BEHAVIORAL HEALTH OVERSIGHT COMMISSION
April 25, 2008

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The Behavioral Health Oversight Commission met at 10:15 on Friday, April 25, 2008, in Room 1113 initially, and then moved to Room 1402, as Room 1113 had no audio capability at that time. The commission met for the purpose of conducting a public hearing. Members present: Jim Jensen, Chairperson; Mario Scalora, Vice Chairperson; Gordon Adams; Mary Angus; Andrea Belgau; Susan Boust; Carole Boye; Shannon Engler; J.Rock Johnson; Doris Karloff; Bill Mizner, and Daniel Wilson. Members absent: Brad Bigelow; Topher Hansen; Linda Jensen; Joel Johnson; Howard Olsen; Joe Patterson; Ellie Tompkins, and Karen Weston.

Recorder malfunction. First hour of meeting lost.

JIM JENSEN: Well, thank you, everyone, for making the move. I think this will be more comfortable, and you'll certainly be able to hear better. And for the record, since we are now able to record also, I might mention the fact that we did move from the Judiciary hearing room because a lack of audio, and we are now in Room 1507. We have started out this meeting primarily on consumer reports and affairs which we have maybe shorted in the past at our meetings, and so I wanted to do that. Scot Adams gave a report earlier that kind of outlined things, and now taking questions both from Mary Angus and from J.Rock Johnson. Scot, do you want to reply any to the comments of J.Rock's? And then we'll go on to Carole Boye.

DANIEL WILSON: Senator,...

JIM JENSEN: Yes.

DANIEL WILSON: ...could I just offer that I've spoken to J.Rock personally, and she's declined the opportunity to repeat her questions in their entirety, for the record?

J.ROCK JOHNSON: I didn't say I wouldn't do a summation at the end, though.

SCOT ADAMS: I'll review (inaudible) fine. I would have a couple things I'd like to say in response at some point, where we can sort of keep the list going, if you prefer.

MARIO SCALORA: Probably now is a good time to get it on the record, if you have something to say.

SCOT ADAMS: Okay. Let me...J.Rock, I think everybody...and I think that was the point of Dr. Wilson's comment, was that you bring a great many perspectives, issues, and points in your comments. I won't be able to, or try to respond to all of those, but would like to perhaps respond in a couple different ways, to at least some of those. The very first one that I want to respond to, because I think it left...I want to clarify, at least, my attempt last week when I met with the SIRC group and your comment with regard to my question. My intention there was to try to help me to understand--and I think I said this--help me to understand how the SIRC group differed from the other times that I meet with those people. In that room everybody except for perhaps Cindy, I have some fairly regular opportunity to meet with, certainly more than three or four times a year, I believe. And so I was curious as to what value that group saw in terms of this. Was there a particular position or focus or set of issues? How did that organization of a group of people concerned about behavioral health differ from the times that I meet with them in other situations? So that was the point of the question, not so much why I was there, or that kind of thing. I just wanted to clarify that. Secondly, with regard to the extent and the nature of the report, typically Jeff and I have worked together a little bit ahead of time, and previous to that Ron and Jeff and I would work together to help develop the kinds of information that you all would want. Because this was a state holiday, I had talked with Jeff ahead of time and frankly, had not planned to be here. Today is the Legislative Oversight Commission, and we had, I think, come to an agreement that okay, fine, and then in recent times, then that sort of changed. So I apologize for lack of greater preparation, and let me say that with regard to any of the items of questions or

information, please, let us know what you would like. We can be responsive and adaptive to that. I think you gave a great overview of perhaps a quarter of the information that flows through the Division of Behavioral Health, and what you information you have interest in as a commission, I think, would be great. Help us form that kind of, you know, information and that kind of thing with regard to the types of questions, issues, and data that you want. I think we are sometimes drowning in data, and analysis becomes sort of the lack of what goes on. Secondly, or thirdly, I guess, the point about a consumer specialist perhaps saying things like they are the voice of consumers really is at the heart and soul of our prior conversation earlier this morning, with regard to seeking what's...(inaudible) the nonaligned voice. I think it's very difficult for anyone, any one group, any one person, to speak for all consumers, and I think the more that we rely on a few persons, the more dangerous it becomes to think that, gosh, now we know what they think. I think both...as an individual, most people would react angrily at that kind of thought, that someone can speak for someone else. And so I fully agree with you, and that's my intention, the basis of my trying to reach out to a variety of consumer groups, people who are either currently in treatment, recently out of treatment, beyond this group, frankly, beyond the folks who have been here for a long time. It's not to say that I'm ignoring you as a result of that; it is simply that there are indeed more voices to be heard out there. With regard to the complete behavioral health reform, this would be a great area that I think we can...could work together. I think it's an interesting challenge. I think there is a continuum of opinion. Clearly the Governor has said, complete behavioral health reform. J.Rock, I understand your position to say--and there's a large part of me that agrees--hey, it's never completed. It's a process that continues to improve, unfold, evolve, and so I understand that perspective, too. How ought government and the Behavioral Health Oversight Commission to consider that? One way is June 30, 2008. That simply is a way by which to understand that. That was the legislation; that was the law. You could have an asterisk by that and say, June 30, 2009, with the revision in LB928. That's another way to look at it. A third way to look at it would be no further adult services at Norfolk, behavioral health services at Norfolk or Hastings. I think that was part of the conversation, though not explicitly in LB1083.

Another way would be to say that pesty last $3.5 million to the community, is yet another way of measuring it. And so we have a series of potential ways to measure this, from never through days from now, and some conversation about that, I think, would be helpful. What do you all think about that? So I want to acknowledge your perspective with that and say that others have other points of view about it.

JIM JENSEN: I think Carole, and...Dr. Adams, did you also have a comment or no?

GORDON ADAMS: No, I didn't.

JIM JENSEN: Oh, all right, fine. Thank you. Then we'll do Carole and Dr. Wilson.

CAROLE BOYE: That is the exact subject that I wanted to follow up with, based on J.Rock's comments on that, because it is interesting to me that that has not been defined, it seems, on any level. When I look at the regional guidelines, what the state, what the division has asked each region to do is to find...to propose their definition, outline their definition of completing behavioral health reform. I don't know if the division has put one out. I'm pretty clear that this commission has not defined that, but could I be so bold as to suggest that if that's the Governor's priority, should we not have heard a definition of that from the Governor and through the division and HHS, as representatives of the Governor, as opposed to asking all the rest of us what we think? I mean, has the Governor or has the division defined what the Governor's goal is, what the measurement is, for the Governor's stated goal to finish behavioral health reform?

SCOT ADAMS: Well, I think we recognize the fluid nature of behavioral health reform. For example, Carole,...

CAROLE BOYE: So the answer is no.

SCOT ADAMS: There's not a solid, clear...yeah, right. Yes. And we want to...

CAROLE BOYE: Okay. So does that mean that the Governor doesn't know what he means when he says, finish behavioral health reform?

SCOT ADAMS: Well, it's a little in the line of quality. You know,...

CAROLE BOYE: I'm not trying to be argumentative, I'm just really trying to understand. If the Governor has said, finish behavioral health reform, what does that mean to him? What is our mandate?

SCOT ADAMS: My understanding of the Governor's goal of, complete behavioral health reform, is to work with the systems to be able to accomplish this, and that this conversation is a helpful element of that. The conversations that we have with regions help to further define that. We sort of think that at this point we're not there. What...and again, I gave examples of how that could be defined. All of those are, I think, there.

CAROLE BOYE: And I agree with every one of those, Scot. It just floors me, though, that I think what I'm hearing is that the Governor has said, here is the priority, and he hasn't defined that priority. He hasn't given definition to that priority. I just find that from the chief executive officer of our state...and again, I'm not trying to be argumentative, I'm not trying to be negative towards the Governor, because my guess is, he does know what he means by that. But I'm not sure any of the rest of us do, and if he does know, then rather than all of us engage in a discussion that will be overridden by his definition, and through the department his definition, why don't we just hear what it is and start working towards it? Because I think we're operating off of different definitions, at this point.

SCOT ADAMS: Well, you know, it's funny about glass half full, glass half empty, in terms of some of the things that have been said today already, in terms of prescriptive and descriptive and sort of pushed, and in or out. I view the opportunity of the invitation

to help define what the state means by completing behavioral health reform as a wonderful invitation to all of us to participate in that conversation, rather than saying, it's this--goodbye. And so...

CAROLE BOYE: I would beg that while that may be the department's position on this particular issue, it has been fairly prescriptive on a number of other issues which directly impact the completion of reform, however it is defined. So I think we just need to be consistent here.

SCOT ADAMS: And we take sort of the same kind of comments back and forth, regardless of what position we end up with. I view this opportunity as one that is encouraging.

CAROLE BOYE: Okay.

JIM JENSEN: Dr. Wilson, and then I'd like to have a comment.

DANIEL WILSON: Well, I just would want to point out, Scot, that your...apart from agreeing with Carole's as ever lucid comments, your conflating several different things. Behavioral health reform is indeed unending, but this is an LB1083 commission. LB1083 is pretty explicit. It was unambiguously meant to close down state-funded, non-Medicaid hospital operations and transfer behavioral health dollars to the community. And our commission is meant to advise the Legislature as to stages of that process and when that process is complete. We're very nearly there, and I think it's just helpful to disentangle several different meanings of behavioral health reform. What our tasks are, are quite different than the ongoing tasks. Now I think what is also emerging is LB1083 gave some vision to the state, some rubric for people to work with, and as that is ending, the LB1083 process is nearly ending, what is the vision? Is it just business sort of as it is today? Where are we...what is the new paradigm, the new rubric? I think that's important for us to agree on, but also, as Carole says, important for

the Governor to help clearly define, and other people in state government who are interested, certainly the Legislature, and many other stakeholders. But there seems to be sort of a gap in transition of one vision to the next. That inevitably feeds anxiety, misunderstanding, attribution of malevolence back and forth, and this is a scenario for all sorts of complications in the next several years, without a better way of communicating and without a vision. So we do need to move forward. But LB1083 is very nearly complete. I also would just add: I think the commission, before it's sunsetted and the shutters are drawn and the institutions and department are at risk of further isolation and insularity, that the commission should very clearly advise the Legislature that behavioral health beds can be removed in their entirety from Hastings and Norfolk, and for behavioral health purposes, those institutions should be closed.

JIM JENSEN: I'd just like to follow up on that a little bit. You know, probably the most contentious part of LB1083 was, when it was proposed, there were definite dates in there. And because of responding to community response or communities' response and others, we removed those dates, and I'm not sorry that we did that. I'm not apologetic whatsoever. And I absolutely do confer with what Dr. Wilson is saying. We were bound, were formed by the passage of LB1083, and we were completing, or we were working through that process. And we were working through that process until we came to a deadline of June 30, and we asked that that be extended. This commission asked that that date be extended, and I personally feel that when I and members of the Legislature allowed for some leeway in removing dates, boy, June 30 was the date we were not going to change. And yes, the Legislature can give, and the Legislature can take away, and that has been done. And one of the next items that I thought that we would talk about was the new process, and that we will go from 25 members to 12 members, and I would certainly ask that there are individuals on this commission that would qualify for the new commission, and I sure hope that you make your availability known to the Governor, who will make those appointments. But...and I'll certainly echo what Dr. Wilson said, that we are close. I personally don't like to leave anything unfinished, no matter what that is. That's been my philosophy in business and

everything else. I've never missed a date on any contracts that I've ever signed, and I've diligently worked towards that. And I can also understand that LB1083 was not a perfect document, and there are few perfect documents in the Legislature that have ever been put together. There were a couple things, I think, that were missing. One of those was that long-term secure care. We do have a 16-bed unit that is in the process of being opened in Omaha, or in Region VI rather, that will help that. I personally have a feeling that there should be a same facility throughout...or in another part of Nebraska, and I would probably recommend that be in Region V, because of the populous and what that can be done. And I also look at that $3.5 million that is still there, and...now I'm throwing other things into there. But I think there is enough dollars to do another 16-bed facility that would be Medicaid, I think, suitable, that would have a tremendous effect on both what is left up at Norfolk and what is happening right here in Region V, which I don't think anything has changed, that you still have a pressing need for that type of bed, that long-term secure environment. But...and I'll just take the next step, before we turn it back over to Scot, that I think all of you got the e-mail that I sent out after the meeting that we had, I and a few members of the commission, had with the Speaker and also some members of the Health Committee. And then we also...I'm sure you're aware of what was passed by the Legislature in the last hours. And by the way, I'm appreciative that at least there is a commission that will go on, I really am. And I feel that we're close. When that happens, I don't know. Behavioral health reform never, never will end, but there was a specific direction, I think, by LB1083 that has not been...close, but as in horseshoes, that doesn't count. We didn't quite make it. I'm extremely, extremely pleased. When Linda Jensen addressed some comments to Scot, and he replied back, and if you haven't read those, I'm extremely pleased where we are in the state of Nebraska with our behavioral health reform. And when you look at this state compared to nationally, in admissions, in readmissions, I mean, that tells me that something is working right. And I know we get all kinds of comments that LB1083 was a mistake, but when we look at the numbers in Nebraska compared with the rest of the nation, I mean, it's dramatic, and I only look for that to improve. I really do. And so I think we're headed down the right path. I just hope that we'll continue. And were there any other comments

on the consumer portion of this? If not, we do have, I think, some real comments and questions that we need to look at, as to dollars and cents and where we're going, and how that's all going to be broken down. Yes, go ahead.

J.ROCK JOHNSON: Yeah, this has to do with dollars and sense.

JIM JENSEN: So we are going to move from consumer comments to dollars and sense?

J.ROCK JOHNSON: Well, they're sort of inextricably intertwined when consumers have not gotten money to develop the capacity and the skills to have consumer-run services, organizations, respite services. Out of all this money, consumers haven't gotten that. So from my point of view, behavioral health reform will never be finished, until basically, consumers are in control of so many services that we're able to keep each other well, and keep each other in recovery and in the community. There will always be need for other services, but until we've got that foundation, which this state has yet to even acknowledge as having validity or a need for existence, from my point of view--we're not teaching people self advocacy, we're not investing in people, we're not investing in organizational development for consumers. It's like we want to deal with people one by one, or in a group of one-by-one people. But that's right in LB1083, is consumer-run services. It's in there several times, and there hasn't been even one scintilla discussion about it as a realistic possibility.

JIM JENSEN: Okay, thank you. And we will switch, then, to that portion. Anything you want to, Scot, comment on, as we look at the breakdown of dollars? I don't know if all of you, by the way, have received a copy of the Appropriations numbers as was passed in the Legislature. Jeff, was that...

JEFF SANTEMA: LB959?

JIM JENSEN: We don't have that available? We will send that out to all commission members, because there was some specific reference to dollars and cents in the appropriation portion that was a little finer line than typically what is done through Appropriations. Scot, do you want to comment on any of those and kind of where we are?

SCOT ADAMS: I'll be happy to talk about the numbers. Let me finish up a couple of other thoughts.

JIM JENSEN: Sure.

SCOT ADAMS: Dr. Wilson, with regard to the vision thing, I agree with you. We have in the finishing stages an initial rough draft of a strategic plan that we hope to have out in hard copy to everybody here, on the Web site, and inviting feedback for a period of time, to help sort of do exactly what you said. Took some criticism for having not started with a blank slate on that. It's a style preference. I prefer to work with something on paper and move from there, so it was not an intention to run around anybody--just a style preference.

J.ROCK JOHNSON: Something I feel you should add there, because you were asked, in answer to the question, that the consumers who...there were consumers involved who were all employed by government.

SCOT ADAMS: There were in that one, because we knew that we would be having consumer involvement and input at a later stage, throughout the process; so again, consumer involvement throughout the process.

J.ROCK JOHNSON: Well, you know the standard for consumer involvement--it's the zygote. When the sperm hits the egg, that's where we need to be.

MARIO SCALORA: Your dyed-in-the-wool imagery was much easier to manage with this. (Laughter) Thank you for the image. Dr. Adams, if you would please complete.

SCOT ADAMS: One other point in context that I'd just like to offer to everybody is, Senator Jensen, you offered the enthusiasm for some of the benchmarks of change and success, and I think those are. And I was going to again sort of emphasize those today. In addition, I'd also like to point out some things I think we have avoided--knock on wood. Georgia is oftentimes identified as a wonderful state. There have been 115 deaths there in three years in their state hospitals--state hospitals. And so I think we have attended to both sides of the equation here, better than that, as transformation change has occurred. And I don't know all the reasons, but that was sort of a stunning...that's sort of a stunning number. North Carolina has been in behavioral health reform for six years, and the governor there has recently declared it a disaster. And you know, Louisiana is in a state of emergency, according to the governor, with regard to that. So I think that the achievements you mentioned are important, and some of the pitfalls that have been avoided also are important, as well, in walking a line that has been able to sort of do a little bit of both, perhaps not on the scheduled time frame that everybody would wish, is also part of the picture. So let's turn to money.

MARY ANGUS: May I please?

SCOT ADAMS: Sure, Mary.

MARY ANGUS: I have a problem when you say we're better than a state that has 315 deaths in their state institutions--just a comment. I just am floored that that is the description that you give about our being better.

SCOT ADAMS: My point was that as a state that has become identified as a leader, allows that to happen, is sort of stunning, I think.

MARY ANGUS: And that's a good comment about Georgia; it just doesn't seem to me to be relevant to our situation here, other than to say we haven't had 315 deaths. I just...you know, just my comment. You don't need to go any further with that, but their being a leader or being identified as a leader is horrible. However, that doesn't relate to whether or not we've been improving our system here. Just a comment. Thank you.

SCOT ADAMS: Lots of points of view. Okay, money. With regard to money, what I'd like to do is sort of go through this, happy to respond to questions. It won't take long to go through this. There really are about five major points with regard to money and plans for that. Those five break into two categories, one-time money and what I'm calling sustaining money; that is to say, should the Legislature continue in this direction, they would be available on an ongoing basis. Of course, as you all know, that's a biennium process, and decisions can change according to the economies and the politics involved with things. But apart from those, we'd expect them to continue on. In the category of one-time money, there is a sum of $3.5 million that was in the regional centers' budget in the '08 fiscal year. That has been directed to be distributed to the regions before May 30 of '08. That will occur. The $3.5 million was targeted in reserve, if you will, for the potential to establish a fifth unit at Norfolk Regional Center, should there have been 91 sex offenders that would have necessitated the use of all four currently funded units. It occurs to me I haven't looked on this side for awhile (laugh). I apologize for that. That wasn't necessary, won't be necessary in the '08 fiscal year, and so this is intended as one-time money for distribution to the regions by May 30. That goes back into the regional center budget in the '09 fiscal year for the same premise. If that unit is not necessary, could go back to the regions again at the end of the '09 fiscal year. A second component of one-time is what is referred to in the appropriations bill as unexpended reappropriations. These are funds that have been appropriated over the last two bienniums and in which there was the start up of services mid year, a budget plan, if you will, for a full year of operation--start up mid year--or a cessation of a service mid year, where it may have started the beginning of the fiscal year, but for some reason--various reasons--closed; didn't make it, didn't continue. So over the course of

time a sum of money has been reappropriated at the request of Health and Human Services, and with the authority and the appropriation and the approval of the Legislature and approval of the Governor. This is a number that is an estimate at this point, because it includes a deduction for incumbrances at the end of the fiscal year. In other words, on June 30 of the fiscal year, we haven't paid for June's bills yet. And then in July, we pay for that with the new year's monies, and so the money is encumbered from one fiscal year to the next, and therefore, there's a deduction. This has been a standard operating principle, if you will, of government for years and years and years, and so the unexpended reappropriation is estimated to $8,198,325--could go up, could go down. But we anticipate encumbrances of about $4,700,000 going forward. So...

MARIO SCALORA: So that's money being carried over to pay for bills that we obtained toward the end of a current fiscal year, so you don't tap into the next fiscal year's money; is that what I'm hearing correctly?

SCOT ADAMS: Yes, sir.

MARIO SCALORA: Thank you. I just want to make sure I get the accounting straight, since it tends to be a little confusing at times.

SCOT ADAMS: Yeah, and the regions have asked for that, and this is a list of the bills, encumbrances, the estimate, if you will, of things. And they are basically payments to the regions for their services, Tribal Systems, have a contract with Our Homes Interchurch Ministries, the Omaha Tribe...

CAROLE BOYE: But you don't know what those are yet, since they are June bills, and this is only April.

SCOT ADAMS: This is an estimate. That's right. That's why I identified it as an estimate. And so this is the...

CAROLE BOYE: But even that list is illustrated.

SCOT ADAMS: Yeah, it's illustrated, that's correct. And it's the basis upon which we came to that number. It's the end of March's encumbrances, which look sort of like the rest of them. But they do vary.

CAROLE BOYE: Okay. Just to clarify as you're going through this, you're saying that the state actually uses an accrual method of accounting, meaning that...

SCOT ADAMS: I think you and I are both in trouble here. Now be careful. (Laugh)

CAROLE BOYE: Yeah. Well, actually, I understand what that is. It took me awhile, but I understand...

SCOT ADAMS: Yeah, I understand.

CAROLE BOYE: ...that FY '08 funds will pay for June '08 expenditures, not FY '09 funds.

SCOT ADAMS: Yeah, they are encumbered before. Yeah, we're taking...of the encumbered...of the dollars available, which would be roughly $12 million, we're reducing that by about $4 million.

CAROLE BOYE: And I understand that. But I just want to be clear that that's what you're saying, because my understanding is that the standard in the standard in the state government is to work on a cash basis, and that in all previous years, June expenses that were paid in July were paid with new-year appropriations, not prior year appropriations, not carryover, but with new-year appropriations, that that has been the standard of state government. And you're saying something different here.

SCOT ADAMS: Well, actually I think I would...the piece I would probably, I think, clarify is that we're encumbering '08 funds to pay for '08 expenses. And so I think we agree...I think we are saying that...

CAROLE BOYE: You're using '08 money to pay '08 expenses, which...I mean, most accountants would say that's the way it's supposed to happen. But again, my understanding is that historically, the state government has used...the money that the bills are paid is the fiscal year dollars that have been paid. And I'm just trying to clarify that, because as you know, there has been lots of questions here, and I'm just trying to make sure I understand what it is you're saying, because we will have to go back and look, because of all these questions, as to whether that really is the way things have happened year in and year out.

SCOT ADAMS: Yeah. It's within about $100,000 of last year's encumbrance, a little more, and so it's consistent with...the number is consistent.

CAROLE BOYE: And that's all good. Those are just things that have to be checked out. []

SCOT ADAMS: And that's all good. Happy to do that, and you know, you may want to ask the APA to do that, you know? So that's an option.

CAROLE BOYE: Okay.

SCOT ADAMS: But the other thing that's unusual in this case is the Department of Health and Human Services asking for and receiving the reappropration. Typically, it lapses at the end of the biennium, and so it would have gone back into General Fund activities. So that also is a difference.

CAROLE BOYE: All right. And I want you to keep going. I just...some of this detail stuff, I think...

SCOT ADAMS: Okay. So that gives us about $11.6 million, $11.7 million of one-time funds to be distributed by, according to formula, by May 30. And by formula again, briefly, just a quick reminder is, the formula that is referred to in the appropriation law refers to a formula that is three-quarters the population basis of the regions, one-quarter based on the poverty rate, and so the impact of poverty is factored in there, for a little bit, to help address the public behavioral health system to that sector. So by formula those funds will go out. Then that brings us to sustaining funds. The second category, sustaining funds, really has three categories in there. In FY '08 there is $5.4 million that will be distributed by May 30 to regions. That breakdown goes up to $2 million for Region VI for the long-term secure facility that Senator Jensen referred to previously; secondly, $1.5 million will be distributed to the regions, $250,000 each, per each region. The rationale and the basis for that was that each of the regions has their own set of issues that need some support, and this was a means by which each region could sort of feather out the system, the issues, and some of the concerns that are facing them. There is $1.4 million that will be distributed to help balance the formula currently. At present today, Regions I, II, and III receive more funding than the formula would suggest, and so with $1.4 million, we will be providing additional revenues to Regions IV, V, and VI to help bring them up to greater balance in the system and bringing a balance to Regions IV and to VI, as a result of this. Region V will still be underfunded, but five of the six will be in ratio, if you will. Finally, there was $500,000 that will be removed or retained...excuse me. Let me resay that. There's $500,000 that will be distributed to regions by May 30 for purposes of improving the emergency system response. The emergency system is a wide-ranging kind of system, has opportunity for a variety of different inputs. It includes transportation issues, it includes opportunities for consumer involvement in the provision of services, and the variety of responses by regions to that topic is really quite varied. And so we have asked by Monday to have the regions' best efforts to do that, and the division will make decisions regarding that

$500,000, according to best fit the emergency system need across the state. So first category of sustaining money is $5.4 million distributed as I've just described, with the exception of the $500,000, with which there was some disagreement by the regional administrators. The rest of that was agreed to by regional administrators as part of the overall plan, and there were some folks who agreed with the $500,000 plan, as well--others who did not. The second category with regard to sustaining funds is in FY '09, there will be an additional $400,000 made available. The largest share of this, if not all of it, will go to Region V, again, in an effort to balance the system out and to achieve balance.

CAROLE BOYE: Additional $400,000 on top of the $5.4 million, which is recurring, correct?

SCOT ADAMS: Yes, Ma'am.

CAROLE BOYE: Thank you.

SCOT ADAMS: So again, that new $400,000, beginning July 1, will be largely distributed, if not entirely, to Region V; again, to right size and balance according to the formula. The last set of new money rests with an additional 2 percent in rates increases, which totals about $1.7 million in the appropriation this year. That's on top of last year's identified 2 percent, so that on July 1, there will be a 4 percent increase in rates, which is somewhere around $3.2 million, $3.3 million of additional funds to regions and providers of services.

JIM JENSEN: That 4 percent will be in July of '09, right?

SCOT ADAMS: July 1 of 2008. It's for the fiscal year '09, fiscal year.

JIM JENSEN: Okay.

SCOT ADAMS: Okay, I'll be quiet.

CAROLE BOYE: I'm sure it will come as a surprise that I have a few questions. First, I just want to circle back one more time. I want to go on record as not...I don't want to be perceived as getting on the Governor's case because he hasn't set a priority. I am kind of getting on the division and the department's case, though, because I don't know...I've got to believe that the Governor has something in mind when he says finish behavioral health reform. And I'm just asking the department...I think you're poorly serving the Governor, and we're poorly serving the Legislature if we're not working out the common definition. And so I would ask that somehow, in the next 60 days, as we wrap up whatever business this commission has and any final reports, that you come back to us with the Governor's definition of that, or the department's. I just think that would be helpful. Okay, beating a dead horse. Let me go back to accounting for the dollars. Senator, I appreciated your comments in terms of LB1083 is a very specific thing, and I think one of the ways that we finish LB1083...and maybe that's really what I'm asking for, is what is the definition of finishing LB1083? We've got to quit talking about reform, because I totally agree that that's a process. But clearly within that definition has to be accounting for the dollars, in terms of finishing and closing the book on LB1083. I believe that has to be in the definition. And I appreciate you going through all of the these dollars with us, Scot. I clearly think I'm hearing that the dollar...there's no problems with the department's compliance with the provisions in LB959, that the dollars that have been identified will get out to the regions by May 30, even this $500,000 that you're doing little mini RFQs for; is that correct?

SCOT ADAMS: That's correct. Checks will be written for those dollars.

CAROLE BOYE: Okay. We started out with $11. million...my testimony to the Appropriations Committee about the reappropriated dollars, started out with $11.7 million. That was generally agreed upon, apparently, in conversations between the

department and the Legislative Fiscal Office and the Appropriations Committee that it was $11.6 million. And now it's down to $8,198,000, $8.2 million, in shorthand, okay, that's going to be appropriated for the one-time funds, as opposed to the $11.6 million. That's roughly $3.5 million less than what was being talked about when the Appropriations Committee first started talking about this. Can you tell me what happened to that $3.5 million? And you're talking about encumbrances, but specifically, what is that $3.5 million going to be spent on?

SCOT ADAMS: Well, it's $4.6 million, because there was additional money put into it, first of all, Carole.

CAROLE BOYE: Okay.

SCOT ADAMS: So it went from the number you were using to more. There is more money to be moved to, and so that...all the money is there. So it moved up, and the number is $4.6 million.

CAROLE BOYE: Okay.

SCOT ADAMS: And that was the document that I was referring to earlier, in terms of encumbrances.

CAROLE BOYE: So it's going for June bills.

SCOT ADAMS: Going for June bills.

CAROLE BOYE: Okay. In a conversation that you had with regional program administrators, you stated that dollars were needed to pay for additional ASO fees, ASO costs of about a half a million dollars, it's my understanding. I mean, this is third party, so confirm or not, and that dollars were needed to pay for additional Medicaid match

funds for substance abuse services. How does that line up versus encumbrances?

SCOT ADAMS: It's my understanding that the ASO monies are coming out of the administration side of behavioral health, and the Division of Behavioral Health has four funds: administration, aid, regional centers, and then the sex offender stuff for Norfolk. So there are four pots of money, if you will. The administration side totals $2 million and change. So it's not a big...it covers the, you know, the staff at behavioral health and the operating costs and things like that. Aid is what goes to the regions, tribes and others that go to community based. It's all the community stuff that gets shoved out the door. Regional center is clear, and then sex offender stuff should be pretty clear. So the ASO, I believe, and I will confirm this, but I believe that the ASO contract comes out of the administration side and so would not affect aid.

CAROLE BOYE: Okay. So did I misunderstand that when the dollar amount of $8,198,000 was first disseminated to the regions, that this was going to be the dollar amount that was going to be distributed under the provisions of LB959? When that was first explained to them, the explanation was not that the balance of that, going back up to the $11.6 million that the Appropriations Committee talked about, was not for overages for the ASO or for substance abuse match money under Medicaid? Was that not said?

SCOT ADAMS: You know, Carole, I think the best way is to just give you a clear answer. Give me a chance to make sure I know where the ASO contract is being paid out of, because that's the substance of the question, I think.

CAROLE BOYE: Okay. I think it is, because under LB1083, and even under the provisions of LB959, all unexpended dollars and all savings from regional centers is to go to...for the development and provision of community-based services. That's the legislative language. And when it was understood that some of it was going to go for administrative costs, that obviously, you know, is time for pause and, you know, are we

adhering to the legislative language?

SCOT ADAMS: Um-hum.

CAROLE BOYE: So I think it becomes very important as to exactly what are these funds being expended for. One other question that I do have is that...so there's $11.6 million and then we rolled up another $1.1 million, and I'm not totally tracking that, okay? But what we do know is that there were savings this year, as well, that not all dollars from the regional center budgets, not all dollars from regions' budgets, were expended. We had $11.7 million in carryover on July 1 of 2007, the beginning of this fiscal year. That number actually has gone up. Have we accounted for the unexpended funds from this year's budget that actually increases carryover funds?

SCOT ADAMS: Yeah. That's the extra million I told you about earlier, where you started with $11.7 million, and I said we actually found the extra million.

CAROLE BOYE: So there's an estimate of $1.1 million funds and region money?

SCOT ADAMS: It's unexpended funds (inaudible) anticipated be at 6-30-08.

CAROLE BOYE: Okay. Okay.

SCOT ADAMS: Now you had a second part to your question. That was with regard to the match money. The match money is coming out, as it has all along, out of the aid budget.

CAROLE BOYE: Have services been added to what we're matching?

SCOT ADAMS: We are increasing the availability of match of not so much services, but the Division of Behavioral Health is matching those funds. July 1, 2009, all of the match

will be coming out of that.

CAROLE BOYE: But the range of services that are being matched as expanded; is that correct?

SCOT ADAMS: Well, it will expand with the addition of subacute services, July...actually, effective now, because the rule change has gone through.

CAROLE BOYE: Okay. Would you agree or disagree with the statement that when Program 38, the state aid fund matches Medicaid funds, and when things are added onto the match of Medicaid funds, that that decreases the amount of dollars available to non-Medicaid eligible folks, and decreases the dollars that Medicaid has to expend from their General Fund appropriation?

SCOT ADAMS: I would say that it's consistent with the intention of LB1083 to draw down federal funds, and by bringing federal participation, we have increased the ability of the state to provide payment for services across the state.

CAROLE BOYE: I agree that that was the intent of LB1083. I think the concern here...

SUSAN BOUST: Carole,...

CAROLE BOYE: ...has to be that, in the name of containing costs of Medicaid, we are shifting more and more costs to the non-Medicaid piece by requiring the non-Medicaid piece to come up with all the match. And what we're going to see, and what we've already seen is a decline in the number of non-Medicaid eligible people that can be served. There's a cost-shifting going on here that is of growing concern, especially when we're expanding where the match is...that we're expanding the services that Program 38 has to match. You know, we're not going to solve that one here, but I think we have to track. And again, what we have been told is that we are not...that we're expanding it

beyond subacute services, that the array of substance abuse services in which Program 38 is going to be providing the match, as opposed to General Fund dollars appropriate to Medicaid, is being expanded. We need to check that out.

SUSAN BOUST: And my quick question is, Scot, just to check with you if you misspoke. The point of LB1083 was not to expand the services that could be paid for, it was to expand the services. And I think all of us had this concern about...at the start of LB1083, that this would just be...Medicaid match is a very important thing, but the importance of LB1083 is to actually expand the community-based services, not just make sure more of the same services are paid for by Medicaid. So we can go back and listen to what your exact words were, but that's what I was challenging and reacting to.

SCOT ADAMS: Well, and I think that what...you know, before LB1083, before July 1, all the Medicaid rehab options are new services. Substance abuse waiver services are new. The subacute services are all new. So those are ten services that are new services, representing an expansion of services, I think. Would you disagree or...

SUSAN BOUST: No. I agree that those are an expansion of services, but the issue is that the state cannot function on a behavioral health system that only provides services for people who have Medicaid eligibility. And so the money has to be available to provide that whole range of services that are needed; otherwise, you haven't gained anything.

SCOT ADAMS: So...I understand your question. I appreciate that. So one of the things that we might be able to provide you is what we spent on community-based care in the Division of Behavioral Health money, June 30, '04, and then today.

SUSAN BOUST: See, providing me with numbers is like hitting me in the middle of the forehead with a hammer. (Laughter) So provide them to somebody else, but do it, yeah. That would be good.

SCOT ADAMS: But wouldn't that be a way of getting to your point?

CAROLE BOYE: Scot, could you somehow...or at least look at and try to provide us some definition as...address our concern. There is a growing concern that there is a cost shifting now going on, to Medicaid with Program 38 dollars, to the detriment of non-Medicaid eligible consumers. That's the concern. How you address that, hopefully it isn't with a whole bunch of numbers. There has to be some numbers, probably, attached to it. But just look at that and next month try to address that concern for us.

JIM JENSEN: Well, and LB1083 also stated that it was to leverage, if you would, or to reach out and to get Medicaid dollars, private dollars, any dollars that we can, to then provide more services for more people, irregardless.

SCOT ADAMS: Well, and that...you know, Senator, that's a really key word, leverage, because it means taking existing dollars and attracting more. What I think, if I understand Carole right, and clarify with me if I'm missing the point, to take Program 38 funds and to generate additional...the federal match, is what I understand you to have just said--that's leverage. That takes the existing money that had been there and generates additional revenues. To do...to say, then,...the other option, which I think is maybe where you're going--and again, tell me where I'm wrong--to simply say, now that these services are Medicaid eligible, there is an entirely new source composed of both General Fund...new General Fund appropriation and federal fund, I don't think that that was the intention of the legislation.

CAROLE BOYE: I agree if we go clear down the end of the continuum that I'm advocating. I agree with your last statement, that that wasn't the intent. But there was...it's like when the Medicaid rehab option was first brought up. There was agreement that X number of dollars was going to be used for X, Y, and Z services to provide the match for Medicaid, so that there wouldn't be any state appropriations.

There has been long-standing policy at the department, going back to the Policy Cabinet, that said this was kind of the ceiling that was going to be on match. That is now being expanded. And as that has expanded, that seems to be indicating a significant policy change that I don't think the Legislature is aware of, that while we try to control Medicaid costs, what we're doing is we're shifting costs as this point. We're not really controlling costs overall, we're shifting costs. And that's the underlying concern. I think that's the public policy decision that faces the Legislature as we go forward here, that faces the Governor, and the Executive branch, as well, as to every time we take from Paul to feed Peter, and Peter being Medicaid over here, we're actually decreasing services over here, at this point. Is that really where we want to go?

JIM JENSEN: Let us go to Dr. Wilson, and then we'll do Mario.

DANIEL WILSON: Well, Senator, could I...just the time check. What's our schedule today? I'm curious about that, but...

JIM JENSEN: Let me...yeah. First of all, I would hope that certainly before 1 o'clock we can finish up where we are. Also, I do have in mind that we would meet next month and the month after that; in other words, May and June. In May, frankly, I would like to ask the Fiscal Office to come also, that can provide any numbers that we have in question, because what is certainly passed by the Legislature are the numbers that we're going to work from. Yes, go ahead.

DANIEL WILSON: Well, I appreciate that. I think that will be helpful. This would...and thank you, Scot. I don't have any precise question for you, but I want to return to this idea of vision and what is the paradigm for the future. You know, my sense is that the Governor is more unfamiliar with this territory and welcomes input. I assume that would be true for some of the legislators--most of the legislators, as well. So I wouldn't want these discussions to be misinterpreted as anything other than encouraging that kind of dialogue. The successor commission, such as it is a successor commission and as I

understand it to be constituted, I don't think will achieve that, if you could...it won't be sufficiently broad and engage a wider range of stakeholders for these often messy but important discussions that help build confidence and exchange information. We're in danger of losing some of that, and I think it in a way reflects a rather...it's the old blind men and the elephant. It's maybe the tail or the leg of this whole beast, but it doesn't get at the whole set of issues. And I don't think it really can represent most of the constituencies involved, which are pretty big and broad. I don't envy the Governor having to appoint a relatively circumscribed number of people to a commission that ultimately can't represent as broadly as is going to need to be represented. I do worry that it won't be as effective as it could be or even as credible as it could be. But however that turns out, HHS as a division could serve the Governor and people well by thinking not only about a strategic plan--it's good to hear about that--and as broadly engaged as those discussions can be makes sense, and I know you're that sort of person. But this is going to be pretty important to develop some kind of consensus about what happens next, and a mechanism to continue to exchange information and engage a very broad range of people across the state, I think, could only help the division, help the Governor, help the Legislature, and help the people. And I would like to think we would have a report, a final report of some sort, Senator, and that would certainly be a suggestion that I would want in such a report.

JIM JENSEN: And I would like that to happen, also, probably at the June meeting.

DANIEL WILSON: Well, we may have to draft it before. (Laughter)

JIM JENSEN: Yeah.

DANIEL WILSON: Otherwise it will never be approved.

JIM JENSEN: All right. Thank you. Susan?

SUSAN BOUST: And I also want to come out in support of having a broad final document from this group that really takes us back to our understanding of why we started, why the legislation was passed, what we've done, where we think it ought to go. I mean, I think this is a document that I would like to propose that before we leave this meeting today, we have some group of people working on at least an outline draft.

DANIEL WILSON: I think you'd be a wonderful section editor, Susan, of the whole thing.

SUSAN BOUST: Yeah.

_____________: (Inaudible). (Laughter)

JIM JENSEN: Are there any other comments? Oh, Mario, you had something.

MARIO SCALORA: Yeah. Just...and I saw Carole came back in. She raised some very important points about cost shifting, and I think it's worthwhile if we have those concerns. It might be reasonable to define what kind of data might answer that. But I'm not sure...I'm trying to be constructive here, as I know you are, Carole. What that means...because in one respect there's always a tension. We want to leverage monies we wouldn't normally get, which as I understand, something that was proposed. On the other hand, if there's a concern a group of people aren't being treated who are supposed to be, let's address that. And I am not sure the best way that the numbers can help us with that. But I'm trying to think out loud. One way may be--and I don't know how well the numbers deal with us. For people coming into the regional center, who pays, for example? And the reality is we don't really...you know, under what payment rubric people come in under, and I don't know, Dr. Adams, if there is a way of tracking that, or tracking within community, you know, what payment source covers a certain fund, and if we're seeing a shift of certain folks under certain payment eligibility. That may be going on, and I don't know. If you have any insights as to how we have (inaudible) tracked that, but it strikes me that that may be at the level we need to be

looking at this.

SCOT ADAMS: I'm not entirely sure of what you're seeking with your question, but let me respond with a couple of things and see if that helps move the conversation forward. Regional centers basically are largely General Fund kinds of things. The Medicaid system is a payment to providers of services. The state...and that is, as long as you're there and in the service, the appropriate service, within the state plan, the provider will be paid for that service. We estimate a match amount, hope that it's enough each year, and...but otherwise it's difficult to control. The Division of Behavioral Health funds that go to regions is, in essence, a capitated system, and so there has...and has always been the system. So...and in some years, you know, some providers simply continued to provide service but don't get paid for it. That used to be a common thing in detox and Catholic Charities. We'd run through our contract in December of a July-June fiscal year. We didn't stop providing detox services. Other providers stopped taking people, and that's the system, you know, right, wrong, or indifferent. That's no different today, as a system. Now whether or not the dollar amounts have gone up, that's going to be very difficult to see if there's more of that than there was in 6/30/04 than there is today. Carole, you got a clue on how to go about that?

CAROLE BOYE: I'd like to take a shot at maybe a few of us, in the next, you know, week or two really trying to figure out how we can get at some...

SCOT ADAMS: Happy to work with you on that one.

CAROLE BOYE: ...because it's one of those things that you think you absolutely know in your gut this is what is happening, but to identify the factors that actually measure how is that happening, I think is going to take a conversation much longer than we're willing to put in today.

JIM JENSEN: Yeah.

MARIO SCALORA: And that's reasonable.

SCOT ADAMS: And I'm happy to participate in that, if you'd like.

CAROLE BOYE: Let's just talk and see if we can figure out how to narrow in on that.

MARIO SCALORA: And I'd encourage...I mean, that speaks to the heart of LB1083. If there is a cost shifting that takes place and a group of people who are being disengaged from services, we can't reasonably say to our stakeholders out there, the citizens of the state, that X number of hospital beds can be reasonably closed because services are available, for example, or that the monies that have been used are being used reasonably to address the needs of populations who don't have beds tied them. And I realize that's an extremely primitive argument, but that's the heart of LB1083. We argued that we could close institutions, services would be not there for people. If we're arguing and we're making...and it's a damning claim in a system that a group of people are being excluded, and we need to be able to look at what the numbers. And if the numbers are saying a group of people aren't getting what they need, then we need to speak very loudly about that and raise a little hell and find some analogies that we can play with. Please.

ANDREA BELGAU: I just want to bring to the commission's attention one group that probably would be overlooked. They are disengaged from services. They may have been Medicare or Medicaid--I get those confused, Medicare and Medicaid--eligible, but once they're incarcerated, they're no longer eligible for those services, so it's a cost shifting that goes to the counties, or if it's a state institution, for their incarceration. But they're not in jail forever, so when they leave they certainly are disengaged for services. We certainly have an interest in curbing recidivism, and part of the way to do that, too, is to make sure that we have those (inaudible) services. So those may be an uncounted group in our number.

JIM JENSEN: Right. Now also, as part of these funds that are being distributed, there is some flexibility to the regions as to how they use those dollars; isn't that correct.

SCOT ADAMS: Yes, there is. There has been broad direction to involve consumers and develop consumer involved, consumer-directed services. There has been direction about improving the emergency system, and there has been direction with regard to implementation, further implementation of LB1083 and sort of feathering out the particular issues there. And there is attention to that "tweener" zone, or the 18, 19 year olds, and try to help pay attention to that particular population, as well, in the overall budget direction this year given to regions. We have been criticized for being overly flexible and not...

JIM JENSEN: More specific.

SCOT ADAMS: ...more specific.

JIM JENSEN: Well, what I would really like to do is...certainly the questions of Carole and Susan and others, if in the next two weeks you could send those questions to the Health and Human Services Committee staff. We will try to then give to the Fiscal Office and to HHS what we really want, and I think that would help them, it will help us, and then at our next meeting we will have hopefully a clearer picture of that. And so let's do that. We will stop the dollar discussion, to a point, until then. And like I said, it's my intention that we will meet again in May and again in June. With that, let's go on to the next agenda item. Any other business before we go into public comment? Yes, go ahead.

J.ROCK JOHNSON: In the Governor's response to the Independent Living Council's letter there is a reference that in 2007, a grievance and complaint had been developed in the regions. Do you know anything about that?

SCOT ADAMS: You know, the best answer is let me...do you have a copy of the letter you can send me?

J.ROCK JOHNSON: Yeah, that's fine, and I can e-mail you about it. That would be fine.

SCOT ADAMS: Yeah, great.

MARY ANGUS: Scot, you got it. I sent you one this morning, so you've got the letter.

SCOT ADAMS: Okay.

MARY ANGUS: It is an edited letter. I took out the other things that were irrelevant to behavioral health, and I've indicated that on the title.

SCOT ADAMS: Okay. So there's a letter and the question is about grievance.

J.ROCK JOHNSON: About the grievance procedure, and I'll send you an e-mail about it. And also, if I understand, even though there's still work to be done around the finances, we cannot identify one dime that's going to consumer-run services or development of consumer-run services.

JIM JENSEN: Thank you. Any other questions of Scot? And I certainly do appreciate...I mean, this is a day off, and when I was in the Legislature, when I got a day off, I didn't want to be back here. But anyway, I do appreciate that and the others that have come, Laurie and Kathleen--shows true dedication. Thank you. With that, we're ready for any public comment that anyone might have. Yes, come forward, Mr. Green. Welcome, Alan.

ALAN GREEN: (Exhibit 1) Thank you. Committee members, this is a whole different

environment. I feel like I'm...this is much more official. Hopefully, maybe, some of that officialdom will stick. I submitted a copy of my comments to the committee. It was interesting. First, I was going to...when I was thinking about what to comment on at this meeting, I was going to kind of mention how unfortunate it was that the Legislature decided to significantly alter this commission, and how ironic it was that the senator that suggested that this commission be altered because of the perception of a potential conflict of separation of power couple of weeks later called for the creation of another committee, legislative committee, to look into the operations at the Beatrice facility. And there was a...and I guess my confusion was, is why is it okay to look into HHS in regards to Beatrice, but not okay to look into HHS in regards to behavioral health reform. So enough of that. I think...I don't know if it's just as easy if I read my comment into the record, or what.

JIM JENSEN: Either way. Go ahead.

ALAN GREEN: In reviewing the materials prior to this meeting I reached a point where I decided that enough was enough. It wasn't because of what was being said was necessarily wrong or right; it was because it all has been said over and over and over again, with no end to the repetition in sight. I agree wholeheartedly with the Governor when he states that he wants to see behavioral health reform completed. I believe that everybody in this room feels the same. But as they say, the devil is in the details. For what it's worth, I believe that home remodeling goes beyond painting the exterior and that if you want the job to go smoothly and have everyone happy with their new home, you better include them in the planning process. Little Johnny may not want his room painted pink. One thing that we all believe in is that we need a behavioral health system that is effective, efficient, and accountable. But what we have is a system that is none of these. When HHS was redesigned and Scot Adams took over as the head of the Division of Behavioral Health, I like others dared to hope that the old way of doing business was over, and new leadership would help guide true reform from the top down. Early in his term I met with Scot and offered our assistance in finding solutions that

everyone could live with. Unfortunately, it wasn't to be. All planning came from the division with little or no participation from outside stakeholders. Final draft decisions were presented to consumers and service providers as done deals. Oh, they listened to our concerns and suggestions, but that's as far as it went. As members of the oversight commission, you've experienced the same time and time again, and the division continues to operate in a vacuum, only accountable to itself. A good friend shared a story at a meeting earlier this week that told about the fight against polio and how wonderful it was with the invention of the iron lung, because it saved lives. But later when Jonas Salk invented his vaccine, the iron lung was no longer needed. This is where behavioral health reform is in Nebraska. What we don't need now is a new iron lung when there are better and more humane methods of care available. The iron lung maker, the railroad coal stoker, and the ice delivery man all learned that they needed to creative and change with the times if they were to survive. Today new techniques and programming in mental health care have been successful worldwide. Our present reactionary crisis-level design of service delivery needs to be reassessed for their effectiveness, and new recovery-oriented, evidence-based, and emergency best practices implemented. Change for change sake is wrong, but if we don't learn and grow and find new solutions to problems we face, we will stagnate and some will perish. So how do we get beyond this impasse? None of us individually hold all the answers. State law dictates that stakeholders must be involved at every level. Common sense would indicate that we start acting like adults and look together in finding solutions that make the best use of resources we have available, services that are most effective and cause no harm, and most importantly, help people help themselves. One of the presidential candidates coined a phrase that I'm very proud to steal, because it accurately summarizes my feelings in all this: The audacity of hope, hope for a future when consumers, providers, and government officials become partners in formulating, implementing, delivering, and evaluating systems of care that are designed to help people recover their lives to the greatest extent possible. Thank you.

JIM JENSEN: Thank you, Alan. Any comments? Thank you very much.

____________: Amen.

JIM JENSEN: John?

JOHN PINKERTON: Hi, everybody. I've got...as treasurer of Nebraska NAMI I've got some very good news, and an invitation for everybody here. the Nebraska NAMI Walk on June 21 at Elmwood Park has been a great success, thanks to Aileen Brady and Carole Boye and Seay (phonetic). They've really worked tirelessly on it, and we're up to $75,000 we raised and may go to $100,000; may go beyond that. But it's been very good. If any of you can be there--it's at 8 a.m., on Saturday, June 21, and we invite you all to be there, and just wanted to have some good news. (Laugh) Thank you. (Laughter)

JIM JENSEN: John, I can only echo that. I think it's outstanding that...for people in NAMI to raise that kind of support, I think it's just truly remarkable.

JOHN PINKERTON: Aileen Brady was unbelievable, and is. She really worked tirelessly. And the Kim Foundation, of course, is big on it. So thank you.

JIM JENSEN: Right. Sure have. C.J.

C.J. JOHNSON: I'll be quick. (Laughter) I apologize if I break into a coughing spell. Dan had to put up with that a little bit yesterday, so. Again, my name is C.J. Johnson. I'm the regional administrator for Region V services. I want to comment on money. I do want to talk about the $3.5 million that seems suddenly missing from the $11.7 million that we've been talking about as one-time funding. The first thing, and I hope we didn't miss Carole's point, the common practice with the state has always been, at the end of the fiscal year, bills come in and they pay for those encumbrances out of that next year's budget. So this fiscal, '07-'08, they had encumbrances from '06-'07 that carried them

into July, and they paid for those encumbrances from that first fiscal year out of this year's budget. Now we're moving along, and the Appropriations bill said you got to pay out that one-time funding by May 30. It's convenient of the state at this point to say, hey, you know, we're going to estimate our encumbrances going into this next fiscal year, and we're going to dip into the one-time funding for this year to pay for them, when had that appropriations bill not passed, what they would have done was allowed those encumbrances to occur and then in July, they would have pulled that funding from next year's budget. That's how they've always practiced it, but they've changed that practice suddenly. So essentially what they're doing is, they're pulling $4.7 million out of the one-time funding, okay, to pay for that. And really what the state is going to do is make up that difference next year, because they won't have that normal encumbrance practice. Does that make sense? I want everybody to be very clear about that. That should be challenged. I also think it's important...

CAROLE BOYE: C.J., do you believe that that is to thwart the intent of the Legislature, or is this a change that...a one-time change that in the future, this is going to be how we handle our bills?

C.J. JOHNSON: No, it will not be, because they are doing it based on estimates. Even the documents we got said "estimated encumbrances." So...

CAROLE BOYE: This is not a change in state policy. From your viewpoint it is specific reaction to a specific piece of legislation.

C.J. JOHNSON: Not from my understanding. It's based on estimated...yep. Yep. Right. And I want to point out...I'm going to point out that with another program that we operate, the state did change their policy on when they would pay for that program. They previously had paid for that program prior to the month beginning, and then they switched to at the end of the month. Now what I want you to know, I had pointed out, well, when you do that, we're all obviously going to get paid twice in one month,

because if you don't...with that switch, we're going to go an entire fiscal year and literally miss a month of revenue. And I have to be honest--they never got that, and we ended up in a

CAROLE BOYE: Getting 11 months (inaudible).

C.J. JOHNSON: $9 million program, having to make of $850,000 in a year's time.

CAROLE BOYE: When you change accounting practices, you have to watch that, yeah.

C.J. JOHNSON: Right, right. So I do want to...I really think this commission should hold that as the thing, because they are pulling it out based on a different practice. We also asked for a list of encumbrances and we got a two-page list, and I have to be honest. I think this should also be in question. In looking at it, number one, there are a number of costs that they have listed that are based on ongoing contracts. They have nothing to do with one-time...any expenditures. There are contracts with NABHO for their peer support. That comes out of other funding sources. There's contracts with NAMI. It's just a whole bunch of different expenditures they're saying they expend that come from city, they're coming out of administration, or other contracts that they're getting funding for, so I don't know why they're included in pulling out that $11.7 million. There's also dollars that have been said that have gone to the various regions, which I know that that in fact has happened. I know Region V has received some funding this year that probably came out of one-time funding, but when you look at these numbers and everything, a lot of them do not make sense, even for us. We do not understand where did that cost come from? We've never submitted a bill for that amount, etcetera, etcetera. So I would strongly encourage this commission. Similar as you did when the $3.7 million was in question, I think there should be...you should very closely look into this. I know it's only $3.5 million, but what that $3.5 million means, number one, it's a lot of what J.Rock was talking about. We submitted plans to promote a lot of consumer training, involvement, etcetera, and the problem is, you have certain services that you have to continue to

fund, okay? And we had in our plan to do these things over here, with promoting peer programs, etcetera. What happens, if we don't receive that entire funding...because we knew what the funding was going to be, we always have. So we set our plans for that. If we don't even...this would mean $850,000 to Region V. That's a lot of training, consumer, you know. It's a lot of money. And if we don't address that and get every dime that was meant to me for behavioral health reform, then we're going to compromise the very things that we've been talking about all day today in your concerns, so.

JIM JENSEN: C.J., also wasn't there a half million dollars to all the regions that then the regions sat down and decided how they would divide that up?

C.J. JOHNSON: There was $500,000 in emergency services. We did have a meeting with Scot Adams a little over a month ago, and at that meeting we did agree...

JIM JENSEN: Between the six regions.

C.J. JOHNSON: All the regions agreed that that $500,000 would be...should be allocated based on the allocation formula.

JIM JENSEN: Okay.

C.J. JOHNSON: And when we presented that--we were on a conference call two weeks ago, when the dollars were being presented to us--we were told that that $500,000 would be distributed based on the regions submitting plans for improving their emergency services. We did challenge that at the time. We said we had already agreed to do it this way, and we, you know,...despite that, we still have to submit plans. It's kind of a competition thing, although...

JIM JENSEN: And that has to be done by next week?

C.J. JOHNSON: The 28th...no, 30th. We changed the date till the 30th.

CAROLE BOYE: Senator, I guess I have a question for you. The allocation methods and all of that--and C.J., I think you can confirm this--that agreements and allocations was agreed upon with the Legislature, too, as part of LB959, in terms of the allocation methods, the amount of dollars, and all of that kind of stuff. My question to you is, what recourse does the regions have, what recourses do consumers have, what recourse does a legislative oversight commission have if, in fact, we identify noncompliance with legislation? What recourse does a citizen have or does a body have, at least to look into that?

C.J. JOHNSON: Carole, can I quickly...I do want to clarify, though, that the appropriations bill, the $5.4 million with that $500,000 coming out, did not specifically say be allocated, because there had already been previous agreement.

CAROLE BOYE: I understand that, but...

C.J. JOHNSON: So I just want to clarify that.

CAROLE BOYE: I'm not talking about the $500,000. I'm talking about LB959 clearly states that certain money is supposed to go to regions by a certain amount of time. There is record of legislative intent, and there is a vote by the Legislature and a signature of a Governor. If there is disagreement as to whether or not the legislative mandate is being adhered to, what is the next steps? I don't know.

JIM JENSEN: Well, certainly. The legislation and the appropriations bill becomes the guideline, and certainly, a senator who sits on Appropriations and then it's not being followed as to what that legislation is, I would think would be the one who should first of all make a statement that, why isn't this being done? And so that would be the, I think,

the first choice. You can always go back into intent, but still, whatever the legislation, whatever that language is, that is the guide. Okay. Anything else?

C.J. JOHNSON: No. If anybody has any questions, I would just again ask that you seriously look into this process, because $3.5 million can add a lot.

JIM JENSEN: C.J., would you mind putting that in writing, and that's just one of those things that we'll try to get to Health and Human Services Committee,...

C.J. JOHNSON: Yep. Absolutely, absolutely.

JIM JENSEN: ...to Jeff and then we will go from there. Yes.

DANIEL WILSON: C.J.,...

C.J. JOHNSON: Yes.

DANIEL WILSON: ...do you have a vision for the future? (Laughter)

JIM JENSEN: Now wait, a psychiatrist is asking you this. (Laughter)

DANIEL WILSON: No, what do you see?

C.J. JOHNSON: Yes, I...well, actually I would have one. Yes.

DANIEL WILSON: What do you see? I mean, just off the cuff.

C.J. JOHNSON: What do I see? Well, I'll just talk from a Region V perspective, although it probably could translate across the state. I think that since 2001 when we first received Tobacco Settlement dollars, I think there's been a considerable effort to

enhance the emergency system and subsequently to accomplish a lot of what LB1083 indicated its purpose was; really was to shift money for the purpose of promoting community-based services. So I really think since 2001 significant effort has been made and actually a lot of it has been accomplished. I think the next step, though, is to really look at what I call primary services. We've been focusing on the secondary. People get involved in the legal system one way or another, we had to address that. I think we really need to focus on both the primary and the tertiary kind of services, those that are prevention, and a lot of the prevention services clearly are ones that are peer provided, consumer promoted. I think we have to invest our dollars in there. And subsequently, we need to invest our dollars on the tertiary ones, which are essentially relapse prevention, if you will, which have a lot of similar qualities as the primary type of services, you know, and interventions. And for me, the thing that keeps preventing us is, just as the Legislature recognized they needed to throw $6 million to help with the transition from moving people from the regions out into the communities, we have been anticipating a certain portion of the money that we were to get, to act as a transition point from going to these kind of high-end services to these consumer and peer type provided services, and that's why I keep punching the money, because $850,000 is a lot of money to get there, and to get us there. So that's where I see us going, and I think we're ready to do it. I would like to say, J.Rock, I know you talked about no money has been put in. We have, as we've been receiving money this year, we've set aside, you know, $100,000 here, $25,000 there, to pull out. We've been trying to pull out 10 percent of any dollars that we see, specifically towards consumer involvement activities and everything. So I just wanted to assure you we've been trying to focus on that. Now it's just a matter of getting it organized and how to utilize it.

J.ROCK JOHNSON: Yeah, I appreciate that. My comment went to the state and the state's priorities and how the regional budget plans are written, so there is not that interest, that force, that willingness, that trying to push these ideas into the regions. That was what I meant by that.

C.J. JOHNSON: Thank you very much.

JIM JENSEN: Thank you. Any other public comment? Yes.

ERIC EVANS: Good afternoon. I'm Eric Evans, Nebraska Advocacy Services. I just wanted to address the vision thing momentarily, and I appreciate Dr. Wilson's comments and stressing the importance of having a vision. I do want to point out, however, that a couple of years ago, under Ron Sorensen's leadership, Ron did bring together a large group of stakeholders for a strategic planning or a plan-the-plan session that lasted about four months. It ended up with a document that set out a set of principles for the planning process, a set of values, that you know, started moving towards the visions. And I can't speak to why that died; perhaps Ron can. But you know, there was a good faith effort to have a participatory process that allowed for multiple perspectives and conversations to occur and to come up with something that at least could provide a framework for a vision. And I do want to contrast this with the current situation, which is Scot and, you know, three or four other people got together and put something together and are sending it out. So I am troubled that we did have a process that was inclusive, that produced a framework that went nowhere, and here we are, two years later, still talking about it. That said, for the last about 15 years, every opportunity I've had to go before the Health and Human Services Committee I've pointed to the statutory requirement in the previous mental health legislation and the current behavioral health reform legislation, LB1083, has it as well, that puts a clear responsibility on the part of the division to create a statewide comprehensive plan, and also creates the same requirements for a planning at the regional level. You know, I think there's stuff going on at the regional level. I'm not sure what's going on at the state level. I haven't seen a plan; I haven't seen a plan for 15 years. So maybe the reason why we're having the problems we're having now is a consequence of this continuous inability of the department and the division to step up to their statutory responsibilities. Thank you.

JIM JENSEN: Thank you. Anyone else? Yes.

____________: Maybe (inaudible) answer this. (Laughter)

____________: (Inaudible.)

RON SORENSEN: What?

CAROLE BOYE: You don't want your name taken in vain?

RON SORENSEN: Well no, I don't think it was taken in vain.

ERIC EVANS: It was actually a comment (inaudible).

RON SORENSEN: Yeah. No, that's the way I took it. But I thought I'd explain it, because I wasn't going to say this, but as I thought about what you mentioned earlier about the job being completed, so to speak, let me...maybe...anybody remember that we had a Governor's implementation plan on July 1, 2004? Well, if you did those things, you might be getting close to completion, and I'll run through some of them. Remember the plan said close Hastings Regional Center by such-and-such a date. It said close the Norfolk Regional Center for behavioral health services. It said a comprehensive state plan, not a division plan, but a comprehensive state plan for services. It talked about developing community services, including consumer delivered services. It talked about implementing recovery principles. It talked about developing an information system. It talked about integrating behavioral health, particularly the state's Division of Behavioral Health becoming the authority for behavioral health--my side comment here, not Medicaid--and it talked about defining the roles of the regional centers and beginning the implementation of changing what they do to what they should be doing in the future. So I think when you talk about completing a plan, the elements are there. They're just sort of history now and not top of the mind. So...but specifically, the comments about

the process for developing a comprehensive state plan, it was our intention to put that into place. We had people assigned to do that responsibility. When the reorganization of the department was proposed I was told, we're not going to do that now. And we requested on a couple of occasions to do that and we were told that there will be another process. That's all I can tell you about it, and that's where we are today. So I think there are some basics in terms of what a system could look like. This isn't a vision, but it is a few of the things that need to get done to do that.

JIM JENSEN: That was with all those deliverables and everything else, wasn't it? My, oh my!

RON SORENSEN: Yes, you probably...yeah, somewhere there's a pile of deliverables and a book and...

CAROLE BOYE: And we spent our first six months as a commission...

JIM JENSEN: Looking at those.

CAROLE BOYE: ...looking at that and what progress we were making, and it did disappear.

RON SORENSEN: Yeah. And our assumption at the time always was the money would be the key, and we're talking about it four years later.

JIM JENSEN: It still seems to be the key.

DANIEL WILSON: Senator, could we get a copy of those deliverables (laughter), just to review at one of our next meetings?

____________: I don't have a copy.

CAROLE BOYE: And an update?

____________: It's somewhere in the archives.

DANIEL WILSON: I'm actually serious. I mean, I have it somewhere myself.

____________: Yeah. Yes, yes.

CAROLE BOYE: I've got it on the bookshelf. I would be curious as to whether we could get an update on that, and how many state employees would lose, you know...be up and awake for 72 hours trying to figure out how to respond to all of that. But yeah, we lost some direction.

JIM JENSEN: Yeah. Well, I think we've...I've certainly extended the time, and I thank everyone for their participation.

MARY ANGUS: I'd like to make just one more comment, Senator, and this is one of those things that if I were walking out of the room and driving home I would think, oh, my goodness, I should have said it, so. There have been repeated comments about what I would define as or describe as the redundancy of the voices of many of us, in particular, advocates, I'm sure it has been referred to, referring to myself. I would ask members in this room, the commission, to figure out and sit down, in terms of what committees, what task forces, what ways in which the division has communicated with each of us, and if that same statement were to be placed against others that would have been violently reacted to. I am insulted by the idea that my voice is redundant, and if we were to have the technical assistance and the leadership training that we have been asking for, it would not have to be me speaking each time. I have been told at times, if you would just shut up somebody else could speak, and there have been many, many times where I have been the only consumer in the room. That is not the case in this

commission, thank goodness. But there have been many, many times where I have been the only consumer in the room, and actually it was a consumer that told me that; if I would just shut up, someone else could speak. And when there's no one else in the room, I have to speak. And when I'm on more than one commission, it does not make my voice redundant any more than it would if yours...as having been on many boards or commissions. So I just wanted to make sure that was clear. Thank you.

JIM JENSEN: Thank you. You know, I might make just one other comment also, that before we meet next time, that we'll all be through a primary election, and I will stay this: As time goes on, you know, LB1083 was passed in 2004, and yet we have very few people in the Legislature who were here when that was passed already. And the redundancy, I'm afraid, is going to be a policy that all of us must participate in, to let people know, let the new senators know.

MARY ANGUS: So we have to...any time we speak. Okay, I just wanted to make sure I understood what redundancy I was going to be participating in.

JIM JENSEN: Yeah. And you know,...

_____________: To be redundant about it.

MARY ANGUS: Yeah, let's be perfectly clear. I want to make this abundantly clear.

JIM JENSEN: Well, sure, and also all of us, and all the advocates out there, I think, need to also realize and start working on who is the next champion of DD? Who is the next champion of mental health? Who is the next champion of substance abuse?

MARY ANGUS: Are you talking about the senators?

____________: Yeah.

MARY ANGUS: Yeah, okay. Thank you.

JIM JENSEN: Because without that, it's tough.

MARY ANGUS: Yes, and it's exhausting.

JIM JENSEN: We'll get notice to you as to the next meeting, and we'll even try to set the meeting after that. And thank you all for your participation. We're adjourned.