-- sorry, next few weeks with individual state agency boards and commissions for your further consideration of their requests and the Governor's recommendation. Members of the Governor's Cabinet will be providing additional information and answers to your specific questions regarding recommendations that affect their agencies during their upcoming budget hearings. The Governor remains available to work closely with the Appropriations Committee on the mid-biennium budget, and with the Legislature to provide transformational property tax reform. During the '24 legislative session. As always, we look forward to working with you as you consider your mid-biennium budget adjustments. Thank you and I'd be happy to take any questions.

**CLEMENTS:** Other questions? Senator Armendariz.

**ARMENDARIZ:** Yes, Chairman. Thank you. Are we going to discuss both bills right now since-- are you testifying for both of them right now?

**LEE WILL:** Yeah, I was going to testify at the same time if that's OK.

**ARMENDARIZ:** OK. So can I ask you a question now?

**LEE WILL:** Sure. Yep.

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**ARMENDARIZ:** The-- in specifics, so we sit on Appropriations and specifically we look at the budgets of the agencies. And we do know that they have projects that are under way.

**LEE WILL:** Yep.

**ARMENDARIZ:** And that is a big concern that if they have this money allocated to certain projects that may not be done for, say, five years when it is allocated. I'm, I'm getting a lot of feedback if you'd like to take a--

**LEE WILL:** Sure.

**ARMENDARIZ:** --turn to address that.

**LEE WILL:** So I think, you know, I've been with the Division 6 seven years. I haven't met an agency that hasn't had plans for these funds. It's just when you look at the historical context, where are the revenues, where are the expenditures on a 10 to 15 year basis, and you just see these fund balances accumulating and accumulating. And we hear the story, all those are actually obligated, and the fund balance continues to grow. So I do think we have to work with the agencies to make sure we're not, you know, killing off projects. But a lot of it is we've seen 10 to 15 years where these fund balances continue to escalate.

**ARMENDARIZ:** OK. And then specifically, if I can follow up. Did you-- I'm imagining, since since the Governor's Office has purview over these agencies, went through those cash funds with the agencies to determine what those allocations were for, and that they were available for property tax relief?

**LEE WILL:** Yes. Specifically with the code agencies we sat down and talked through every es-- you know, every adjustment, every expenditure, every revenue. We also, in the budget process, asked for funds analysis from non-code agencies. So we can see what their anticipated expenditures are going to be, where the revenues are at, kind of where they think they are. So we had a collaborative process with the code agencies. Non-codes would have to, you know, provide additional analysis outside of their budget request for us to take a look at that.

**ARMENDARIZ:** OK. And then did did they give you feedback and did you give them your attention of--

**LEE WILL:** The code agencies or non-code agencies?

**ARMENDARIZ:** Either or.

**LEE WILL:** So the code agencies are on board and they understand that these dollars can be freed up for tax reform. Non-code agencies, we took a look at the analysis and data that we had in front of us, and made a decision to transfer those funds. So there are probably some folks, you know, behind me who may say that there's other projects and things and we need to take that into consideration.

**ARMENDARIZ:** OK. Thank you.

**LEE WILL:** Sure.

**CLEMENTS:** Other questions. Senator Vargas.

**VARGAS:** Thank you. Senator Erdman is going to speak to it. Seems like er-- I appreciate you taking the time. And I had a couple of questions as to-- One is a sort of a general statement that leads into the question. I'm not opposed to looking at cash funds for-- that are going either under-utilized-- You and I have had this conversation before. You know, we've had that conversation last year with many cash funds that were, you know, building up an excessive reserve, and we weren't seeing all the expenditures go out.

**LEE WILL:** Yep.

**VARGAS:** However, when we were doing that, it was typically in my time in the Legislature on the Appropriations Committee with a focus on balancing the budget given sort of the, the, the economic outlook of the state where revenues were coming in. When we came in in the first few years in 2017-18, we had revenue shortfalls lower than what was expected, and it affected our budget. And so we were looking at cash fund transfers as a way for one-time balances to our state funding.

**LEE WILL:** Yep.

**VARGAS:** And we were looking at some structural changes. We took some cuts, or we paused hiring of FTEs so that we can right-size ourselves. And even last year, when we were trying to balance the budget, it was looking at some cash on transfers to be able to do that. My concern is that these cash fund transfers are not happening at a time where we're-- we are losing out or missing out on revenue or need to balance our budget. And you've said and have stated that this is going to property tax relief. This whole committee has been supportive of property tax reform and relief in the form of the property tax credit fund, increasing the homestead exemption, and being very, very frugal

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with the growth of government. But my understanding is when we transfer these funds, if we transfer these funds or any amount of cash from transfers, it's going to go to the General Fund.

**LEE WILL:** Yep.

**VARGAS:** How is that property tax relief that goes to the General Fund for spending for other projects and spending for the floor?

**LEE WILL:** So the plan as outlined by the Governor would allow for essentially six months of receipts and the additional, you know, looking at other tax exemptions, looking at the sales tax rate. So there's about a six month funding that you have to help offset that amount, because you're going to have a delayed implementation. So these property tax, these cash funds, are essentially to mitigate the six month collection that you're going to have in '25. They're not used for ongoing relief. The Governor is committed to work with the Revenue Committee to come up with the dollars necessary to provide \$975 million, \$1 billion, a \$1.025 billion in property tax reform. These \$300 million, as I said before, are to kick start the program. They're not reliant on ongoing property tax relief and reform.

**VARGAS:** And as a, as a follow-up, I understand in theory that it's meant to kick-start, but it is not going directly to tax relief. It's going to the General Fund and it's going to being able to use for anything.

**LEE WILL:** Yeah.

**VARGAS:** Even if we don't, if we don't do this, we'll still have \$320 million in our General Fund balance, if we don't do any of this.

**LEE WILL:** Yeah.

**VARGAS:** That's, that's what I'm really struggling with. Because when we talk in the committee, I think, we are structurally have been in agreement that if we want to slow spending, you know, cut FTEs or lower the, the amount appropriated to each committee, give less in the mid-biennium for agencies to to spend. I'm sorry agencies, but like that would be a way of controlling spending. And there's some people laughing like, don't do that to us. But like if we did that, that would actually be saving property tax owners money because we're rebasing it into the next year. And I'm concerned all we're doing is-- we, we typically only take from this when we absolutely need to. And this is not a time that we need to shore up the budget. So that's why

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I'm still, I'm still not seeing the connection between direct tax relief--

**LEE WILL:** Yep.

**VARGAS:** --because it's not going to-- It's not a specific bill going to tax relief, which I think some of us would understand. It is just going to the General Fund which can be used by anybody.

**LEE WILL:** So bills have to be in tandem with the budget and the appropriations and the numbers that are available to them. So these additional cash funds coming into the General Fund allow for a significant property tax reduction. As you know, these funds all have to come into the overall pot and have to be allocated for a specific purpose. And they're being allocated for property tax reform. And I will say about five years ago my recollection is a Cash Reserve Fund balance was around \$400 million. Today we're at \$900 million. We have more than enough cushion to mitigate any recessionary blow, and we can do these funds without having any impediment on service. So I'm not under disagreement that we have to reduce the size of government. We have to reduce expenditures. We have to do something now. We have to do something now in 2024 in property tax statements. And it is a crisis. And that's the reason we're doing the cash fund transfers.

**VARGAS:** Just one more follow-up and then I'll let everybody else go. I mean, we'll hear from the public on es-- all agencies, code, non-code. I'm concerned because not all cash fund agencies see this as the funds that will help to offset the General Fund, which is what it's doing. And based on what you just said, we have enough in the cash reserve. We can use that to do any offsets for what you're proposing as property tax relief. And still and b-- still being a healthy place for our cash reserve. But taking money from these cash fund transfers, not all of them. And I don't think they're all created equal. And we'll see from this hearing-- I'll wait to hear whether or not some of them are obligated, to what extent they're obligated, what projects. But I would rather use these if we have an exigent reason. And I just wanted to get on the record what-- how it's going directly to tax reform, so.

**LEE WILL:** I think the people in Nebraska have an expectation that we don't keep a full year of operating balances in our cash funds, which we've seen in a lot of these instances. So I agree that in most ins-- most times this was done during a recessionary period, but we are looking at over-bloated cash fund balances in almost every agency in state government. And the time to do is now.

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**VARGAS:** I hope that is the case. If that is the case, then we would also look at our own cash reserves on whether or not we have--

**LEE WILL:** Sure,.

**VARGAS:** --we use that first rather than taking from other cash funds, but.

**LEE WILL:** But, you know, that's to, to help with the recessionar-- recession-- recession potential, you know, we may have in the next couple of years, is you want to have a robus-- robust Cash Reserve Fund balance, and make sure that agencies have a, a realistic amount of cash that they have on hand. I think there's a balance there.

**VARGAS:** Thank you.

**LEE WILL:** Sure.

**CLEMENTS:** Senator Erdman?

**ERDMAN:** Thank you. Thank you, Chairman Clements. Thank you. Mr. Will for coming. So this is not news to anybody in this room. Since I've been here in '17, I've been concerned about property tax and property tax relief. Back in '19, we had started a petition drive to lower property tax by 35%. When we did that, we did a calculation to figure out where does that put us according to other states, as far as property tax. That would have moved us to 29th, we were like 45th. That moved us to 29th. So the reduction here of 40%, this is the issue that I've seen since I've been here, is every time that we state property tax relief, what that actually means is a decrease in the increase. We have never seen a time when property tax went down. And if they did go down insignificantly, they never went down to a level that people were acceptable, was acceptable. Never did it go down to a time, even that 35% reduction, that we'd have been competitive with any of our neighboring states. I believe that's going to be the case with this. So how do we guarantee that we're going to get a 40% reduction in our property tax? Because what I'm getting pushback from, from my constituents who pay sales tax, to not pay sales tax on their ag parts? The question is, would you rather have a reduction of 40% of your property tax or pay sales tax on your repairs? Which one of those two do you want? And the answer is, we've never seen property tax relief before. Why should we expect that to happen now?

**LEE WILL:** Sure.



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**ERDMAN:** So reassure me how we're going to get this 40% reduction in property tax relief. And then, if you can, figure out where does that place us in the, in the national stage.

**LEE WILL:** Well, frankly, I think your numbers are fairly accurate. I think it would move us to about middle of the pack, about 25 to 28 if we go down 40%. How that's going to be done. Previously these were done through credits and it didn't restrict spending or didn't restrict the allowance of local municipalities, local taxing entities, to generate revenues or property taxes. There must be-- in order to produce 40%, there must be long term reform to make sure that we have hard caps in place, to make sure that property taxes cannot go astronomically like they have in the past. Otherwise, we'll be in the same room in 5 to 10 years and we're in the same situation. The reform, the dollars amount coming on the front end, must be in tandem with a hard cap, because that's the way that we get true reform.

**CLEMENTS:** One more--

**DORN:** He's got another question.

**ERDMAN:** One more. Thank you, Senator Clements. So then, is your intent to use the Property Tax Credit Fund?

**LEE WILL:** It would be a new fund, but it would, it would apply similarly on the front end on the tax statements on a pro-rata basis for schools, for instance, counties, cities, fire districts, you know, come directly off the tax rolls. And there would be a hard cap to say in property tax collections, you can-- you know, the Governor's at 0%. There's been some ongoing dialog. You cannot raise property taxes more than you did the year before, is where the Governor's at. Now there's going to be an ongoing dialog on that. But there has to be restrained growth that has to be between, you know, let's say Governor's at zero plus growth. But if we don't have a restrictive lid in there, these dollars that we come up with are going to be all for nought. The cap is, is almost as, if not more, important than the dollars generated.

**ERDMAN:** Because in the past, Senator Hilkemann was on this committee, and he did not like the property tax credit fund. I voted for it because the only thing we had, but it was very insignificant in doing anything for property tax relief.

**LEE WILL:** Yep.

**ERDMAN:** Because we sent that money with no restrictions and they collected the property tax relief and then they raised taxes on top of

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that. Very similar to this year when we give \$350 million plus to schools, and they raise property tax by \$85 million above that \$350 million. That is the issue that we have with property tax relief fund. It's not appropriate to do it that way.

**LEE WILL:** Absolutely. We have to have caps, we have to have hard lids, if we want this reform to actually work. I agree with you.

**ERDMAN:** Thank you.

**CLEMENTS:** Senator Dorn?

**DORN:** Thank you, Senator Clements. And thank you, Lee, for being here. I guess mine, when I look at them, they're both on LB1413. So if it's, if it's OK, I'll ask the questions. One is the Universal Service Fund interest account. You're proposing an \$11.25 million, and then another \$2 million. Last year, we had the proposal that we came out of committee with for \$40 million, I believe, or in that neighborhood. It went to the floor and whoops, that didn't work. And I guess-- explain this or I know they're going to be here later on to give their perspective on it. How does this or what fund are you now. I call it, acquiring that from that this is doable this time, because I don't want to take this to the floor and have that discussion.

**LEE WILL:** I think that's fair. So in the Universal Service Fund, there is a big difference between the interest accruals and the principal balance. So since 2013, fiscal year '13, we went back and looked at the interest balance, and that's the transfers that you have in front of you. Now the \$40 million would have ate into the principal unless we went back to, you know, say in the 1990s or maybe more. And that is frowned upon by the federal delegation. You can't take principal off of that fund. So that's the difference. Interest versus principal.

**DORN:** So you're saying this is probably the interest has been acquiring up over a period of years. It's not just--

**LEE WILL:** Back from 2013 is what was in the fiscal analysis on it. Yep.

**DORN:** Thank you. The, the other question, and it's more of a-- well, it's, it's about the STARWARS and the STARWARS lapse that you want to do. You want to bring some back into the budget, but then also, part of that now will be going to fund the Lincoln Water Project, if I understand it right. And then, with that answer, the question, is the STARWARS project done then, or where does that sit at once this-- With

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these transfers, where does that put us or what position, or what's the long term view of that?

**LEE WILL:** So, I wouldn't say that the project is, yeah, done. But the state funding, the \$85 million proposed for the lake, is no longer in that cash account. \$50 million has been moved over to Lincoln Water, \$35 million to the Cash Reserve Fund. When we looked at these things, we made a decision largely of what are nice to have and what are have to have, and we determined recreational lake versus Lincoln water, we determined higher value on the Lincoln water.

**DORN:** So-- But part of it, then, part of it, I call it the what do you-- Niobrara and the Lake McConaughy, those funds, then, are still--

**LEE WILL:** Yep.

**DORN:** --still good to go, but--

**LEE WILL:** Yep.

**DORN:** --it's just basically the--

**LEE WILL:** The only one that got amended was the lake dollars.

**DORN:** OK. Thank you much.

**LEE WILL:** Sure.

**CLEMENTS:** Other questions? I had one question. On the General Fund financial status, there has been over-- line 25, been in excess of \$300 million of excess from the minimum reserve. But it seems like you're going to-- well, tell me how you're-- what your plan is for that.

**LEE WILL:** Yeah.

**DORN:** I've been told that that's not available for additional spending from bills. And why is that?

**LEE WILL:** Senator, that's a great question. So, when we look at the financial status, the, the line that you have to balance towards is in, you know, fiscal year '25. And that's to your point, Senator, \$336 million to the good. But we also have to look long term, and we look at four years out. If you look at 2027, that's the next biennial period based on projections. We have \$17 million available above the minimum reserve. So you are reliant on part of that \$336 million to

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finance additional obligations in the next two years if the forecast is 100% accurate, based on where we know today.

**DORN:** Is the addition of the new state aid to schools using some of that \$300 million? Is that be where some of it's going?

**LEE WILL:** Are we talking about the TEEOSA adjustment or the Education Future Fund?

**DORN:** The Education Future Fund and the special education--

**LEE WILL:** Yeah.

**DORN:** ---the \$1,500--

**LEE WILL:** So those are paid directly out of the Education Future Fund. So we did put more dollars, as I mentioned, into the Education Future Fund from transfers from the General Fund and Lottery Funds. But you won't see those on this financial status because it's spent out of a cash fund, Education Future Fund.

**DORN:** So it's--

**LEE WILL:** It's, it's in your-- if you look at line 12, Senator, General Fund transfers - out, and there's a \$1.4 billion number, the billion dollars of that was, was your bill, respectfully, sir.

**DORN:** Excuse me, let me-- Is that one of the pages in this one?

**LEE WILL:** I think it's on page seven.

**CLEMENTS:** All right. Would you repeat that? The one point--

**LEE WILL:** Yeah. So if you look at line 12, you can see the General Fund transfers - out. If you look at fiscal year '24, it's \$1.399 billion, a billion of that went in-- that's where the Governor says thanks a billion, Senator Clements says a billion went into the Education Future Fund. So that's where you'll see that line. And then there's additional transfers, \$250 million ongoing. On that same line, out of the \$946 million, out of the \$944 million, out of \$968 million, \$250 million each year is pegged to go to the Education Future Fund.

**DORN:** OK.

**CLEMENTS:** Very good. Are there other questions from the committee? Seeing none, thanks.

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**LEE WILL:** Thanks, sir.

**CLEMENTS:** Is there anyone else from the Governor's Office wanting to testify on these bills?

**LEE WILL:** We have a fair amount of folks from the cabinet who are here to testify on the bills, but I think most of it's in, in regards to LB1413. So I don't know what your preference would be if you want them to testify first.

**CLEMENTS:** Well, we seem to be taking LB1412 and LB1413 together. Is there any problem with that clerk?

**CORENIA BIERBAUM:** No, just--

**CLEMENTS:** All right. Yes.

**VARGAS:** My only flag would be if somebody comes in opposition or in support of LB1413, they-- if they put on the sheet--

**CORENIA BIERBAUM:** They'll be noted.

**VARGAS:** They'll, they'll be differentiated and noted? Right? OK.

**CORENIA BIERBAUM:** They'll be separated.

**VARGAS:** That's just for the public. Yeah. That's good.

**CLEMENTS:** All right.

**LEE WILL:** OK. Thanks.

**CLEMENTS:** Well, normally-- Thank you--

**LEE WILL:** Thank you.

**CLEMENTS:** --Mr. Will. Normally we would invite agency proponents next. Excuse me. Agency directors or staff that would care to testify, please come forward. Welcome.

**VICKI KRAMER:** Good afternoon. Good afternoon, Chairman Clements and members of the Appropriations Committee. My name is Vicki Kramer, V-i-c-k-i K-r-a-m-e-r, and I'm the director of the Nebraska Department of Transportation. I want to thank you for the invitation to appear before the committee and support the Governor's mid-biennium budget recommendation. We at NDOT are greatly appreciate the support of this committee and the Legislature. It is because of your support and

appropriations that Nebraska has a well-maintained transportation system. NDOT's core mission is delivering projects, maintaining and operating our current assets, and serving the surface transportation and aviation industries in the most effective and efficient way to provide the best possible statewide transportation system for the movement of people and goods. This brings us to the bill itself, and the changes within which are adjustment-- would adjust our appropriations from last year. The most obvious change in the mid-biennium budget is a new appropriation, \$87 million for Program 569, which is the agency's construction budget. These funds are, as noted, allocated for pursuant to the federal American Rescue Plan Act of 2021, also known as ARPA. In mid-2023. The Department of Treasury issued an interim final rule allowing unspent ARPA state and local fiscal recovery funds to be used for certain authorized surface transportation projects. Following the ruling, NDOT did an exhaustive analysis of the three different pathways in which ARPA funds could be used to identify opportunities for Nebraska. The criteria and requirements for how and when ARPA funds can be used on roads projects are vast, but we do feel there is significant opportunity for the funds to impact the state's transportation system. NDOT's share of the Legis-- shares the Legislature's goal of ensuring ARPA funds are used to improve the lives of Nebraskans, and take special interest in the amount of time is left to make this impact. In evaluation of the ruling, the department assessed that funding could be used for interstate and highway preservation work to safeguard our roads and extend the life of pavement. We've identified lists of target roadways that's life can be extended, and are also working closely with Federal Highway Administration to understand additional opportunities to program funds toward capital improvement projects on the expressway system that would-- were submitted for consideration of discretionary funds but were not awarded. NDOT will continue to work closely with regulatory agencies to contract, to contract these funds prior to the December 2024 deadline to obligate funds, and fully expend the funds by September 2026. We feel NDOT is well positioned to use the proposed allocation to improve the safety and condition of Nebraska's transportation system. To conclude my testimony, again I'd like to thank the committee for the opportunity to testify and reiterate my appreciation for the support the Legislature has given us. I'd be happy to answer any questions.

**CLEMENTS:** Are there questions from the committee? Could you specify again what specific projects you're targeting with this \$87 million?

**VICKI KRAMER:** Yes, Senator. So when the ruling came out, there were three different pathways that were given. Some of the guidance around

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those pathways is that it required those projects to really be already developed but not be invested. So we couldn't use it on projects that were going to require significant environmental impact or environmental assessment. So they had to be able to be deliverable. So in doing so, really those projects that came to light as being the biggest opportunity is interstate reconstruction projects. So there's about 60 different projects that we can be able to put funds towards that lifecycle. So a lot of them include spurs in different areas. There's another part of the guidance that came through that deals with federal discretionary funds. The latest round of discretionary funds came out last Thursday. So we're in conversation with Federal Highway to understand if that ruling, the interpretation of that ruling, is that we would be able to essentially take funds that we weren't awarded and take that same amount of funds that we were not awarded, but yet requested and put it towards that project and fill it with the ARPA hole. So we don't have an answer for that. We have a meeting with Federal Highway tomorrow to try to get more clarity, but we are very-- we are sure that we can spend the money on-- the \$87 million on the interstate and reconstruction and the pavement work. The priorities from the Governor's Office has been, if we can use it on expressway, let's try to use it on expressway and be as creative as possible.

**CLEMENTS:** Senator Dorn?

**DORN:** Thank you. Thank you. Thank you for being here. Thank you, Senator Clements. His question and some of your comments, I guess, made me-- this thought. So, these funds need to be expended in the end of '26. So, as you talked about that, many of these projects had to be in place already. So the re-- are they going to replace funds in now that you use in future years for projects or you--

**VICKI KRAMER:** It's a--

**DORN:** --can't start-- No, I don't think you can start a road project today and include these funds and get them done. So how is that balance working?

**VICKI KRAMER:** It's a very-- You're exactly right, Senator, it's a balance. So you can't use it on any projects that were currently in your STIP is one of the main guidance points. So any projects that were already programmed by the D.O.T. for the one and the five year programs cannot be used. You cannot replace the funds. That's number one. So in doing so, what you can do is you can increase the scope of those projects. So we looked at that opportunity. But where we have the opportunity to get projects out and ob-- obligate that doesn't

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take a lot of environmental assessment, so we can obligate them by 2024 and get through them and finish them by the 2026 deadline is on those interstate preservation projects. So those large project-- or those smaller projects that have high impact, we can get to those.

**DORN:** So you do have a scope, I call it a scope of projects--

**VICKI KRAMER:** Yes.

**DORN:** --basically, that you probably haven't been funding or, or or didn't intend to fund this quick that now you can do.

**VICKI KRAMER:** Exactly. And that, that's about 60 projects is what we're currently looking at.

**DORN:** Thank you.

**CLEMENTS:** Senator Vargas.

**VARGAS:** Thank you for being here. I was going to ask a follow-up on the 60 projects. If-- I don't know how you're prioritizing them or, or if you're only going to fund a subset of them, which ones are the ones that are expansion projects for-- the expanded scope projects, that would be helpful to get a list of that, so we know similar to-- you know we have that-- is it biannual or annual meeting with Transportation, Telecommunications to look at the road projects? That list of prioritized projects would be really helpful on where these dollars would go before we make the decision.

**VICKI KRAMER:** Absolutely. Once we have an idea on the discretionary funds and if we're able to backfill that, that's the major reason I'm not providing a list for you today, because that would change it dramatically. And so in terms of priorities, I need to be able to give you full options. And since that list didn't come out till Thursday I can't do that today. I apologize

**VARGAS:** That makes sense. But thank you as a follow-up.

**CLEMENTS:** Any other questions? Seeing none, thank you for your testimony.

**VICKI KRAMER:** Thank you Senator.

**CLEMENTS:** Next agency proponent, please? Welcome.



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**JOHN ALBIN:** Thank you. Good afternoon, Senator Clements, 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 testifying here today in support of the transfers proposed by the Governor in LB1413. The transfers proposal will not affect the ability of the Nebraska Department of Labor to administer the programs affected by the transfers. I will touch on the largest transfer proposed, the \$60 million transfer from the State Unemployment Insurance Fund, and then answer any additional questions you may have regarding the transfer of any other transfers-- any of the other transfers of any well-- plans proposed in LB1413. Notwithstanding its somewhat misleading title, the SUIT Fund is and always has been a state cash fund. Unemployment benefits are paid from the Federal Unemployment and Trust Fund. The SUIT fund was created in 1994 as a state cash fund, and serves as an emergency fund with the ability if the UTF to pay unemployment benefits was ever in jeopardy. The UTF balances at historically high levels, with \$515,422,717.64 available for the payment of regular state unemployment benefits at the end of calendar year 2023. To give some perspective on the current UTF balance, it is 228% of the amount paid in the highest year of the Great Recession, the calendar year 2009. 147% of the amount paid in regular state benefits in the highest year of the pandemic, calendar year 2020, and almost seven times the amount of benefits paid in calendar year 2023. The proposed transfer will not jeopardize the ability of the state of Nebraska to pay unemployment benefits. And I also want to briefly mention the late request by the department to include ongoing annual appropriations of \$10 million for workforce development activities, like the \$10 million appropriated last year in LB1014. The needs have us-- outstripped the available resources, and this appropriation will allow us to build a more comprehensive target plan to address critical worker shortages. That concludes my prepared testimony. I'd be happy to try and answer any questions that you might have.

**CLEMENTS:** Are there questions? Senator Wishart.

**WISHART:** Thank you for being here today. It's good to see you. So, in terms of the the \$60 million transfer from the Unemployment Insurance Trust Fund, just walk me through-- this doesn't put us in jeopardy at all with any federal funding.

**JOHN ALBIN:** No, not at all. The-- this program was created some 30 years ago, 1994 to be exact, during the Nelson administration. What it is is a-- They call it a diversion. Some might call it a skim. On the state, the combined tax that is charged to Nebraska employers based upon the wages they earn, a portion of the tax is diverted off into

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the SUIT Fund and never gets to the federal trust fund. And the U.S. Department of Labor's-- and Federal Trust Fund is the one with the \$515 million available for the payment of benefits. The federal government has never looked at that \$60 million, or what's now \$77 million, that's the balance that's in there right now, as being a federal fund. In fact, because they consider it a state cash fund, they require us to actually pay them every year because we collect the tax with our federally funded positions, and so they make us pay back in accordance-- in accordance with a formula that's in our cost allocation plan, to pay them for the privilege of diverting that money off. So it has never been considered a federal fund, and it would not jeopardize anything with the federal government.

**CLEMENTS:** Any other questions?

**VARGAS:** No, you go ahead, Myron.

**CLEMENTS:** Senator Dorn?

**DORN:** Thank you. Thank you for being here. Thank you, Senator Clements. Well, I got a question. You, you, you go over some of the state of the network, 228%, 140% higher. Do we get to set that rate that we charge the employers, or how does that number come about? Or I guess I'll look at the other question. We say property taxes are too high. Are we setting this rate too high?

**JOHN ALBIN:** Well, that's an interesting question. And the for-- the stack-- the tax rate is established by statute. There's no discretion on behalf of the department. It's set in statute. There is some discretion within the statute in the sense that I can divert up to 20% into the SUIT Fund. I have not been-- I think it's almost ten years in a row now that we've set it at 5%, so 95% goes to the federal trust fund. So, also in 2019, I believe it was LB339, there was a provision in LB339 that said, OK, this fund is set up so that you're supposed to have somewhere between 85 hundredths and 1% of the total wages paid in the state of Nebraska as your trust fund balance. We did a study back in 2003, and that was the number they came up with. I think it's a pretty solid number when you consider we've gone through two of the largest recessions in history, and our trust fund was never in jeopardy. So I think it's a good formula. But in LB339, we were aware that the fund was being what we considered to be overfunded. And so we added a mechanism in it and where we could instead of charging what the statutory formula said we'd do, I could go down to a lower rate. So for the last five years now, we have been at the lowest rate that's

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allowed in the statute in order to try and prevent overgrowth of the fund.

**DORN:** Thank you.

**CLEMENTS:** OK. Senator Vargas.

**VARGAS:** Thank you very much for being here, Commissioner. And it's sort of-- I wanted to piggyback on the same line of thought. You know, part of my concern is this is intended for workers unemployed for no fault of their own. And obviously, this is the carryover, you know, fund. And my first thought was, if it is this large in terms of growth in excess, why not lower the tax at the state level in statute structurally and then use this overage to then carry us over into the years to make sure it's sustained for everyone, rather than it just going to the General Fund without-- for just more spending on whatever bills the Legislature decides. Because it's a lot of money. \$60 million in, in the larger scheme of the \$500 million plus, it may not be as much there, but that's a lot of money that is not going to be necessarily directly used, as we asked before, to property tax relief. It will go to legislation that is or is not passed. So, why wouldn't we just try to wait to introduce a bill, or at your discretion, lower the tax rate? I don't know how much you can lower the tax rate at your discretion or how, but why don't we just do that?

**JOHN ALBIN:** Well--

**VARGAS:** Give money back to everybody?

**JOHN ALBIN:** Actually, I have done that for the last several years. And if you look at the balances, we call it the state's reserve ratio, which is a trust fund as a percentage of the total wages, that got up to like 1.19% in the past, and I think it's down to 1.05 this year. So by using that 339 mechanism, I've actually been able to tamp down the growth of that fund. And so we are starting to true up. And I think we'll be able to come back, within the next few years we probably should be right back in that 1% rate, which is the statutorily established rate.

**VARGAS:** And that's helpful--

**JOHN ALBIN:** You know.

**VARGAS:** Yeah.

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**JOHN ALBIN:** It's kind of just a history lesson on how we got there in the first place. Back in when I started with the department in '90, the rates were set solely by the commissioner through regulation, and some governors were more willing to take a chance on the ability of the trust fund to balance in the event of a recession than others were. And actually, by 2003, the trust fund was in considerable trouble in the sense that we started projecting recessions that it could not handle. And with our constitutional prohibition on borrowing, we'd be in a real jam and having to come over here and try and get a large appropriation of General Funds in the middle of a recession, which didn't seem like a very palatable alternative. And so the system has worked really, really well. I mean, you're talking about in the Great Recession, 29, 30 states, maybe 35 went in the red and went broke and Nebraska never did. So, you know, the system obviously can be looked at, and can, and can be-- it could be considered, OK, should there be other adjustments made. But the system has worked doggone well in terms of making sure that there was money there to pay benefits, even in unprecedented recessions and pandemics. So, and as I said, we are slowly bringing that fund back down into that range of the 1, 1%, which is kind of the cap of where you want to be.

**CLEMENTS:** Yes.

**VARGAS:** And it's helpful to hear that through these times more recently, you've been adjusting it down, and that's great. I'm still concerned that for the taxpayers that have been paying this tax, it's with the assumption that it was for this purpose, for unemployment. And that if we want to do sort of the structural reform that we've talked about, that Senator Erdman also mentioned, there are other avenues to do that, and more reform can happen to lower the tax for this if we have that much extra money. Because like, when was-- historically, when is the last time we've done \$60 million transfer to the General Fund from, from the SUIT Fund?

**JOHN ALBIN:** The SUIT fund has not been tapped to that extent. There was a time back in, I want to say 2003, that there was like \$13 million transferred to the federal trust fund at that point because the system was in jeopardy, but that was before the new tax system came in and stabilized rates. I mean, if you look at Nebraska's rates, I think we're in the top ten, maybe even top five in terms of lowest rates on and on wages, or on taxes on wages paid. So, the system has worked really well. You can always take another look at it. And, but it has worked well.

**VARGAS:** Thank you, Commissioner.

**CLEMENTS:** Senator Wishart.

**WISHART:** Just a clarifying point. If it's in statute, the rate that this tax is at?

**JOHN ALBIN:** That-- there's a formula put forth in the statute, and then we set the rates based upon that formula.

**WISHART:** OK. And the, the fees go to an individual who works in the state there-- walk me through, who is it that is paying this rate?

**JOHN ALBIN:** This rate is paid by every covered employer, which basically includes all employers other than ag's, the primary exception, real estate, independent contractors. You have to actually have employees in order to be liable for this tax.

**WISHART:** OK.

**JOHN ALBIN:** And then we collect that tax on a quarterly basis, with a-- it's on the first \$9,000 of your taxable wage base, unless-- the taxable wages that you pay to an employer, unless you happen to get into category 20, and then that amount goes up to \$24,000.

**WISHART:** OK. Thank you.

**CLEMENTS:** Other questions?

**WISHART:** Oh, I have one more question.

**CLEMENTS:** OK.

**WISHART:** So moving on, Director, I did want to talk just a little bit. Can, can you talk us a little through some of these other transfers here? In particular the transfer of unexpended balance of unemployment insurance administration funds. With the-- is that just-- would that fund not have any balance left then?

**JOHN ALBIN:** Well that's a fund that isn't being currently used.

**WISHART:** OK.

**JOHN ALBIN:** And both of those funds in sections eight and nine are funds that are not currently being used.

**WISHART:** OK.

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**JOHN ALBIN:** So, those-- neither of those two funds would affect the actual federal dollars that we receive for the administration of the unemployment program from USDL.

**WISHART:** OK.

**JOHN ALBIN:** It's been, I want to say, three, four, five years at least since that fund's been touched. So that's why it was available.

**WISHART:** OK.

**CLEMENTS:** Senator Armendariz.

**ARMENDARIZ:** Thank you. Thank you, Director, for being here. Just to clarify. If we statutorily reduce the tax rate, that would go back to the employers that are covered by this insurance.

**JOHN ALBIN:** It would reduce the amount that they pay, yes.

**ARMENDARIZ:** Not the individuals, the employers that--

**JOHN ALBIN:** Yes.

**ARMENDARIZ:** --pay this tax. OK. Thanks.

**CLEMENTS:** Any other questions? I have none, so thank you, Director Albin.

**JOHN ALBIN:** Thank you.

**CLEMENTS:** We'd like agency directors who are proponents. Please come forward. Welcome.

**KELLY LAMMERS:** Good to be here. Thank you. Chairperson Clements, members of the Appropriations Committee. My name is Kelly Lammers, K-e-l-l-y L-a-m-m-e-r-s, Director of the Nebraska Department of Banking and Finance. The Department, appreciates the committee's review of the department's new issues, and supports the Governor's recommendations. My comments today are in support of LB1412 and in support of sections 38, 39 and 50 of LB1413. Agency 19, the Department of Banking and Finance, is cash funded by the entities and professionals it supervises. The agency consists of two divisions. Program 65, the Financial Institutions Division, examines and supervises state chartered and licensed financial institutions and entities. Program 66, the Bureau of Securities, registers securities sold in Nebraska, licensed industry personnel, examines firms subject

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to state supervision, and investigates complaints from the public and suspected violations of the Nebraska securities laws. The department is a cash funded agency which relies on the fees that it collects from its licensed individuals entities for the funding of its operations. The department's chartering, licensing, examination, and enforcement functions can be summarized with our mission, which is protect and maintain the public confidence in the financial industries of Nebraska, and with our ultimate vision, which is to make Nebraska the most trusted financial home for people and business. The department supports the Governor's recommendations. I'm proud to be a part of the dedicated, professional, and efficient team of the Nebraska Department of Banking and Finance. I'd be happy to answer any questions the committee may have regarding the department's support of sections 38, 39, and 50 of LB1413, in addition to LB1412.

**CLEMENTS:** Are there any questions? I-- Well, I would like to bring up, you had a request last year for additional PSL, I believe. Was that right? That it was not approved?

**KELLY LAMMERS:** That's correct, Senator.

**CLEMENTS:** Have you made such a request for this year?

**KELLY LAMMERS:** The, the department has openings at this point in time, and the budget request is always in a posture of assuming that we have 100% filled positions. Over the past year, we have had incredible opportunities. The Pillen administration has helped us work through some budget challenges, and we've found opportunities with the right fit. And we have filled many of those positions. At this point in time, I continue to have four or five open positions, but that's much better than the over 10% that I've been at for three years.

**CLEMENTS:** It's good to be able your operations can continue with the funding level that you have been. Is that right?

**KELLY LAMMERS:** The operation is running in a safe and sound efficient. We have met all of the federal standards relative to the compliance with meeting examinations. Senator, quite honestly, banks are growing. It is amazing. The budget was looked at with the expectation that possibly there would be a decline in total assets, which we're seeing on the national level. But we're really not seeing that in Nebraska. We have a lot of Nebraskans that are employed. We have a low unemployment. We have a high labor participation. Those people that are employed are putting their money in banks and credit unions, in state chartered trusts. As a result of that, we always are in

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interest. I have a demand for skilled labor. I'm always looking for those. But, sir, we are well funded with the budget as proposed. I support the Governor's recommendation.

**CLEMENTS:** Thank you. Senator Dover.

**DOVER:** Yeah. You had said that you had three or four positions open currently, but then you said it's better than the 10%. How many unit-- excuse me, how many positions would the 10% represent?

**KELLY LAMMERS:** We are currently, we have 71 FTEs for the budget. At this point, I have a business manager that has been open for all of one month. I have a couple examiners that have been open slightly longer than that. At one time, I had over ten positions open, at one point in time.

**DOVER:** Thank you.

**KELLY LAMMERS:** Thank you.

**CLEMENTS:** Any other questions? Seeing none. Thank you, Director.

**KELLY LAMMERS:** Thank you.

**CLEMENTS:** Next agency, please? Good afternoon.

**JIM MACY:** Good afternoon, Senator Clements and members of the Appropriations Committee. My name is Jim Macy, spelled J-i-m M-a-c-y. I'm the director of the Nebraska Department of Environment and Energy. I'm here today to testify-- to testify in support of the Governor's budget outlined in LB1412 and LB1413. 404 dredge and fill program efforts were paused at the request of the governor. The United States Supreme Court ruled against the United States Environmental Protection Agency, EPA, in Sackett versus EPA, which again throws uncertainty into the federal definition of "waters of the United States." Additionally, the EPA's newly proposed regulation on wetlands permitting, noted-- noting as the 404(g) rule, is not yet finalized. Both federal actions have the potential to impact how Nebraska would assume 404 permitting authorization. In the meantime, the United States Army Corps of Engineers will continue to carry out its duties and provide dredge and fill permitting services in Nebraska at no cost. The Cedar Knox Rural Water Project is proposed for reappropriation reduction as, as it is planned to receive funding from other state and federal sources. Through equitable fairness, the needs of all residents in the state must be balanced. The department's State Revolving Fund coordinates and provides financial assistance to



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address Nebraska's water and wastewater infrastructure needs. Funding for this Rural Water Project, drinking water project, will be in the State Revolving Fund priority list, and will also receive thorough consideration from other federal entities. Regarding LB1413, Clean Air Title 5 Cash Fund, we are supportive of this change as long as a small revision is made, which we have coordinated with the Budget Office. In order to ensure compliance with the EPA Clean Air Act, we found that the required fee revenues are used solely to cover the costs of meeting the various functions of the permitting programs. If transfers can be limited to accrued interest, it will ensure compliance with federal parameters of the program. The Department supports the Governor and the committee's recommendations for cash fund transfers from the Waste Reduction and Recycling Incentive Cash Fund, and the Litter Reduction and Recycling Cash Fund that have been identified in FY 2023-24, and '24-'25. Thank you for the opportunity to testify. I'm available to answer any questions.

**CLEMENTS:** Are there questions from the committee? Would you specify? You were-- you were talking about interest from a fund. Which fund again was that?

**JIM MACY:** It's the Title 5 Cash Fund. So, industries that have federal Title 5 permits pay fees based on the amount of pollution that they exhibit. And based on those fees, there's a cash fund that's created each year to pay for the permitting process to process those permits. If there is an, an overage of money collected within those funds, those funds pass from one year to another and grow interest. And the interest in that fund can be part of the reallocation process.

**CLEMENTS:** All right. And so the proposed transfer is less than the amount of interest accrued. Is that--

**JIM MACY:** Correct.

**CLEMENTS:** OK. Very good. Thank you. Oh, Senator Wishart.

**WISHART:** I have an additional question. Thanks for being here. Can you explain a little bit about the Litter Reduction Fund? Is that, is that a grant program that goes out to entities in the state?

**JIM MACY:** It's a statutory fee on-- tipping fees for, for landfills. And those fees then fund various local government, non-government programs, individuals that apply for grants, throughout a defined timeframe.

**WISHART:** OK. Thank you.

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**CLEMENTS:** Other questions? Seeing none, thank you, Director.

**JIM MACY:** Thank you.

**CLEMENTS:** We're still on proponents from agencies. Next one, please?

**TOM RILEY:** Good afternoon, Chairman.

**CLEMENTS:** Welcome.

**TOM RILEY:** Committee. So, members of the Appropriations Committee and, and Chairman Clements. My name is Tom Riley. T-o-m R-i-l-e-y. I'm the Director of the Department of Natural Resources, Agency 29, and here to speak about LB1412 and LB1413. So we're here to testify in support of the Governor's mid-biennium budget adjustments. And I'll briefly provide some information on each one of those main modifications, and then I'll be happy to answer any questions you might have. So I'll start first with the Lincoln second source of water. This is-- these are monies that came-- are in our Program 319 water projects in Critical Infrastructure Facilities Fund. That's Program 1314. So the changes for that include ARPA appropriation reduction of \$50 million, and then a cash fund appropriation increase of \$50 million for FY '23 and '24. There's a corresponding \$50 million transfer of funding from the JEDI Fund to the Critical Infrastructure Facilities Fund for the Lincoln Second Source Water Project. So this really allows the city to spend a substantial amount of the ARPA dollars that provides a better certainty that those and remaining ARPA dollars would be spent by the time limitation of December 31st, 2026 deadline. So overall, though that project, the Lincoln Second City or Second Water Source has no net change in total of funding that's coming from the department. Second is a transfer from the JEDI Fund. This also is part of our water, water projects, Program 319. Changes for this include a transfer of \$35 million from the JEDI fund to the cash reserve for FY '23 and '24. It also includes a cash, cash appropriation reduction of \$10,000,000 in '23-'24, and \$25,000,000 in '24-'25. The remaining, remaining JEDI fund dollars will be used for completing two projects associated with evaluating the proposed lake between Omaha and Lincoln. Those are ongoing projects. A Colfax County project that restores a jetty that was impacted by the 2019 flood. And to support flood control projects along Wahoo Creek in Saunders County. So the, the third change deals with our Water Sustainability Fund that comes under Program 313. The changes include \$8.418 million decrease in transfers in 2024-2025, and a corresponding \$8.481 million cash fund appropriation-- reappropriation reduction. Language in the bill is recommended to ensure that no cash funds will be used for the Cedar

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Knox Rural Drinking Water Project. So reasons for, for this include that the Cedar Knox Project received and has received substantial funding from other state and federal resources. A less expensive project was identified during their feasibility study for that, in the, in the project sponsors. And then there remains a lot of uncertainty in overall project costs. That's probably true of a lot of our, our costs and projects as well. Number four, the projected rate adjustments in our Soil and Water Conservation Fund. That's Program 334. That's really the department's operational budget and where we do most of our work. Those changes stem from a General Fund decrease of \$127,396 for FY '23-'24, and a decrease of \$2,445 in '24-'25. This is all relates to adjustments from the Office of the Chief Information Officer, OCIO, for their rate adjustments for the 2020, or '23-2025 biennium. So that's just a summary of the major pieces of-- that are part of our budget change. And with that, I'd be happy to take any questions.

**CLEMENTS:** Are there questions? Senator Dover?

**DOVER:** Excuse me. On the Cedar Knox, I was kind of listening and thinking about something else, I apologize, but how much money are we taking from the Cedar Knox water project?

**TOM RILEY:** So, the funds that the department had for that project came from our Water Sustainability Fund. And those are \$8,481,000.

**DOVER:** Was there money appropriated then before? That you're aware of?

**TOM RILEY:** Not through the Water Sustainability Fund.

**DOVER:** And that, and that award was done in what year?

**TOM RILEY:** 2022 was when that award was made by the Natural Resources Commission, which manages that fund for the department.

**DOVER:** All right. Thank you.

**TOM RILEY:** You're welcome.

**CLEMENTS:** Others? Regarding Colfax and Saunders County projects. I have been told that Saunders County has contracts of almost \$20 million, Colfax maybe \$2 million. And that's like \$22 million, or-- Is there going to be funding available for that amount of projects?

**TOM RILEY:** So with the, the \$10 million adjustment for this fiscal year, that leaves a cap of up to \$15 million for the four projects

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that come under JEDI. Those are our two lake projects, and the two you just mentioned. The numbers are \$1.5 million for Colfax in \$19.6 million for the Saunders County. So, presumably, if then these adjustments are made, we would adjust those funds to reflect what's available. Most of that would be under the Lower Platte North NRD or Saunders County contract, which is the \$19.6 million.

**CLEMENTS:** Did that answer the question? Were-- you're saying there's \$15 million--

**TOM RILEY:** So there would not be--

**CLEMENTS:** --available. We're looking at 20 or so--

**TOM RILEY:** --enough money to cover all of those.

**CLEMENTS:** --million of expense? Where would the difference come from?

**TOM RILEY:** So we'll reduce the-- presumably I'll reduce the Lower Platte North Award to Saunders County to be able to accommodate what would be our cap then of \$15 million that's in the fund. And the year director will note that there would be \$85 million taken out. So there's \$100 million available. We'll have \$15 million cap. And that project in particular would be reduced.

**CLEMENTS:** And, I'm being told that they already have contracts signed. Are those contracts subject to being delayed or modified, or do you know?

**TOM RILEY:** So that's, that's true. We have contracts on every one of the projects I mentioned, the four we talked about. However, all those contracts have a provision that based on funding available that's appropriated, then those contracts could be reduced.

**CLEMENTS:** OK. Very good. Any other questions? Senator Vargas?

**VARGAS:** Can you talk to me a little bit about the last thing you just mentioned? The provision in the contracts. Is that standard language? Is that something that is new or been applied to these specific water projects? I was just curious.

**TOM RILEY:** So, for us, that's standard language. And I'll speak even to my time before coming here. Any contract I had with the state, which is generally through at least Natural Resources, I can speak for them, that's a standard provision that if for some reason there

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wouldn't be the appropriation there, then we would be able to cancel that contract.

**VARGAS:** OK. So would you-- this is kind of following on from the question of the Chair. The question wouldn't be whether or not we had enough appropriations. But if you are transferring the money over, then we wouldn't have enough money in the cash fund and that would be a reason to amend the contract. But if people were applying knowing it was going to be that amount, that's my concern. Or at least that's a concern that I, that I just heard.

**CLEMENTS:** All right. Moving over to the Perkins Canal project.

**TOM RILEY:** I didn't know that it was on the list, Senator.

**CLEMENTS:** Maybe not in the bill, but it's something that we previously funded. But that interest on that fund is being diverted for a period of time. And I'm curious as to whether you think you're going to have enough money or going to be asking for more in the future.

**TOM RILEY:** So the, the crystal ball-- maybe I'll start with just a baseline, and this would be just not true of that project for a lot of us. We, we've seen inflationary pressure on labor and materials, so there would be some expectation that costs would increase. You know, for that particular project, we've costed that out with some contingency to, to try and absorb that in our overall cost estimate. We're working to fine tune that now and develop a project that works within the money that the Legislature provided to us. So with respect to the interest, that is a good hedge against inflationary components. Understanding where it's directed to now, it won't be available for the fund. But I think, in the future, after a few years, that comes back if I recall. So.

**CLEMENTS:** So for this fiscal budget year, June of '24 and-- through June of '25, you have what you need for the Perkins Canal, right?

**TOM RILEY:** We, We do. And you'll recall that, I think we have appropriation of \$62.8 million by my numbers, right? And that, that will handle our, our process right now, which is continuing with our design. I think I mentioned to a few of you, you, you own a piece of Colorado as well now, so. We'll continue to try and work through our land acquisition components with that money.

**CLEMENTS:** All right. Any other questions? Senator Dover.

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**DOVER:** Yeah. Back to the Lewis and Clark Water Project. I think there were some different plans they had looked at, some much more expensive than otherwise, and one, th-- the-- probably most affordable was to contact-- connect up to-- entered a contract with Yankton, South Dakota for their water. And that would save us a substantial amount of money. But my understanding is they would have to have the money available to enter into a contract. Is this changed then, take that money so they would not then be able to connect to South Dakota water?

**TOM RILEY:** Yeah, I can't speak to the project proponents' overall moneys that are available to them.

**DOVER:** OK.

**TOM RILEY:** So the money that was in the Water Sustainability Fund was really laid out for their other proposed feasibility option, which would have been wells in Nebraska. That's how it was identified, if I remember right.

**DOVER:** All right. Thank you.

**TOM RILEY:** You bet.

**CLEMENTS:** Seeing no more questions, thank you, Director.

**TOM RILEY:** Yep. Thank you.

**CLEMENTS:** Is there another agency proponent? Seeing none, are there other proponents from the public regarding this, LB1412 and LB1413. Welcome.

**RYAN McINTOSH:** Good afternoon, Chair Clements, members of the committee. My name is Ryan McIntosh, M-c-I-n-t-o-s-h. I'm appearing today on behalf of the National Guard Association of Nebraska, the Nebraska Volunteer Firefighters Association, and the Nebraska Fire Chiefs Association in support of LB1412. Specifically, section 2 appropriates \$19.5 million of ARPA funds to the Rural Ambulance Replacement Fund to purchase new ambulances and medical equipment for rural EMS. This program has been tremendously successful and critical to the continued provision of rural EMS services in Nebraska. Further, section 24 provides funding to the Nebraska Military Department to ensure our soldiers and airmen are able to use the benefit promised to them, tuition assistance, that was, that there's been an uptake in that in recent years. Much thanks to Senator Wishart with LB450 a few years ago, so. With that, I thank you for your support and would welcome any questions.

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**CLEMENTS:** Are there questions? Seeing none, thank you.

**RYAN McINTOSH:** Thank you.

**CLEMENTS:** Additional proponents for LB1412 or LB1413? Seeing none, we will now go to opponents for LB1412, LB1413.

**JOHN LINDSAY:** I brought my own chair, so I'll move this one.

**CLEMENTS:** Welcome.

**JOHN LINDSAY:** Chairman Clements, Clements, members of the Appropriations Committee. For the record, my name is John Lindsay, L-i-n-d-s-a-y. I am appearing as a registered lobbyist on behalf of the Nebraska Beverage Association in opposition to LB1413. I have also been asked to express opposition based on the same rationale on behalf of the Nebraska Grocery Industry Association and the Nebraska Retail Federation. The, the specific objections to LB1413 are found in sections 28 and 29 on page six, which would transfer \$500 thousand, this year and \$1 million next year from the Nebraska Litter Reduction and Recycling Fund. I think it's important to know the background of this fund, and why it is a fund that should not be swept in a situation like this. In 1978, going way back-- actually, I was in college working in a liquor store and had the referendum petitions on my, on the counter. But at that time there was a bottle bill that had been passed and it was put on the ballot and repealed by the voters. During that campaign, the various industries involved were saying, basically the, the slogan was right problem, wrong answer. And so the industry came in in 1979 and again in '81 to create the Litter Reduction and Recycling Grant Fund program, and in doing so, imposed a fee on themselves. Our folks said, please tax us to help with this problem. And it was specified that these funds go in that program so that grants could be issued, could be, could be awarded for a variety of purposes, all of which were intended to reduce litter and to encourage recycling. And over the years, there have been some really amazing work that has been done through these grants to do exactly what, what was suggested by the legislation back so many years ago. The couple of things that I think should be, which, by the way, I think this, Senator Wishart, may have been your question as far as on this fund, it is funded through an assessment or a fee of 100 and-- I believe it's \$175 per million dollars of gross product sold in the state. So if you're selling the products that Senator Vargas has in front of him, which our members, distribute to, I'm sure, to every district around this table, that, that we pay a fee on that so that these bottles, which, by the way, are now 100% recyclable, caps and

everything. That-- so those can be collected, recycled in-- through some of these grants, have expanded the market for those recycled products, especially in the area of PET, the, the plastic that is used in those bottles that has expended tho-- expanded those markets so that once the recycling has taken place, there's something somewhere to sell that, that recycled plastic to. Two things I would say before I-- hopefully before the red light comes on. It was mentioned early on by proponents that the goal was a sustainable, sustainable property tax. This fund is not sustainable for one important reason. It is scheduled to sunset next year in 2025. Historically, it's had a sunset every five years. But the industry, the three associations that I mentioned have kept an eye on the programs, kept an eye on the proceeds and have said, you know what? It's working. We'll continue to do it. And we bring forward, we ask some senator to introduce legislation to extend that sunset date. But without that sunset date, it's done next year, and this will be the last sweep that occurred, because certainly, if it's not being used for the purposes it was intended, I don't think the industry will be coming back in to say, please continue taxing us for a purpose that we never intended.

**CLEMENTS:** Are there questions? Senator Armendariz?

**ARMENDARIZ:** Thank you, Chair. Thank you for being here. One c-- I'm a little bit confused. I believe that our Director of Finance said that this is a temporary gap, so that then we can employ the property tax relief long term. These funds aren't for property tax relief. They're just for the gap. So if it is a temporary thing I think that's OK because it is a one-time.

**JOHN LINDSAY:** It's this year's one-time sweep, yes.

**ARMENDARIZ:** Correct. So the property tax relief fund, I believe, is coming from other areas, not this cash--

**JOHN LINDSAY:** It--

**ARMENDARIZ:** --diversions.

**JOHN LINDSAY:** It may. The-- and it's legitimate point that you've made, but the bottom line is this fund to fill future gaps or whatever it might be, if it is swept, is not being used for the purpose which the public, and specifically these industries, were told it would be used. And, I believe that is a, a little bit of a bait and switch to the public. And I think that's bad policy, even if it is sustainable by repealing the sunset or by, as you mentioned, having, having a gap,



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having it replace gap dollars that are needed to fill the gap. Either way, it's still, I don't believe, good policy to be using the dollars for something that the act itself, the legislation itself that's been in effect for 40 years, does not contemplate.

**ARMENDARIZ:** So, to be clear, they're not defunding the program. They're taking excess cash from the program.

**JOHN LINDSAY:** They are taking the funds--

**ARMENDARIZ:** For all of the cash.

**JOHN LINDSAY:** They're taking-- I don't know if it's-- I don't know if it's the whole fund, because I believe it was in about 2020, the department no longer published the, the facts on the fund for the, for the public. So I don't believe we have access. But I know there's somebody that will follow who will talk about the grants and how much is spent. It produces, I believe, generally about \$1.5 million a year. So if it's \$1.5 million next year, that would be the fund.

**ARMENDARIZ:** And are all of them awarded in grants every year? All of the funds?

**JOHN LINDSAY:** Not every year, no. There's years where there's more. There's years where there's applicants who do not receive grants because there's not enough money. It just varies year to year like it would in any grant program.

**ARMENDARIZ:** Thank you.

**CLEMENTS:** Other questions? Senator Dover?

**DOVER:** What is the tax? And what exactly is taxed?

**JOHN LINDSAY:** Any product that is produced within certain categories. The categories would include soft drinks. It would include, I believe it includes, alcoholic beverages as well. But we're just-- my association is just the mixers, not the, the, hard core stuff, but it would include much in the grocery area. Again, to-- with the purpose of recycling packaging. The-- so, it is specific products that are listed within the statute and within the department regulations. But it's, it's based on a, a per million dollars of products sold.

**DOVER:** Can you give an example of a successful grant program outside of Lincoln and Omaha?

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**JOHN LINDSAY:** Actually I can't, I apologize, but there will be somebody coming who can, and I know there are. Let me think, out of hand, I don't want to get too far into it because I'd be wrong on the details, but I know there are smaller towns outside Omaha and Lincoln that have used it, used things for whether it's businesses in the areas to expand their recycling programs for, for community pickup, picking up the recyclables within the, within the municipality. But I would prefer to defer to somebody who's actually tracked all these grants.

**DOVER:** Thank you.

**CLEMENTS:** Thank you for your testimony.

**JOHN LINDSAY:** Thank you.

**CLEMENTS:** Page? I have a question for the pages. Will you, on both LB1412 and LB1413, would you put the LB1413 both on the stand? Additional opponents, please come to the chair.

**RON SEDLACEK:** I didn't bring my own.

**CLEMENTS:** Good afternoon.

**RON SEDLACEK:** Good afternoon, Chairman Clements and members of the Appropriations Committee. For the record. My name is Ron Sedlacek, R-o-n S-e-d-l-a-c-e-k. I'm here on behalf of the Nebraska Chamber of Commerce. I'm also authorized to represent today the Greater Omaha Chamber of Commerce, the Lincoln Chamber of Commerce, the Nebraska Economic Developers Association, and the National Federation of Independent Business in Nebraska. And we're speaking to areas, or parts of LB1413 in opposition. And in particular, they would be sections 47 and 57. That relates to a \$60 million transfer from the State Unemployment Insurance Trust Fund, and then sections 18 and 57, which sweeps \$1 million from the Nebraska Training and Support Cash Fund, and sections 19 and 67, which takes \$9 million from the Site and Building Development Fund. The State Unemployment Insurance Tax, called SUIT, acronymwise, was first enacted into law 30 years ago. One of the co-sponsors of the bill just testified before you. Senator Joyce Hillman, I remember from Scottsbluff, was the principal sponsor, but she had 36 other colleagues who had worked on this legislation for many years. And I say we being the business community and particularly the chambers, but other business associations and labor organizations. We had two reasons to promote this type of legislation. Number one was to ensure that our trust fund would be solvent in the case of a large

recession or depression, so that benefits would be paid and available to workers, that we wouldn't have to be coming to the Legislature asking for a special appropriation in a time when it's very hard to increase taxes, and particularly on those employers who would be called to pay increased taxes in order to support the benefits of the program. But secondly, Nebraska was one of those states, one of the very few states, in fact, maybe outside of South Dakota, we're the only state that did not have a state worker training program available. And we felt the need for that. And just like the previous bill that was-- the previous testifier said, we came to the Legislature asking for this additional authority to levy taxes on employers to, to provide those, the, the intent of, of, of that legislation. So, what is particularly troublesome about this proposal is that as an employer community, we thought we were putting the money in a trust fund, so to speak. It's trust fund that isn't really a trust fund, I guess. But the idea was to collect this tax for that purpose and to use the interest on that tax for training. And this bill does not even-- it takes-- it sweeps the money out of that program, \$60 million, I think it might be like \$72 million total, so it's not a total sweep. But it's taking a substantial amount that's built up over 30 years, and using it for a totally unrelated purpose. And it doesn't even repeal that tax, that extra tax then. So is there some sustainability-- sustainability? Yes, there is to a certain extent, but not much. And if you're going to collect the tax and call it a-- and put it in a trust fund for unemployment and it's not used for that purpose, to borrow the phrase I just heard a little while ago, it's kind of a bait and switch. And that's why we're opposed to that. The Site and Building Fund is a program that was enacted as part of a package in 2011 to fill up our economic development toolbox and provide for favorable conditions for improving industrial readiness across the state of Nebraska. It's available for not, not, not for profits as well as community organizations, in order to prepare a site, site for industrial development. And that program requires a dollar for dollar match by the local communities that want to take advantage of it. And again, we would oppose the idea of emasculating this program, essentially weakening this economic development tool that is available statewide, that does allow for future planning, not just next year or for two years, but four or five years down the road, for our communities, both in urban and rural Nebraska. And that would conclude my testimony. I'd be happy to answer any questions.

**CLEMENTS:** Are there questions? Senator Erdman.

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**ERDMAN:** Thank you Senator Clements. Thank you for coming. So I would assume you were here earlier when the director of the Department of Labor came in?

**RON SEDLACEK:** Yes, sir.

**ERDMAN:** OK. And he spoke about section 47, the \$60 million transfer. Do you remember that conversation?

**RON SEDLACEK:** Yes.

**ERDMAN:** So he was fine with this. Said this fund was sufficient. What information do you have to show me or us that he was incorrect?

**RON SEDLACEK:** Oh I don't think he was incorrect. The-- what he's talking about, though, was there's two-- there's, there's a combined tax, OK? There's two funds that we're dealing with. Number one, you have a federal fund, that is the, the super solvent fund that we were talking about, OK? Then there is the State Unemployment Insurance Fund, OK? This SUIT program takes a percentage, and I believe right now it's about 5%, of those taxes paid in the State Unemployment Insurance Fund and puts them into the SUIT. OK. So it's just-- it's an extra, it is an extra collection of employer paid tax dollars to be used as a contingency in case we did have a major recession. Fortunately, that's not the case now, it had been in the past, but secondly, also that we could use the interest generated from that fund to provide for a sustainable job training program where we didn't have to go to the Legislature year in and year out asking for additional money to support that training program. It would be there. It would be not an appropriation, essentially. But it would be there for that program, for the worker training board to use.

**CLEMENTS:** Yes.

**ERDMAN:** Thank you, Senator Clements. So then if this fund is more than we need, according to what he said, and he-- I believe he alluded to the fact that there were a couple of downturns in the economy and we never did-- we never ran short.

**RON SEDLACEK:** Correct.

**ERDMAN:** OK. So what do you think-- what's the purpose of having \$60 million in there for something that may happen? Is that--

**RON SEDLACEK:** It's a reserve--

**ERDMAN:** Is that, is that exorbitant? What should it be?

**RON SEDLACEK:** Well, we'd like to keep adding to it so that we can have additional money for, you know, to generate more interest, to enhance worker training. Workforce development is important, and it's one of the top priorities of, of our chambers. And so this is a self-imposed in a sense, we asked for this tax additional. And if we're not going to use it for that purpose, I guess the best thing to do is just repeal the tax.

**CLEMENTS:** Yes, Senator Wishart.

**WISHART:** I think this has been helpful for me to understand. Because this is a trust, if we are to move a significant portion of dollars out of that trust, then it's not generating the same level of interest that goes to support this worker training program. Is that what you're saying?

**RON SEDLACEK:** That's correct.

**WISHART:** OK. Thank you.

**CLEMENTS:** Other questions. Senator Armendariz?

**ARMENDARIZ:** Thank you for testifying today. I'm and I am still learning a lot of how our-- I guess I'm under the impression we have a reserve for the state at almost \$1 billion. So I'm wondering why each agency also has their own reserve. Are we building our reserve at the level we're supposed to, knowing each agency has a reserve as well? Are we building our reserve under the impression that each agency is spending their allocation we give them every biennium without saving extra. I think that's where the Governor is coming in and saying agencies aren't supposed to be stockpiling tax dollars that either businesses or individuals are paying. And I think that's where the contention is. So are we setting a budget knowing each agency has several hundred million dollars as well as the ones we're setting aside? Do you think that's reasonable or--

**RON SEDLACEK:** I understand your question and I'll try to respond as best I can. I think Director Albin had had a pretty good response when he asked that question as well, and I would have to agree with him in, in regards to-- the-- the-- we're dealing with both a federal and state treasury, OK? So we're talking about a trust fund. We're talking about various funds here within the Department of Labor, OK? So it's not just a cash reserve that's just sitting there necessarily. You have a federal component, OK? And you want to satisfy that. And you

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have federal guidelines that you would like to adhere to in which you have enough in that fund to address a situation where you have the worst case scenario, or at least the worst case scenario in the last 10 or 20 years, whatever that guideline is. I'm not sure what the number is, but it's in that range. So you have that now can you violate that? Yeah, you could and then you could borrow against, you know, in order to fund at a pretty bad time. And we aren't supposed to be going into debt and borrowing to pay back our federal obligation, right? So that's why we have that fund. Then we have the state fund, OK? And then we have this additional fund, the SUIT, another trust fund, which we set up as a backstop, OK? So do we need it? We asked for it. We wanted it in order to avoid those situations where there was a risk to the, to the, to the Unemployment Insurance Fund. And then when there isn't one, then we can use that money to generate dollars, again, for job training. So it's a matter of philosophy as to how much should be held in reserve by some of those.

**ARMENDARIZ:** Do we have enough money for job training?

**RON SEDLACEK:** I think it could always used more, but--

**ARMENDARIZ:** Do you expend all the money you get for job training and look for more?

**RON SEDLACEK:** You know, I can't tell you exactly without guessing if-- whether all those grant funds have been fulfilled from year to year. That would be a question, historical question for the Department of Labor to answer. Or I can get it for you.

**ARMENDARIZ:** OK. Thank you.

**CLEMENTS:** Are there--Senator Dover.

**DOVER:** Yeah. Thank you for coming, Mr. Sedlacek. I am new also. And there's a lot of, a lot of years here at the Unicameral, things evolving and stuff. So my question is kind of an open one, but, so, as funds built up money because-- one of my-- Senator Scheer was here, or Speaker Scheer was here that there was no money, right? And so over time when there is money, these funds build up. And then my question is this, then. Have those large cash balances in those funds, the interest generated on those, in the very beginning, did those simply go back into the fund? And has there been a trend when we start having these large balanced funds to beg-- also become a funding source for other things for senators' bills? Is that a trend that we're starting to see now that we have large amounts of money built up?

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**RON SEDLACEK:** Well, it depends on the fund. There's so many different cash funds and for different purposes, and some are built up to keep fees down. And they, and they're recycled in that regard, I suppose. Other funds are used for particular projects. So I, you know, I can't speak to all these state funds, OK? And I'm not really testifying on behalf of, of the entire bill before you, only those areas where I've been authorized to represent the chambers. But, you know, generally speaking, it's it's been nice to have the cash historically, to have some of these cash funds around in times of need, because then they can lapse of the General Fund and soften the blow as opposed to across the board cuts, you know, state agencies of a particular percent. Maybe you can soften that blow, keep taxes, you know, at a time when you have a recession or depression, keep them stable and not have, have to search for other taxes and God forbid, have tax increases. So, you know, from that point of view, it's, it's nice to have some cash funds.

**DOVER:** Yeah. I don't mean to be, you know, putting you on your spot. I'm just trying to understand, but because you have, I mean, years, decades of experience here and, and have seen things and, and not to be too specific, it's more of a generic question. I, I apologize, but it seems as though in my first session last year there, there seemed to be a number of things that statutory bills are passed that look to this interest of these funds for funding and therefore almost justifies having a larger balance. I mean, and that's limited-- my limited understanding. Your comments?

**RON SEDLACEK:** My comment?

**DOVER:** Yes.

**RON SEDLACEK:** Oh. Well, in the case of the Unemployment Insurance Trust Fund, the SUIT, employers thought they were paying into the fund for those purposes and not for temporary relief or some sort of outlet for another program. And if you're going to collect that money in that tax it ought to be used for the purpose it's collected for. That's just honest.

**VARGAS:** Senator Vargas?

**VARGAS:** Thank you very much for being here. As a, as a little point of clarity. So I think sometimes we, we don't differentiate very well between when we're talking about program funds, like when we talk about, let's say, the, the canal, which was appropriated by us, was a bill we passed and created a program and fees paid by a company or

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user, like what we're talking about with the, you know, the, the SUIT Fund, or Universal Service Fund, or other funds. And I just-- that's why historically, I asked Commissioner Albin if we had ever done this, we'd ever transferred this amount. And I think the answer what we heard was, no, like maybe \$10 million, \$13 million, not \$60 million. My question is if you have any information on-- I was sort of quickly looking at-- we usually use the federal, the state tax and in exigent times with recessions, states are able to borrow from these funds and shore up. I mean, it's meant to be like, hey, in case of glass break, but I don't know if you have any in history of other states doing what is being proposed right now, moving the \$60 million to the General Fund, not for recession times. Do you know if that's happened in other states or any--

**RON SEDLACEK:** I, I do not know, but I can take a peek and see what I can find. I thought our program was somewhat unique. It was a matter of, of, kind of a design construct over the years that we thought was unique to Nebraska at the time, that fit Nebraska. Other states may have imitated this, and I don't, I don't know. But I could see what I can find.

**VARGAS:** Just curious. And it is helpful to have your-- the representation from the different-- the groups that the Omaha Economic Developer Association and the Nebraska Chamber, largely because I don't think nobody's debating here whether or not there are funds that are able to be transferred or whether or not in exigent times we'd transfer them. But if you had known, and if you, you can agree or disagree on this, if you had known that this is what would be a potential use for these, for this trust fund, would you have supported the, the fee that you're paying? And so it's just a final question.

**RON SEDLACEK:** I think it would be a number of businesses that would advocate to us that if it's not being used for the purpose that we're collecting the tax for, why are we paying the tax?

**VARGAS:** Thank you.

**CLEMENTS:** Thank you for your testimony.

**RON SEDLACEK:** And I do, just-- if it helps you or the builder or the transcribers, I have some extra copies of generally my remarks. You might--

**CLEMENTS:** Leave that with the clerk, yes.

**RON SEDLACEK:** I will.



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**CLEMENTS:** Thank you.

**RON SEDLACEK:** Thank you.

**CLEMENTS:** The next opponent, please. Welcome.

**CRAIG BECK:** Thank you. Good afternoon, Chairman Clements and members of the Appropriations Committee. I'm Craig Beck. That's C-r-a-i-g B-e-c-k, and I'm here with OpenSky Policy Institute. We're here to testify in opposition to both bills today. I'm going to start with LB1412, and get our comments on the record for that. So, our opposition to LB1412 mostly relates to the proposed reappropriation of the \$87 million of the ARPA funds for surface transportation. You know, we're certainly aware that the department or the US Treasury Department has provided new guidance that indicates that surface transportation is an allowable use of funds within certain constraints. But I would call the attention of committee back to the fact that state fiscal recovery funds were initially envisioned by Congress to address a broad range of pandemic response purposes, including supporting public health expenditures, addressing negative impacts caused by the public health emergency, and replacing lost public sector revenue. We would recommend that the Legislature continue to implement its current appropriations of state fiscal recovery funds to achieve those purposes, rather than seek to reappropriate those funds for new purposes. I would also add to this, that, you know, as part of the state's dedication to transparency, the Legislature last year authorized an audit of the ARP-- of the ARPA funds by the state auditor. His audit is not yet complete. Though, you know, recently indicated in a memo that, perhaps-- you know, he's finding that perhaps some of the funds were misspent and that more have not been alloc-- allocated for their intended uses. To that end, we would recommend that the committee incorporate as many of the auditor's findings as possible. Though we do recognize that by the time the auditor's report is released and when you have to make your recommendations to the floor, that that may not be possible. My final point as it relates to LB1412 is that I would note that funds are already flowing into the state for surface transportation purposes. These would include funds from the Infrastructure Investment and Jobs Act, along with, another \$21 million from an additional fund-- or from an additional federal purpose that that the Governor talked about last week for, you know, road improvements out west. That would close my comments on LB1412. And I will move to LB1413. And I'm hoping to maybe zoom out a little bit in our discussion of LB1413, perhaps address some of the comments that Senator Vargas has made, though he's not with us right now. So, the first thing that we would say is that the

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state has a projected \$380 million variance above the minimum reserve requirement at this time. You know, in layman's terms, budget surplus. So, you know, transferring roughly \$200 million of cash funds into the General Fund with the amount of money on hand would be a shift from the committee's historical cash fund policy, where these non-regular large scale cash fund transfers would only happen in times of fiscal crisis. To be clear, the cash reserve is for that specific purpose, as you, I think you were alluding to, Senator Armendariz. Well, cash funds are established in statute for other purposes. And, you know, to us, it's important not to conflate those two things. I would say that from a historical lens, the last two times that a number of cash funds were transferred into the General Fund to stabilize the budget was in 2009 and 2017. And the fiscal outlooks at those times were substantially different and worse than they are today. I, you know, leading up to both of those years, 2009 and 2017, rate and base adjusted growth was low or negative. Rate and base adjusted revenue growth leading up to these years has been-- we've had two years of records out of the past three of rate and base adjusted revenue, of 13 point something percent and 18%, and that growth is expected to continue for the current biennium. We're at 6.1% projected growth this year with 3.4% next fiscal year. You know, additionally, the cash fund transfers in 2009 and 2017 each amounted to around 1% of the total General Fund appropriations for those biennia. And the cash fund transfers proposed in this bill, again at a substantially different fiscal outlook, are almost 2% of our General Fund appropriations for the current biennium, which obviously amounts to about double what was done, what was transferred in times of fiscal crisis. I see I'm running out of time. But the final point that I would make very quickly is that cash funds collect fees intended to fund specific purposes, and we oppose diverting those funds away from those purposes outside of an emergency. You know, as it relates-- there's been substantial discussion about-- Well, OK.

**CLEMENTS:** All right. Thank you. Are there questions from the committee? Senator Wishart?

**WISHART:** Thank you for, for coming. Is there a-- Has there ever-- Have you seen this in other states where there's any legal issues associated with, like a trust being set up or a particular fee being set up that goes into a cash fund that then is being diverted for a different purpose?

**CRAIG BECK:** That's a great question, Senator. You know, I'm not aware of issues in other states arising from that, you know, action. But, you know, I would, I would circle back to the fact that cash funds are

collected for a specific purpose, and that we would reasonably expect that the person paying that fee, the entity paying that fee, would expect that the the funds are used for the intended purposes of those funds and simply just capturing those for the General Fund, again, outside of what we would call, you know, a fiscal crisis, is something that we would certainly oppose.

**WISHART:** And have you, and you may not know this, but have you dug into, have you seen any patterns with the Appropriations Committee in terms of working with the fuller body to, to support reducing some of, if there is a surplus in the cash fund, working to actually statutorily reduce the fees on those entities, to more right size that fund.

**CRAIG BECK:** You know, I, I haven't come across anything like that, as I've been looking through budget books. But, you know, again, I would say that we would recommend that the committee either, you know, work to spend those funds down more to to a balance that's more in line with your expectations or, as you said, perhaps even work to reduce those fees. You know, if these funds are holding too much money, then, we would certainly, you know, we'd like to see them allocated and spent for their intended purpose. But I think secondary to that, we would rather them not just be collected and then captured for general purposes.

**WISHART:** OK. Thank you.

**CLEMENTS:** Any questions? I didn't catch the name of your policy institute, it's what?

**CRAIG BECK:** Its openSky Policy Institute.

**CLEMENTS:** OpenSky, OK. I missed that. Seeing no more questions. Oh, Senator Armendariz.

**ARMENDARIZ:** I'll ask one. Since, since you brought up initially using those cash funds for its intended purpose, or reducing the rate if we're in an excess of collection, is there a third of giving that back to the taxpayers that paid it in excess? Would you ever go there?

**CRAIG BECK:** Well, I think that spending them for their intended purposes, you know, what would be our first item that we would like to see done with those cash funds. And then, of course, if the funds are holding too much, you know, of a balance or those funds or those balances are not in line with your expectations, we would certainly support reducing the fees collected for a period of time to bring

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those funds back in line. Again, you know, it-- from, from looking at what this committee and that the body has done in previous years, capturing these cash funds for just a wholesale return to the General Fund, would deviate from what this committee has done, and it's not something that we in OpenSky would support, just capturing those funds for general purpose.

**ARMENDARIZ:** So at OpenSky--

**CRAIG BECK:** Correct.

**ARMENDARIZ:** --my third, third question was, would OpenSky ever support giving them back to the taxpayers if they've been over collected?

**CRAIG BECK:** Well, so I mean, I think that's two sides of the same coin to, to reducing those fees up front, right? If the committee makes--

**ARMENDARIZ:** That's after the fact of their being collected.

**CRAIG BECK:** I sure I understand your point, Senator. But if those fees are reduced or not collected for a period of time to bring those fund balances back in line, we would certainly support that over cap-- over capturing them just purely for the General Fund for general purposes.

**WISHART:** Thank you.

**CLEMENTS:** All right. Thank you for your testimony.

**CRAIG BECK:** Thank you.

**CLEMENTS:** Next opponent. Welcome.

**DAN WATERMEIER:** Chairman Clements. Members of the Appropriations Committee. My name is Dan Watermeier, spelled W-a-t-e-r-m-e-i-e-r chair of the Nebraska Public Service Commission, and here to testify in opposition of LB1413. Specifically, the proposal transfers of \$11.2 million in 2024 and \$2 million in 2025 from the Nebraska Universal Service Fund for the NUSF to the General Fund. The NUSF is supported through a surcharge collected on intrastate voice telecommunication services. The fund is used to support voice networks that are broadband capable in high cost rural areas for both maintenance and build out of those networks. The NUSF also supports programs that provide low income access to telecommunication services, telehealth networks that allow remote access to health services, and build mobile wireless towers in rural areas to improve coverage, and the program that brings fiber optic networks to schools and to libraries. In

recent years, the balance in the fund has grown and as a result, has earned significant interest. What I want to convey to you, though, is the balance has grown. Several years ago, the Commission made the decision to direct more NUSF support towards building out new networks. Some carriers had not used the funding allocated to them to upgrade existing networks to the satisfaction of the commission. In order to incentivize new build out and accountability measure, the commission determined that build out funds would only be paid out on a reimbursement basis. In other words, the work would only be completed-- in other words, work would have to be completed prior to support being paid out. We believe this measure achieved the stated goal of accountability, but the unintended consequence was the buildup of funds as we wait to reimburse costs. We have worked to implement additional measures to both protect accountability while also reducing the balance. The Commission plans for allocations from the NUSF on a calendar year basis, and makes those determinations based on the balance of the fund. Annual allocations include any interest that has occurred that has not been already transferred. The support that is projected to be brought in during the year through remittances, and the funds that the Commission determines are necessary to support the programs in place. I have handed out a breakdown of how the funds that make up the balance are allocated for existing projects and programs, and we can provide additional detail if requested. You will see that the balance in the fund is almost fully allocated to existing programs and projects, and a transfer from the fund will require cancellation of existing commitments. While the transfer of funds may harm some of the companies that receive support. The primary parties hurt by endangering the viability of these projects are the Nebraskans who would be served by the NUSF funded projects. I want to mention that interest earned by the fund was diverted to General Fund in 2018 and 2019, and funds have been diverted to the 211 cash fund in each of the last fiscal years, with another transfer scheduled for this July. It is unclear whether the proposed transfer of funds is meant to replace transfers in '24 or fiscal year '25, but a transfer of \$1.275 million already occurred on July 1st of 2023, and another transfer of \$1.455 million is set to occur this July. So we wanted the committee to be aware of that. Lastly, I'll also touch on the question of legality of a transfer of funds. According to state and federal law, and NUSF funds are required to be used for the provision, maintenance and upgrading of communications networks and services. See statutes 86-34. The transferring of funds out of the NUSF program is contrary to the cost-- constitutionality finding of the Nebraska Supreme Court in Schumacher v. Johanns in 2006, which found that NUSF funds must be used for the sole purpose of supporting NUSF eligible services. For

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all these reasons, the Commission opposes LB1413. This will-- this bill would be detrimental to the efforts of the commission to support voice networks that are broadband capable and are much needed in unserved and underserved areas of the state. I appreciate the opportunity to appear before you today, and would be happy to answer any questions if I can.

**CLEMENTS:** Are there questions? Senator Armendariz?

**ARMENDARIZ:** I just have a comment. I appreciate your bringing the spreadsheet with all of the dollars, and we'll use this in our decision making. I appreciate you bringing it here.

**DAN WATERMEIER:** Very good. If you need a further detail about specific projects, we can do that too.

**ARMENDARIZ:** Thank you.

**CLEMENTS:** I wasn't sure what you said. Did you say all of these funds are already obligated or for some purpose?

**DAN WATERMEIER:** They are obligated for high cost, universal service in the state of Nebraska for voice mail and then in sequence, going only to broadband service as well. But they are pretty much all allocated. The page that I handed out, the second page actually shows about \$600 thousand out of \$130 million, is about as close as we can come to getting it all obligated out. So we feel like that's as close as we can make it.

**CLEMENTS:** We had some-- we had information that there was the \$124 million balance. Are you showing \$130 million current balance?

**DAN WATERMEIER:** That has been allocated to the different-- the four different types of carriers price caps, rate of returns, cell towers and then the other services that I talked about. It's all been allocated. Those carriers have taken on the challenge of creating contracts and they're in the process of doing that. We are strictly just a reimbursement in our grant process. So we make sure they get it built, they get it spent, and we come in and check it and then we will reimburse. So that's why there's a balance there. But it's all obligated funds.

**CLEMENTS:** Senator Armendariz?

**ARMENDARIZ:** Thank you. I have another question for you. So, is there an opportunity for federal funds to be coming for building out broadband?

**DAN WATERMEIER:** Well, currently, yeah, the BEAD funds will be started in the Broadband Bridge office. The, the federal NUSF, excuse me, the federal USF dollars are currently coming into the state all the time as well. So there's--

**ARMENDARIZ:** So are the telecommunications companies in, in particular holding off to see how much those dollars are going to be available for them for the build outs and how would that affect the moneys available?

**DAN WATERMEIER:** I don't believe they're holding off. They've been highly engaged in producing and providing new service build out and maintenance of their system, but the-- there are carriers behind me that could probably answer that question better than I.

**ARMENDARIZ:** Thank you.

**CLEMENTS:** Senator Dover?

**DOVER:** Have you been involved in conversations with the Governor's Office?

**DAN WATERMEIER:** We did earlier, but this bill just popped up on the 18th. We've had several conversations with Director Lee Wills over the last few [RECORDING MALFUNCTION] --explain how the USF works. So we've had conversations, but this one hit us a little blindsided on the 18th.

**CLEMENTS:** Senator Erdman.

**ERDMAN:** Thank you, Senator Clements. Thank you-- almost called you Senator Watermeier. Thank you, Director Watermeier. So you made a comment about the high-cost areas. Can you describe those for us?

**DAN WATERMEIER:** Well, high-cost areas or anything that probably would never be built out to if it weren't for support, the subsidized support at the federal level or the state level. So that's what we generalize in our work in infrastructure, as if it's a high-cost area. For instance, the Bridge Act and different programs we may substitute at a very high level if it's an unserved area, doesn't have anything there, it may cost \$20,000 for connection to get to somebody that's actually in a high-cost spot.

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**ERDMAN:** So you know where I live by the end of the Earth, is that the section you're talking about?

**DAN WATERMEIER:** Well, I'm beyond that, but right in there.

**ERDMAN:** OK. Thank you.

**CLEMENTS:** Other questions? The information-- that one more thing. The information we've been given shows this had a balance of \$63 million starting fiscal year '20, and now it's \$133 million.

**DAN WATERMEIER:** That's a 2-year.

**CLEMENTS:** It's, it's growing. And you're saying it's been obligated, but it hasn't-- you haven't spent that much, but you think you're really going to spend it all?

**DAN WATERMEIER:** We, we will spend it. And there's no doubt about it, we're going to spend the money. In the broadband world, it's just expensive. They're plowing fiber. They're putting in telecom. It's an expensive process and I think the carriers can defend that in that regard better than I can.

**CLEMENTS:** All right. Thank you for your testimony.

**DAN WATERMEIER:** You bet. Thank you for having me today.

**CLEMENTS:** Next opponent. I'm going to turn it over to Vice Chair Wishart for a minute.

**WISHART:** Welcome.

**PAUL SCHUDEL:** Thank you. Chairperson Clements, members of the Appropriations Committee, my name is Paul Schudel, spelled P-a-u-l S-c-h-u-d-e-l. I'm an attorney with the Woods Aitken law firm located here in Lincoln. I'm appearing before your committee today on behalf of the Nebraska Rural Independent Companies, consisting of 17 companies listed on Attachment A to my written testimony. These companies serve some of the most rural, least densely populated and high-cost areas of Nebraska. I'm appearing in opposition to Sections 20 and 21 of LB1413. These provisions would, in aggregate, transfer \$13.25 million from the Nebraska Telecommunications Universal Service Fund to the General Fund. In 2006, the Nebraska Supreme Court concluded in the case of Schumacher v. Johanns, quote, that the primary purpose of the NTUSFA is not to generate revenue for governmental purposes, but rather to regulate the telecommunications



industry through a rebalancing and restructuring of rates. End quote. The court further concluded, quote, Based upon our independent review, we conclude that the surcharge is assessed by the PSC pursuant to the NTUSFA is not a tax. End of quote. Thus, the accumulated balance in the fund collected from end user remittances of NUSF surcharges for telecommunications regulation purposes may not be transferred to the General Fund since such collections are not tax revenues. This conclusion is consistent with the 2009 Nebraska Attorney General Opinion Number 09013, which concluded that the proposed transfer at that time of accumulated enhanced wireless 911 funds surcharge amounts to the General Fund was not permissible. In addition, deployment, maintenance, and upgrading of networks to provide ubiquitous access to broadband services is the most important infrastructure initiative of our time. The Legislature recognized this fact not only through the implementation of the NUSF, but also through establishment of the Nebraska Broadband Bridge Act that provides an additional \$20 million per year for deployment of broadband networks. The proposed transfers out of the NUSF would be inconsistent with Governor Pillen's statement that, quote, Affordable, accessible, dependable and high-speed broadband is essential to, to keeping our kids and having them flourish in our state. As we expand, expand and improve broadband access, we will be growing future investment and prosperity in Nebraska. End of quote. Also the proposed transfers from the fund would have a negative impact on the provision of telecommunications services, which means voice telephone services to all Nebraskans. The same networks that provide broadband service provide voice service. Removing NUSF support for the provision, maintenance, and upgrading of those networks places in jeopardy emergency 911 service, Lifeline service to the poor and elderly, and essential voice service that we recognize must be universally available to all Nebraskans. On behalf of the Nebraska Rural Independent Companies, I respectfully request that the committee not advance LB1413 with the inclusion of current Sections 20 and 21. If I may, I'd like to also address a couple of the points raised by Senator Clements and Senator Armendariz. These are big numbers. The \$130 million balance in Commissioner Watermeier's handout is a large sum of money. The \$406 million that the state is expecting to receive from the federal BEAD Program over the next 5 years is a lot of money. According to the Nebraska Broadband Office and its recent publication in response to the BEAD Program, even applying all those dollars and, and additional Bridge Act monies, the, the gap to build out ubiquitously broadband to all Nebraskans remains at \$772 million. So I just wanted to bring those numbers to your attention because of the, the magnitude. It's a big job. We've come a long ways, but the very high-- high-cost, low-density population areas

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that Senator Erdman was referring to remain to be built out. Thank you. I'll try and answer any questions if you have any.

**WISHART:** Any questions from the committee? Senator Armendariz.

**ARMENDARIZ:** Thank you. Thank you. Just a point of clarification, the 700 and what million dollars?

**PAUL SCHUDEL:** \$772 million.

**ARMENDARIZ:** \$72 million. Is that just for people that don't currently have broadband?

**PAUL SCHUDEL:** Yes. It's, it's earmarked for what are called underserved and unserved areas. An unserved area has only-- has 25 by 3 speeds or less. An underserved area is less than 100 by 20 speeds. And the, the target in this state for build-out using NUSF is 100 by 100.

**ARMENDARIZ:** Well, that's gonna include a lot--

**PAUL SCHUDEL:** Right. There, there are--

**ARMENDARIZ:** --metropolitan areas even.

**PAUL SCHUDEL:** Well, you know, we can go on to the map and confirm that, but I would-- I would respectfully say that the bulk of the urban areas in the state-- and by that I don't mean my hometown of Scotia, Nebraska, but Lincoln and Omaha, Grand Island have multiple providers who are able to offer up to a gig speed. So they, they are very advanced. Fiber-based networks by definition are capable of speeds up to a gig and above.

**ARMENDARIZ:** Thank you.

**WISHART:** Any other questions? Seeing none, thank you.

**PAUL SCHUDEL:** Thank you very much.

**WISHART:** Good afternoon.

**TIP O'NEILL:** Hi,--

**WISHART:** Hi.

**TIP O'NEILL:** --Senator Wishart, members of the Appropriations Committee. My name is Tip O'Neill, that's spelled T-i-p O-'-N-e-i-l-l.

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I'm the president of the Nebraska Telecommunications Association. The NTA is a trade association which represents 21 companies that provide landline voice and broadband telecommunications services to Nebraskans across the state. The NTA opposes the provisions of LB1413 in Sections 20 and 21. We believe the proposed \$13 million-plus transfer of the NUSF to the General Fund is unconstitutional, as you heard Mr. Schudel say, and disproportionate to the size of the fund and defeats the state policy goal of ensuring that all Nebraskans have access to quality telecommunications and information services at affordable and comparable rates. In addition to supporting telehealth, wireless tower construction, school E-rate support, and the Lifeline program for needy residents, NUSF supports Nebraskans who live in the most expensive-to-serve parts of the state. When I was the legal counsel for the Telecom Committee, which we called the Public Works Committee back in 1985 and 1986, the committee chairman was a farmer from Bellwood named Loran Schmit. When we discussed the issue of universal service, he told me that it is every bit as important for someone in Omaha to be able to call a farmer in Bellwood than it is for that Bellwood farmer to call somebody in Omaha, and they ought to pay a similar price for the service. So the NUSF high-cost program is the primary mechanism that the Public Service Commission uses to support build-out and the maintenance of rural networks. It makes no sense to build new broadband networks in sparsely populated areas if you don't have a process to fix the networks if they break. Otherwise, we're just wasting the money. As stated by the Nebraska Rural Broadband Task Force in its 2023 report, in order for providers to make decisions about broadband infrastructure investments, support from the NUSF should be sustainable and predictable. Transferring money from the NUSF to serve other government interests makes rural networks less sustainable and providers less likely to make investments that will benefit rural Nebraska. The pace of broadband development in rural Nebraska will be slowed if funds are transferred from the NUSF. We need to continue to support the long-term maintenance of our networks. I'd be happy to answer any of your questions.

**CLEMENTS:** Are there questions? I'd like to go back to the fund balance starting fiscal year '20 of \$63.6 million and currently \$133 million. So it's doubled in 4 years and can you explain why it hasn't been spent?

**TIP O'NEILL:** I, I would say that part of the-- part of the reason for that, and I think Senator or Commissioner Watermeier mentioned that in his testimony, is because they've gone to a reimbursement method as opposed to forwarding the money ahead of the project. So the project has to be completed before they get reimbursed. And that's why you

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would tend to have more money in the balance after changing that, that process. They approved the project, but they're-- but they're not expending the money on the front end of that project. They're reimbursing it in stages as the project is completed.

**CLEMENTS:** All right. Do you know when that happened?

**TIP O'NEILL:** It happened-- you'd have to ask Commissioner Watermeier. I, I don't have that record. I'm sure Mr. Robbins is also here from the Public Service Commission, he could-- he could tell you that information.

**CLEMENTS:** Very good. Any other questions? Seeing none, thank you.

**TIP O'NEILL:** Thank you, Senator Clements.

**CLEMENTS:** Additional opponents, please. Welcome.

**STEVE WILSON:** Thank you. Good afternoon, Chairman Clements and members of the Appropriations Committee. My name is Steve Wilson, S-t-e-v-e W-i-l-s-o-n. I am one of the two regional directors for Ducks Unlimited here in Nebraska. I'm here representing our 20,000 DU members in strong opposition to Section 30 of LB1413, which takes \$7 million from the State Game Fund, and Section 31, which takes \$2.5 million from the Nebraska Habitat Fund. Both the \$7 million from the State Game Fund and the \$2.5 million from the Habitat Fund come from our licensing fees. When Nebraska sportsmen and women purchase hunting permits, fishing permits, habitat stamps, and a portion of the purchase price goes to these state funds. Both of these funds are then leveraged for under what is referred to as the North American Model of Wildlife Conservation, which has been the model in our country since 1920 when sportsmen were concerned about the extinction and near extinction of several species. The model rests on 2 basic principles: Fish and wildlife belong to all U.S. citizens, and fish and wildlife should be managed so their populations are present forever. What's more-- most important to note then, is that these license be-- the license-based funds proposed to be swept under LB1413 are used as match for Pittman-Robertson and Dingell-Johnson federal funds at a 25% state and 75% federal match. So this \$9.5 million sweep will actually cost Nebraska sportsmen \$24.5 million in those funds. These important funds are used by Nebraska wildlife for restoration and improvement of wildlife habitat, along with sport fish restoration work, making sure Nebraska's wildlife populations are present forever. My job is primarily fundraising, which means I travel over the eastern part of the state, spending time at events with many of our volunteer members

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and, and your constituents. Through these statewide contacts, I know how important it is that this \$24.5 million be-- that was raised by sportsmen in, in paying their license fees. It's, it's very important that it stays in those funds. We appreciate your consideration of our opposition and your committee's work to keep these license fees where they belong. And with that, I'll hopefully be able to answer any questions.

**CLEMENTS:** Any questions? Senator Erdman.

**ERDMAN:** Thank you, Senator Clements. Thanks for coming. So what are these-- what are these funds exactly used for? You said Section 30 and 31.

**STEVE WILSON:** 30 and 31, and I'm sure Director McCoy can expand on that. But these are our, our habitat stamp dollars that we pay for as, as sportsmen so they would go into federal match, and I believe it may, and I'll have to check with Director McCoy, also include shooting sports in that. But on the wildlife habitat funds, federally match funds to do habitat restoration, water projects throughout the state, any wildlife-related activity towards managing wildlife habitat across, across Nebraska.

**ERDMAN:** So this is not specifically for fish, fish-- fishing or--

**STEVE WILSON:** There's--

**ERDMAN:** --enhancing fishing?

**STEVE WILSON:** --there's 2 different aquatic habitat and, and habitat if, if I'm correct, and I'm sure after Director McCoy testifies he can break that down in more detail.

**ERDMAN:** So in your organization do you use these for easements, this money?

**STEVE WILSON:** For easements? This money is used by the state. This does-- this money doesn't go to Ducks Unlimited as a private organization.

**ERDMAN:** OK. Thank you.

**STEVE WILSON:** Yes, sir.

**CLEMENTS:** Seeing no more questions, thank you for your testimony.

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**STEVE WILSON:** You bet.

**CLEMENTS:** Next testifier. Welcome.

**TIMOTHY McCOY:** Good afternoon, Chairman Clements and members of the Appropriations Committee. My name is Timothy McCoy, T-i-m-o-t-h-y M-c-C-o-y, and I'm the director of Nebraska Game and Parks Commission at our headquarters office, 2200 North 33rd Street, Lincoln, Nebraska. Thank you for the opportunity to share the Commission's concerns and thoughts about the proposed fund transfers. So the initial concerns that we had are very high concerns, we also have shared this information with the Governor's office. And you heard the Governor's representative identify they weren't recommending sweeping the game cash funds and the aquatic habitat cash funds. Those were identified in Sections 30 and 31 of this-- of, of the-- of LB1413. So under the wildlife and sport fish restoration programs, those were started a long time ago. The Federal Aid in Wildlife Restoration Act, also referred to as Pittman-Robertson, was passed in 1937. And the Federal Aid in Sport Fish Restoration Act, often referred to as the Dingell-Johnson Act, was passed in 1950. Those set up a system now referred to as Wildlife and Sport Fish Restoration, in which the excise taxes collected from sporting goods purchases are apportioned back to state fish and wildlife agencies for wildlife and fisheries conservation and management. The funds are held in trust by the U.S. government and are apportioned to state agencies as reimbursable federal grants for those eligible purposes. Any use of license fees and stamps required for hunting or fishing, along with any interest or income received from those funds, must be maintained in control of the state fish wildlife agency to comply with Title 50, Part 80 of the Code of Federal Regulations for our agency to be eligible for the federal assistance that's being apportioned to us under those programs. That's also referenced in the assent language in Nebraska statutes 37-901 and 37-903. Over its history, WSFR programs have provided over \$345 million in federal dollars for fish and wildlife work in Nebraska since 1939. Our current apportionment for both programs in year 2023 was \$24.8 million. That's \$19.27 for wildlife restoration and \$5.52 for sport fish restoration. Federal regulations require that if the U.S. Department of Interior, U.S. Fish and Wildlife Service Director determines the diversion of funds, we would no longer be eligible for federal future WSFR grant funds until such diversion is secured by the return of funds to the agency. And I've handed out the letter from our regional Fish and Wildlife Service office pertaining to this. Now the other concern that we have is, is the potential sweep of park cash funds, which is in Section 32. That's \$2.5 million. As you've heard earlier, as an agency, we've, you know,

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long told our users based on statute 37-345 that the fees they're paying are going to be used by the agency solely for the improvement, maintenance, and operation of the state parks. We would ask consideration by the committee to shift the sweep of \$2.5 million from the State Park Cash Revolving Fund to the Water Recreation Enhancement Fund. Now, you might ask why? That's because the funds that are in that Water Recreation Enhancement Fund were from General Fund transfers in the 22-- 2022 Legislature via LB1011. That was the source of those funds. We also know that there's been another \$6.5 million to be swept from that fund, probably because of the same reason, and because none of these projects have been bid-- yet to be bid for construction we're in design on all of them, we're trying to work with the Corps of Engineers on permitting-- potential permitting for the one that Lewis and Clark. We can and will address those projects if required or if you desire that that's the way you want to go to stay within the capital authority. So that's the reason that we're proposing that as a potential alternative. And with that, I will end my testimony and take questions.

**CLEMENTS:** Senator Erdman.

**ERDMAN:** Thank you, Senator Clements. Thank you for coming to be Director McCoy. So the fund that you were speaking about is that the fund that I tried to take the \$10 million out to pay for damages for wildlife? Is that the same fund?

**TIMOTHY McCOY:** You're talking about game cash.

**ERDMAN:** No. The fund that you said got federal funding into it, and we couldn't transfer that money out because it prohibited the feds from making a contribution.

**TIMOTHY McCOY:** That's the game-- that's the game cash-- that's the game cash that's identified as the \$7 million sweep.

**ERDMAN:** So that's the one we're trying to take the funds from. So you have the same-- you have the same reason for not removing the money that you testified against when I was trying to take the money for damages for wildlife. Is that correct?

**TIMOTHY McCOY:** That was one of the concerns when, when it was going to move that away from the control of the agency, it would put us in diversion for the wildlife and sport fish restoration.

**ERDMAN:** OK. And so you're-- you want us to take water from the water restoration fund, is that what you recommended?

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**TIMOTHY McCOY:** In terms of the dollars, instead of the \$2.5 million Park Cash Fund-- Revolving Fund.

**ERDMAN:** So the water restoration fund would be used to enhance fishing and wild-- and, and enhance the fishing in the state, is that true?

**TIMOTHY McCOY:** The Water Restoration and Enhancement Fund was-- is the STAR WARS dollars that were given to our agency for a, a marina at Lake McConaughy, a marina expansion at Lewis and Clark, and potentially a lodge and other potential lodging at Niobrara State Park.

**ERDMAN:** So do you have funds that you can distribute for enhancing fishing?

**TIMOTHY McCOY:** We do. We actually-- we actually have used game cash funds to do that. We also get federal funds, if that's your question, and that's the, the, the fisheries allocation for sport fish restoration. We use those for fisheries management, fish production, aquatic education, aquatic boating access, aquatic habitat and angler access, invasive-- aquatic invasive species work, and then also a little bit of it's used for in lieu of taxes on areas that were purchased using game funds.

**ERDMAN:** So I would-- I would assume that your agency does review to see those enhancements you're making, whether they're successful or not on fishing. Is that true?

**TIMOTHY McCOY:** Yes.

**ERDMAN:** Would you say fishing in Nebraska has improved over the last 3 or 4 years?

**TIMOTHY McCOY:** I'd say fishing, fishing based on what we're seeing in permit numbers it continues to increase slowly, our fishing permit-- fishing permit [INAUDIBLE].

**ERDMAN:** Is there any indication that people are actually catching fish?

**TIMOTHY McCOY:** Yes, from-- at least from the reports that we receive through our, our agency. If there's an area you have that's a concern, I'd love to hear about it.

**ERDMAN:** Yeah. OK. So in my opinion, and, and you're not going to be surprised by this, I would like to see your department begin to manage



not only the wildlife, but also the fisheries in a manner that we can actually catch fish, because the sea-- the fish that I go to-- the locations, I call them the Dead Sea, and that's the way it's been the last couple of years. So whatever program you're using or whatever you're doing to enhance fish-- enhance fishing is not working. And your management of the wildlife, especially mountain lions and elk, is subpar. So whatever money we could possibly take from you, I'm in favor of that until you guys start managing what you should be managing. Thank you.

**CLEMENTS:** Other questions? Just to be clear, the-- what you're opposing is having a violation of federal regulations is the habitat fund and the state game fund, those two. Correct?

**TIMOTHY McCOY:** Correct.

**CLEMENTS:** And those would create a loss of federal funds.

**TIMOTHY McCOY:** It would likely result in a diversion of funds. We would no longer be eligible for wildlife and sport fish restoration until at which time those funds were put back into the fund from where they were diverted to.

**CLEMENTS:** And there was a comment by the Ducks Unlimited that's-- there's a 75% federal, 25% state match, is that the match that you--

**TIMOTHY McCOY:** The, the grants that are available to us require an expenditure of at least 25% of, of our-- of cash fund, which would be dollars. And then we also utilize those funds, they are-- they are part of what we utilize in our fish production, our fish management, where we will-- we will-- we can reimburse for eligible costs that we pay out for our management of those activities and areas.

**CLEMENTS:** And those-- that match is, is available for both the game funds and the habitat funds--

**TIMOTHY McCOY:** Yes.

**CLEMENTS:** --grants?

**TIMOTHY McCOY:** Yes. Both, both game, game funds-- game funds are used for both the fisheries and the-- and the wildlife sport-- wildlife restoration fund.

**CLEMENTS:** Any other questions? Senator Dover.

**DOVER:** This is along Senator Erdman's line of questioning. So I used to fish years ago, right, and, and fishing has come so far with the technology. I mean, of being able-- I mean, you still can't make them bite on the hook. But I would-- my question is, is as far as available fishing and your work and something like that. Has the-- has the advanced technology completed what normally would have been years ago the number of fish that one can catch. And then if that's true, and you adjust the, the limits on the fishing to adjust for that, is there-- is there a reason that there seems to be less fish than there used to be or, or is that-- or just is that a false perception?

**TIMOTHY McCOY:** I, I think part of it is the technology has, has created some very, very super efficient fishermen that are utilizing that to their full, full extent. The other thing that we are continuing to do is ramping up our stocking program. We are-- we are probably stocking 20% more fish than we were pre-COVID. During COVID, fishing really took off. We saw a huge bump and so we're continuing to do work and going to continue to work to upgrade our fish hatcheries because we have somebody out there with technology to produce more fish to meet the needs of stocking across the state.

**DOVER:** Thank you.

**CLEMENTS:** Senator Armendariz.

**ARMENDARIZ:** Thank you. Thank you. Just 2 questions. Are you currently receiving full federal matching funds? And, and what is that dollar amount?

**TIMOTHY McCOY:** Well, we are-- we are matching the-- yes, we are utilizing the full extent of those federal funds that are available. On the wildlife side, that would be-- the year before it was-- it was about \$19 million that we had on the wildlife side. And then on the fishery side, about \$5 million last year. The numbers went up just in 20-- in 2023 of the recent allocations that we got. So we will use those. We've never reverted wildlife and sport fish restoration funds that we weren't able to use. We've always been able to match them.

**ARMENDARIZ:** So this cash fund that they're talking about taking away is your-- is your 25% match for the federal funds?

**TIMOTHY McCOY:** Yes, it would-- it would be-- it's, it's part of-- it's part of-- not, not on-- which one are you-- which fund are you talking about? If you're talking about game or habitat--

**ARMENDARIZ:** The \$9 million.

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**TIMOTHY McCOY:** Yeah, yeah, game and habitat, those would be-- the game and habitat funds would be matched for that. The parks funds, if you're talking about the water-- the Water Sustainable-- Water Recreation Enhancement Fund or the Park Revolving-- Park Cash Revolving Fund, those aren't used as matched because they are not-- unless we are doing a project on a park that has fish and wildlife restoration, we can't utilize those in the park system.

**ARMENDARIZ:** Thank you.

**CLEMENTS:** Thank you, Director McCoy. Additional opponents, please. Welcome.

**ELE NUGENT:** Thank you. Good afternoon, Senators. My name is Ele Nugent, that's E-l-e N-u-g-e-n-t. I'm a biologist, wetlands specialist, and the manager of conservation programs in Nebraska for Ducks Unlimited. And I'm based in our Grand Island office. Ducks Unlimited is a nonprofit organization dedicated to conserving North America's continually disappearing wetlands, grasslands, and other waterfowl habitat. I'm testifying against Section 71 and 100 of LB1412, which cuts appropriations to the Water Sustainability Fund by 8.88-- sorry about that-- \$8.481 million in fiscal year 2024-25. This is a significant reduction from the fund, which has generally received about \$11 million in annual support from the General Fund for the past decade. The Water Sustainability Fund is a source of financial support to help local project sponsors achieve the numerous goals set out in state law, including activities to protect Nebraska's water resources, enhance water quality, and conserve wildlife habitat. The Nebraska Natural Resources Commission, in conjunction with the Nebraska Department of Natural Resources, oversees Water Sustainability Fund operations, including scoring and awarding applications and monitoring project progress. On the annual funding appropriated-- on the annual funding appropriated by the Nebraska Legislature, 10% is designated by statute for projects separating storm and sewer water, and a separate 10% is for small projects requesting \$250,000 or less. The Commission reports to the Legislature on the projects funded. The most recent report notes, quote, It is clear that the state needs to continue funding projects that support the sustainable use and management for water quality, quantity, and infrastructure needs which remain as important today as it was when LB1098 was implemented in 2014. Much of Nebraska's historic wetland-- oh, sorry-- end quote. Much of Nebraska's historic wetland acres have been lost and many existing wetlands are in poor condition or have functional issues like drainage or are overrun by invasive species. When wetlands function correctly, they are a critical resource for farmers and ranchers, wildlife, and

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the climate. Ducks Unlimited has been a partner on Water Sustainability Fund projects to help deliver projects to restore critical wetlands. We have been a partner on-- sorry-- I'm sorry-- been a partner on funds to restore critical wetlands and help provide water delivery infrastructure leveraging matching funds. These projects provide flood water storage, groundwater recharge, and important habitat for wildlife. A study at one of these sites showed groundwater recharge from the wetland provides sufficient annual drinking water for 256 residents. Ducks Unlimited has learned the tremendous value in partnering with producers to create the best outcome for both waterfowl and people. The partnership driven, incentive-based agricultural practices supported by Water Sustainability Fund grants are meaningful improvements to water and soil quality, biodiversity, and habitat for waterfowl and other wildlife, all while helping increase the productivity and sustainability of the land. It would be a shame for Nebraska to slash water sustainability funding, which continues to be a key tool in protecting one of our state's most precious natural resources. Thank you.

**CLEMENTS:** Are there questions? Seeing none, thank you for your testimony.

**ELE NUGENT:** Thank you.

**CLEMENTS:** Next testifier, please.

**ANNETTE SUDBECK:** Good afternoon.

**CLEMENTS:** Welcome.

**ANNETTE SUDBECK:** Mr. Chair and members of the Appropriations Committee, for the record, my name is Annette Sudbeck, A-n-n-e-t-t-e S-u-d-b-e-c-k. I'm the general manager for the Lewis and Clark Natural Resources District in northeast Nebraska, which oversees the Cedar Knox Rural Water Project. Also with me today is our board chair, Matt Weinandt; our vice chair, Russell Schmidt; and project manager, Scott Fiedler. I would like to begin by saying thank you. We know there are many important water projects before you, and the committee has been supportive of our projects from the beginning. We are extremely grateful for your support in our project. It is important to note that without the state's help, this project cannot move forward. I'm here testifying in opposition to the Governor's budget that takes away \$7 million in ARPA funds previously approved for our project, and removes access to \$8.481 million in water sustainability funds that are also

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critical to the project. As a quick overview, I've handed out the map of our project area. And it is in Senator DeKay's district in northeast Nebraska. It is a rural water project and spans 2 counties. It involves intake at Lewis and Clark Lake, water treatment plant and infrastructure, including 400 miles of pipe. Since I last testified just a little less than a year ago, a lot has happened with this project. Per the Governor's recent suggestion, we have entered negotiations with Yankton, South Dakota to be our water source. Those conversations are going well. We're at the point where we're expecting to be able to sign a contract in a couple of months. A 50-year contract and rates are already set within that. Their city has reviewed the contract, and we're just final-- making final recommendations. Also in your packet or in the handouts, I've provided a summary of the costs and the summary of the timeline for that on the second page. The \$7 million in ARPA, previously approved, will be spent on Phase I of the project to complete updates to existing infrastructure. Just last week, we received approval from NDEE to let bids for this work. Bids will be let February 6, with bid opening on March 7. Assuming the ARPA dollars are not swept, we can sign contracts and we will work with-- and work will commence this spring and early summer, and we anticipate the work on Phase I should be completed by the end of 2025. Phase II includes establishing connection to the Yankton, South Dakota source by boring under the Missouri River and constructing the necessary infrastructure to tie into the existing system. Bid letting is estimated for the end of 2024, with construction beginning in 2025. Water sustainability funds, state revolving funds, and customer fees will be needed to complete Phase II. Maintaining access to the water sustainability funds is necessary for completing the project. We have recently shared this updated information with the Governor's team, which is that 4-page handout plus a detailed cost summary, which I can provide with you if you'd like, and want to thank Lee Will for giving us this opportunity to share an update on this project. The Governor indicated he would continue to work with Senator DeKay to see where we stand after the bids come back for the distribution improvement system portion of the project. Unfortunately, the timing of your decision on this budget comes before we will have that information back, which is why we respectfully request that this committee restore the \$7 million in ARPA dollars and the \$8.481 million in water sustainability funds. Thank you for your time and attention to this project. I'm happy to answer any questions.

**CLEMENTS:** Are there-- Senator Wishart.

**WISHART:** Thanks for being here. It's good to see you again.

**ANNETTE SUDBECK:** You too.

**WISHART:** So if these dollars are not restored. How-- who ends up paying for this infrastructure?

**ANNETTE SUDBECK:** Well, it would--

**WISHART:** Project and, and then how much?

**ANNETTE SUDBECK:** How much. OK. So where we stand with the state revolving fund is we have funds available to us. If the project comes in on cost, which is approximately \$30 million, half of that cost will land on the customers with only state, state revolving funds as our option. We've always known that would be a significant challenge for our customers to, to carry. Right now, our bills-- and this is just for water, we don't have garbage or sewer included on our bills because we're a rural water system, our bills for a family of 5 using 5,000-- or for a family using 5,000 gallons of water is \$86. If we have to carry that burden of 15 to 16,000, their bill would increase by \$50 minimum per month. And if we exceed that cost of \$32 million that's established in the state revolving fund, only 25% of the cost would be loan forgiveness. The other 75% would be carried to, to the customers for each dollar after \$32 million. So that would significantly increase for any overrun. With the way the funding works, if we have SRF and, excuse me, if we have the water sustainability funds, there's too many R's and F's in there. If we have the water sustainability funds and the ARPA funds, the customers will be paying 25% of the total cost. And that, of course, increases the cost so the project increases. We've been informed several times that the cost overrun is as high as 100% on water projects. We've heard from NDEE, and on occasion, they've gotten bids that were even higher than that. But that's where we've been focused on is trying to earn enough, or not earn, but establish a funding base that gives us the ability to complete the infrastructure project that we need to do in order to move our intake out of Lewis and Clark Lake and secure a long-term source.

**WISHART:** And remind, remind me, because it's been a while since we've worked on this issue, just of, of the need and the timeline of this water project.

**ANNETTE SUDBECK:** OK. So of the need, there's 4 main issues. The plant is aging, which all plants age, that's, that's something you expect when you operate a system. But where we're at in aging, our intake is threatened. So we have to make that choice of, you know, putting money

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into an infrastructure at the plant that we know isn't going to be able to be utilized long term because that intake is not viable long term. We have disinfection byproducts that are from the treatment of, of putting chlorine in the water and as it gases off through 400 miles of pipes the further, further away you get into the system you have this disinfection byproduct that exceeds the MCL, maximum contaminant level, established by EPA. And we just don't have the capacity in the plant anymore to meet additional need.

**WISHART:** And then timeline is-- I mean, when does this-- and it sounds like needed to be done yesterday. But when does this have to get done?

**ANNETTE SUDBECK:** It needs to get done. Like you said, it should have been done yesterday, but we're moving forward through the process. We had some hurdles across-- along the way. But we are set to move. Well, we were set to move next month in March with contracting on the distribution system upgrades. Hopefully, we'll be able to do that in April. But we're ready to go on that, that portion. If we don't, we're risking that the intake will not be able to meet our needs long term. We already can't take new connections in some areas of the system because it's at capacity and the plant is reaching capacity as well.

**CLEMENTS:** Senator Erdman.

**ERDMAN:** Thank you, Senator Clements. Thanks for coming. So the blue area is the piping, right?

**ANNETTE SUDBECK:** Correct.

**ERDMAN:** So are you changing those pipes? Are you changing any of those?

**ANNETTE SUDBECK:** We are adding some additional piping in the area that is to the west. So where the 2 yellow squares are in that open area in there, we're adding piping. There's additional, which Scott Fiedler would have to give you all of the details of where that is, is but we, we can provide that. To provide redundancy into-- for fire protection in that Devil's Nest area and along the lake where, where fire is a huge risk for homes and--

**ERDMAN:** OK. So the yellow and pink squares, that's where you want the intake to be. Where is it now?

**ANNETTE SUDBECK:** That is where it is now. We'd be moving-- I apologize, Yankton is not on the map. So you can see as you go down Lewis and Clark Lake, you hit the dam, the line that goes north and

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south there. And if you continue east is the city of Yankton, just a little ways further. And we'd come across the river there and we'd connect into our system through that.

**ERDMAN:** So then you're going to discontinue your input-- your, your--

**ANNETTE SUDBECK:** We would discontinue the intake. Yes. It's going to discontinue itself if we don't discontinue it.

**ERDMAN:** Is this water pretty free of nitrates, do you know?

**ANNETTE SUDBECK:** From that we're looking at, yes, it is. It's-- it goes through the reverse osmosis process already. So we're protected from nitrates for the long term. It's also-- it doesn't have any of those disinfection byproducts anymore because the, the-- it doesn't need as much chlorine because they're not treating surface water.

**ERDMAN:** So if a family uses 5,000 gallons after this is put in place, what will it cost them?

**ANNETTE SUDBECK:** With us paying 25% of the cost, if we can maintain that between the 7 and 10, it's going to be close to \$100.

**ERDMAN:** A month.

**ANNETTE SUDBECK:** \$105 a month.

**ERDMAN:** A month.

**ANNETTE SUDBECK:** Um-hum. And if we don't have the funds it will be more like \$140, right in there.

**ERDMAN:** Is that about the average use is 5,000?

**ANNETTE SUDBECK:** It is the average use for a family. If, you know-- so those that are-- have a couple kids at home or if they have multiple people living in the household. Single households tend to use less, single indivi-- you know, individual homes.

**ERDMAN:** Is this also going to be used for livestock watering?

**ANNETTE SUDBECK:** Yes, it is. We have fewer people, of course, that, that use it routinely for livestock watering. But we have several landowners, especially in the central area and western area, that do not have access to other water sources for their livestock. So they depend on that, especially for when they're in their yards or off of other pastures.



**ERDMAN:** All right. Thank you.

**ANNETTE SUDBECK:** Yep. Thank you.

**CLEMENTS:** Senator Lippincott.

**LIPPINCOTT:** Seems like an earlier testimony we had today, I think maybe it was Mr. Macy, he said that we were already receiving some funding from the feds and state. Is that true? Am I remembering that correctly?

**ANNETTE SUDBECK:** So from the state is that state revolving fund dollars, yes, those are secured. We have asked for funds from-- on the federal level, but there has been no, no update on to whether those funds will be allocated or not. We're, we're looking everywhere to make sure that, you know, if we come in over 50%, even if we are paying or if we come in over the cost of the project that we're planning right now, we're going to be up to that \$16 million adding \$50 per customer. So we're trying to find every avenue to keep that cost low.

**LIPPINCOTT:** Thank you.

**CLEMENTS:** Senator Wishart.

**WISHART:** But just to clarify, the ARPA funds would be considered as--

**ANNETTE SUDBECK:** Oh, federal funds.

**WISHART:** --federal, federal funds.

**ANNETTE SUDBECK:** Yes.

**WISHART:** So I think that's-- that was maybe what the reference was. And then the, the revolving funds are a loan so that will be paid back.

**ANNETTE SUDBECK:** Right. The loan would be paid back. There is a loan forgiveness portion of that, but yes.

**WISHART:** OK.

**ANNETTE SUDBECK:** Yes. I'm only including when I say what the customer cost is the, the loan--

**WISHART:** The loan.

**ANNETTE SUDBECK:** --portion.

**WISHART:** OK.

**ANNETTE SUDBECK:** Yes.

**CLEMENTS:** Senator Dover.

**DOVER:** In conversations, I think there was a couple of solutions, but going to Yankton was, was a, a cost-saving solution. What was the original cost of the other-- having your own wells? And how much-- what does it cost to go to South Dakota?

**ANNETTE SUDBECK:** So going to South Dakota, we have 8.5 approximately million dollars. That's infrastructure upgrades that need to happen no matter if we stay on the Nebraska side of the river or if we go to Yankton for our source. And that's \$8.5 million. The cost of going to Yankton, I'm going to have to look exactly, because I know-- is it \$20 million? It's an \$8 million savings overall is what it is of the capital investment upfront as estimated with our engineering reports.

**DOVER:** So is that what you're saying is you can't move forward unless you have funds into a contract?

**ANNETTE SUDBECK:** Right. If we are looking at increasing our bills by \$50 a month at the \$32 million estimate from SRF, which is \$16 million carried by us, we already know that that's too much to put on our customers. We're going to have problems going-- meeting our-- meeting our payments, getting enough-- keeping enough customers on. I mean, I can see people finding other ways to bring water into their home, buying drinking water, so on, if they have that option for quality water.

**DOVER:** OK. Well, I just want to thank you and board for their-- it's, it's, it's-- I know we've been involved a little bit, it's a very complex project here supplying this water for all, all these people in this large area.

**ANNETTE SUDBECK:** It is. As a-- can I just try to provide a little refresher? We serve to 4 communities: Crofton, Fordyce, Saint Helena, and Obert. We provide water to many of the SIDs, the sanitary improvement districts, along the lake, campgrounds, businesses, rural connections, pastures, and other farms. So it is very important. It is very complex. The funding is very complex. The need overall, without it, we're going to be at a total standstill. And like you said, it's

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needed to be done sooner rather than later. And we don't have an option to move forward if we can't secure the funding.

**DOVER:** Thank you.

**ANNETTE SUDBECK:** Yep. Thank you.

**CLEMENTS:** I had one question. Is the village of Santee involved in your project proposal?

**ANNETTE SUDBECK:** The village of Santee has had their engineers and the Indian Health Services, USDA, and others reach out to Cedar Knox to find out more about us-- the potential of Cedar Knox serving their needs. We have provided all that information to them, but as far as I know they haven't made a final selection as to how they would like to proceed securing a secure source for them. But we have provided all that information to them.

**CLEMENTS:** Would they have access to some federal money that could help out with this?

**ANNETTE SUDBECK:** If they had funding that-- it's, it's possible. Yes. I, I can't answer that question, specifically, I don't know where they stand, but, yeah, it could be beneficial if they were to join our system. But as far as we know today, they aren't planning-- yeah, we don't know if they're planning to do that.

**CLEMENTS:** All right. Oh, Senator Dover.

**DOVER:** Yeah, just, just for clarification for everyone. Here's where Devil's Nest water intake is. How, how many miles further up the river is Santee?

**ANNETTE SUDBECK:** Santee is approximately 20 miles as the crow flies. A little less than 20.

**DOVER:** All right. Thank you.

**ANNETTE SUDBECK:** Yeah. Thank you.

**CLEMENTS:** Farther west.

**DOVER:** Yes.

**ANNETTE SUDBECK:** To the west. Yes.

**CLEMENTS:** Is west of your current intake?

**ANNETTE SUDBECK:** It's west of our current intake. Yeah.

**CLEMENTS:** Oh, I didn't realize. OK.

**ANNETTE SUDBECK:** Yeah.

**CLEMENTS:** Very good. Seeing no other questions, thank you for your testimony.

**ANNETTE SUDBECK:** Thank you.

**CLEMENTS:** Next testifier.

**KATIE TORPY:** Hello, Senator Clements and prospective members of the committee. My name is Katie Torpy, K-a-t-i-e T-o-r-p-y. I'm here today on behalf of the Nature Conservancy in Nebraska and our 54,000-- or 5,400 member households, offering written testimony in opposition also to Section 130 [SIC] of LB1412, which would sweep the Water Sustainability Fund. The Nature Conservancy is a leading conservation organization working around the world to protect ecologically important lands and water for nature and people. We have worked in Nebraska for over 50 years, and we currently own and manage over 66,000 acres of land in the form of nature preserves and working ranches. Nature Conservancy pays upwards of a half a million in property taxes annually on our property. As such, we have a vested interest in the outcome of conversations about our state budget and property tax relief. And yet while they support efforts to reduce property taxes on, on income-- income-constrained Nebraska landowners, this one-time sweep of the Water Sustainability Fund would undermine investments in the long-term health of our watersheds and drinking water systems. I think you've heard the most compelling points regarding opposition to this bill so I'll move on to our other testimony on LB1413, which we also oppose Section 32. Reallocation of \$2.5 million from the State Park Cash (Revolving) Fund breaks trust with our outdoor recreationists and disrupts conservation activities at our parks. Users gladly pay park entry fees, trusting in the Commission's stewardship of those funds, putting dollars to work for the benefits of people and nature. The need has never been higher for maintaining the delicate balance between wildlife and people. The pandemic led to record visitation numbers at these parks, and yet scientists estimate that roughly 1/3 of America's wildlife species are at an elevated risk of extinction. Our State Game and Parks Commission puts a finer point on this risk, identifying nearly 120 species at high risk of being lost and 772 species in need of conservation action. Diversion of these-- this funding compromises critical

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investments in our ecosystems and undermines our ability to maintain the quality of outdoor recreation areas. Please oppose Section 32 of LB1413. And with that, I can take questions if there are any.

**CLEMENTS:** Are there questions? Seeing none, thank you for your testimony.

**KATIE TORPY:** Thank you.

**CLEMENTS:** Welcome.

**DEXTER SCHRODT:** Good afternoon, Chairman Clements, members of the committee. My name is Dexter Schrodt, D-e-x-t-e-r S-c-h-r-o-d-t. I'm president and CEO of the Nebraska Independent Community Bankers Association, here to testify in opposition to specifically Sections 38 and 39 of LB413 [SIC]. First, I want to thank the Governor for recognizing the financial industry in his State of the State address. We agree it's extremely strong in the state, and it's something we're proud of. And the reason it got that way is because of our relationships with our state regulators that we have. And we are also pleased to see that he is transferring money to the Rural Workforce Housing Fund. However, we do have to oppose the specific sections, which transfer \$4 million from the Financial Institution Assessment (Cash) Fund. The dollars in this fund were never ARPA dollars. It's not a cash fund. It was never General Funds. This fund is solely funded by the industry to our regulator, the Department of Banking and Finance. And I pulled up the Department of Banking Finance's annual report. So it may look like there's a considerable amount of money sitting in there, and it's not even close to the amount sitting in securities or Department of Insurance. But the ending balance was \$5.3 million. So it may appear that a \$2 million sweep this year and then the year after is sweeping less than half. However, I would be cautious of that because if you look at their total revenues for the year compared to their total expenditures, the department is only bringing in a net positive of \$700,000. So we do believe that this transfer would be a little detrimental to the department and what they are able to do. Especially, you know, as costs increase we would like to see our regulators, you know, meet the market demand of salaries that are paid out. So, you know, over-- as the years go on we do believe that there's better use of the funds within the department of itself for the purpose of regulating our industry. So that's where I'll, I'll leave my comments on my opposition there. Thank you.

**CLEMENTS:** Senator Dorn.

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**DORN:** Thank you, Senator Clements. Thank you for being here.

**DEXTER SCHRODT:** Yeah.

**DORN:** Those funds that you talk about, they're assessed. Is that a federal assessment guideline you go buy or is that a state or, or, or where is that, I call it, criteria coming from?

**DEXTER SCHRODT:** Good, good question, Senator. It is a state assessment.

**DORN:** State assessment--

**DEXTER SCHRODT:** Yeah.

**DORN:** --that--

**DEXTER SCHRODT:** On financial institutions paid to the Department of Banking.

**DORN:** --that at some point in time the state put in those rates and everything?

**DEXTER SCHRODT:** Yes, they are in statute.

**DORN:** They are in statute. How are they going to change the rates?

**DEXTER SCHRODT:** Well, Senator, it's a delicate balance, those rates are. I believe that right now, as you see, you know, they only bring in \$700,000 more than they spend. So I would say they're at the perfect amount currently.

**CLEMENTS:** Other questions? Is it only state banks that pay this assessment or all banks?

**DEXTER SCHRODT:** I believe it is all banks, Senator.

**CLEMENTS:** How about credit unions?

**DEXTER SCHRODT:** Credit unions do also pay in.

**CLEMENTS:** All right. Thank you for your testimony.

**DEXTER SCHRODT:** Thank you.

**CLEMENTS:** Next testifier.

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**ERIC GOTTSCHALK:** Hello there. Chairman Clements, members of the committee, thank you very much for allowing me to, to testify in front of you today. My name is Eric Gottschalk, general manager of Lower Platte North NRD in Wahoo. E-r-i-c G-o-t-t-s-c-h-a-l-k. And I'm here today to testify in opposition of LB1412, but specifically how it relates to the reduction of JEDI funding from the previous number. It was my pleasure several years ago to testify in front of the STAR WARS committee when they were looking into giving these funds out, they were looking for projects that were ready to go. I believe that helped us be awarded the funds that we were eventually by JEDI. And we were awarded initially \$22 million through the JEDI funding. Since that point in time, we have-- we are now under contract with DNR from \$19.66 million of, of that funding. And we have proceeded with our Wahoo Creek Watershed Project, which includes building and constructing 10 flood reduction structures within Saunders County, which is our Wahoo Creek watershed. We have-- we, we have-- we are under contract with engineering firms. We are at the 94-- 90% design phase for nearly all of our structures. We are almost through the easement phase within the first 3 sites, and we are at 90% design phase for the first 3 sites of the 10 that are proposed. We are looking to move forward with construction, landing construction so that we can get started on those first 3 sites yet this year, late summer or early fall. And as I mentioned, it's, you know, for us, without the funding from JEDI, these projects will not be able to be-- we won't be able to continue. We are fortunate also, we have secured funding through NRCS to take care of portion of the-- of the construction. But federal funding in these projects does not include any, any land rights or any permitting that is required on all of those. As I mentioned, we are currently contracted with DNR for those and we are currently in the, the recovery phase of some of those funds. We have requested and have begun reimbursement from DNR under our existing contract. And, of course, as I'm sure you understand, and I appreciate some of the questions that were asked to Director Riley earlier, those-- the funding that we are moving forward with if it's reduced from the \$100 million initially to the \$15 million that is currently in the bill, our project will be the project that is reduced below what we are-- have currently been contracted for. So I completely understand the, the need that the Governor sees to reduce cash funds. But I also believe that funding as we're moving forward, as is, our, our partner NRD that spoke a few minutes ago, it's really tough to, to proceed once we have been authorized those funds and then we feel as though potentially the rug might be getting pulled out from under us as we move forward into the, the final design and construction phase. As I mentioned, the, the \$85 million reduction, it

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would be limiting us. But there is still room if, if there is a choice to reduce those cash funds. All we're asking is that at least the contracted funds would be left in that, which would be upwards of \$23 to \$25 million rather than the \$15 million. I appreciate your time. And at this point, I would entertain any questions that you might have.

**CLEMENTS:** Any questions? I had a question. You were already working on this before JEDI came around, I think. Was that because of the 2019 flooding?

**ERIC GOTTSCHALK:** In, in part, but actually even before. We, we began our, our watershed improvement-- we had an old 1980s watershed plan. So in the early 19-- oh, '15, we began updating that through NRCS with the intention of going after federal funds that we have been able to secure since then. So after the federal funds were secured our, our watershed plan was-- has been approved. And so, yes, 2019 all that did was except-- it made the issue so much more immediate. And these structures, I'm not sure if I mentioned, will reduce flooding nearly 30% within the Wahoo Creek watershed.

**CLEMENTS:** And which NRD are you with?

**ERIC GOTTSCHALK:** Lower Platte North in Wahoo.

**CLEMENTS:** OK. You mentioned keeping \$25 million. You have contracts for \$19.6, do you think you're going to need additional?

**ERIC GOTTSCHALK:** No. I, I apologize. That is the entire-- the entire approved projects, what I have been told for the existing contracted funds under JEDI are close to \$25 million, but that our project is approved for \$19.66. And I believe there are \$3 million of additional contracted projects through the JEDI-- the existing JEDI fund.

**CLEMENTS:** All right. I was thinking that same thing.

**ERIC GOTTSCHALK:** Yes.

**CLEMENTS:** I think Colfax County was.

**ERIC GOTTSCHALK:** And also our, our district has always used the mindset that we always spend federal dollars first, which is why through the NRCS we have funding for construction. But like I mentioned, land rights, the overage of, of potential costs there as well as permitting federal funds will not cover that.



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**CLEMENTS:** Any other questions? Thank you for your testimony.

**ERIC GOTTSCHALK:** Thank you. And on a side note, I would-- I would like to offer, Senator Erdman, Lake Wanahoo has a very-- a very good fishery. Any time, come out. And it's called fishing not catching, but I would assure you that there is a nice spot for fishing out there.

**ERDMAN:** That's good, I like catching.

**CLEMENTS:** All right. Thank you for your testimony.

**ERIC GOTTSCHALK:** Thank you.

**CLEMENTS:** Next testifier, please. Welcome.

**RYAN McINTOSH:** Good afternoon again, Chair Clements, members of the Appropriations Committee. My name is Ryan McIntosh, M-c-I-n-t-o-s-h, and I appear before you today as a registered lobbyist for the Nebraska Bankers Association in opposition to LB1413. First, Section 16 in the bill proposes to transfer \$25 million from the Affordable Housing Trust Fund to the Rural Workforce Housing Fund. While we are supportive of additional funds for the rural workforce housing, it is our preference that the funds not be transferred from the existing Affordable Housing Trust Fund for this purpose. We would alert the committee to a number of other bills which will be heard by this committee later in the session, which include LB889, LB937, and LB1039, which each provide between \$20 and \$25 million in General Funds to the-- to be utilized for rural workforce housing. For brevity, I'll, I'll reference my written testimony that's passed out that touts the success of the rural workforce housing program across the state of Nebraska and addressing our rural workforce needs. So for these reasons, we do believe that additional funding for rural workforce housing is warranted. We are opposed to the provisions of Section 38 of the bill, which transfers \$2 million in each of the next 2 fiscal years from the Financial Institution Assessment Cash Fund to the General Fund. As Mr. Schrodte alerted the committee to, there is approximately \$5.3 million in the fund, currently. While we are mindful of the fact that the banking industry is not being singled out for this cash fund transfer, we do believe that there's ample justification for the committee to refrain from raiding the Financial Institution Assessment Cash Fund. The fund balance is abnormally high currently due to the ramp-up of mortgage loan originators, registered in the state of Nebraska during the recent low interest rate cycle following COVID-19 and influx of funds into the economy. The number of new mortgage companies nearly doubled from 2019 to 2022, increasing

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revenue in the fund annually by approximately \$375,000 per year. With interest rates rising, many of these companies have already left the state of Nebraska or expected to leave and we saw more than a 30% decline in 2023. Since the inception of COVID, the department has also cut back on examiner training and conducted exams primarily remotely, which has significantly reduced the cost of operations for the Department of Banking and Finance. The department is resuming more normal training and travel activities, which will naturally increase department expenses. The department fund is also artificially high as a result of a transfer of \$2 million from the securities fund to the financial institution cash fund, following passage of the Nebraska Financial Innovation Act in 2021. This infusion of funds was designed for hiring additional staff and preparing for examinations and supervision of digital asset depositories. Less than \$1 million of those funds have been spent to date, but we are aware that an application has been submitted, so we expect these funds to be needed in the future to provide the training necessary so that the department can adequately protect consumers as deposit-- digital asset depository institutions begin to emerge in the state of Nebraska. The Nebraska Department of Banking has not increased the number of staff examiners since 2011. However, during this time period, assets held by state-chartered banks have increased from just under \$28 billion to almost \$64 billion. As Mr. Schrodtt alerted the committee to the Financial Institution Assessment Cash Fund is solely funded by fees, annual examination fees-- annual fees paid by financial institution and other entities regulated by the Department of Banking. As a result, raiding the department funds of these-- fund of these allegedly excess funds will require the industry to replenish the fund in the future. We would naturally prefer if the fund remained intact and utilized for the purpose that we have discussed in our testimony today. We're also mindful that the cash fund transfer being proposed by the Governor are part of a grander plan to provide property tax relief to Nebraskans. However, since the ability to provide the level of relief desired by the Governor is dependent on many other moving parts, which may or may not be approved by the Legislature, we would encourage the committee to exercise caution prior to making significant cash fund transfers in advance of proposed property tax relief proposal crossing the finish line. For these reasons, we would respectfully request the committee delete Section 38 of the bill and provide for a General Fund appropriation to increase funding for the Rural Workforce Housing Program, rather than transferring funds from the Affordable Housing Program. With that, I thank you for your attention and would be happy to answer any questions.

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**CLEMENTS:** Senator Erdman.

**ERDMAN:** Thank you, Senator Clements. Thank you, Mr. McIntosh, for being here. You may be able to answer this, maybe not. What's the difference between affordable housing and rural workforce housing?

**RYAN McINTOSH:** So rural workforce housing is-- was, was set up in, in 2015, I believe 2015, and is, is used-- it's a pretty flexible program. There are different caps, limitations, there's not income limitations. We did increase those limitations-- you did, the Legislature in 2022. So there's a-- there's currently a cap of \$325,000 for, for housing and \$250,000 for rental housing. Affordable housing has different cash limitations, it can be used in, in more urban areas. And so it's just two different programs. Rural workforce housing is aimed at bringing, you know, people for more good, you know, higher paying jobs that are needed in the workforce. And affordable housing is more for establishing affordable housing. I can get you some more information--

**ERDMAN:** Yeah, OK.

**RYAN McINTOSH:** --that distinguishes the two.

**ERDMAN:** Yeah, but \$300-- \$325,000 is a lot of money for a workforce house. And when Senator Clements was here, I shared with him that-- or Senator Stinner, excuse me, I shared with him that workforce housing has wheels under it. That's where you start. So I'm of the opinion, and I have been, and this is no surprise to anybody in this room that I don't think the government should build one house, let alone many. And if it were economically feasible, some contractor would build those houses. But the Governor-- government can do that at a loss. And it doesn't make sense to me that the reason we haven't got affordable housing is because of our property tax. So when we fix one problem, we fix the others and we wouldn't have to do this. But thank you for your testimony.

**RYAN McINTOSH:** Sure. And, yeah. If you would like more information or discuss further, I'd be happy to talk to you more, Senator Erdman.

**ERDMAN:** OK. I will. Thank you.

**CLEMENTS:** Senator Vargas.

**VARGAS:** Thank you for being here. I wondered if you-- this is a bit of a broad question, but I know the bankers and many others have been part of some of the studies done, even just in this last year on just

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the state of housing and the number of housing units, both to be bought and to be rented across the state and the current need. I wanted to see if you might be able to talk about that or if you want to reflect on that?

**RYAN McINTOSH:** Yeah, I, I don't have the, the exact number on the-- on the-- in the front of my mind on, on how many tens of thousands of houses we're short. We-- the NBA does participate in a housing-- in, in a couple of different housing working groups, because we do see housing as the number one issue for developing workforce in Nebraska, both affordable and just a complete lack of stock. And so we-- we've seen-- we, we generally, as Senator Erdman alluded to, like a free market approach to the housing problem. However, it's held our state back. The housing stock hasn't kept up, particularly in rural Nebraska, where it's extremely difficult for a contractor to build a house at a profit at a decent price, unless they're doing a large project. So the rural workforce housing program, and what we really appreciate about that is the flexibility. You see-- as I've been sitting here, I saw-- I just received an email alert from the Department of Economic Development awarding the last \$7 million or so that's available in that fund. So it's, it's now depleted. If you look at across the state, you have-- you know, on that list we had everywhere from Columbus to Cambridge, applications from \$600,000 down to, to, to \$30,000. And every community uses it differently. There's a revolving fund, some use it for infrastructure, some use it to purchase lots. But it's had a tremendous return on success and that's been a huge driver for economic development and, and across the state, particularly in rural Nebraska.

**VARGAS:** Yeah, and that's helpful. We clearly have a housing need, rural workforce housing is a great program. We have, per capita, fewer housing dollars across the state of Nebraska than we do to our partner in Iowa. About 40% less overall. But I think what we heard is some of the other opposition testimony is we have a doc stamp tax that goes to sort of a fee, right, to this purpose rather than General Funds for affordable housing and there are affordable housing projects in urban and rural Nebraska. And, and given this, we, we have to meet a need so using 25-- seeing your opposition, which I appreciate in writing is helpful because they're good programs. You can't sacrifice one type of housing for another type of housing, because that still leads to the same number of general units that we're short. And, in fact, even more because if the cost of a unit of \$350,000 versus \$150,000 means we're actually getting half of the units that we would for the same amount of money. But I appreciate you coming on that and on the other issue.

**RYAN McINTOSH:** Yeah.

**VARGAS:** Yeah.

**RYAN McINTOSH:** And that's-- and presumably that is, you know, that's-- the \$325,000 is, is the max. But what's nice about rural workforce is you, you can build the more affordable housing, housing-- there's not a floor to it. So we, we do think it's a terrific program, but we also definitely see the value in the Affordable Housing Trust Fund and, and that those funds are coming from a specific purpose. We have the documentary stack tax-- stamp tax.

**CLEMENTS:** Other questions? Senator Dover.

**DOVER:** In the 3 different-- I mean, 3 different: affordable, the middle income, and the rural, how much-- how much-- how much of the funds annually that are given out are actually recoverable or repayment or however you want to use that term that is returned to be used again for revolving, I guess, or--

**RYAN McINTOSH:** I don't have that, that data. Like I said, every, every community uses it different. I'm aware of quite a few communities that have set up revolving funds. There is a community match. It used to be 1 to 1. And then it got lowered as part of LB1069 from Senator Williams down to 50 cents. And then last year, communities of a certain size can use 25 cents for every dollar that they receive. So that money does go into the community. Some do establish as a-- as a-- as a revolving fund. Many also use it just as a-- as a one time. So I'd, I'd say you, you see the, the dollars come back in via form of sales tax building those houses and property taxes paid on those improvements.

**DOVER:** Thank you.

**CLEMENTS:** All right. Seeing no more, thank you for your testimony.

**RYAN McINTOSH:** Thank you.

**CLEMENTS:** Next testifier, please. Welcome.

**CAROL BODEEN:** Good afternoon, Chairperson Clements and members of the committee. My name is Carol Bodeen, C-a-r-o-l B-o-d-e-e-n. I'm the director of policy and outreach for the Nebraska Housing Developers Association. I'm here today to testify on behalf of our over 70 members from across the state in opposition to LB1413, specifically Section 16, directing \$25 million transfer from the Nebraska

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Affordable Housing Trust Fund to the Rural Workforce Housing Investment Fund. As an organization, our mission is to champion affordable housing. It's our goal that Nebraskans of every income have the cornerstone foundation of a healthy and affordable home. Our members include both nonprofits and for-profit developers and organizations. In my relatively short time in this position, I have not yet had to testify in opposition in front of this committee. However, in reviewing our archives, I know that our organization has had to fight this battle many times over the 25 years in which we have been supporting and advocating for the Affordable Housing Trust Fund. We understand that as a cash account sustained with a dedicated portion of the documentary stamp tax as its funding source, that it can be an easy target. We have fought decreases to this funding source as well as cash transfers in the past. It should be a significant point of consideration that over these many years, and with different people sitting in this chair, we continue the fight. So for today, I'm going to make the following points: The Affordable Housing Trust Fund has supported development of safe, affordable housing units, resulting in new jobs and millions of dollars of community investment across Nebraska using data provided by the Department of Economic Development in their most recent published annual report, which the one I referenced was December 31 of 2022. Since its inception, the Affordable Housing Trust Fund has turned over \$200 million in awards and to over \$1 billion of community investment, provided over 7,500 housing units, and contributed to the generation of over 9,500 jobs. These types of investments make a difference in our communities, neighborhoods, and the lives of the individuals throughout the entire state, from Douglas County to Dawes County and all in between. Grants from the trust fund can be used in many flexible and innovative ways to facilitate affordable housing. Per the eligible uses provided for in the statute, new construction, rehabilitation for both homeownership and rental, down payment assistance, housing education programs, and so much more to meet the needs of a particular community or area. These funds do not put excess dollars in the pockets of developers. They are granted to nonprofit organizations who most often are working with all ranges of local contractors and workers. For example, in the community that I had worked in previously, the contractor that we worked with built his small business. He supported his family. He was a sole proprietor. He was able to help his daughter fix up her first-time house in Lincoln. And a great portion of his success was because he was working with us on our affordable housing projects. So these, these projects have a lot of local impact. With this transfer, in particular, we're moving funds from an already obligated source. These aren't just unused funds, 90% of them are

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currently allocated to projects. They are grants and they are done out on a reimbursement basis, similar to what we have talked about in some of the previous programs that testifiers have talked about. So the funds may have already been used by the grantee, but have not been reimbursed back out to them. We're also moving funds, funds from a statewide program to a rural only program. We're moving funds from one housing program to another, which does nothing to, to make more of an impact on affordable housing. The trust fund had 70 applications requesting over \$40 million this last round in 2023. There were-- for the last Rural Workforce Housing Fund, there were 30 letters of intent requesting over \$34 million. So the need and the projects are out there. Obviously, I could go on and I know my time is getting short. But this is something that I have worked on for many years. I'll close with this, a week ago today, Congressman Flood gathered a group of over 200 people in Columbus to discuss-- to discuss housing in Nebraska. We were appreciative of his efforts to convene that many people together on a cold day in January, and his ability to bring Sandra Thompson, the Federal Housing Finance Director from Washington, D.C., as well as representatives from HUD, Fannie Mae, Freddie Mac, Federal Home Loan Bank of Topeka, and our own K.C. Belitz, Director of Economic Development. At that gathering, I made note of a comment that Mr. Belitz made, and I won't quote it exactly, but he basically made the point that it's time to stop crying about this problem of housing and work on ways to solve it. Will not transferring funds of the trust fund solve our housing problem? No. Will any single housing investment--

**CLEMENTS:** You have a red light. Can you finish, please?

**CAROL BODEEN:** --yes-- from our state solve this problem? No. But why would we want to take funds away from an established program that has a proven track record of being one of these ways to solve it for almost 25 years?

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

**CAROL BODEEN:** Thank you.

**CLEMENTS:** Next testifier. Welcome.

**MICHAEL ANDERSON:** Welcome. Thank you. Good afternoon, Chairman Clements and the members of the Appropriations Committee. My name is Michael Anderson, M-i-c-h-a-e-l A-n-d-e-r-s-o-n. I am testifying in opposition to LB1413 on behalf of outdoor Nebraska-- Nebraska outdoor enthusiasts, whether they'd be campers, hikers, fishermen, boaters,

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hunters, mountain bike-- bikers, bird-watchers, or, like me, a horseback rider that enjoys riding through Nebraska state parks. I spent the last 25 years volunteering the most precious thing I have, my time to the improvement of the outdoor experience in Nebraska public lands, specifically the creation and improvement of trail systems, most of which are in Nebraska state parks. While we all know that tackling the issue of out-of-control property taxes is long overdue. Imposing the broad sweep of excess funds from governmental agencies may leave some of those agencies scrambling to meet their commitment to their constituents. I'm here to speak about one of those agencies, the Nebraska Game and Parks Commission. Page 6, Sections 30 through 33 are where I'd like to focus. Section 30, the State Game Fund, and Section 31, the Nebraska Habitat Fund, are funds that have ties to federal dollars, and by sweeping those funds into a general fund may jeopardize those programs for future federal funding. Without federal partnerships, these programs will more than likely die. Section 33, the Water Recreation Enhancement Fund. This fund was created by the Legislature in, in 2022 as part of the STAR WARS initiative. If those-- if this money needs to be returned to the General Fund, I see little harm in that. Section 32, the State Park Cash Revolving Fund. Transferring these funds to the General Fund will result in the NG&P defaulting on their promise to reinvest their surplus back into the park system. When the camping fees and user fees were raised, it came with the promise of better parks and park amenities. This bill kills the vision that many of us share of even better public lands in Nebraska. As a longtime user of Nebraska park system, as well as a partner on many projects that were as a result of grassroots effort, trust is paramount in our public land managers to be able to keep their commitment to Nebraska outdoor enthusiasts. In closing, I would like to thank the committee for the opportunity to let my voice be heard on this matter. Nebraska parks are truly gem-- truly a gem and I'm working to keep them that way. This is the very first time-- test of-- for me testifying anywhere on any topic, but this topic was one that made it easier to do. Thank you and I would be happy to answer any questions you may have.

**CLEMENTS:** Are there questions? Seeing none, thank you for your testimony.

**MICHAEL ANDERSON:** Thank you very much.

**CLEMENTS:** Next testifier, please.

**KRISTAL STONER:** Hello. Good afternoon, and thank you all for your public service. We've been in this room a long time today. So thank



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you all. My name is Kristal Stoner. It's spelled K-r-i-s-t-a-l S-t-o-n-e-r. I'm the executive director for Audubon Great Plains, and I'm here to test in-- testify in opposition to LB1412 and LB1413. I'm only handing out testimony for one of the two. So to start off, on behalf of the 12,000 members of Audubon Nebraska, so that's just within the state of Nebraska, this is an office of the National Audubon Society. We're in opposition to both of those bills that I mentioned and we want this to be part of the public hearing record. National Audubon Society is a conservation organization focused on birds, their conservation, and we work to bring awareness to the challenges that we have in our communities and how changes impact birds, natural resources, and our economy. So my, my testimony is going to take a theme of clean water, clean air and habitats, because we know that what's good for birds is good for people. So with that, first I want to talk for LB1412 and speak specifically to the Water Sustainability Fund, and that we are opposed of that bill specifically to that sweep. We know we've heard quite a few different individuals that testified on that earlier, so I won't repeat, but that's a program that's been working for some time. Our water restoration resource projects are expensive. We're being faced with habitat loss. We're being faced with droughts. We're being faced with floods. This is something that that fund is, is designed to address and it's doing a good job of it. So we're opposed to the sweep of those funds. Those funds are needed in the state of Nebraska for those purposes. To speak on behalf of LB1413, what I wanted to speak specifically to was Clean Air Title V Cash Fund sweep of \$1 million, the Waste Reduction and Recycling Initiative Fund for \$1 million, the Nebraska Litter Reduction and Recycling Fund for \$1.5 million, the State Game Fund and Nebraska Habitat Fund accumulative to, to \$9.5, and the State Park Cash Revolving Fund. So to start off first, we've heard from several different individuals the importance of our-- of our natural areas and our public lands. So in Nebraska we have far much less public lands than many of our-- many of our neighboring states. We only have 2.8%. So I have to wonder as we say, well, if we can't catch fish, is it because they are such crowded places? There's not that very many places in our state for people to go and enjoy. So as our population increases, they're facing even more and more demand. I don't know the answer, but it does make me wonder. We know that our outdoor recreation brings an economic impact of nearly \$4 billion, and that more than 500,000 people purchase these state park entry permits. And it is the promise and the pledge that I've always heard from the Nebraska Game and Parks Commission that, you know, as you buy that sticker those funds are going back to the restoration of those parks. So I, as a user, and on behalf of my organization that has people that

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go to these parks and look at birds, we would hate to have those funds diverted for other uses. Also, I'm, I'm pleased to hear that the State Game Fund, Habitat Fund might be kept, kept as they are, but also wanted to reemphasize that it's important that those be maintained, both because of the federal funds that could be diverted or lost. But also just because our native grasslands, woodlands, wetlands, and rivers provide that critical habitat for so many species and for so many of our users to enjoy across the state. Also, those funds are typically going into our rural areas. So often when you're doing habitat work or restoration work, people are hiring local contractors to do that work. So those funds are being reinvested across the state of Nebraska. I also wanted to speak on behalf of the recycling and waste reduction, just as our organization thinks about our natural habitats and energy reduction, we also want to focus on recycling and waste reduction. So it sounds to me that, that Nebraska has some, some gaining to do in terms of our recycling-- our recycling rate. What I found was that we're only at 17% recycling, which is below the national average. So I would hate to see us divert funds that are for that purpose-- for that purpose of recycling. And the last one I wanted to speak of was clean air. Clean air is something that's tremendously important. As I talk to my colleagues across the nation, we are a hemispheric organization, I talk to my colleagues in other nations, wearing masks happens around the globe because of poor water-- air before-- poor air quality because of pollution. So it's something that I think we take for granted because our air quality is good. Although we have days where it's recommended people with asthma stay inside. So I think that those funds-- those fees that are a part of administering that fund, it only makes sense to keep them as a part of that fund. Sounds like maybe it can meet the EPA minimum, but I think we can do better than that for our air quality. So with that, thank you for your consideration.

**CLEMENTS:** You timed it just right. Good job. Is there-- are there any questions? Seeing none,--

**KRISTAL STONER:** All right. Thank you.

**CLEMENTS:** --thank you for your testimony. Who else is planning to testify? We have--

\_\_\_\_\_: Neutral.

**CLEMENTS:** All right. Thank you. Welcome.

**HALEY NOLDE:** Good afternoon, members of the Appropriations Committee. My name is Haley Nolde. That's spelled H-a-l-e-y N-o-l-d-e, and I'm here on behalf of the Nebraska Recycling Council as the executive director opposing LB1413, specifically regarding the litter and waste reduction funds, Section 26 through 29. The Nebraska Recycling Council is a statewide organization that aims to maximize the environmental and economic benefits of resource recovery in Nebraska with members, partners, and friends all around the state that utilize the funds from both the Waste Reduction and Recycling Fund and the Litter Reduction and Recycling Fund, including my own organization, which we are extremely thankful for. The funds are collected as fees which, in turn, are authorized to be spent for specific purposes that relate to litter and waste. So, for example, a \$1 fee on tires should be used for scrap tire events, not to support the General Fund. Same as what, Mr. Lindsay said prior, that businesses paying into these funds are under the impression these will be used for recycling activities. A piece of legislation that supports this fund is LB1101, which was passed in 2016, that directed NDEE to conduct a study to examine the status of solid waste management programs. The final report outlined that, quote, Grant programs for recycling and waste reduction in the state of Nebraska have been successful and allowed for the addition of several recycling facilities located throughout the state. It facilitated improvement in the environment, established new business in every part of the state, and added jobs to the state's economy. These efforts have afforded the state of Nebraska the opportunity to establish a recycling and waste reduction that has flourished. End quote. Additionally, Senator Jana Hughes introduced LR163 last year to examine opportunities to increase recycling of municipal solid waste. The final report also supports both funds, quote, The development of end markets for recycled material, along with creation of infrastructure to collect, sort, and process recycled material is critical to increasing overall goals of increased recycling and landfill diversion. There are existing programs that should be thoroughly examined for opportunities to facilitate the remaining manufacture of recycled material. One such program is the DEE Litter and Waste Reduction Recycling Grants. End quote. Statewide waste reduction and recycling is the most prudent way to manage the increasing waste in Nebraska and communities are motivated to recycle but lack resources or funding. Recycling costs are typically absorbed by the municipality, which is disproportionately more expensive in rural areas. Across the state, these funds are needed and many entities that use the funds are within the districts that you all represent here. In 2023, \$7.7 million in DEE grants supported 140 projects that fund positions such as educators, recycling center managers, haulers,

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etcetera. Assuming the same amount of funds are available in 2025, the transfer of \$2 million from DEE would eliminate more than 1/4 of that funding. We ask you to remove the fund shift of DEE grant funds to the General Fund from this legislative bill, at least the 2025 funds, as those funds are intended for litter and waste reduction activities that improve our communities, provide jobs, extend the life of landfill-- of landfills and protect the environment. And I wanted to acknowledge a question. I don't-- I apologize, I don't remember who asked it on successful grant programs around the state. I would be happy to speak on those, not related to Lincoln and Omaha, as I understand the grants actually, every year they decide how the grants will be allotted and they actually favor rural communities so that the funds are spread out throughout the state. Some examples of those, the city of Ogallala-- within Ogallala has a hub and spoke program operated by Western Resources Group, that actually services over 30 communities in that region. Wayne, Nebraska, population of only 5,000 regularly receives DEE grant funds and has diverted over 160,000 tons of electronics from the landfill since 2014. Same with Grand Island Clean Community Systems, they are the only facility in that region that collects household hazardous waste, which shouldn't be going to the landfill. And in my own organization, we get technical assistance calls that are actually directed to us from DEE all year long throughout the state. So I can also share some of the specific programs that are within all of your districts, too, that are funded by these grants. Thank you for your time.

**CLEMENTS:** All right. Are there questions? Senator Wishart.

**WISHART:** That information was very helpful for us. If you could send the district specific information and then just more of those statistics that you show about litter reduction, waste reduction, that would be helpful.

**HALEY NOLDE:** Yeah, I-- there's graphs, too, that the DEE has that allocate where, where the funding actually comes from for each grant. Mr. Lindsay alluded to a little bit of that, but there is more funding.

**CLEMENTS:** Yeah, you could email that to our clerk and we'll distribute it to the committee.

**HALEY NOLDE:** OK. My staff member is watching. I'm sure she's doing that right now.

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**CLEMENTS:** All right. Thank you. Next testifier. Welcome and thank you for your patience.

**JOHN HEASTON:** Oh, sure. I, I don't want to be the guy standing between you all and, and beverages so I'll try to be brief. My name is John Heaston, J-o-h-n H-e-a-s-t-o-n. I'm the executive director of the Nebraska Sportsmen's Foundation, and I'm here to provide testimony in opposition to LB1412 and LB1413. In LB1412, is mainly directed at the provisions aimed at the Water Sustainability Fund. I was a member of the LB517 task force back in 2013 that helped create that fund and helped craft LB1098, which created the, the fund for it. And I can tell you, having been involved at that level and having been on that Commission several times over the years, you will not find a more frugal group of individuals. They make sure those projects are worth funding. And the demand for water sustainability funding in Nebraska far exceeds what we allocate towards it on an annual basis. And so any, any removal of those funds for any length of time is really going to create a hardship that, that we've all in the water and natural resources community work very hard to try to, to reverse over time. And it's, it's probably our greatest natural resource and it is definitely, if it's not the fuel that drives our economy it's the oil that, that keeps the engine running when you think about its importance to agriculture and outdoor recreation and every other use, municipal or industrial. Moving on to LB1413, we, we respectfully oppose this bill. I, I could get in to the-- to the specific measures, but that's been covered by many of my conservation partners in the room. I'd, I'd rather circle back up and, and it's-- I've worked with and, and around state agencies for a lot of years. And I know that these funds are all unique and created from fees and, and commitments that have been made by your predecessors and by regulators, and they're very specific to certain needs. And so I think it really behooves us as a-- as a state to look at them individually rather than to try to sweep them all into one bill and try to, to create a, a short-term economic gain. Because I can tell you, having been involved in many state agency functions over the years, that, that short-term gain can often lead to very long-term complications. And I think we just need to maybe take a step back and look at how using these funds as they're intended, it may be less convenient in the short term, but may be more beneficial to us in the long term so we don't have to restore capacities moving forward. You know, we often brag in this state about being a user pay system, especially in recreation. And, you know, many of the provisions in LB1413 are, are, are looking at funds where it is user pay fees or, or taxes levied for use. Being asked to be moved into a General Fund, it's, it's really hard to, to

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justify doing that without really, you know, and I've heard the term bait and switch be used several times, and, and I won't go that far, but it, it definitely-- when I think about going back to my membership and telling them why we should care about these types of issues, you know, they go hunting and fishing and trapping and, and water skiing, and all the different things you can do in the outdoors in the state of Nebraska. But they're also bankers and lawyers and small business persons and, and so they live every day in this state, and they want to know that they can trust their government to be looking out for their best interests. And so I, I, as a representative of that group of people, I would say that we probably need to look this over a little harder and maybe think about a different path forward. Thank you. I'll take any questions that you might have.

**CLEMENTS:** Questions? Senator Dorn.

**DORN:** Thank you, Senator Clements. Thank you for being here. I guess that mine is more of a future question. You testified there, your membership going back and telling them. And if, if-- suppose we do take these funds here, what are-- what are you going to tell your members for future years, for future funding, what are you going to tell them?

**JOHN HEASTON:** If, if this passes and--

**DORN:** Yeah.

**JOHN HEASTON:** I don't know what I can tell them. That-- that's your decision. I'm just providing their voice today and that they're not in support of, of taking-- sweeping funds out of specific funds to, to go into General Funds. And, and everyone I've talked to is very aware of the issue of tax relief, and I haven't met anybody that's opposed to tax relief, but it's a very complicated issue. So, you know, I don't want to go back to my constituency and say, you know, well, they took it anyway. And so now all the times you've paid for a park permit or a habitat stamp that's going to cover something not intended. You know, that's, that's not an easy bill to sell.

**DORN:** Thank you.

**CLEMENTS:** All right. Thank you for your testimony.

**JOHN HEASTON:** All right. Thank you for having me today.

**CLEMENTS:** Is there anyone else here in opposition testimony? Seeing none, is there anyone in the neutral capacity? Welcome.

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**BOB EVNEN:** Thank you, Mr. Chairman, members of the committee. Good evening. My name is Bob Evnen, B-o-b E-v-n-e-n. I have the honor and privilege of serving as Nebraska's Secretary of State and I'm here with our chief deputy and general counsel, Colleen Byelick, and with our controller Joan Arnold, who can certainly help me if there are any questions that you care to ask about some of the particulars here. The-- because I'm testifying in a neutral-- the reason I'm testifying in a neutral capacity is because the, the sections of LB1413, which is the subject of my testimony, that affect the offices that I oversee are Sections 11, 12, and 13. And I'm not in opposition of Section 11, but I do oppose Sections 12 and 13. Hence, my neutrality. I'm OK with some of it. Not OK with others of it. And as a result of my neutrality, I've had the opportunity to listen to the testimony that's been given through this entire afternoon and evening. It's been very interesting and informative. Sections 11 and 12 have to do with the Records Management Cash Fund. Section 11 proposes taking \$3 million out of that fund this year. Section 12 proposes taking \$3 million out of it next year. And this is a-- this is a fund that is cash rich right now. If the committee and the Legislature was so disposed to take \$3 million out of it this year, we would be able to continue. We'd be OK. There are reasons why it's cash rich, which I believe are going to be addressed in the coming years. But if you take out-- and Section 12 takes \$3 million out next year, I'm not in support of that. And if you move this bill forward, I hope you move it without Section 12. We're, we're cash rich because of a negotiation that occurred prior to the time I became the Secretary of State. The Secretary of State is the Chair of the State Records Board. The State Records Board has an agreement-- and has the agreement with the portal manager that takes care of nebraska.gov. And that's Tyler Technologies, formerly Nebraska Interactive. And at the end of 2018, before I arrived, the contract was extended. And in-- and in exchange for extending the contract, Nebraska Interactive agreed to provide a higher percentage of their revenues back to the state. That's the reason that we're cash rich. The state does not pay Tyler Technologies money to operate the portal. The way that they-- it's really-- this has-- this has been in place since the late '90s since this was established. The, the revenue proposition, the value proposition here is that the vendor charges a portal fee, and the portal fee is the-- that's the revenue that the vendor receives. The state doesn't pay our portal manager, the portal manager derives its revenue from these portal fees, and then it shares the portal fees with the state. Well, until the end of 2018 it shared 10% of its revenues with the state. But at the end of 2018, it agreed that the state could take 20% and then they would retain 80%. And, and really, I wasn't there for this discussion, but my-- what I infer is

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in exchange for that the contract was extended. It wasn't put out for an RFP. The result is that the State Records Board, the Records Management Cash Fund, has become cash rich because you have all this additional revenue, but there really wasn't any plan for how you were going to use it. Now what's happened now is now we're 5 years down the road, this contract is up, it expires in March of 2026. We now have to decide whether we're going to go out for an RFP, whether we're going to see if we can negotiate an arrangement with, you know, that does not require issuing an RFP. And we're going to have those discussions in the State Records Board in March. We're going to begin those discussions in March. I don't know what the future is going to hold. I don't know what Tyler Technologies is going to ask for. I do know that they are-- they are-- that this, this agreement that was made was made by a guy who is no longer their manager in Nebraska. And, and I don't think that it's been-- I don't think that has been good for them. So that's why I'm saying we're cash rich. If you want to take \$3 million now, we'd be fine. But taking \$3 million again next year, I would ask you not to do. Because I don't know what the future holds for us, and it isn't a terrible thing to have-- to have some funds available if you don't have a clear view of where your negotiations are taking you or whether you're going to issue an RFP. And I'd like to also talk about Section 13, and I, I see my time is, is drawing to a close so I'll ask the indulgence of the-- of, of, of the Chair.

**CLEMENTS:** Yes, please proceed.

**BOB EVNEN:** Thank you. All right, so Section 13 has to do with the Secretary of State Cash Fund. And this is a cash fund where all of our business services fees go. Now a, a few years ago, we, we completely revised our business services fees. The Legislature passed it and the Governor signed it. Last year, we brought to this committee and, and to the Legislature a, a, a project that was \$2.5 million, but it's \$2.4 million, because Senator Armendariz encouraged me to go back and negotiate a little further, which I did, and, and I'm happy to say we were successful. But it's a \$2.4 million project if everything comes in exactly the way it's supposed to, in which we are going to replace our business services information platform. We're going to replace it. The platform we're using now is not sufficiently stable, in my judgment. We took our project to the NITC. The NITC gave us the highest score that anybody got in this-- in the projects that were submitted to them that year and it found that we had a critical need. We don't-- we aren't required to go to the NITC for these projects, but we did, because I think it's important to get, first of all, they are third-party subject matter experts and it's important to, to find out, well, do we have a good project here and have we planned it out



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well? And they, they found that we were-- we had a critical project to go forward, and they gave us the highest score that they gave out that year. Now we brought this to this committee, the Appropriations Committee recommended this. And, and this is a project that we are about to begin. So I am asking that you not recommend taking \$1 million-- \$1.5 million out of our cash fund, since we are counting on those funds as we plan for the, the implementation of this project, which is a \$2.4 million project. And I also want to say, this is concerning Section 13, the Secretary of State Cash Fund, I would like to remind the committee that, that this fund is already contributing substantial amounts of money to the General Fund. And you'll see this in this chart on the bottom, the 3 blue bars. And if you take a look at fiscal years '22, '23, the most recent biennium, we've sent an excess of \$17.7 million into the General Fund. We're not pickers here and we're not unwilling to do our share. We're already-- these are fees that are being taken, being paid by business services, filers. And a large percentage of those fees are already going into the General Fund. The, the amount in dollars in the last biennium, \$17.7 million. And you can see in the two biennium previous to that. So these are substantial contributions into the General Fund already. So what I'm asking you there is-- well, take a look at the other side, because I also want you to understand that we're not just burning up-- we're not burning up the funds of our fee, fee users for nothing. We are not stockpiling money, as has been said earlier. You take a look at our, our headcount, these are FTEs over since 2008. And if I wanted to extend it back further than that, you'd see it's, it's essentially the same going back 10 years before that. Take a look at the number of business entities on record. They've doubled since 2008. How is it that we are able to handle double the number of business entities with the same number of FTEs? And the answer is because we've constantly improved our technology. We paid very close attention to our technology. And now we are-- we have a, a, a, a project that we are about to embark on. This vendor has already provided two other projects for us within the last year. And now it's smaller projects to make sure we're on the right track with the right vendor. Now we're going to go forward with them with this very large, very significant project that has to do with the stability and the ro-- and the robustness of our filing system, our business services filing system. And that's why we've been able to hold our headcount steady, even though we have double the number of entities that are-- that are filing now. Now the, the last point that I want to make to you as, as we go back to the front of this sheet, and this is-- this is based on the documentation that the Governor's Budget Office provided. And what it shows is the percentage of cost, the percentage of annual expenses

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that are left in these funds after this sweep. You take a look at our funds, they're in red down there, they leave us with 28 or 27% of annual expenses remaining in our fund. Now I will tell you that, in my own view, that if you're going to be responsible you ought to have a year's worth of seed money. What, what-- however you like-- you ought have a year's worth, you ought to be able to operate for a year. That's just a rule of thumb. And in my view, that's the best practice. They're leaving us with-- instead of 100%, they're leaving us with 28 or 27%. Now if you really want to stretch it, you could say, OK, 50%. But now we're-- now look at where we are in the rankings. We're, we're down there at the bottom and it's not enough. So it, it leaves us too low in terms of, of, any sort of operating pad. And it's taking away from us, funds that we-- that, that will give us the, the-- that will give us the funds we need to, to proceed with this project. So-- and, you know, if you-- if you return these funds, if you don't take-- if, if you-- if you accept my request, as I hope you will, you can send along-- move along Section 11, but not Sections 12 or 13. What that would leave us with is-- and one of these funds we'd be at 100%. But that's the fund where we need the, the-- that's the fund where the project's going to go. The other fund leaves us at 50%, which I feel we need in order to have the funding we need as we enter this question, are we going to negotiate with, with, with nebraska.gov our provider, Tyler Technologies? Are we going to issue an RFP? We need to have the confidence. We need to have the backup in terms of dollars that users have paid. These are all user fees. These are portal fees. So I, I would ask that, that you-- if you feel so inclined, move forward with Section 11, but do not advance this bill with Sections 12 and 13 in it. And with that, I would be happy to answer questions. And I appreciate your very great patience all day long.

**CLEMENTS:** Are there questions? When, when you say portal fee--

**BOB EVNEN:** Yeah.

**CLEMENTS:** --is, is that nebraska.gov--

**BOB EVNEN:** Yes.

**CLEMENTS:** --website?

**BOB EVNEN:** Yes.

**CLEMENTS:** And so the, the state doesn't really have to pay anything for that. But if, if I-- what kind of a fee would I-- if I license my car or my driver's license, there's a \$3 fee or something. Is that--

**BOB EVNEN:** Right.

**CLEMENTS:** --what it is?

**BOB EVNEN:** Right. So when you pay-- when you pay that fee then what's paid out of that fee is, you know, they're transaction costs for whoever's processing the credit card payment, but there's-- but that fee is higher than those transaction costs. And the-- and the balance of that fee goes-- 80% of it goes to Tyler Technologies, which is running the platform, and 20% is going into this Records Management Cash Fund.

**CLEMENTS:** OK. I thought it was nebraska.gov and that-- any other questions? Seeing none, thank you. You've--

**BOB EVNEN:** Thank you.

**CLEMENTS:** --explained it very well.

**BOB EVNEN:** Thank you, Mr. Chair. Thank you, committee members.

**CLEMENTS:** Are there any other neutral testifiers? Seeing none, that concludes the testimony and the, the hearing for LB1412 and LB1413. But I have some comments I got to come up with here. I put them somewhere. Before we close, online comments.

**DORN:** Cori, Cori, Cori--

**CORI BIERBAUM:** Yeah, it is on here.

**DORN:** Oh, our names are on them. Can we leave them here?

**ARMENDARIZ:** Leave these here?

**CORI BIERBAUM:** Yeah, leave these here. I'll have to add more to them.

**CLEMENTS:** OK, on LB1412, we had position comments: 3 proponents, 9 opponents, none in the neutral. On LB1413 position comments: 1 proponent, 36 opponents, 1 neutral.

**ERDMAN:** We're done.