

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 13, 2023

CLEMENTS: We're going to start with who we have here. Welcome to the Appropriations Committee hearing. My name is Rob Clements. I'm from Elmwood and represent Legislative District 2. I sort of serve as Chair of this committee. And we will start off by having members do self-introductions, starting with my far right.

LIPPINCOTT: Lauren Lippincott, representing District number 34: Aurora, Hamilton County; Central City, Merrick County; Fullerton, Nance County; and parts of Grand Island, Hall County.

McDONNELL: Mike McDonnell, representing Legislative District 5, south Omaha.

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

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

ARMENDARIZ: Christy Armendariz, District 18, northwest Omaha and all of Bennington.

CLEMENTS: Thank you. Assisting the committee today is Tamara Hunt, our committee clerk. And to my left is our fiscal analyst, Keisha Patent. And our pages today are Amelia from Hastings, Nebraska, a UNL student, and Kate, a Kansas visitor, also a UNL student. Thank you, pages. Hello, Senator. You can introduce yourself.

WISHART: Hi. Senator Anna Wishart, District 27, Lancaster County and Lincoln.

CLEMENTS: Thank you. At the entrance, you'll find green testifier sheets on the table. If you're planning on testifying today, please fill out a green testifier sheet and hand it to the committee clerk when you come up to testify, if you will not be testifying but want to go on the record as having a position on a bill being heard, there are white sign-in sheets at the entrance where you may leave your name and related information. These sign-in sheets will become exhibits in the permanent record after today's hearing. To better facilitate today's proceeding, I ask that you abide by the following procedures. Please silence your cell phones. The order of testimony will be introducer, proponents, opponents, neutral, and closing. When we hear testimony regarding agencies, we will first hear from a representative of the agency. Then we will hear testimony from anyone who wishes to speak on the agency's budget request. When you come to testify, please spell

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your first and last name for the record before you testify. Be concise. We request that you limit your testimony to five minutes or less. Written materials may be distributed to the committee members as exhibits only while testimony is being offered. 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 pages can make copies for you. With that, we will again-- begin today's hearing with LB813. Welcome.

LEE WILL: Chairman Clements, I'd like to testify on LB813, LB814, LB815, LB816, LB817, LB818, and LB819 if possible just in the same package if that's OK with you, all the budget package together.

CLEMENTS: Is there any objection? All right, LB813 and LB819--

LEE WILL: Through LB819 that comprises the Governor's budget.

CLEMENTS: All together.

LEE WILL: Yeah, if that'll be OK. Appreciate it, Senator. Thank you.

CLEMENTS: All right.

LEE WILL: Chairman Clements and members of the Appropriations 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 LB813 through LB819 with the recommendation also recognizing several bills that comprise the Governor's tax reform and education package. The biennial budget package contains funding for operations of state government, state aid for individuals and local governments and capital construction, which are outlined in these bills. These contents have been summarized in the Governor's Executive Budget and Brief 2023-2025 Biennium publication dated January 25, 2023. I have provided a copy of this publication along with my prepared remarks to the committee clerk for your records. Also, we have posted to our Website das.nebraska.gov/budget the comprehensive publication named Executive Budget 2023-2025 Biennium, also dated January 25, 2023. Several tables and reports are included on the Website summarizing the Governor's recommendation for the biennial period displaying appropriations for all agencies, programs and fund types. LB813, otherwise known as a deficit bill, includes a total increase of \$31.7 million in General Funds, with \$24.9 million to Corrections to support the rise in costs and substantial increase in hiring. Additionally, \$11 million is included for the Health and Human Services drug monitoring and

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statewide information health exchange expenses related to CyncHealth. The deficit bill also contains a transfer from the General Fund to the Road-- Roads Operation Cash Fund of \$100 million to provide an up-front match for \$400 million in federal funding to complete roads and bridge projects. The Governor's biennial budget package represents 1.3 percent two-year annual average increase for the '23-25 biennium over the '23 appropriations. Each budget issue and decision are narrated and contained in the Governor's budget book. There are also multiple transfers recommended in the package, including \$360 million in FY '23-24 and \$395 million in '24-25 to the Property Tax Credit Cash Fund. Substantial tax cuts and reform are included in the Governor's package to give Nebraskans much needed relief. The recommendation includes historic tax cuts to individuals and businesses-- business tax rates, getting them down to 3.99 percent by 2027. The recommendation also includes and also provides for a 100 percent exemption in Social Security taxes paid by our seniors. These proposals will reduce taxpayer burdens by \$384.5 million for the '23-25 biennium and provide for long-lasting reform in the future. The Governor's package includes a transforma--transformative investment in our kids' education to ensure that not one is given up on. This is done by creating the Education Future Fund financed with \$1 billion in FY '23-24 and \$250 million each year thereafter. This investment will provide \$1,500 foundation aid to each kid inside the formula and provide significant support to our special education students outside the TEEOSA formula. These two mechanisms will provide schools nearly \$300 million on an ongoing basis to ensure that the state is meeting its end of the bargain in financing our public K-12 schools. The Governor also supports the creation of an annual \$25 million nonrefundable tax credit to allow for low-income students to attend a qualified nonprofit, private, elementary or secondary school. This program reflects a-- reflects a no size fits all in teaching our kids and will enhance-- enhance education in our state. To ensure long-term reform, the Governor's package includes a 3 percent cap on property tax collections, which can be overridden by a supermajority of the school board or a vote of the people. The package also includes fully funding our community colleges and eliminating their property taxing authority. These proposals ensure that families are not priced out of living the good life while allowing families to have some certainty with their financial future. The Governor's recommendation for the Cash Reserve Fund allows for an unobligated estimated balance of over \$1.6 billion. Accounted for in this figure is \$574.5 million to fully fund the Perkins County Canal project to allow the state to construct a canal reservoir system to accommodate flows of a thousand cubic feet per second. This project is vital to support our people and our

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flourishing agriculture industry by exercising Nebraska's rightful claim to water rights outlined in the South Platte River Compact, ratified by Congress, Colorado, and Nebraska in 1923. Additionally, accounted for is \$95.9 million to complete financing for the Nebraska State Penitentiary replacement. This replacement facility will assist with addressing inmate programming, security, aging infrastructure, and capacity concerns within the correctional system to ensure public safety for both the short and long term. The Governor's recommendation provides for a General Fund reserve of \$542.7 million, in addition to the Cash Reserve balance of \$1.6 billion. This means that between the General and Cash Reserve Fund balances the state will have nearly \$2.2 billion in reserves to weather any unexpected loss on state receipts. I also want to emphasize that the Governor's package does not rely on the existing Cash Reserve Fund balances to maintain stability in the tax cuts or educational reform. The Governor's aims on reducing government's-- government spending, achieving tax reform, and providing transformative investments in K-12 education are sustainable. These reforms are-- reforms are phased in responsibly over time and ensure we meet the cash flow needs of the state while delivering transformative tax relief to the people in Nebraska. I'd be happy to take any questions.

CLEMENTS: Any questions from the committee? All right. Seeing none, thank you for your testimony.

LEE WILL: Thank you.

CLEMENTS: And looks like a procedural question. So should we go bill by bill or just have everybody-- I think-- I think he's open-- he's opened up on all of these bills and we're going to take those as a package. And so if there are testifiers, the first testifier is welcome to come up and share your comments.

WISHART: Proponent.

CLEMENTS: Proponent. Excuse me.

MITCHELL CLARK: I didn't think I was going to be up this soon. Chairman Clement-- Clements and members of the Appropriations Committee, thank you for allowing me to testify today. My name is Mitchell Clark, M-i-t-c-h-e-l-l C-l-a-r-k, and I am policy advisor for First Five Nebraska, a statewide public policy organization invested in the care, early learning, and well-being of Nebraska's youngest kids. I am here today to testify in support of LB814, specifically for the Nebraska State Patrol's budget request to address a backlog in

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fingerprint-based background checks. The request totals approximately \$166,000 each fiscal year for two additional criminal identification division staff and costs associated with FBI fees. I want to start by thanking Governor Pillen for prioritizing this spending increase in his budget recommendation. Right now, there is a backlog of statutorily required background check and fingerprint processing applications. This affects dozens of categories for applicants applying for licensure, employment or services such as adoption and foster care. Today, I would like to speak from the perspective of the numerous employees, directors, and business owners in the childcare industry who are directly impacted by this backlog. But first, a little background. The reauthorized Federal Child Care and Development Block Grant or CCDBG Act of 2014 required all childcare staff members to complete a comprehensive federal background check and directed states to implement the necessary policies and procedures to meet those requirements, states that failed to meet this deadline risk losing a portion or all of their annual allotment of federal CCDBG funds. The Legislature brought Nebraska into compliance with federal requirements, first by passing LB460 in 2019, followed by LB1185 in 2020. In theory, the entire background check process is supposed to take seven to ten days. However, data requested from the Nebraska Department of Health and Human Services, which oversees the childcare licensure process, shows that the average processing time is 25 days. Unfortunately, an individual cannot work in childcare until their application is processed. In an industry where the current turnover rate is 40 percent, this delay can cause classrooms or programs to temporarily close or shut down because they can't meet the required staff-to-child ratios. There are three main factors contributing to this backlog. One, a significant increase in the volume of applications; two, no corresponding change in FTEs at the State Patrol; and three, procedural misalignments between the State Patrol and DHHS. While two of those factors cannot be addressed in the budget, the committee can address the shortage of FTEs by supporting the Governor's recommendation. I've distributed a brief to the committee which breaks down the factors I mentioned. Breakdowns in the fingerprinting process and background check process are more than simply an administrative problem. They are a serious threat to the vitality of Nebraska childcare businesses and a barrier to recruiting workers needed to staff them. In turn, this undermines the supply of childcare programs needed to support a fully engaged workforce in all sectors of business and industry throughout Nebraska. While the Governor's budget recommendation is a step in the right direction, these increased staff resources are not specifically earmarked for processing childcare background checks. Additional efforts are needed

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to increase staff capacity at DHHS and the State Patrol, as well as investigate administrative efficiencies in the fingerprinting process so childcare providers can hire staff in a more timely manner. Our state's childcare workforce plays a significant role in supporting one of Nebraska's greatest strengths. It is a desirable place to work and raise a family. We are committed to working with the Governor on realizing administrative efficiencies with this process in the long term and ask the committee to approve this portion of the Governor's budget recommendation. Thank you for the opportunity to testify before you today. I'm happy to take any questions you may have.

CLEMENTS: Are there any questions? Senator Dorn.

DORN: Thank you, Senator Clements. On the front page there, number three, you said there's-- what do you mean by procedural misalignments between the State Patrol and DHHS?

MITCHELL CLARK: So it's a-- it's a long and lengthy process to go from the time a childcare employer submits an application to DHHS, and then it has to go through the State Patrol, that has to get sent to FBI and there's a lot of back and forth. So there's just a long process.

DORN: But they're not working together then, or--

MITCHELL CLARK: I think they work-- work together as well as they can, given the resources they have.

CLEMENTS: Question? Yes, Senator.

WISHART: Well, thank you, Mitchell, for being here. It's exciting to see you in this-- in this role. So in one of the conversations that came up when we were discussing this issue was, are there any-- currently are there any fees that cover the cost of a background check that the childcare providers pay?

MITCHELL CLARK: So that-- that was waived temporarily for childcare providers. But my understanding is that that reverts back to childcare providers having to pay for that fee.

WISHART: So what's a typical cost to pay for a background check?

MITCHELL CLARK: So the State Patrol has a list of fees. I'll check for that real quick. It's about \$45.

WISHART: Per-- per employee?

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MITCHELL CLARK: Um-hum.

CLEMENTS: Was that it? Any other questions, Senator?

WISHART: So-- so currently-- I'm just thinking through this-- currently the fees are waived at this time and are going to-- to go back into effect soon or?

MITCHELL CLARK: I would need to double-check on that. But my understanding was that that was covered through ARPA dollars.

WISHART: OK. OK. Thank you.

CLEMENTS: Question? Senator Armendariz.

ARMENDARIZ: Thanks for being here. You said that this goes through several different agencies to get it done. Do you think that this is going to eliminate that backlog just by the State Patrol employment, or are there other parts that need to be fixed as well?

MITCHELL CLARK: There's lots of other parts that need to be fixed as well. This is a first step in-- in starting to address that increase. The State Patrol's budget request cites about a 7,000 increase in number of applications. So that alone is about a 20 percent increase. So this is one step. There's other efficiencies, I think, that need to be realized before we really solve the issue.

ARMENDARIZ: And do you know if anybody is addressing the other inefficiencies?

MITCHELL CLARK: We are at First Five looking into it. We're going to have some interim work to look into where these hang-ups are coming so that we can figure out a solution long term.

ARMENDARIZ: And maybe you can't answer this. Would you be opposed to coming up with an overarching solution and present that at the time where you think it's going to actually fix the entirety of the problem?

MITCHELL CLARK: I think before I could answer that, I would say we would need to dig in this this interim and figure out what kind of a solution would look like.

ARMENDARIZ: OK. Thanks.

CLEMENTS: Any other questions? Seeing none, thank you, Mr. Clark.

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MITCHELL CLARK: OK. Thank you for your time.

CLEMENTS: We have a sound issue the technician says, asking us to pause to have some looking-- someone look at the sound. Evidently the online sound isn't-- is not [INAUDIBLE]

CLEMENTS: I apologize for the delay. The technology has been repaired and so I've been told that we're back in operation and we are on proponents for the budget bills. And next proponent is welcome to come forward. Seeing none, we'll move to opponents. First opponent, please.

JOHN BENDER: Good afternoon, Chairman Clements and members of the Appropriations Committee. My name is John Bender, spelled J-o-h-n B-e-n-d-e-r. I'm the treasurer of a group called Friends of the Nebraska Environmental Trust. My comments today are representing our organization. We oppose certain provisions contained within LB814; namely, Section 271, paragraphs (1)(s) and (2)(s). Thirty years ago, Nebraska voters approved the Nebraska Lottery for the purpose of funding educational and environmental projects outside of normal state programs and agency operating budgets. The Nebraska Environmental Trust Fund holds Nebraska Lottery dollars to conserve, enhance, and restore the natural environments of Nebraska. The Nebraska Environmental Trust grants funds of-- to worthwhile projects that are designed to attain this mission. The trust was created primarily for private conservation organizations to apply for grants to help pay for projects identified by the trust board that will fulfill the mission of the trust, sometimes in partnership with state or federal agencies. But too often in past years, some of the money has been used to fill holes in state budgets and given priority rankings over other projects. Within LB814 on pages 141 and 143 is Section 271 concerning cash revolving and trust fund lapses in transfers. Both paragraphs (1)(s) and (2)(s) direct the transfer of \$7 million during the next biennium from the Nebraska Environmental Trust Fund to the Water Resources Cash Fund for a total of \$14 million. These transfers are for programs that the Department of Natural Resources is obligated to fund. In past years, the Department of Natural Resources went through the NET grant application process and at least gave an appearance of competing with other project applicants to take trust fund money from its Water Resources Cash Fund. While we believe this is not in keeping with the intent of the Nebraska Environmental Trust Act, at least they went through the grant application process set forth in statute in Title 137. We believe the transfers called for in LB814 Sections 271 (1)(s) and (2)(s) are a blatant disregard for the statute and code of the Nebraska Environmental Trust. Now we want to be clear that the programs, the Water Resources Cash Fund support are valuable and are

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in Nebraska's interests. However, they relate to water resource obligations that Nebraska has incurred due to agreements with other Platte and Republican Basin states. These programs should not be funded by the Environmental Trust, but rather through a general appropriation from the Legislature. We are asking that the Appropriations Committees strike these two parts of the Governor's budget, comply with the provisions of 81-15,175, and find another source of money for the Water Resources Cash Fund. Thank you.

CLEMENTS: Are there any questions from the committee? Senator Wishart.

WISHART: Thank you for being here today, John. From your experience, has there ever been another project that was funded by Environmental Trust dollars that did not go through the grant process?

JOHN BENDER: Not to my knowledge, no. And from my experience, I used to work in state government and I have been a reviewer since the trust fund's inception for these applications. So, no, I'm not aware of anything that's gone outside of the grant application process.

WISHART: OK. And did a similar project-- well, when the Department of Natural Resources applied for dollars, did they receive funds from the Environment?

JOHN BENDER: Yes. The Legislature carved out parts, and you'll find that in 81-15,175, where they carved out parts, I believe, starting in 2009, funding three-year cycles. And the last one that was authorized was in 2020-21 fiscal year. And so that's-- that's sunseting, that's up. And so those monies are no longer there. But in those cases, they were directed to give priority points in the grant application process. So it's kind of a gimme. They were given 50 extra points so nobody else could compete with them and they automatically got their money. But at least they went through the grant application process. Here, it's just we're going to take the money in an appropriation and give it to the Water Resources Cash Fund.

WISHART: OK. One more question.

CLEMENTS: Yes.

WISHART: From your understanding of this fund, do you think that there are any constitutional issues with utilizing lottery dollars?

JOHN BENDER: I'm not an attorney, so I say I'm not sure. My simple reading is yes.

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WISHART: OK. Thank you.

CLEMENTS: Other questions? Seeing none, thank you, Mr. Bender. The next opponent testimony.

LORRIE BENSON: My name is Lorrie Benson, L-o-r-r-i-e B-e-n-s-o-n, and I appear today as chair of the Climate Action Team at First Plymouth Congregational Church. Senator Clements and members of the Committee, I oppose or we oppose the provision of LB814 found on pages 141 and 143, which would transfer \$14 million from the Nebraska Environmental Trust Water Resources Cash Fund. We support the cash fund and, in fact, I'm part of the Water Policy Task Force appointed by Governor Johanns a long time ago to update our state water laws. The cash fund had its genesis, in part, as I recall, in the efforts of the Water Policy Task Force. It addresses needed water projects around the state, but they are projects that should be funded by the state in the same way that other infrastructure and public health and safety projects are funded with general state funds. The Environmental Trust was created with a vision and a promise to the people of Nebraska that we would conserve and enhance our state's natural resources. Smartly for over two decades, the board represented all parts of Nebraska, and funds were distributed around the state to benefit a wide array of state projects of all sizes. The board and staff were diligent and thoughtful in working with applicants so that even those with fewer resources could get funding for good projects. We know that Nebraskans, and particularly the younger demographic that we wish to attract and retain in Nebraska, value outdoor amenities. The Environmental Trust has helped provide those in a way that the cash fund is not designed to. Even if the cash fund is used to build a proposed lake between Omaha and Lincoln, it will not provide the outdoor amenities to the broad number of Nebraskans that the Environmental Trust has through the years. Starting a few years ago, the Environmental Trust has been used to fund state government projects. It's allowed politicians to cynically brag about keeping state expenditures down when what they've done is broken a promise. It's unfortunate the earlier transfers were allowed and in fact mandated by the Legislature. But the transfers need to stop now. In other legislative efforts, specifically state funding for schools as part of efforts to reduce property taxes, many are skeptical that the state will keep its promises to adequately fund schools. One need only look to the example of the broken promise of the Environmental Trust Fund to understand that skepticism. Please keep your promise to the people of the state of Nebraska and let the Environmental Trust return to its mission to-- to serve conservation efforts statewide. Thank you for considering my comments.

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

LORRIE BENSON: Thank you.

CLEMENTS: Another opponent.

KATIE TORPY: Good afternoon, Mr. Chairman and respected members of the committee. My name is Katie Torpy, K-a-t-i-e T-o-r-p-y, here today representing the combined membership of Audubon Nebraska and The Nature Conservancy in Nebraska. We have over 1,700-- 1,700 members between our two organizations. For those of you who may be unfamiliar with us, the National Audubon Society is a conservation organization focused on birds and their conservation and seeks to bring awareness to the condition of our environment and how it changes-- how changes impact birds, natural resources, our economy and communities. The Nature Conservancy is a leading conservation organization working worldwide to protect ecologically important lands and waters for nature and people. We've worked in Nebraska for over 50 years and currently own and manage over 66,000 acres of land in the form of nature preserves and working ranches. You've heard others describe the mission of the trust. We're here today to request-- relating to the parts of LB814 relating to the diversion of the funds of the trust to the-- to the Water Cash Resource Fund [SIC]. The proposed allocation would circumvent an established process to distribute funds across the state for the five environmental priority areas. Should those funds be diverted to the Water Resources Cash Fund, it would only be available for a narrow list of applicants and purposes, bypassing the trust's competitive grant process in favor of projects otherwise eligible for funding in that process. This premature allocation to only one of the five priorities diminishes opportunities for Nebraskans. Shouldn't we continue to provide opportunities to rural communities to recycle and reuse waste? Shouldn't new technologies that help clean the air be supported? These and other innovative practices and initiatives would suffer under this proposed transfer. What needs to be remembered is how these lottery funds identified in state statute are leveraged and matched, which brings resources from beyond Nebraska to our landscape and communities. In the first 30 years, more than \$320 million were distributed in all 93 counties. These funds often act as seed money with matching funds from national foundations and local donors and government funding sources. The true impact on the landscape is likely nearly double or triple the amount distributed by the trust. The proposed transfer is already having repercussions for conservation investment in the state. In recent conversations regarding multimillion dollar opportunities that would have been used to restore

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rangeland, Nebraska conservation organizations hesitated to seek these funds, given the uncertainty of NET's future. What happens when this private match is no longer a reliable source of funding for conservation, education, research and development in the state? Shouldn't we empower and leverage national funding sources that keep family farms and ranches viable while restoring habitat? We respectfully ask the committee to refrain from supporting the transfer of \$14 million from the trust to the Water Cash Resource Fund. Thank you.

CLEMENTS: Any questions? Seeing none, thank you for your testimony. Next opponent. Welcome.

SPIKE EICKHOLT: Thank you. Thank you, Chair Clements and members of the Appropriations Committee. My name is Spike Eickholt, S-p-i-k-e, last name is spelled E-i-c-k-h-o-l-t. I'm appearing on behalf of the ACLU of Nebraska as a registered lobbyist. I'm having passed out my testimony. It's on the ACLU letterhead. You can see that. And there's also another handout that you're receiving, and that is a summary of the CJI report that was done last year. You may remember if you were serving last session that Senator Lathrop introduced a bill at the recommendation of CJI. We are appearing here in opposition to LB817, which is the capital expenditure bill, specifically Section 17 of LB817, which provides for the appropriation for the construction of a new state prison. We're opposed to this provision of LB817 for the reason that this commitment that the Legislature is being asked to invest in should not be done without significant criminal justice reform as recommended by CJI. An explanation for this budget item is that it is to be a replacement prison for the State Penitentiary. And assuming that is accurate, this, without reform to the system, would still be a commitment to construct not only a replacement 1,500-bed prison, but actually another additional 1,500 beds to be expanded on to that new constructed prison. If you look at the letter that I handed out that's got my letterhead, I had some portions of these-- I looked at the Master Report that was published January 27, 2023, by the-- by the I think it's the Dewberry Group is what it's called, the Legislature requested, which is a facility study which looked at all of the prison facilities the state has, examined population growth, inmates, its current needs, minimum-medium security, that sort of thing. And on the portion of the letter that I handed out, I got some selections from that. If you look at the first page that I've got copied there, the Dewberry Report forecasted that total prison population, as you can see, the forecast of prison with no reforms is expected to be about 7,500 inmates by 2030. We have a little less than about 5,800 inmates in our prison systems now. If you look at the

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final page of the handout that I gave you, this is the recommendations that are contained and reflected in LB817, and that is for project one or phase 1, years 0-5 that the Legislature invest in a new 1,512-bed facility that is expandable up to 2,040 or 3,000 beds. In other words, the plan here is the first start of it and it's based on the prison growth that you're going to see in the state if you don't implement any sort of reforms. The 1,512 bed is to replace the State Penitentiary, which has about 1,300 inmates. But the investment that you're being asked to do would provide for that facility somewhere between Lincoln and Omaha, unclear where, to be basically doubled in size. And it's going to be needed to be doubled based on the-- the population growth that our prison system has. I outlined some of the recommendations that CJI have. As you know, if you were serving last year, LB920 did not pass. Unfortunately, LB50, which was introduced by Senator Geist, and LB3352 introduced by Senator Wayne to have some of the same components from LB920. I know this committee can't really do anything about that. These are the budget bills, but I wanted to flag that for you because if you do nothing, you do nothing when it comes to criminal justice reform, you're committing to basically two new prisons, a replacement prison for the Penitentiary, along with an expansion that would double that space. And it's not clear from the facility study if you want to read the Master Plan itself, it's not clear exactly what the state-- the state's plans are, the Department of Corrections' plans are when it comes to the State Penitentiary. It's described as being decommissioned and then it's still sort of mentioned to be possibly being used in the year-- in phase 2 from state-- from 6 to 10 years from today's date. And I just mentioned that because this is a significant capital investment that the state's been asked to do it. It's a commitment not just for the construction of the buildings, but it's a payment in staffing; it's a payment in housing and inmate population. And there are things that can be done that other states have done that will slow that growth. And we'd encourage this committee to not act on this isolated without considering those other reform efforts. And I'll answer any questions if you have any.

CLEMENTS: Are there any questions? Seeing none, thank you for your testimony. Next opponent.

JOEY ADLER RUANE: Good afternoon, Chairman Clements and members of the Appropriations Committee. My name is Joey Adler Ruane, J-o-e-y A-d-l-e-r R-u-a-n-e, and I am from OpenSky Policy Institute here to offer combined testimony in opposition to all of the budget bills, because we are concerned about the long-term fiscal sustainability of the package for a few reasons. Specifically, there's not structural

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balance in receipts versus expenditures in the following biennium. It leaves only a small portion of the variance shown at the November's Tax Rate Review Committee to the Legislature's discretion and appears to assume that the money for the floor will go unspent. We want to start by saying we appreciate that the proposed budget leaves \$1.6 billion in the Cash Reserve. We continue to believe a balance closer to this level is warranted given the tax cuts passed last year and those proposed cuts this year. We are concerned, however, with the proposed uses of the Cash Reserve. For example, we'd like the funding for the new prison to be tied to sentencing reform in order to keep future expenses down, excuse me, and to continue to question whether the \$575 million appropriated for the Perkins County Canal is the best use of funds right now. As to our main concerns, the proposed budget shows structural receipts falling behind expenditures, creating a structural imbalance for the following biennium. This, to us, calls into question the longer term sustainability of this proposal. It clearly leverages the state's current boom from federal pandemic funding, and we're concerned this proposal wouldn't allow the state to manage its finances sustainably-- sustainably. There are major tax and spending items in this proposal, and using temporary revenue windfall to fund permanent obligations could require the state to rely on the Cash Reserve to fund the state's other equally important services. The Cash Reserve, however, may not be a reliable source of funds for long, as this budget includes items that will diminish the state's ability to raise revenue and thus replenish the Reserve. Next, we believe the amount of money left for the floor in this proposal is not sufficient; \$218 million, which is about 11 percent of the General Fund variance as of the Tax Rate Review Committee in November, and the remaining 89 percent is set aside for other items like tax cuts and the Education Future Fund. While we support increasing funding for public K-12 education, we're nonetheless concerned about the sustainability of this investment, given there's no new revenue source to pay for it and the fact that the Governor's proposing to cut taxes continuously. There are a number of other proposals introduced by senators that also reflect important state priorities, which total well beyond the \$218 million. Very few would be able to receive funding under the Governor's budget. At the same time, based on the Governor's financial status, it appears as though it assumes the \$218 million variance goes unspent. The ending balance for the upcoming biennium is \$543 million or \$218 million above the minimum reserve. Looking at the following biennium, the entire \$543 million ending balance is carried forward. This concerns us as it indicates that the budget proposal consumes our current robust fiscal situation and leaves no room for anything else. We are also concerned that the 1.3

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percent spending growth is not enough to sustain state services in the current time of high inflation. While there are varying levels of proposed increases across the board, we're concerned the overall low spending growth will lead to cuts. The university, for example, is proposed to get a 2 percent increase, but that's unlikely to sustain them. They've said as much as they are facing a \$38 million funding gap. To be clear, this proposal spends \$1.9 billion variance down even if the General Fund spending is held low. We urge the committee to consider leveraging more of the state's current finances to bolster services. It's for these reasons we oppose the budget and I'd be happy to try and answer any questions you may have.

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

JOEY ADLER RUANE: Thank you.

CLEMENTS: The next opponent. Seeing none, is there anyone in a neutral capacity wanting to testify? Seeing none, I have some position comments. For the record, we had on LB813 one opponent; LB814, one proponent, nine opponents, one neutral; LB815, one proponent and that's the position comments. With that, that will conclude our hearing for today. Thank you for your attendance. And I'd like the committee to stay here. We have one issue to discuss after the room is empty.