

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

Appropriations Committee
February 28, 2007

[LB452 LB587]

The Committee on Appropriations met at 1:30 p.m. on Wednesday, February 28, 2007, in Room 1003 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB452, and LB587. Senators present: Lavon Heidemann, Chairperson; Lowen Kruse, Vice Chairperson; L. Patrick Engel; Tony Fulton; John Harms; Danielle Nantkes; John Nelson; John Synowiecki; and John Wightman. Senators absent: None.

SENATOR HEIDEMANN: Welcome to the Appropriations Committee. We'll get started here so that we can leave a little sooner than we did last night, hopefully. First of all, we'll just introduce some people that are here. Starting over to my right is Senator Danielle Nantkes from Lincoln, District 46; to her left is Senator John Wightman from Lexington, District 36; to his left is Senator John Synowiecki from Omaha, District 7; sitting next to his left is Senator Lowen Kruse from Omaha, District 13, and he's also the Vice Chair of this committee; sitting next to his left is our committee clerk, Kendra Papenhausen; I am Senator Lavon Heidemann from Elk Creek, District 1; sitting next, over here to my left, is Senator Pat Engel from South Sioux City, District 17; to his left, Senator Tony Fulton from Lincoln, District 29; to his left is Senator John Nelson from Omaha, District 6; and last, but not least, Senator John Harms from Scottsbluff, District 48. Our page today's name is Andy, I believe. And at this time I'd also like to remind you, if you do have cell phones, could you please make sure that they don't ring during the public hearing; and that goes for everybody here and the senators. Also remind you that testifier sheets are on the table, near the back doors. Please fill out completely and put in a box on the table when you testify. Do not fill out these forms if you are not publicly testifying. At the beginning of testimony, please state and spell your name, is you would do that and please remember that we would sure appreciate it, and the transcribers following would definitely appreciate it. Nontestifiers sheets are near the back doors. If you do not want to testify but would like to record your support or opposition, only fill out if you will not be publicly testifying. If you have printed materials to distribute, please give them to the page at the beginning of your testimony and he will hand them out. We also ask, last point, that you would please keep your testimony concise and on topic; under five minutes would be appreciated, but we will take almost anything. So with that, we will start our public hearings.

SENATOR BURLING: Good afternoon, Senator Kruse, and members of the Appropriations Committee. Good to see you again this year. I'm Carroll Burling, B-u-r-l-i-n-g, I represent District 33 in the Nebraska Legislature. LB452 is fairly simple, as a lot of bills that this committee sees. If you've got a little money, it's pretty easy to solve it, isn't it? Anyway, this bill would appropriate \$200,000 to the Nebraska Crime Commission Law Enforcement Criminal Justice for each of the next two fiscal years. That commission in turn will award grants on a competitive basis to cities, schools, and nonprofit organizations to support drug prevention programs aimed at elementary

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

Appropriations Committee
February 28, 2007

school-age children. The Nebraska Commission on Law Enforcement Criminal Justice, sometimes known as the Crime Commission, is the logical choice to receive funding to support drug prevention efforts. This commission has a long history of disbursing grants, and is highly respected from both the efficiency and effectiveness of its grant process. Thus the grant provision in LB452 would utilize an already established system. It is this system that will be central to the success of the process envisioned under this bill. I believe that a competitive grant process will be the most effective way to combat the illegal drug epidemic. By awarding grants, the commission will be able to support already existing organizations that have proven track records in educating children on the dangers of illegal drug use. Indeed, in working with the Crime Commission on this legislation, it was agreed that cities, schools, and nonprofit organizations should be the potential grantees in order to limit the ability of individuals or ad hoc organizations with little or no experience in drug education to receive grant funding. Moreover, cities, schools, and nonprofit organizations already have accounting procedures in place to provide the commission with information on how grants have been spent. Their accounting systems will work in tandem with the commission's audit process to ensure greater accountability and maximum efficiency for all grant dollars. I also would like to address why I have introduced LB452 is to focus on prevention efforts. While the state of Nebraska is spending millions of dollars each year in incarcerating drug offenders and in funding drug abuse treatment programs we have been largely neglecting one of the most important components in the fight against illegal drug use, and that is prevention. By preventing drug use from occurring in the first place, we will save individuals and families from the terrible hardships associated with illegal drugs. The state of Nebraska also benefits when drug use is prevented. With each offender in the custody of the state costing tens of thousands of dollars per year, and with the increased costs of drug treatment programs, state finances are becoming increasingly strained by the drug epidemic. It is simply not practical or effective to deal with this epidemic only upon the commitment of drug offenses. Rather by spending money on prevention efforts now we can yield the state savings far in excess of the cost of funding such prevention programs. But prevention efforts must be targeted if they are to be effective. That's why I've decided that elementary school-age children should be the focus for programs receiving the grants described in LB452 from the Crime Commission. The children of such an age will be more perceptive of antidrug messages as they are yet to formulate attitudes and opinions toward illegal drug use. Prevention efforts must be the cornerstone of any strategy to combat illegal drug use, and this bill presents an effective system for funding such efforts. I believe that this amount of money would be a good pilot program, that we could learn how it went, if the committee was to look with favor upon it and try it for a couple of years, see how it goes and get reports back from how the money is being spent, the Crime Commission would have that for us. And so I urge you to adopt LB452. Any questions? [LB452]

SENATOR KRUSE: Thank you, Senator. Do you have questions? I have...oh, go ahead. [LB452]

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

Appropriations Committee
February 28, 2007

SENATOR NANTKES: Good afternoon, Senator. Just listening to your testimony here this afternoon, looking over some of the information provided to the committee, I'm wondering is this program, this pilot program that you're proposing intended to compliment efforts, like the DARE Program, for example, or otherwise? How is this separate or distinct from some ongoing efforts in our school system? [LB452]

SENATOR BURLING: Well, it would be complimentary in that I don't propose to eliminate anything that is already being done. The DARE Program is not very widespread. Actually, it's really decreasing in effectiveness, I think, from what it used to be. So this is just something that I have thought the state should at least send a message to the public that we're not only interested in incarceration and treatment, we're also interested in getting to our children with this problem, and putting some money out there to aid communities that have the resources. I mean they have the human resources; they don't have the money to do this. And this would give them a little money, a little jump start, say, hey if you people are willing, we're here to help in some way. That's the idea behind this. [LB452]

SENATOR NANTKES: Thank you. [LB452]

SENATOR KRUSE: My question, Senator, is have you had any conversations with the Department of Education? It's kind of a follow through on what Senator Nantkes was talking about. Is there potential collaboration with any of their programs? I'm just asking the question wide open. I don't know what they're doing. [LB452]

SENATOR BURLING: I had a very limited conversation with the Department of Education. Enough to find out that they really weren't interested in doing the grant program. They would cooperate with anything that the local communities wanted to do in that area, but they weren't interested in being involved in the granting of the grants. And that's when I turned to the Crime Commission, because they have so much experience in that area already. [LB452]

SENATOR KRUSE: Okay. Other questions? Okay, thank you, Senator. [LB452]

SENATOR BURLING: Thank you. I'll get back to my committee. I won't stay for closing. [LB452]

SENATOR KRUSE: All right, all right, thank you. [LB452]

SENATOR BURLING: Thank you. [LB452]

SENATOR KRUSE: Are there others who wish to testify on this bill? Welcome back, Mr. Johnson. [LB452]

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

Appropriations Committee
February 28, 2007

C.J. JOHNSON: (Exhibit 6) Thank you again. I may be able to promise this is the last time I'm back today. If you go past 5 o'clock, I'm not staying with you though, I don't think, today. I don't think my decongestant is going to last with me; it didn't yesterday. My name is C.J. Johnson, C.J. J-o-h-n-s-o-n. I'm the regional administrator with the Region V Systems, one of the behavioral health regions in the state of Nebraska. I would like to testify in support of LB452. I agree with everything Senator Burling said in relation to money needed to support prevention activities in relation to substance abuse. I was very impressed with this bill in relation to its focus on elementary children. Over the last several years, the state of Nebraska received a SICA grant, commonly, also known as a SIG grant. SICA stands for State Incentive Cooperative Agreement. Now they call them SIG grants, State Incentive Grants. The state of Nebraska also just received additional funding through SAMSHA to continue that grant process at a state level. The initial intent of the SICA grant was to come in and essentially transform the prevention system throughout Nebraska. And when I say prevention system, I'm talking primarily about substance abuse prevention. The focus of that grant was to promote within each of the regions, at the regional level, the development of substance abuse coalitions at the local level. In Region V, for example, we have 16 counties, and within 12 of those 16 counties we have gone out and actively promoted, and when I say promoted we are not leading them, we are simply promoting those coalitions in each of those counties. The SICA grant has also promoted the ability for those various coalitions throughout the state to do surveys in a number of the school systems to look at what they call protective factors and risk factors. So those coalitions have a very good idea, at a local level, what are the things going on in our community that are actively supporting the prevention of substance abuse activities, but they also know what are the things going on in our local communities that are actively promoting the use of substance abuse activities within our adolescents. I do agree that the Crime Commission has done an excellent job in granting out monies in the past. I would not recommend that that be something that's changed in this bill. But I do offer a friendly amendment to that, and I would recommend that the money not simply be granted out to cities, or schools, or nonprofit organizations kind of at will. To be quite honest, if you look across the state there are substance abuse coalitions that have been developed through the support of those federal dollars. As I said, there are 12 such coalitions in the Region V area. If you look at the last page of the handout, you'll see that in Region V, and this is consistent throughout the state and other regions, there is a number of activities going on for substance abuse prevention, whether it be the Meth Task Force, or the Youth Action Board, that's the YAB. The Youth Action Board is actually students in high school, as well as college age students who do a number of substance abuse prevention activities throughout our region annually. What I'm suggesting is that friendly amendment simply would say that those dollars, should you approve that \$200,000 through the Crime Commission, be awarded specifically to those regional coalitions that are already established throughout the state. Those coalitions are very focused. They are made up of law enforcement already, school officials, youth, other people within the

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

Appropriations Committee
February 28, 2007

local communities that have an interest in substance abuse prevention. They also have prevention providers that are actively involved. So you really have an array of individuals who have a focus on substance abuse prevention already moving forward based on evidence proven surveys, already looking at evidence-based practices that are specific to substance abuse prevention. Senator Harms, I would suggest that would be an arena, if you want to move forward to look at that. And I would simply ask that, should you support this bill, and I would strongly recommend \$200,000 could go a long way towards promoting substance abuse prevention in elementary schools, as long as it's leveraged with other dollars that are already flowing through in those coalitions. And there's additional money coming down through the feds to support those coalitions, so this would just leverage more of that money, obviously. So with that, I would answer any questions. [LB452]

SENATOR SYNOWIECKI: Thank you, C.J. Any questions? [LB452]

SENATOR NELSON: Anyone left here? [LB452]

SENATOR SYNOWIECKI: Yeah, Senator Nelson. [LB452]

SENATOR NELSON: Thank you, Senator Synowiecki. Got my nose out of the book here. You have a proposed amendment here. And I'm glad that that's there, that you worded it that way. Have you discussed that with the introducer, Senator Burling? [LB452]

C.J. JOHNSON: No, I haven't, and I'll tell you why. You know a lot of times you don't hear...sometimes, you know, I keep saying the disconnect just sometimes makes you go a little crazy. I didn't even know about this bill specifically until just yesterday. And in looking at it and reading it, I totally supported it. However, knowing what I know about how the prevention activities are going on across the state, specifically in substance abuse prevention, I just felt like just granting it out to cities, you know, for \$200,000 was really almost a step back from where we were five years ago with the federal dollars that have come in and developed these coalitions. So I felt compelled to, you know, despite being here late last night, to rush in this morning and prepare this testimony. [LB452]

SENATOR NELSON: I comment that as a new senator, I'm in the same spot. Sometimes I don't know about some bills until I see them on the agenda for the next day. You got your grants on a competitive basis. So you'd be competing with cities and other people? I mean they would... [LB452]

C.J. JOHNSON: No. What I would recommend is that these grants specifically go to those coalitions that have been developed through that SIG or that State Incentive Grant process. And the reason is for this, is each of those coalitions are at different

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

Appropriations Committee
February 28, 2007

stages of development. So some of those coalitions are just people getting together and talking about, yeah, we have an interest in doing this. But there are some other coalitions throughout the state who are very well developed, they've used the surveys to look at protective and risk factors in their local communities, they're well established. A number of them already have fiscal entities to oversee their grants with them. Region V does that for a couple of the coalitions. Like I said, there are a number of coalitions that are well established and are very much at that point of going out and doing prevention strategies. And it's organized and it would be impactful. And so what I'm suggesting is with the Crime Commission doing this, relation to those coalitions, they can actually look at the coalition and see if they're really ready to take this money, bring it in with other money, and go out and have impact, versus take the money and, you know. And this is no offense, but take the money and buy a number of red ribbons to wear around one day. The reality is that is shown not to be effective for substance abuse prevention, but yet that is something that's commonly used. Evidence-based practice in substance abuse prevention are very focused programs. They do require money, they do require curriculum, and especially the population that this is looking at--elementary school, you need already developed evidence-based curriculum that is impacting those children and really having a difference and not...you don't want to spend all your effort in relation to trying to organize that. You want to use the money and directly impact those elementary school children. [LB452]

SENATOR NELSON: So you feel there is a need for this additional money here? That more can be done in all these coalitions you're speaking about? [LB452]

C.J. JOHNSON: I do. I've been a strong proponent, and I will go on record as saying when Congressman Osborne was running for Governor, I was very excited about his desire to look at prevention and the cost. The reality is when you look at savings to government or local institutions, every dollar you spend on substance abuse prevention will come back and save you, at the minimum \$7 in relation to higher end services. So it's a huge investment. Anytime you put money toward substance abuse prevention, you're saving on the back end. As I said yesterday, it's a lot cheaper to put a fence up around the cliff than to pay for the ambulance at the bottom of the cliff. And in the world of substance abuse, the sooner you can strike that with children and adolescents, the more impact you're going to have by the time those individuals become adults. And I really look forward to having somebody that wants to lead that charge, because I think it's a truth. It's a research truth. [LB452]

SENATOR NELSON: Okay. Thank you. [LB452]

SENATOR SYNOWIECKI: Additional questions? C.J., what would be one possibility for this money? I think it's Program 38 that goes to the regional behavioral health authorities and earmark it for prevention. Because each of the regional behavioral health authorities have prevention mechanisms already. [LB452]

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

Appropriations Committee
February 28, 2007

C.J. JOHNSON: Yes, each of the regions already get federal block grants. There's matching county funds, there's matching other state funds, and it's very organized. And we have people already employed that coordinate those kind of activities, help support those coalitions. We support them through infrastructure. So I didn't want to be so bold as to come forward here and say, you ought to fund that money right through the behavioral health regions. It makes sense, but I didn't want to be so bold as to think that's why we're here. I do agree with Senator Burling. The Crime Commission does do a good job of granting out monies and everything. However, you know, if you wanted to cut out one step and maybe some other administration costs, you know, yeah, that's always a possibility. But I'm not here to recommend that at this point. I just think it should support those coalitions that are already developed across the state. [LB452]

SENATOR SYNOWIECKI: Thank you. Any other questions? Seeing none, thank you for your testimony, again today. Thank you. Any additional testimony on LB452? Any opponent testimony on LB452? Any neutral testimony? Seeing none, and knowing that Senator Burling has already previously waived closing, the public hearing on LB452 is closed. We'll now move to LB587. Senator Cornett, to open on LB587. [LB452 LB587]

SENATOR CORNETT: (Exhibit 7) Good afternoon, members of the Appropriations Committee. My name is Senator Abbie Cornett, C-o-r-n-e-t-t. I represent the 45th Legislative District. It is my privilege to be before you to introduce LB587 for your consideration. LB587 would remove a statutory cap enacted by the Legislature as part of LB11, enacted during the 2002 Special Session, which prohibits the appropriations to County Jail Reimbursement Program in excess of \$3.9 million. I offer this legislation for two reasons. First, in order to remove a provision which prohibits the Legislature from funding county jail reimbursement at any level it so desires. And second, to provide direct property tax relief to all Nebraskans. Each year counties across the state of Nebraska seek reimbursement from the Department of Corrections for prisoners held in the county correctional facilities at a rate of \$35 per day. This amount is less than half the amount that it actually costs counties. According to a study completed on Nebraska's jails, the cost of housing prisoners, the actual cost to counties to house prisoners is actually in the range of \$78 per day. I am providing the committee with a handout from the Sarpy County Sheriff's Office which details the history of my home county being reimbursed by the Department of Corrections. You will note that it shows the entire history of this program, which came online only a few years ago. I would draw the committee's attention to the second page of the handout. Please note that in 2005 Sarpy County was denied payments exceeding \$80,000, which was more than half of the amount sought to reimbursement. Also please note that while the county is still waiting on the second quarter reimbursement for prisoners, in 2006 they expended \$156,000 and have only been reimbursed \$34,000. In my opinion, reimbursing counties for the prisoners held at the county level is real county property tax relief. While counties agreed in 2002 to be part of the solution to solving the state budget woes, we as a state

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

Appropriations Committee
February 28, 2007

are now in the position to make good on the promises we made to counties throughout Nebraska. As the committee is acutely aware, last week's Forecasting Board increased projections by \$83 million. Clearly, the state can afford to move a bit more money in the direction of county jail reimbursement. Thank you, members of the Appropriations Committee, for your time. And I hope you will look favorably at LB587. There will be people following me to testify. And I do waive closing. [LB587]

SENATOR NANTKES: Thank you, Senator Cornett. Questions from the committee? Senator Harms. [LB587]

SENATOR HARMS: Senator, what are the costs across the state of Nebraska (inaudible)? [LB587]

SENATOR CORNETT: Pardon me? [LB587]

SENATOR HARMS: What is the total cost for other particular jails that aren't getting reimbursed across the state of Nebraska? [LB587]

SENATOR CORNETT: I don't have those figures with me currently. I can get them for you, though. [LB587]

SENATOR HARMS: I would tell you. [LB587]

SENATOR CORNETT: We just based it on my county. [LB587]

SENATOR HARMS: Yeah. Well, I would tell you that in Scottsbluff I think (inaudible) 70-some thousand dollars. And for a small jail, that's just (inaudible). I agree with you. I think we need to address this issue. They took it in good faith and, quite frankly, the state is not holding up their end of the deal here. [LB587]

SENATOR CORNETT: The counties agreed, in 2002, to this measure as a way to help the state because we were in such a numbers crunch then. This was a commitment that the state had made to the counties, and the counties agreed to this cut at that time to help the state out, with the intention that when we were back in...with financial stability we would be fully funded. And that has not occurred yet. [LB587]

SENATOR HARMS: I would really like to know what the full cost to the (inaudible) would be for everyone across the state of Nebraska. [LB587]

SENATOR CORNETT: Well, the bill covers everyone, but I only grabbed statistics from my district. [LB587]

SENATOR HARMS: I'm just wondering what it is, because I think it's going to be huge.

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

Appropriations Committee
February 28, 2007

[LB587]

SENATOR CORNETT: Well, I think there are people from Douglas County here to testify, and from the...from NACO. So maybe they can help you a little bit more with those numbers. [LB587]

SENATOR HARMS: Thank you. [LB587]

SENATOR CORNETT: Yes, Tony. [LB587]

SENATOR FULTON: Could you...thank you, first of all, for introducing this. Can you, having more experience in the body, could you educate us on the...I know there's a shortfall that the state has with regard to jail reimbursement. Has that shortfall been due to the statutory cap, or has it been a volitional position of the Appropriations Committee or of the body as a whole? In other words, has it been a choice, or has it been a cap? [LB587]

SENATOR CORNETT: I believe it's due to the cap which was agreed upon in 2002. But, if I'm mistaken, I'm sure someone behind me will be happy to correct me on that.
[LB587]

SENATOR FULTON: Okay. [LB587]

SENATOR NELSON: So that cap was just not for that budget period, that two year period? [LB587]

SENATOR CORNETT: The cap was put in place, from my understanding, until...and accepted by the counties with the understanding when the state was back on its feet financially that it would be raised, and it has not. [LB587]

SENATOR SYNOWIECKI: Senator Fulton. [LB587]

SENATOR FULTON: To come back, I guess, are you able to comment before 2002? And maybe this is a question most appropriate. I think I'll just hold off. [LB587]

SENATOR CORNETT: I was going to say before 2002, I was actually on the other side of it. (Laugh) I was on the enforcement side, not the legislative side. [LB587]

SENATOR SYNOWIECKI: Any other questions? Seeing none, thank you, Senator Cornett. Will you be closing on this legislative initiative? [LB587]

SENATOR CORNETT: No, you were gone when I waived closing. [LB587]

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

Appropriations Committee
February 28, 2007

SENATOR SYNOWIECKI: Oh, yeah I was, yeah. We will now accept testimony on LB587. [LB587]

LARRY DIX: (Exhibits 8, 9, 10) Members of the Appropriations Committee, what I'm passing out, I'm entering that into the record on behalf of Lancaster County, and then I have a set of documents that I'll enter in the record on behalf of Saunders County, to accept those. The Lancaster County will show you some of the numbers that they've been working with. The Saunders County is a motion by the board supporting LB587. For the record, my name is Larry Dix. I'm the executive director of the Nebraska Association of County Officials, appearing today in support of LB587. And as I look around the room, I see some of the senators that certainly probably were not here at the time that this all got started. I'll give you a little bit of history, a little bit of a run down. County jail reimbursement was enacted in 1998. And under the terms of the original bill, there was \$6.8 million that was appropriated when we started this whole process. And at that time \$6.8 million, and it was to be doled out at a rate of \$35 per day, which \$35 per day is still left in the statute. At that time, the definition of state prisoner, state prisoners are defined as persons convicted and sentenced to an adult correctional facility, or someone who has been placed on probation for such an offense. And parolees were added later, but initially it just talked about those two. Now, if you're looking for the actual definition, that's in Section 47-119.01, and that will give you the current definition for who and how it becomes a state prisoner, and when the clock sort of starts ticking on these. In 2001, at that point in time jail reimbursement appropriations for fiscal year '01-02, and fiscal year '02 were reduced by \$2.8 million. And the reason was because in fiscal '99-2000 the requests, that first year, were less than what was appropriated. And the first year of a program many counties did not submit the proper documentation. During the 2001 Special Session, now we're starting to get into the budget cuts area, and the 2002 regular session percentage cuts were made due to state budget concerns. And at that point in time it was a 4 percent cut in the 2001 Special, and then 5 percent, and then in 2002 a 3 percent across the board cut. So that started to erode away at that. During the 2002 Special Session, LB11 was adopted, and that capped the appropriations at \$3.91 million for '02 and '03 and each fiscal year thereafter. And that's sort of where we had agreed and said, okay, we understand everybody is in this together, we're in some hard times, you're in some hard times; that's when the cap came on. Then in...so then it was capped at \$3.9 million. Then in fiscal year '03-04 the appropriation was reduced, by this committee, to \$3.5 million. And it remained at that rate until legislation was enacted last year to bring it back up to the \$3.9 million. Okay? By the second quarter of '04-05, counties had submitted \$4 million in claims. And what you're going to hear, you're going to hear from some other folks that if you house a state prisoner, you want to house them in the first quarter or the second quarter, because by the time you get to the third or fourth quarter, there's absolutely no money left, it's just all gone, it's all appropriated. So to help determine this number more accurately, to get at what Senator Harms is looking at, LB1060 was passed last year. And that requires the Department of Corrections to (one) encourage counties to

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

Appropriations Committee
February 28, 2007

continue to submit claims for the entire year, regardless of whether they're going to get paid or not; and then it also requires the Department of Correctional Services, once they obtain that information, which the first time they'll be able to obtain that is the end of this year, which will be in essence July of '07. The next subsequent year, according to LB1060, Department of Corrections are required to put that amount of money to fully fund this in their budget. Now that's really where we stand today. But the reason for LB587 is to get rid of that cap, so that once we come back we, really, really know that number. The Appropriations Committee has the authority then to look at it and decide at what level they wish to fund jail reimbursement. So that's why we're here today, to eliminate that cap out of there. We understand that that magical number isn't going to appear from Corrections until the next budget. But we're here to tell you we know that number is going to run around \$8 million. That's from the estimates that we have done with the counties if they would have continued to report their numbers. And in the world of housing prisoners there's no real magic in our minds that the first quarter or the second quarter is going to be any different than the third quarter or the fourth quarter. Typically, there's enough money to pay the first and part of the second, so you can take that number, double it, you're going to come pretty close to what it will cost to fully fund jail reimbursement. So with that, I'd be happy to answer any questions that you may have. [LB587]

SENATOR SYNOWIECKI: Senator Engel, you're now presiding. [LB587]

SENATOR ENGEL: Oh, I am presiding? Okay. Any questions? Senator Harms. [LB587]

SENATOR HARMS: Larry, help me understand this. What do you think it would be to totally fund this across the state of Nebraska? Is that the \$8 million? [LB587]

LARRY DIX: It's going to be somewhere between \$8 million and \$9 million. That's our belief. That's our best estimate based on the reports that have been coming in. Now, you've got to understand what has happened in the past is counties are reporting, and then...so they start in July, and then about October they get this letter from Department of Corrections that says, okay you guys, we're out of money, so we're not going to fund anything anymore. And what happened in previous years some counties said, well if you're not going to pay us for any more, we're going to stop sending in the reports. So that's why nobody can put a definite number. And that's why we wanted to get LB1060 passed last year. But our belief, if you take that first quarter plus whatever part of the second quarter, extend that out for a full year, it will be somewhere between \$8 million and \$9 million. I think Scotts Bluff County, the last time we...most of the counties are...I think Scotts Bluff County had requested about \$50,000, they got about \$22,000 back. [LB587]

SENATOR HARMS: I just got some correspondence, said it's up to about \$70,000, \$73,000. [LB587]

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

Appropriations Committee
February 28, 2007

LARRY DIX: Is it? Is it now? [LB587]

SENATOR HARMS: Yeah. [LB587]

LARRY DIX: Yeah, that was the '04-05 number. [LB587]

SENATOR ENGEL: Senator Synowiecki. [LB587]

SENATOR SYNOWIECKI: Larry, you mentioned that...when does it start to become a state senator (laugh) a state prisoner is when (laughter), when the sentencing occurs? [LB587]

LARRY DIX: Yeah. The...here...let me give you this as an example, someone...we have someone arrested November 1. They're placed in county jail. And come November 30 they are sentenced and they are found to have had a crime that would make them...would fall under the area, the section of law that I stated that made them what we call, quote, a state prisoner. At that point in time then the state pays from November 1 until the time after November 30, when they physically take that prisoner to a state correctional facility. And if that person is picked up on November 1 and it goes to sentencing, and the sentence is reduced and they are not found to be guilty under a state crime, then the state has no obligation to pay. [LB587]

SENATOR SYNOWIECKI: So you retroactively go back to the date that they went to the county jail? [LB587]

LARRY DIX: Yes. [LB587]

SENATOR SYNOWIECKI: Okay. [LB587]

LARRY DIX: Yes, it does. And I can actually quote that. It's in...I believe it's in subsection 2 of that 47-1,1901. And I think that's where that.... [LB587]

SENATOR SYNOWIECKI: I don't think I got that? [LB587]

SENATOR ENGEL: No, I don't either. [LB587]

LARRY DIX: ...describes that. And I just brought one for myself. But I'm sorry, I could have made copies for everyone. But that is the section. [LB587]

SENATOR ENGEL: Now, if...I know this has been a problem for quite some time. I think even back when I was on the board, that was a long time ago. And, of course, you're stuck, because you have to keep them. But if...what repercussions could you have there

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

Appropriations Committee
February 28, 2007

for the state as far as, so, we're just going to send them off? You have to keep them, right? [LB587]

LARRY DIX: Well, I mean, certainly we're not going to...and when I appeared in front of the committee the other day, counties are partners with the state. I mean we're in this together. We're good government. We're not going to open the doors of our jails and say, ah ha, here's a state prisoner, they're not going to pay us, so let's let them out. That's not going to happen. That would never happen. County government would never be irresponsible like that. But this is one that truly is property tax relief. And I think you'll hear from a couple of folks that follow me that says, here's what it does to our county, and here's how many cents it is in levy authority. We're all looking for property tax relief, there's no question about it. We've talked about it this whole session. And there's no question that there is some surplus. And I'd got to tell you I was around back in the '01-'02, when everybody said, you know, can you guys help us out a little bit, can you help us out, and can we cut this back? We agreed to that based on the fact that, yeah, when times get better can you help us out. And I think we made that agreement in good faith. And we're back here today saying, you know, in good faith we'd like some help. [LB587]

SENATOR ENGEL: One more question. Senator Synowiecki asked it. You said if they are arrested say, November 1, and you have until November 30 (inaudible) offense (inaudible) come to the state facility, and it's retroactive to the date you arrested them? [LB587]

LARRY DIX: That's right. [LB587]

SENATOR ENGEL: (Inaudible). Is that...could that be adjusted? I mean because when you arrested them you're not sure, right? [LB587]

LARRY DIX: No, and I will tell you the folks that sentence them are state employees. The counties have no...judges sentence them. Counties, you know, we can't enter in and say, oh my gosh, we want to raise the level of the crime here. We don't enter into that process as such. And counties aren't out there...and I know you're going to hear, when we get out to the floor people are going to say, we're overcharging these people, we're charging them more than what they are. You know, I've got to tell you, we're part of this system just like everybody else is, that is not the case, that is not happening. [LB587]

SENATOR ENGEL: Senator. [LB587]

SENATOR FULTON: Just to help me keep track of the mechanism here. This LB587 simply removes the cap, correct? [LB587]

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

Appropriations Committee
February 28, 2007

LARRY DIX: Absolutely. [LB587]

SENATOR FULTON: So to state that this is property tax relief would be conditioned on an additional appropriation above \$3.9 million, correct? [LB587]

LARRY DIX: Yes, and of course right now the preliminary report is going in the opposite direction, which is to cut the \$3.9 million to \$1.955 million, or whatever the number is that the Appropriations Committee recommended in their preliminary report. [LB587]

SENATOR FULTON: Okay. I'm not discounting what you say, because I think that what you say is true. I just want to be sure that LB587...I'm clear about what it does for future senators. [LB587]

LARRY DIX: Yeah. It removes the \$3.9 million cap is what it does. [LB587]

SENATOR KRUSE: Let's stay with Senator Engel. I'm being called back. Senator Wightman, a friend of ours, is getting beat up and I didn't want to keep watching that. [LB587]

SENATOR ENGEL: Senator Harms. [LB587]

SENATOR HARMS: Larry, is the \$35 a day really cover the costs? [LB587]

LARRY DIX: Thirty-five dollars a day does not cover the cost. There are recent studies, in fact, here in Lancaster County, which I'm familiar with, living here, I think when Lancaster County is actually looking at building a new jail, those folks have come out and studied it. It's certainly somewhere above \$75, \$75 to \$82, I think is maybe a range that you're going to see. I would tell you that those numbers, Scotts Bluff County is building a new jail at this point in time, and I think they're going to find similar numbers. We also find if counties do happen to house...sometimes will house federal prisoners, were certainly getting more than \$35 a day. Some folks have... [LB587]

SENATOR HARMS: My second question is, the funding of this particular project to the Corrections Department, is this earmarked? They cannot use it for anything else, can they? [LB587]

LARRY DIX: I don't believe so. I believe it is a fund that is established. Whatever you appropriate into that fund, it is earmarked for state prisoner reimbursement to counties. [LB587]

SENATOR HARMS: Because it doesn't say this in the bill, that's why I was asking. [LB587]

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

Appropriations Committee
February 28, 2007

LARRY DIX: Yeah. [LB587]

SENATOR ENGEL: Senator Nelson. [LB587]

SENATOR NELSON: So I certainly understand that it doesn't change the \$35 a day. But the counties bill Corrections, and if it comes to a total of \$7.5 million, because that's what it figures out at the \$35 rate, if we haven't appropriated enough money to cover that, are we going to have to have a deficit appropriation later on? Is that the way it works? [LB587]

LARRY DIX: Well, here's what's happened, we've had the \$3.9 million appropriated. Counties start to send in their claims, and once they are determined that they meet all of the criteria, then Corrections sends that money back to the counties. And once the money has run out is when the letter comes from Corrections that just says, we're not going to pay anymore. There has never been a deficit appropriation. We had gone down that path one time and were told no, there's no money. [LB587]

SENATOR NELSON: Okay. So if we think the best we can do is \$5 million this year, and is it \$8 million over two years, or is that just for a single year? [LB587]

LARRY DIX: I believe that is a single year. I would have to refer to your guy's numbers. [LB587]

SENATOR NELSON: Okay. Well, assuming it is, but if we say, best we can do is \$5,000...\$5 million for '07-08 and a similar amount for '08-09, then they use that money up, and then the counties are on their own after that? [LB587]

LARRY DIX: Sure. [LB587]

SENATOR NELSON: Okay. [LB587]

LARRY DIX: Sure. And we certainly would be receptive, as I said before, we've been partners with the state in this every step of the way. We've helped out in tough times. So we're just asking that maybe if we can find some help at this point, we would love to see that. [LB587]

SENATOR ENGEL: Senator Synowiecki. [LB587]

SENATOR SYNOWIECKI: Larry, some counties have city prisoners, those that are arrested by villages or cities within a county. Do they pay anything to the county for correctional services? [LB587]

LARRY DIX: You know I'm... [LB587]

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

Appropriations Committee
February 28, 2007

SENATOR SYNOWIECKI: ...for offender basis? [LB587]

LARRY DIX: I think I'll let some folks that follow me, that deal specifically with that from counties, do that. We know we do have some counties that...not every county has a jail, and so we have interlocal agreements with other counties to house other county prisoners. And I would assume the same would be for cities. [LB587]

SENATOR SYNOWIECKI: And you mentioned federal prisoners, and I remember reading, in a news article account, of some counties actually where their county jail was a revenue producer because of the number of federal inmates within their county jail. Is that still... [LB587]

LARRY DIX: Well, you know, I don't know if it's necessarily a revenue producer, but I would tell you when we compared it to the state reimbursement, it's certainly revenue producing, because it's more than what we're obtaining there. But some of the federal folks, we know we have some agreements with the state marshals out of Kansas City. Some of those folks are coming up into Saline County and are housing those prisoners. And they're paying more closer to the actual rate that it...the actual cost to house a prisoner. [LB587]

SENATOR ENGEL: Any other questions? Senator Kruse. [LB587]

SENATOR KRUSE: Just a comment on Senator Nelson's question about deficit. It is within protocol, we can do a deficit appropriation, but it has never been successful. [LB587]

SENATOR ENGEL: Any other questions of Larry? If not, thank you very much, Larry. [LB587]

LARRY DIX: Thank you. [LB587]

SENATOR ENGEL: Are there any other proponents? I think I recognize you. Would you, please identify yourself for the record, spell your name. [LB587]

SENATOR WHITE: My name is Thomas White, W-h-i-t-e. And this is the first time I've testified when I'm not actually introducing a bill. I'm testifying from a different perspective. I think those that follow me, particularly Commissioner Boyle and others, could probably tell you I've litigated more civil rights cases arising out of county jails than anybody in the state, least anyone that I know. And I come here to tell you that the horrors I have seen from underfunding cross our state and they're severe. I've watched and handled cases, now I have two cases where people have hung themselves, one case because they were taken off an antianxiety medication cold turkey in violation of

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

Appropriations Committee
February 28, 2007

the PDA and all the AMA directives, another one where a man died in prison, having repeatedly begged to be taken to a hospital. I have cases pending involving guards, where I've represented guards. And I can tell you that the conditions, I represent over 80 of the guards in Douglas County, the African American Correctional Offices Association. And they tell me stories that would horrify any civilized person. We have people who are so profoundly mentally ill, and no place to put them, that they are spreading feces on the jail cells, and they're not getting any medication. The guards hate it. They are being victimized, our jails are a disgrace. I have video tape of people who were denied medical care in Sarpy County that I took in a case, including a man, and I think I can show these, if you want to come by some time. I have to check and make sure they are not otherwise covered by protective orders, but I do not believe they are. One man had a heart implant, he asked to be let out, he asked for medical care, they gave him some antibiotics, it didn't work, and the lead wires started pushing through his skin because the infection was pushing the implant out. He was in an operating room 24 hours after he was released. Another nurse who had high blood pressure, 200+ over, was denied her medication, even though she had it there, again lack of training, lack of knowledge; another gentleman, asthma, he was denied his asthma medication, almost died in jail, again lack of training, lack of medication. It is widespread and it is tremendously...a tremendous evil, uncompromising. I have no false sympathy for the people who are incarcerated, but I also realize we have an obligation to treat them with a certain minimum level. We aren't even getting close and the root of all evil is money, and it's lack of money here. I ask you to seriously look at this. If you at some point in time want to know how bad the problem is, I would be happy to answer questions either here or later in private. [LB587]

SENATOR ENGEL: Any questions? Senator Harms. [LB587]

SENATOR HARMS: Senator, first of all, thank you for coming in and sharing this. As I look at this and then listening to what you are saying, it doesn't look like to me that this is anywhere near adequate funds to address the issue you're talking about. [LB587]

SENATOR WHITE: No. But to make it worse... [LB587]

SENATOR HARMS: Does money actually fix, do you think, or what... [LB587]

SENATOR WHITE: Well, it certainly will help. For example, the person that hung himself in Sarpy County asked to see a physician for six weeks. He had been in Douglas County. He had been put on Klonopin, which is an antianxiety medication. He had been doing well. He had been transferred for holding in Sarpy under a federal hold. He was unilaterally taken off the Klonopin in Sarpy County. And I have about six weeks of notes, begging to see a doctor, that he couldn't cope, before he hung himself. So I would tell you, yes, money does help, because you can hire better medical care, you can give better training. You can have a funding mechanism so that they can afford

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

Appropriations Committee
February 28, 2007

some...and I'm not talking anything other than, you know, very basic level medications. And there's no question the reason they don't is (one) there's a perception these people don't deserve certain minimal treatments; and (two) to save money. [LB587]

SENATOR HARMS: With your experience and background, Senator, do you think that...what do you believe it would take financially? You know, I look at \$35 a day, I don't think we can get close to addressing this issue. So with your experience and understanding of all the cases you've served, and you've seen some, it sounds like some pretty horrible things. [LB587]

SENATOR WHITE: Yes. [LB587]

SENATOR HARMS: How are we going to get a handle on this? What should we do? How long should we project this out to find a way to fund this appropriate to take care of the issue? [LB587]

SENATOR WHITE: I think the county commissioners can talk to you about that. Mike Boyle, behind, can talk about actual costs. Personally, though, I think the Jail Standards Review Board, and I don't know whether they report to government, or who they report to, needs to have a systematic review of all county facilities. And this is not any one county. Fremont just had a number of suicides, and they're looking at a review, in the last two weeks, I think, three weeks, they're asking. So Dodge County is looking for an out of county review of their facilities. I think we need a systemwide review of how we house prisoners. And I will tell you, it's false economy. I have recovered substantial, well in six figure sums for the way prisoners are abused. And it would be infinitely cheaper and infinitely more humane to just house them properly in the first place. It's a real issue. It's a bigger problem than this, but you have to start somewhere. And going backwards on the budget amount to the counties will only make it worse. Thank you. [LB587]

SENATOR HEIDEMANN: Any more questions? I got into it a little bit late, I'll just ask one question real quick, and maybe it's been asked already. What's the county levy? Where are you at right now? Do you know? [LB587]

SENATOR WHITE: You mean in Douglas County? [LB587]

SENATOR HEIDEMANN: Yes. [LB587]

SENATOR WHITE: I don't know what it's levy is. But I've handled these cases, just so you know, in Douglas, in Sarpy, now I've got one in Auburn, and I've been solicited and asked to investigate in at least a half dozen other counties, Senator. So you cannot, in my experience, it's not a problem that is isolated to any one county. After I handled a couple of them, I got a lot of calls. [LB587]

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

Appropriations Committee
February 28, 2007

SENATOR HEIDEMANN: The only point I would be, is you know of...if the levy cap...at 50 and if Douglas County is at 26, 27, or 28, and there needs to be more funding for this, wouldn't they have room to do it themselves? [LB587]

SENATOR WHITE: They might. But again what you're doing then in this case that brings us here today, Senator, is you're ordering them to raise property taxes to support state prisoners, which is not a county obligation. And what happens is in saving money, or ostensibly saving money here, you put pressure on the counties to raise funds on something that's politically not viable. Nobody wants to raise property taxes, and absolutely nobody wants to raise them to house prisoners. But it's a false economy, because you will get systematic civil rights judgments against the counties and their building. And after you start building a pattern of them, then you start getting punitive damages. [LB587]

SENATOR HEIDEMANN: I understand your point about the funding. My point, well one point I would make, I'm not understanding they are state prisoners. [LB587]

SENATOR WHITE: No, the problem that brought me here today is, and I think Commissioner Boyle will tell you, on average Douglas County, which I'm also familiar with, gets paid on actual costs, probably right now about 25 percent actual costs. Of actual housing costs in Douglas County, for what is determined to be a state prisoner, the state reimburses them for every \$1.25, roughly. So it becomes a huge burden. [LB587]

SENATOR HEIDEMANN: But I understand once they become a state prisoner, we take care of that funding totally. [LB587]

SENATOR WHITE: No. [LB587]

SENATOR HEIDEMANN: It's...the way I understand jail reimbursement, and maybe somebody following you up might clarify this a little bit, jail reimbursement works from the time they get convicted and they become a state ward, jail reimbursement backs up and takes care of that housing before that time. Which according to statute, the way I understand it, is not a state obligation. This bill was passed for property tax relief purposes only. [LB587]

SENATOR WHITE: If in fact the state would live up to its obligation, Senator, as the law is written, I think you would be correct. But what in fact has been, as I understand it, the practice for many, many years is the counties will get anywhere from 50 cents to 25 cents on \$1 of that agreed money. These are state prisoners, this is what we owe you, and they will only give you 25 to 50 percent, year in and year out. But the county commissioners and those who follow me can be more precise on that. And that

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

Appropriations Committee
February 28, 2007

budgetary hit causes a huge problem. And what happens is they cut services, and one of them that they cut is medical care gets cut very quickly, also they don't do adequate training for guards. And then you get problems with abuse of prisoners, you get problems with guards getting hurt, and getting assaulted because they're not adequately trained. [LB587]

SENATOR HEIDEMANN: Okay. Well, I'm sure we'll maybe address it down the road a little bit. Senator Fulton. [LB587]

SENATOR FULTON: Thanks for testifying. I was a little bit late in coming, but there is something that I'm hoping to clarify. I heard you say that the root of all evil is money. And... [LB587]

SENATOR WHITE: It's a biblical reference, Senator. [LB587]

SENATOR FULTON: And understood, some would call it biblical, but it's the love of money is the root of all evil. Were it all money, then we would all be pitchfork-carrying deliverers of evil. (Laugh) [LB587]

SENATOR WHITE: So it's the love of lucre, huh, rather than money is the root of? [LB587]

SENATOR FULTON: A point of clarification again. LB587 is to eliminate a cap via... [LB587]

SENATOR WHITE: Right. [LB587]

SENATOR FULTON: You would contend then that the level that it's at, \$3.9 million, is inadequate? That's actually your contention, beyond the scope of the bill, right? [LB587]

SENATOR WHITE: Right. I mean, the state has been, in my view, derelict in its constitutional duties towards those that it incarcerates. We take people's freedom, we do not need to give them cable, we do not need to give them comfortable shoes, we do not need to give them all kinds of things, but we must provide a reasonably safe environment and minimum medical care, because they cannot provide it for themselves. And we are not doing that. [LB587]

SENATOR FULTON: To that, to the end of my questioning, do you have an idea of what the number, the Appropriations Committee, we come back to this again, what is the appropriate level of funding? [LB587]

SENATOR WHITE: I don't. And I would tell you that even before, or as you move towards that appropriate number, certainly the counties can help you with it. It's not just

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

Appropriations Committee
February 28, 2007

that, you need to have...the state needs to have a thorough review on certain essential areas, such as are our jail standards appropriate? Are they being enforced? It's not enough to throw money at it. We must also make sure that the money that we do use is being used wisely and well and actually being delivered for those minimum services. I have no interest in providing cable TV, because we have a big appropriation. I have a deep interest in providing adequate hypertension, asthma, anxiety, and anti-psychotic medication for the good of the inmates. [LB587]

SENATOR FULTON: Thank you, Senator White. [LB587]

SENATOR HEIDEMANN: Isn't the way you look at the statute, that we are...it's a state obligation up to the amount that is appropriate, though? [LB587]

SENATOR WHITE: It depends on how you say it. I mean the state sets a per diem value, right? And if you want to say that, then yes. But, Senator, that's a cruel hoax. We appropriate \$1 million, knowing it costs \$8 million. Now are you paying your obligation, or are you playing a game with numbers? [LB587]

SENATOR HEIDEMANN: I'm not picking on jail reimbursement by any means, but we do this as a state in more things than just with jail reimbursement, in county aid. I think there was a bill passed years back that was like \$30 million, wasn't even funded in the first year, as to what the... [LB587]

SENATOR WHITE: All I can tell you is in those situations, you have not deprived people of their liberty. You have not locked them into cages, you have not prevented them from going out, getting their own physicians, getting their own medication, getting their own food. You have a whole different level of obligation on the part of the government towards an individual when you've incarcerated them, that you do not see anywhere else, even for those, and I feel a high level of responsibility to the poor, that is nothing compared to the people you have locked away. [LB587]

SENATOR HEIDEMANN: And I'm not arguing that point at all. I don't even want to argue, period. [LB587]

SENATOR WHITE: Sure, I don't want to either. [LB587]

SENATOR HEIDEMANN: But my point would be there is an obligation there. And I agree with you on that. We just need to probably figure out what the obligation is there. And if the state doesn't appropriate the amount of money, won't the obligation fall back to the county to do the right thing? [LB587]

SENATOR WHITE: Clearly, the county is ultimately responsible. They're ultimately responsible legally. And when I sue them for somebody dying, because they were

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

Appropriations Committee
February 28, 2007

denied medical care or things like that, I sue the county. I do not sue the state. But I would tell you this, that to the extent the state puts prisoners into those systems and then doesn't pay for it, you are complicit, we are complicit, all of us. [LB587]

SENATOR HEIDEMANN: According to statute, though, I mean they're not state wards, not a state obligation until they're convicted. And at that time doesn't the state realize its obligation? [LB587]

SENATOR WHITE: My understanding is it does not, the state does not discharge that obligation, even though it acknowledges it exists. It doesn't pay the full amount of money it owes. [LB587]

SENATOR HEIDEMANN: It doesn't pay the full amount of money from the time they were incarcerated, up to the time they were convicted. That's the way I understand it. I could be wrong. [LB587]

SENATOR WHITE: Well, and you'll have to talk to the county commissioners. My understanding is that they are not getting paid, you know, the money that the state acknowledges owing them because they're housing state prisoners. [LB587]

SENATOR HEIDEMANN: They wouldn't be a state prisoner, though, until they were convicted. I don't want to... [LB587]

SENATOR WHITE: Correct. But they don't get transferred right away. You assume that they get transferred right away to the Penitentiary, regularly they do not. They end up spending many months, sometimes, in a county facility because there is no room in the Penitentiary. [LB587]

SENATOR HEIDEMANN: Okay, thank you for your testimony. [LB587]

SENATOR WHITE: You bet, thank you. [LB587]

SENATOR ENGEL: Next? [LB587]

MIKE BOYLE: (Exhibits 11 and 12) Mr. Chairman, members of the committee, my name is Mike Boyle, B-o-y-l-e, and I'm a member of the Douglas County board of commissioners. I'm here this afternoon to speak on behalf of LB587 and, first, would like to thank Senator Cornett for introducing the legislation, and also the very capable explanation of the history that Mr. Dix presented to you. You've been handed some information, first, the levies around the state, and also a sheet that shows the Douglas County state prisoner reimbursement. And so that I'm not repetitive, I'll just highlight some of these points and then I'll try to answer your questions. The amount billed, if you look down the first column, for 2004 we billed the state of Nebraska, the Correction's

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

Appropriations Committee
February 28, 2007

Department, \$3.2 million, and we were paid \$1.6 million. The actual cost was \$6.5 million. And as I said, then we only were reimbursed \$1.6 million of the actual cost. Because, as Senator White pointed out, we are only being reimbursed 25 cents on the dollar. Our costs in Douglas County are about \$78 a prisoner. For the year 2005, we billed the state \$4.8 million, and received \$1.9 million. Our actual cost for that year was \$9.6 million. And then for 2006, we already have...or excuse me, we had \$3.7 million in expenses, and thus far we've received \$925,000 with three months still pending. We really do need some help. We don't have...when a person is arrested and brought in, we don't know what the charge may or may not be, or whether they're going to be found guilty and sent onto the state system. It's during that time, before they are charged, that we extend the credit of the county and pay for their medication, and their housing, and all the other things that go with it. And then once they go to court and are sentenced and we find that they are a state prisoner, then we send you...the Corrections Department a bill, going back from...going back so that we are reimbursed from the time they were brought into our facility. We have no county statutes. Once either they are charged and sent to you, found guilty and sent to the state, or else they are set free, we don't have a county jail where they sit out, you know, for some offense if they were not charged with a state offense. So it's not a question of somebody else picking up the slack. We do accept prisoners from the city of Omaha, and interestingly enough we have the same battle with them. We're in the middle, the city argues with us on what they owe us, and we have to do battle with them on trying to claim the numbers of their people and proving to them, just as we do with Corrections. I think the bottom line is that what this bill will do, regardless of all the other peripheral issues, is that it will give the Appropriations Committee, this committee, the right to establish what should or should not be paid. There is a cap in the law right now that says what it should be. And we're asking that it be removed and you decide. You use your discretion, not the previous legislature's decision on what ought to be paid. One of the questions was asked, what would the total cost be around the state? I think the figure is probably close to \$20 million, because in Douglas County alone it's a huge figure, Lancaster and Sarpy as well. And this, by the way, has been, this legislation is really a priority of the three major counties in the state. And finally, I want to say, before I open myself up for questions, it might be kind of strange hearing it from me, but the counties that this legislation really hurts are the smaller counties, because they are at their lid, their limits, they have no place to go. And when Scotts Bluff is hit with a...it's not a small county by any means, but it's smaller than Douglas, when it's hit with a \$70,000 bill, that's a big deal. And I know from personal experience, in talking with other county commissioners, and supervisors around the state that it is a crisis, and we need your help. Thank you. I'll take any questions. [LB587]

SENATOR HEIDEMANN: Are there questions? Seeing none, thank you. [LB587]

MIKE BOYLE: Thank you very much. [LB587]

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

Appropriations Committee
February 28, 2007

TIMOTHY LOEWENSTEIN: (Exhibit 13) Good afternoon, Senator, Mr. Chairman, committee members. My name is Timothy Loewenstein, L-o-e-w-e-n-s-t-e-i-n. I'm a member of the Buffalo County board of supervisors. I chair the law committee, and I'm also a member of the board of directors of NACO. I've listened intently to your conversation and I have a handout for you, and I'm going to talk about the first three pages of the handout. But really, before we talk about that, I would like to address an issue I've heard you discussing, and that is the levy limits as related to the counties. I didn't look quickly at the material that was given to you, but Buffalo County's current levy is 37.9. And you would say, well, we have about 12.1 cents to go to make it to 50, so we're not against our levy limit. That's an incorrect assumption. There are 15 cents, accorded by statute, of the 50 cents to be given to rural fire departments, townships for roads and other applications that happen within the county. Buffalo County has already encroached upon that 50 cents and taken money away from those people by 3 cents. And given the continued cost of doing business and the fact that we are faced with building a new jail, we will encroach upon that even further. But the reality is that for the taxpayers we are at the 50 cent limit in Buffalo County. So we would have to take money away from them, they would then have to go back to the taxpayers with an election and ask to have the lid limit exceeded in order to restore those funds. What I've done is the graphs you have represent three fiscal years: '03-04, '04-05, and '05-06 for Buffalo County. They represent what we had as requests for jail reimbursement and what we had for receipts. And I really identified what I considered to be the most important number, and that was the deficit. And the deficit in '03-04 was \$75,340; in '04-05 \$69,930; and '05-06 \$55,283. I would want to address the fact that this deficit represents the deficit based upon a \$35 a day reimbursement. This really doesn't represent the fact that about another \$40 a day was paid by the Buffalo County taxpayers. If, indeed, the calculations are accurate that we're looking at a \$75 to \$78 per day actual cost to house an inmate, then the Buffalo County taxpayers have stepped forward and been writing a check for every one of these already. The fact that the fund runs out somewhere in the neighborhood of the end of the second quarter, I believe, is visually affected for you as you look at the graphs and you see that the request continues, but the payment does not. It had come to my attention that there was also a consideration by this committee to possibly reduce the amount rather than to look at removing the lid and increasing it. The second set of graphs I've given you would be the impact of the deficit, should there be a reduction in funding, calculating that reduction to be equated and shared equally by Buffalo County. Obviously, the numbers of the deficit go up and they become higher. It is costly. As chairman of the law committee, I would tell you that I would...I can't even find a word to express how truly angered I would be if I learned that any inmate in our jail was treated differently than another. I do not believe that to be the case in Buffalo County. I believe that we step up to the responsibility that we have when these people's lives are placed in our care. And that responsibility carries a price tag. All that we ask is that this committee look at this bill, look at removing the lid, look at truly funding. Mr. Chairman, you mentioned that, you know, it should be funded as you said, you know, well they pay the full amount. A few moments ago you

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

Appropriations Committee
February 28, 2007

had some dialogue related to that. Really, that's what we're asking. We're simply asking for the formula to be appropriated to be paid as it is. Would I love to come here and sit down and say and agree with the good senator here that the 35 should go to some higher figure? Oh, that would be great. But you know what, if we just got what's there today, it would be a help, it would certainly be a help. I totaled up these three years of deficit, real money deficit, money not received by Buffalo County on state prisoners. To make it real simple, over a three year period it means that I ask my constituents at Buffalo County, man, woman, and child, one-month-old baby to 91-year-old great grandmother, to give me \$6.59 each. Every single one of them to cover this deficit. That's who's paying it is the taxpayers, and the property tax carries the burden. So I would ask you to really look seriously at this bill, look seriously at the fact that this is a commitment that needs to be honored, needs to be funded correctly. And I will tell you, Mr. Dix was correct, we are your partner. When times were tough we came and said, we will be a part of helping. And we believe that the financial situation in the state has reversed itself, and we are excited and pleased about that, because that means that that is better for us, too. And I believe it's time we take another look at this. Thank you. [LB587]

SENATOR HEIDEMANN: Thank you for testifying today. Any questions? Seeing none, thank you. [LB587]

WILLIS LUEDKE: (Exhibit 14) I'm Willis Luedke, L-u-e-d-k-e. I'm chairman of the board of commissioners for Saline County, also serve on the board of directors for NACO, and also on the Jail Standards Board. Appreciate the opportunity to appear before you today to explain a little bit the e-mail that I sent to you a couple of days ago. A couple of things I want to point out: number one, we are a small county, and our levy is right up close to the lid, so we do not have a lot of room for picking up additional expenditures. In the handout that you have received, you'll see for the four year period we have the amount that we have claimed to the state, total of \$137,000. The amount received from the state is \$27,500. I want to point out that in 2006 we submitted claims for approximately \$6,100. Our reimbursement we got back from the state for 2006 was \$35. What does this mean to the taxpayers of Saline County? In order to make up that \$6,100, that's about three-fourths of a cent on our levy, and we are right up next to the lid. The bill as originally introduced was to provide property tax relief. And this is doing just the opposite in providing property tax relief. It is putting more burden back onto the taxpayers again. A question came up as far as counties housing city prisoners. Yes, we as a county house prisoners for all the cities and villages in Saline County. We do not receive any reimbursement from them; that's all at the expense of the county. We're a county that houses federal prisoners. We are paid \$75 a day for those federal prisoners. That is based on our actual per day costs for prisoners. We use the formula that is submitted to us by the U.S. Marshal, and our actual cost is \$75 a day. So we're very much in line with what the gentleman from Douglas County just mentioned also. We had one incident where we had a homicide case where we housed three prisoners for over

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

Appropriations Committee
February 28, 2007

20 months, from the time that they were arrested, when they went through pretrial and presentencing we housed those. We did not have any control over those because this was under the state's jurisdiction. That's why you see on the quarter ending December 2006, we submitted a claim for \$52,290. That was for housing three prisoners while they were on trial for homicide. We submitted that claim and the claim cannot be submitted until after the individual has been sentenced. We submitted that claim for \$52,290, and the state informed us they didn't have any money. So here's a burden that goes back onto the local taxpayer again. I would be willing to answer any questions that you may have. [LB587]

SENATOR HEIDEMANN: Are there any questions? Senator Wightman. [LB587]

SENATOR WIGHTMAN: I'm coming in late, so I don't know. What rate...is there a statutory rate that you are supposed to be reimbursed at? [LB587]

WILLIS LUEDKE: We're supposed to be reimbursed at \$35 a day, \$35 a day, and our cost is approximately \$75, so we're picking up more than half of the cost of housing the prisoners for the state. [LB587]

SENATOR WIGHTMAN: But the amount you claim would be based on \$35 a day, is that correct? [LB587]

WILLIS LUEDKE: Yes, yes. [LB587]

SENATOR WIGHTMAN: So that wasn't the full cost? That's the reimbursable cost? [LB587]

WILLIS LUEDKE: That's the reimbursable cost. [LB587]

SENATOR WIGHTMAN: Thank you. [LB587]

SENATOR HEIDEMANN: Any other questions? Seeing none, thank you for your testimony. [LB587]

WILLIS LUEDKE: Thank you. [LB587]

SENATOR HEIDEMANN: Is there any other testimony in support? [LB587]

TERRY WAGNER: Good afternoon, Senator. Members of the Appropriations Committee, my name is Terry Wagner, W-a-g-n-e-r. I'm the sheriff of Lancaster County and I'm the current president of the Nebraska Sheriffs Association. I won't belabor or repeat what all the other testifiers have talked about. I just wanted to tell you that this is a huge issue for sheriffs across the state. I am one of the luckier sheriffs that don't have

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

Appropriations Committee
February 28, 2007

control of the jail, and so this has not affected me like it has some of the other sheriffs in the state. But for the vast majority, jail reimbursement is a huge issue. It affects their budgets every year. And I urge you to support this bill and lift the limit on the jail reimbursement. With that, I'd answer any questions you might have. [LB587]

SENATOR ENGEL: Just a quick one. Where do you house your prisoners? [LB587]

TERRY WAGNER: Well, our prisoners are held in Lancaster County. But the Board of Commissioners for Lancaster County act...they have the ability, and they do act as the Board of Corrections, and they hire a jail administrator. So I have no physical control of our jail. [LB587]

SENATOR HEIDEMANN: Any other questions? Senator Wightman. [LB587]

SENATOR WIGHTMAN: Again, I'm probably plowing old ground. Thank you for being here. I guess, is every prisoner you hold...a misdemeanor, somebody convicted of a misdemeanor is not reimbursable, is that right? [LB587]

TERRY WAGNER: No, sir. There is statutory language that defines what that is. But generally, it's anybody who could be sentenced to a penitentiary...or sentenced to jail time for a year or more. So that's usually the cutoff point, a year or more in jail, they become a state prisoner then. [LB587]

SENATOR WIGHTMAN: Is that if he can't be sentenced, or if he is sentenced for a year or more? [LB587]

TERRY WAGNER: Can be. [LB587]

SENATOR WIGHTMAN: So if he's charged with a crime, and later that's reduced to a misdemeanor...charged with a felony, it's later reduced to a misdemeanor, is that reimbursable? [LB587]

TERRY WAGNER: I could be wrong, but I don't believe so. Now, I think if an individual is convicted of a Class IV felony, and they are sentenced to nine months or something...anything less than a year, then that is a state prisoner, because they were convicted of a felony that has a possible penalty of over a year. [LB587]

SENATOR WIGHTMAN: But most of those people would not be incarcerated in the Penitentiary, they would be incarcerated at the local county jail, if it was under one year. [LB587]

TERRY WAGNER: Correct. And then all the pretrial felons, who eventually go to the Penitentiary, that goes back to the date of arrest. [LB587]

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

Appropriations Committee
February 28, 2007

SENATOR WIGHTMAN: Thank you. [LB587]

SENATOR HEIDEMANN: Any other questions? Senator Harms. [LB587]

SENATOR HARMS: Senator White gave very compelling testimony regarding conditions. What are your views about the conditions (inaudible) jail? Do you think money is the issue, or do you think it's education, supervision? [LB587]

TERRY WAGNER: I haven't seen, you know, as I said with that caveat that I don't have any control of our jail, I have not seen a lot of litigation or a lot of issues with the Lancaster County Jail not meeting the health care needs of individuals in jail. We feel we suck it up. I mean that's... [LB587]

SENATOR HARMS: Have you had any communication with other sheriffs across the state in regard to concerns about that? [LB587]

TERRY WAGNER: I think everybody takes very seriously, as Commissioner Loewenstein said, the responsibility to care for those people in our care and custody, and that includes their medical care. And so regardless of the reimbursement funding, we're still responsible for those folk's wellbeing, and I think everybody takes it very seriously. And I don't think it's affected their medical care while they're in jail. [LB587]

SENATOR HEIDEMANN: Any other questions? Seeing none, thank you for your testimony. [LB587]

TERRY WAGNER: Thank you, Senator. [LB587]

SENATOR HEIDEMANN: Is there any other testimony for the proponent capacity? [LB587]

WILLIAM McLARTY: (Exhibit 15) My name is William McLarty, M-c-L-a-r-t-y, commonly referred to as Bill. I am a member of the board of commissioners in Dakota County. First, I would like to apologize to the Chair for not checking the correctness on the letter. So if you'll forgive me, I did catch it, but it was too late, I was already on my way down here. So I take responsibility because I didn't proofread it well enough. Thank you. Mr. Chairman and members of the committee, I have a letter from the Dakota County commissioners in reference to LB587. It is the feeling of the Dakota County board of commissioners, sheriff James Wagner, and jail administrator, Rod Herron, that the funding for the Jail Reimbursement Program is critical to Dakota County and many other counties across the state of Nebraska. Dakota County, as many other counties, are up against their lid limit. Dakota County has authorized 50 cents, and is presently at 48.78+ cents. The funding shortage requires that the county deplete its inheritance or tax fund

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

Appropriations Committee
February 28, 2007

and increase property taxes. As you can see, there is little that we can do when we are currently up against the established lid. During the first quarter of this budget year, Dakota County received \$84,000. In the second quarter we will receive 91 percent of the \$46,725 that we are authorized under the current Jail Reimbursement Program. The third and fourth quarters will not be funded as the state appropriated funds in the current Jail Reimbursement Program will be expended. The jail population in Dakota County continues to rise, and the needs for these funds is critical. The county commissioners, the sheriff, and the jail administrator of Dakota County request that you increase the funding lid for the Jail Reimbursement Program so as to fund the program for a full year. Generally, we request that you at least double the funding under LB587. I want to thank you for your time on behalf of Dakota County and the other counties across Nebraska. Do you have any questions? [LB587]

SENATOR HEIDEMANN: Do we have any questions? Seeing none, thank you for your testimony. [LB587]

WILLIAM McLARTY: Well, thank you very much for your time. [LB587]

SENATOR HEIDEMANN: Is there any other testimony in the proponent capacity? Seeing none, is there any testimony in the opponent capacity on this bill, LB587? Is there any testimony in the neutral capacity? Seeing none, we will close the public hearing on LB587. [LB587]

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

Appropriations Committee
February 28, 2007

Disposition of Bills:

LB452 - Held in committee.
LB587 - Held in committee.

Chairperson

Committee Clerk