

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Appropriations Committee February 05, 2020

**STINNER:** Welcome to the Appropriations Committee hearing. My name is John Stinner. I'm from Gering and I represent the 48th Legislative District. I serve as Chair of the committee. I'd like to start off by having members do self-introductions, starting with Senator Erdman.

**ERDMAN:** Thank you, Senator Stinner. Steve Erdman, District 47, ten counties in the Panhandle.

**CLEMENTS:** Rob Clements, District 2, Cass County, parts of Sarpy and Otoe.

**HILKEMANN:** Robert Hilkemann, District 4, west Omaha.

**STINNER:** John Stinner, District 48, all of Scotts Bluff County.

**BOLZ:** Senator Kate Bolz, District 29, south-central Lincoln.

**WISHART:** Anna Wishart, District 27, west Lincoln

**DORN:** Myron Dorn, District 30, Gage County and southeastern Lancaster.

**STINNER:** We actually have two committee members that are presenting in other committees. Assisting the committee today is Brittany Bohlmeyer, our committee clerk. And to my left is our-- one of our fiscal analysts, Doug Nichols. Our page today is Hallett Moomey. He's from Kearney. On the cabinet to your right, you will find the green testifier sheets. If you are planning to testify today, please fill out and sign the sign-in sheet and hand it to the page when you come up to testify. If you're not testifying at the microphone but you want to go on the record as having a position on a bill being heard today, there is a white sign-in sheet on the cabinet where you may leave your name and other pertinent information. These sign-in sheets will become exhibits in the permanent record at the end of today's hearing. To better facilitate today's proceeding, I ask that you abide by the following procedures. Please silence or turn off your cell phone. Order of testimony will be introducer, proponents, opponents, neutral, and closing. When we hear testimony regarding agencies, you will first hear from the representative of that agency, then we will hear testimony from anybody who wishes to speak on the agency's budget request. When you come up to testify, please spell your first and last name for the record before you testify. Be concise. It is my request to limit your testimony to five minutes. Written materials may be distributed to committee members as exhibits only while testimony is being offered. Hand them to the page for distribution to the committee

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and staff when you come up to testify. We need 12 copies. If you have written testimony but do not have 12 copies, please raise your hand now so the page-- page can make those copies for you. With that, we will begin today's hearing with Senator Lathrop, LB916.

**LATHROP:** Thank you, Chairman Stinner and members of the Appropriations Committee. My name is Steve Lathrop, L-a-t-h-r-o-p. I'm here today to introduce LB916. This is a bill to construct 300 community corrections beds in Omaha. Currently, the Department of Corrections' systemwide population is at or above 160 percent of design capacity. The men's is far more acute than that. The 160 represents an average across the board that includes some women's facilities, one of which isn't even completely full, and a youth facility that I think is right at or near 100 percent of capacity. So the men's overcapacity circumstance is far more acute than that of the entire system or the women's. July 1, 2020, the Governor must declare an overcrowding emergency if the capacity or if the population is-- exceeds 140 percent of design capacity. You will hear no one today testify that that's ever going to not happen, like we're going to be in an overcrowding emergency on July 1, and I expect we're going to stay there almost perpetually unless something is done. We, of course, as a Legislature are concerned about getting to a place where we're in an overcrowding emergency. But there is, I believe, a far more evident crisis. In November, the Judiciary Committee held a hearing at which the director appeared. And I've handed out a number of things and I'll-- and I'll direct you to this testimony of the-- of the director of Corrections. And I'm going to read it. I know you can read it, but I'm going to because I think it's important and the record should reflect that questioning from myself on November 8, 2019. Two weeks ago-- this is me to the director: Two weeks ago, during your testimony, I recall you testifying at the Nebraska State Penitentiary you're basically-- you can't take any more people and put them in that facility. Scott Frakes: We're at one in, one out. Lathrop: Yeah, yeah, so if someone needs a space, they're not going into the State Penitentiary because-- unless somebody else is coming out. Frakes: Correct. Lathrop: How soon before or at what population do we get to a place where the Department of Corrections has that problem with every one of its facilities? Frakes: We're good on the female side. We'll be good, I think, for some time to come. The male side, we might have the ability to-- I'd say 150 more beds, something like that. That may be a little bit high even. So in the hundred-- no, I'd say 150 more beds, roughly, and then we'll be looking at what our next options are. I've also attached an email from Inspector General Doug Koebernick to John Stinner and

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myself that-- that documents that over the last two years, the population of the Department of Corrections has increased by 400 people. So if we are at-- now the population may have dipped a little bit since Director Frakes said 150 more men and I'm full, but we are growing at an alarming rate of-- in our population, which I think is a bigger crisis than the overcrowding emergency the Governor has to declare July 1 of 2020. This last year, the Department of Corrections entered into a contract with a place called JFA Institute. The JFA Institute is one of these places where they specialize in giving data and assimilating data and giving judgments to governmental entities around the country on the-- on corrections. They were contracted with to provide us with a population projection. That population projection we expected to be done last fall, then this-- then it got pushed into this year. Last week, a draft copy of that report was prepared. And I have-- my office has prepared this chart. I want to show you this chart and I'm-- I'm going to qualify this by saying it's a draft report. I don't know that Director Frakes is going to have a concern with the draft or if they have any-- it looked accurate to me. And this chart right here, I think, tells the story that brings me here today. The blue line represents design capacity. On the left side are-- is the population. Across the bottom is the dates. So the blue line represents design capacity. The green line represents the statutory operational capacity, or 125 percent of design capacity. And the red line represents the overcrowding emergency. In other words, that's the number when we are at 140 percent of design capacity. And you'll notice there are a couple of bumps where it goes up, and that reflects the addition of capacity. We have two projects underway that will be completed between now and 2023. And so where you see the--it staggers up and then flatlines, that represents all the capacity that has either been built or is in the works. The black line, the solid black line is our actual average daily population and the dashed black line represents the JFA report projected population. What you can see is we will be, without some-- some intervention by the Legislature, by the state of Nebraska, we'll be in a perpetual state of overcrowding emergency. And what's more, if we don't do something, that-- that spread between the black dotted line and the red solid line is just growing and growing and growing. The reality is-- the reality is there's only two solutions. You can either do sentencing reform where you have prisoners-- we pass laws and-- and we let prisoners out sooner, we have people who have been convicted of crimes parole sooner, we have people serve shorter sentences, or have fewer people go in there. And that requires some action first in Judiciary Committee and then action taken on the floor that we generally refer

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to as corrections reform, or you can build more capacity, or you can do some of both. And I think this bill and the 300 beds for community corrections represents a piece of building more capacity. It's-- the appropriation is \$52 million. This isn't something that I've dreamed up on my own. In 2014, the department had a facilities and population projection study done by the Dewberry group. That's also in here, at least the part that's relevant to this particular bill, and they suggested a three-phase process of building capacity. The first phase involved the first five years. This is the one thing in the first five years that hasn't been done. So this wasn't my idea necessarily. It was something in the Dewberry report. Now the Dewberry report was done before we did LB605, and one of the concerns that you may hear today about building more capacity in the community corrections is a lot of the people who would go to community corrections are people who were sort of addressed in LB605. There-- there are more people who can go to community corrections. Community corrections is a place where individuals go to spend some portion of the last year, assuming they can get there and there's capacity, where they typically do a work assignment for a period of time and then have an opportunity for work release. Why is that important in all of corrections? In my judgment, it's important because they can establish themselves in a community, they can find a job before they're released, and it helps with the transition. So the alternative is giving them a \$100 check as they leave the State Pen or we can have them go through community corrections where they will have an opportunity to do a work assignment. They will experience a certain amount of freedom going to work. They can bank some money so that when they get out, they can get an apartment or a car or a cell phone or the things they need. and they can establish themselves in the community. The Governor's website indicates that he is not on board with the idea of doing corrections reform, so the idea that we're going to take care of this with sentencing reform is not something embraced by the executive branch. And I will say that it has been, for the Judiciary Committee, a little frustrating to see this developing into an acute situation, and-- and I would call it a crisis situation, and not really get a plan from the executive branch or from the director. We've asked. I don't hear one. But I do know that we can't continue to do nothing. It-- nothing is not an option, and today I offer this bill for your consideration. I'm happy to answer any questions.

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**STINNER:** OK. Questions? I have a fiscal note question. It says here 52-- \$52 million is your request. That's the fiscal note. But DCS estimates it now \$61,586,000. Is-- is that a corrected amount or--

**LATHROP:** That must be their-- their estimate. I don't know how they came up with it because, unless they have a plan already in place to-- to develop that, maybe there's some standard for coming up with that number. I do know the \$52,000 [SIC] represented the 2014 number for building this number of beds, so--

**STINNER:** \$52 million.

**LATHROP:** \$52 million.

**STINNER:** Yes.

**LATHROP:** So-- what did I say?

**ERDMAN:** Thousand.

**STINNER:** \$52,000.

**LATHROP:** Thousand? OK, it's a little more than that. You guys are sharp over here. It wouldn't surprise me if it's more. I don't know if-- if we learned from building the women's facility, 170 beds, that it's actually a little cheaper, but it could be more.

**STINNER:** Just help the committee focus in. When you use statutory capacity of 125 percent, where did that come from? Is that some kind of computation or a standard or just where--

**LATHROP:** It's this--

**STINNER:** --did the statutory capacity come from?

**LATHROP:** We put it in the statute by definition. So the-- the people who do sort of corrections science have their own way of determining a different number for operational capacity that might be some number higher than 125, but I don't believe it's as high as 140.

**STINNER:** The 140 is also in statute--

**LATHROP:** It is.

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**STINNER:** --and it was designated by somebody in the legislator-- Legislature at that time that that would be a level that the Governor needed to declare an emergency. Is that correct?

**LATHROP:** So the history there, Senator Stinner, was that the statute allowed the Governor to declare a-- an overcrowding emergency when the population exceeded 140 percent of design capacity. After we did the special investigative committee in 2014, we made a number of recommendations. One of them was to take the "may" to a "shall," so now the Governor shall declare a-- an overcrowding emergency if the problem isn't resolved by July or we're not below 140 percent. And then they're required to get to 125 percent of design capacity. The difficulty with that, if there is a deficiency in the overcrowding emergency statute, it is that basically the Parole Board has to go through parole-eligible individuals-- there are 900 of them currently-- and identify individuals who are suitable for parole and let them out on parole, but they don't have to sacrifice public safety. So that's become sort of a backstop. And honestly, I don't expect anything to happen when July 1 rolls around other than the declaration will be required of the Governor. The Parole Board will go through the same 900 people they've been looking at for the last year and the director can talk to you about those 900. But generally they're not people-- they either haven't completed their programming, they have failed at parole, or they have recent consequential misconducts that make them a poor candidate.

**STINNER:** At the time the statute was passed, how far were-- how-- where was prison overcrowding?

**LATHROP:** Well, in 2015, when it went from "shall" to "may," you can see the difference between the red and the black line at that, that period of time. It looks like it was probably 5,400, something like that.

**STINNER:** And that would have been how much over then, 150 percent, 148?

**LATHROP:** We were probably-- probably somewhere around 160. I'm-- I'm trying to guess from reading this chart here.

**STINNER:** So we have design capacity that comes from an authoritative source.

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**LATHROP:** That's from the people that build it.

**STINNER:** That build it. Operational capacity is used a lot by the administration. Is there some basis for that, some empirical basis that--

**LATHROP:** There are-- there are two things about operational capacity. We have a statutory operational capacity which is incorporated into that emergency statute. Operational capacity, I know that when I read the Dewberry report, they talk about operational capacity as the ability, not so much-- you-- if you double bunk all these guys, do you have the cafeteria space, do you have the common area, do you have the facilities that are common to all those inmates to address their needs, that's kind of how the-- the corrections science comes up with operational capacity, which is, I expect you'll hear, higher than our statutory definition.

**STINNER:** But I as a senator can't make that judgment. Is it made internally in Corrections? Is it made by some independent, authoritative source that we can go to, to say, OK, we're--

**LATHROP:** Well, the people that do these master facilities studies-- study reports go through that process.

**STINNER:** OK.

**LATHROP:** And I think you'll find that there is that-- that's been undertaken in this expanded version of this report, and I have a copy if you need one.

**STINNER:** My last question for the committee is LB605 was passed as a part of that as well. Is there any desire from your committee's standpoint to have some of those people come back and see what-- what happened? Why aren't we going down instead of going up?

**LATHROP:** We're always, "we" being the Judiciary Committee, are always interested in input from any resource. And I'd be happy to talk to the Council of State Governments to come back. They don't just parachute in and then give you a list of five things to do. They-- they land on the beach and then they-- they-- they are looking at data. They are going through an awful lot of information. I think that when we invited CSG to come here the last time, it required that the three branches of government sign off, so it's not just the Legislature that invites them back but the executive branch, as well as the judiciary.

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**STINNER:** Is there an appropriations with that? Do we have to pay them, pay for travel or what?

**LATHROP:** I honestly don't know. Most of that happened while I was working on the special investigative committee. Mello and Ashford were involved in that. And then after I was term limited in '14, 2015, a lot of those bills were passed that dealt with-- or LB605 was passed that was sort of the work of CSG.

**STINNER:** OK, I'm going to turn it over to committee questions. Senator Wishart.

**WISHART:** Thank you so much for being here. So I see kind of two challenges that we're heading towards. One is the overcrowding date and state of emergency. So speaking to that, are we in jeopardy of a lawsuit if we don't address the 140 percent [INAUDIBLE] of capacity?

**LATHROP:** I think we're already in one.

**WISHART:** OK Are we in jeopardy of losing?

**LATHROP:** Sen-- Sen-- Danielle Conrad is here from the ACLU--

**WISHART:** OK.

**LATHROP:** --and I think she's going to testify on this bill.

**WISHART:** OK.

**LATHROP:** And she'd be in a better position to tell you about the connection between overcrowding and the pending litigation, if she can. And I don't know if she can or not, but-- but she's the head of the ACLU, executive director, so she may be able to answer that. My understanding is there were nine individual claims that were filed in one lawsuit. Those individual claims, they alleged, were representative of other people who were similarly situated. So I'll make a hypothetical. None of us are getting good medical care, so I'm going to be the plaintiff that says I tried to get medical care and couldn't. There is a motion pending in front of the United States District Court in Omaha to create a class action out of those particular claims that are found in the lawsuit of the nine inmates. If you-- if you want, you can ask Senator Conrad about-- Danielle Conrad about-- about where that's at and what that-- what that means and its relationship to overcrowding. But I understand that-- that overcrowding lawsuits aren't just we're overcrowded, we hit the magic

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number, now the federal court is going to intervene. It is about once you hit that number, you look at what things aren't happening or the conditions that are prevailing because of the overcrowding, and it is the conditions and the circumstances that become the subject of the lawsuit when it's, at the end of the day, about overcrowding

**WISHART:** OK. The issue that you brought to our attention, which seems even more immediate, is-- and-- and I'll read again. You state, in the November-- a November hearing with Director Frakes, we are 150 additional inmates in the daily average population away from being at the point of complete saturation. During that discussion or in discussions with Director Frakes after that, I mean, do you-- do you have an understanding of at what point we will increase in terms of 150 inmates? Is that going to happen within a year, within--

**LATHROP:** Well, what I do know, I don't-- I don't know that anybody can tell you the date.

**WISHART:** OK.

**LATHROP:** If you track the population, we can make projections. And by the way, every projection that's ever been made for the Department of Corrections, and this is the fourth one since 2006, has been on the money. OK? So the trend line, you can-- you can appreciate, but it's a little bit like watching your 401(k), like it'll go down a little bit, then up a little bit and down a little bit and up a little bit. But if you find the trend line in those variations, you're going to see it moving like we're seeing on here--

**WISHART:** So what--

**LATHROP:** --historically.

**WISHART:** So in your conversations that-- during that hearing or afterwards, what was the director's explanation for what they plan on doing when we have 150 beds filled and we're literally at the point of saturation for the male incarcerated?

**LATHROP:** I have not heard a plan--

**WISHART:** OK.

**LATHROP:** --going forward. I don't-- by the way, we have two problems. One of them is the staffing issue, and I appreciate what the administration and the director have done on staffing that you'll take

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up a little bit later on. This overcrowding, though, I don't see a bill that's been introduced that-- that is coming from the department or from the administration that addresses either capacity or sentencing reform.

**WISHART:** The 300 beds that you're bringing before us today in terms of an appropriation, that will help us get to 140, below 140 percent?

**LATHROP:** I think, depending on how long it takes to build them and-- and get them up and operational, there may be a short period of time where we're actually below 140 percent of capacity for a brief period of time. But that would be another line on top of this red one and the-- the population projections are still going up like this.

**WISHART:** OK.

**STINNER:** Additional questions? I have a couple more, but-- so we can as a Legislature allocate \$52 million to build this. But if the administration doesn't want to do it, it won't get built. Is that a correct statement or--

**LATHROP:** I've spent ten years in this body and I-- I don't know what we can do to make somebody spend money you appropriate, that's true.

**STINNER:** OK. Three hundred and eighty-four beds are going to be built, a maximum security kind of reconfigure some of the prison makeup right now. I think that dropped us to about 140 percent, did it not, or-- I-- I didn't see a new--

**LATHROP:** Well, if they were online now, it would--

**STINNER:** OK.

**LATHROP:** --if it-- if they were online. The difficulty is, I think they're projected to be online in 2023, if I remember right, so-- it might be '21. I-- but I believe it's '23. We have a 100-bed unit that they're building at the penitentiary, inside the pen. My understanding is it's like one of those bunkers that they build. We call them a bunker. They're a cement-- a cement building. And then we have the 384 beds that we appropriated money for. By the way, I'll just point out, I think we-- we spent \$50 million for 384 high-security beds, so it's hard to imagine that 300 minimum, lowest security, no-fence-around-the-place beds are going to-- to get as high as 61 or even 52. But I'm just a lawyer.

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**STINNER:** So we're-- we're-- we're over 160 percent right now in overcrowding?

**LATHROP:** I believe that's right, or very close to that number.

**STINNER:** I understand Alabama has taken on reform and have now reduced theirs, which would make us number one in the country in prison overcrowding?

**LATHROP:** Well, if-- if they've gotten below us, then that would make us number one.

**STINNER:** In football, that wouldn't be bad, but this is not good.

**LATHROP:** it's also not likely to happen soon. [LAUGHTER]

**STINNER:** Any questions? Senator Wishart.

**WISHART:** Speaking specifically to your vision for these community correction beds in Omaha, I understand you've had a little bit of a conversation with Senator Wayne about some of the businesses in Omaha that are interested in hiring people who are in-- in community corrections. So can you just walk through kind of what that would-- what that looks like for our committee in terms of somebody getting up in the morning, going to work?

**LATHROP:** Sure. I have had conversations with Senator Wayne. He has-- or he's-- in conversations with Senator Wayne, identified three businesses in Omaha that do manufacturing-type work that have available third shift positions and have expressed a willingness, according to Senator Wayne, to hire people from Omaha Community Corrections. And for some reason, that doesn't happen.

**WISHART:** OK.

**LATHROP:** I'm not sure why. But you asked about vision, and if I can, and I don't want to tie you up, the idea-- part of the difficulty is that we provide programming, clinical programming. If you want to parole, you've got to have your clinical programming done, so sex offender treatments, inpatient substance abuse, those kinds of things need to be done before the Parole Board will parole you and-- and let you go back to your community. Right now what we're doing with programming, we get stories that there are people not getting their programming by their parole eligibility date. Senator-- or, pardon me, Director Frakes may tell you that that's not the case, and I don't

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know because I'm not there, but I know I'm hearing that. But I do know that if people-- right now we're trying to get people to complete their programming before their parole eligibility date. That means that by the time the Parole Board looks at you, you just completed your program, now not in all the cases but in-- in a good deal of them. If they completed that a year before their parole eligibility date, we'd be able to move more people through community corrections and thereby allow them a better transition, an opportunity to work, an opportunity to do work assignments-- that's picking up papers, picking up trash in the state office buildings-- and then transition into a job where they pay rent, they give some the percentage to the Victim's Reparation Fund, and then they bank some money or they pay their child support. And when they come out, instead of a \$100 gate check and good luck at the Lincoln Corrections Center, they're leaving a community corrections center with a little money in the bank and hopefully some employment opportunity. That-- you asked about vision. That's the idea.

**STINNER:** Additional--

**LATHROP:** But we've got to have a plan.

**STINNER:** Additional questions? Seeing none, thank you.

**LATHROP:** Thank you.

**ERDMAN:** Senator Stinner, borrow your red [INAUDIBLE] mine's black and white.

**LATHROP:** Say that-- oh, I'm sorry. Take that.

**ERDMAN:** You need this back? You need this back?

**LATHROP:** No, I-- I got it up here. I have like six bills over in Judiciary. I'd like to stay to finish or to close, but if I'm gone, it's not because it isn't important to me.

**STINNER:** OK. Thank you.

**LATHROP:** Thanks.

**STINNER:** Any proponents? Good afternoon.

**DOUG KOEBERNICK:** Good afternoon, Senator Stinner and members of the Appropriations Committee. My name is Doug Koebernick, spelled

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K-o-e-b-e-r-n-i-c-k, and I'm here to testify in support of LB916 as the Legislature's Inspector General of Corrections. A lot of what Senator Lathrop said, I had in here, too, so I'm going to try to cut some of that out for the sake of time. When I became the Inspector General in 2015, the issue of overcrowding of our prison system was already a serious issue that had been identified in a number of ways. In each of my annual reports since then, and in a number of hearings before the Legislature, I've continued to identify this as one of the most significant areas of concern in our correctional system and have made many recommendations regarding it. So when I went back and looked at the population data, too, I mean, you can see that significant increase. I've shared that with the Legislature over time and everything. And although capacity has been added to our system in the last few years in the form of 100 male community beds at Lincoln and 160 female community beds in Lincoln, the system is still operating at almost 160 percent of design capacity, especially if you include the state inmates that we have right now that are out at county jails that we contract with. However, Senator Stinner, you asked about Alabama. The latest numbers I saw in Alabama were from, I think, October, and they're running at about 167 percent of design capacity. Last year, at one point in time, I think we actually did jump ahead of them. But then when our new beds came online, we dropped back down and everything, and they haven't-- haven't come down. So I wanted to share that with you. As you've talked about the 384 beds at the Lincoln Correctional Center and the 100 beds at the State Pen, and then there's 32 other beds at the Lincoln Correctional Center that will be coming online over the next few years, we're going to see this increase of-- of beds. But like Senator Lathrop said, the projections are such that-- that we might have 500 new beds added on, but we might have 400 more inmates that come into the system, so we're kind of treading water. We're gaining a little bit, but we're still kind of treading water. And if you look at the long-term projections, that's even more significant, so we-- I think we need to be planning for that as well. When those new beds all come online, I think we'd-- we'll probably operating at around 145 to 150 percent of design capacity, so we'll still be over that 140 percent number. Even if we're down to that 145 or so, we'll probably be like the second or third, still the most overcrowded system in the-- in the country. If we were to get down to 125 percent of design capacity, according to the statistics I've seen, we'd probably be the sixth most overcrowded one. So even if we make that headway and get down to 125 percent, we're still significantly overcrowded compared to other state systems. And so the question really is, I mean, where do we want our correctional system

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to operate at; what capacity do we want it to operate at? As Senator Lathrop said, there's a number of ways to impact overcrowding. In my recent annual report, I wrote the following. As far as overcrowding, there are options available: build more beds, reduce the influx of new prisoners, establish innovative alternative programs, reduce or divert the return of formerly incarcerated individuals, commute lengthy or life sentences, and increase reentry success rates. So there's different things, but in reality we need to look at all those, put those all on the table, if we're going to really, you know, take a stab and make an impact on the overcrowding issue. I want to thank Senator Lathrop for introducing this bill, because it really furthers the discussion on how to address overcrowding in Nebraska's correctional system. I believe the department might have some concerns about like whether we need community beds or what kind of beds, and I'm looking forward to hear what they say as far as what our needs are down the road. We haven't really had that, that I've seen, and I'm-- I'm hopeful that we will see that. But like Senator Lathrop also said, the-- it's also better to-- to transition from a community corrections center than transitioning from Tecumseh, which is a maximum and medium custody facility, or the State Penitentiary. If you're at the community center, you're going to be, like he-- he indicated, you're going to be employed, you're going to be maybe getting some education, you're going to be connecting up with your family, your church, things like that. It's much safer for the-- for our communities, in my opinion, because if-- if we transition people from and they do that stair step down through the community corrections center. Right now we have about 620 community beds for men and women in Lincoln and 160 male beds in Omaha that are community corrections beds. There are no other community beds in the state. I think that adding beds in Omaha or other areas makes sense so that people can transition back into their home communities. Right now, we don't have any female community beds in Omaha. They're only in Lincoln. So if you are a woman and you're transitioning back, about 40 percent of the women, the last time I saw, that come into the corrections system are from that Douglas, Sarpy County area. But right now, you get a job in Lincoln and then you leave Lincoln, and then you have to go to Omaha and find a new job and-- and connect up there, so-- but that's the same thing if you're in North Platte or Norfolk or Scottsbluff. So I think it's important that the Legislature continue to take issue-- take action to address prison overcrowding, and I am here today to support LB916 for those reasons. I've also shared a recent memo with you that I sent to Senator Stinner and Senator Lathrop back in January that just kind of laid out other needs of the system that I've identified over the last

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year or so as I've gone out and visited prisons, talked to people, reviewed lots of different things. So with that, I'll answer any questions you may have. Oh, and here's the handouts for the page.

**STINNER:** [LAUGH] Yeah.

**DOUG KOEBERNICK:** Yeah, that would help.

**STINNER:** Senator Bolz.

**BOLZ:** Thanks. Thanks for your work, Doug. I-- I just want to try to get the facts clear in my head. I mean, this-- this-- the question in front of us is really a question about the-- the need for capacity for community corrections--

**DOUG KOEBERNICK:** Um-hum.

**BOLZ:** --and whether or not that would help the system as well. So I was just looking at your 2018-19 annual report and the design capacity you report out for community corrections center, Lincoln was 125 percent and Community Corrections Omaha was 179 percent. I don't know if those are the most current numbers or not. But it-- it's fair to-- it's a clear-- I can have a clear understanding that we're significantly over capacity in both of our community corrections centers.

**DOUG KOEBERNICK:** Correct.

**BOLZ:** OK. And do you happen to know how many people are being housed in the county jail program right now?

**DOUG KOEBERNICK:** I think about 91 right now.

**BOLZ:** And-- and a number of those folks might be community corrections eligible?

**DOUG KOEBERNICK:** I would have to take a look at them, but I would-- there's a lot of people that come from the Diagnostic and Evaluation Center that have relatively short sentences that go out to the county jails, so I would guess that there are probably people that are eligible for community custody.

**BOLZ:** We'd have to weigh this proposal versus continuing using the county jail program if we consider that funding.

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**DOUG KOEBERNICK:** Yeah. And actually, the county jail program has not been funded by the Legislature for a while. The-- the department has not requested any funds for that, so I'm not sure if they're using vacancy savings or what to fund that right now. So that might be if they-- if their funding dries up, or whatever source they're using for that money dry up, then they don't even have that option on the table.

**BOLZ:** And do you know, is there-- is there any sort of waiting list or any sort of data available about people who could move into community corrections level if more opportunities opened up?

**DOUG KOEBERNICK:** Last year, I tried to get that data from the department and-- and get a better understanding of-- of what people really are classified as because they had a classification tool at the time that would kind of kick out whether you are low risk, you're violent, things like that, and then make a corresponding recommendation for where you would go, like if you're low risk it would say minimum, like the lower tier of minimum, and then the two community tiers and everything. The last numbers I saw on that, 75 percent were considered low risk. And that-- so their recommendation would be that. However, that tool, even though it was designed to give us a better idea of what we really needed as far as beds in Nebraska, because it's scoring so many-- that's the men-- are scoring out really low risk. And the women were going kind of the other direction, which was interesting. I was out at York one time with Director Frakes and he got asked a few questions by women out there, saying, why am I not low risk and everything with this new tool? So the department's taken some action lately to kind of change their classification system, so that tool is just one component of it. I actually have a meeting on Friday to learn more about the progress on that, but that's a really long answer to say I don't-- I don't know and I've been unable to get that data that I think is accurate from the department.

**BOLZ:** Um-hum, OK, and just one last question is, I-- I have had some of these conversations that, gosh, Senator Bolz, aren't there some community-- isn't there existing committee corrections capacity? Am I-- am I understanding correctly that there may be community corrections capacity for women but-- but not for men, and that might be part of the misunderstanding about where capacity is or isn't?

**DOUG KOEBERNICK:** Correct-- correct. When the Legislature funded the-- the community corrections beds for-- for women here in Lincoln, it became a 160-bed facility. I think at that time it was projected that we would need maybe 110 women that would be community custody-level

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inmates. The-- right now, there's 124, I think, in that. But a few months ago, there was only maybe 95. One of my concerns is, if-- if the projections were accurate, that we really only have a need for about 110 or so, and we put 160 women in there, you're going to have women that aren't prepared for that and you're going to kind of see this cycle where they go there but then they go back to York and everything. So right now we are running, you know, 35 beds empty on the female side of Community Corrections Center-Lincoln

**BOLZ:** Yeah. No, that's-- that's helpful. I just-- I think there may be some misinformation floating around out there, and there's an important distinction that there-- there are some community corrections beds available in the women's facility.

**DOUG KOEBERNICK:** Correct. And it's interesting, because if you look at the total population of women, there's a large percentage that now the department is saying are community custody females and-- but when you get the data as far as the men, it's a much lower percentage, so there's some sort of difference there.

**STINNER:** Questions? Senator Wishart.

**WISHART:** Thank you, Doug, for being here. Do you have information, approximate-- approximate information on how much it costs to house an inmate at a medium or maximum security facility?

**DOUG KOEBERNICK:** I think that's running around \$35,000-40,000 a year, but I think Director Frakes would probably have a better handle on that.

**WISHART:** OK. And then do you have any information on how much it approximately costs to house that same inmate in a community corrections facility?

**DOUG KOEBERNICK:** I think what I saw last was probably around \$24,000.

**WISHART:** OK.

**DOUG KOEBERNICK:** But there's a lot of different factors in that and everything, so--

**WISHART:** OK.

**DOUG KOEBERNICK:** But I can try to get that for you.

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**WISHART:** Yeah, that would be-- that would be helpful, because my understanding is, with community corrections, if a person is capable of working, then they pay part of their stay

**DOUG KOEBERNICK:** Correct, they're paying \$12 a day. If they're doing work release where they're actually out working a real job, they pay the department \$12 a day, so 360 days-- or \$360 a month basically for rent.

**WISHART:** OK. Do you have-- do you have information on the current recidivism rates for our different facilities?

**DOUG KOEBERNICK:** No. There's just a gen-- an overall recidivism rate.

**WISHART:** So do we track recidivism rates for community corrections facilities, for maximum security facilities?

**DOUG KOEBERNICK:** No, not that I'm-- that-- not that I'm aware of, and I don't know-- I don't know that you really could do that either.

**WISHART:** OK. From your-- from your research into just knowing about correctional facilities across the country, are there-- what have you seen in terms of recidivism rates for-- for men and women coming out of a community corrections facility versus men and women coming out of-- straight into community out of a max-- more maximum security facility?

**DOUG KOEBERNICK:** I haven't actually seen any data on that.

**WISHART:** OK, OK. That would be interesting if we could-- if we could look into that. And then the-- can you clarify what you mean by 75 percent low risk?

**DOUG KOEBERNICK:** Yeah, the-- I might have it. With the reclassification-- or the classification tool they use-- use, what I was able to pull up on there is the department's system, they have four different categories when you take this. It's like a-- there's a whole series of questions and, you know, and depending on if-- how you answer those and what your history is, it has a score that comes out. And they have low risk, nonserious, serious, and violent. And so the last one that I saw was low-risk scored. The result was 74.7 percent of the men scored low risk and 3.1 percent nonserious, 13.7 percent serious, and 18-- 8.4 percent serious or violent. So-- but like I said, that-- there's some issues with this tool and the department's identified that and they're working to address that by bringing in

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other factors when they determine what somebody's appropriate classification is.

**WISHART:** OK. Are there-- do you know of any research that's been done to look at when somebody comes into a correctional facility, say they're lower risk, if they are around people who are higher risk, whether their sort of behavior trends in one direction or the other?

**DOUG KOEBERNICK:** The research I've seen on that indicates that that results in them becoming more of a high-risk person and-- and having behavior that-- that is not-- their behavior deescalates in a way. As far as the quality of it, it's the same thing with like juveniles, like at the YRTC's too.

**WISHART:** OK. So from-- from your understanding of our corrections system, are there currently low-risk individuals who are in some of our more medium- or maximum-security facilities, who could benefit currently, if we were able to get this-- these 300 beds up, from moving into a community correction facility?

**DOUG KOEBERNICK:** Yeah, I believe-- I believe so. And I think there's also a lot of people that can move from maximum to minimum. You know, we have a whole lot of people that have been there for a long time that haven't had misconduct reports for 20 years that are using up a medium- or maximum-custody bed. They could at least get to minimum. That would-- you know, there could be some shifting, but there should be people that are-- I mean, we have 5,600 people in our prison system and we only have-- we're designed to hold about 3,500. So there should be people that could move into those different settings.

**WISHART:** OK, thank you.

**STINNER:** Additional questions? Senator-- Senator Erdman.

**ERDMAN:** Thank you, Senator Stinner. Thank you for coming today. On your-- your sheet you handed us, it shows folks that are held in county jails. It's down to 91; started out the year 109, went to 112. Now it's down about 18 percent. Following up on Senator Wishart's question, what does it cost to house one of these people in the county jail?

**DOUG KOEBERNICK:** The department has a contract with each of the-- the different county jails that hold these inmates, those that-- I think

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there's seven counties right now that have those contracts. My understanding, the contract probably runs between \$90 and \$100 a day.

**ERDMAN:** OK, so it's about the same, same cost?

**DOUG KOEBERNICK:** Correct.

**ERDMAN:** All right. So are there beds available that we're-- at the county level that we're not using?

**DOUG KOEBERNICK:** I believe so, though we have a lot of county jails that are starting to get filled up more and more and everything. But-- but there are-- there are beds out there and-- and I don't know how many and how many counties want to partake of this program. But in the past, I think we maybe had 200 people at one time out in the county jails.

**ERDMAN:** OK. Thank you.

**STINNER:** So I have questions, a couple questions for you. So I've been after this same thing for five years now, so I'm a little bit frustrated. But over that five years, we have passed LB605 that was supposed to be front-door, back-door oriented, plus hopefully keeping more people in the community violent-- nonviolent. We've introduced and paid for specialty courts. We built a women's prison for \$24 million, spent \$49 million or are going to spend \$49 million on a 384, and the best case is we'll be at 140 percent. What are we doing wrong? What's-- what's-- how do we get to 125?

**DOUG KOEBERNICK:** Well, the-- the scary part is if we hadn't done those things, where would we be? So, I mean, thank-- thank goodness we've-- we've done those things.

**STINNER:** Well, short of building more brick and mortar, what are we doing wrong? I mean, this thing keeps escalating instead of peaking and going down.

**DOUG KOEBERNICK:** I know-- I know that the department has worked with the-- the courts and the-- and Crime Commission, I believe, to try to get a handle on that influx, what's-- what's causing that. Is it longer sentences? Is it more people coming in, things like that? So I would-- I hate to dodge the question, but I think that's probably a better question for like the department and the Crime Commission.

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**STINNER:** Well, all I'm trying to do is, when I look at national averages, it looks like everything is going down nationally.

**DOUG KOEBERNICK:** Right.

**STINNER:** But here, it-- I-- I'm having a hard time reconciling that. I'm frustrated. I would like to make some headway on this thing. Now one of our major responsibilities as Legislature is safety and well-being of all Nebraskans. That means our workforce there; that means the prisoners that are there are part of that. And your people go-- are-- go into the prison situation. Assess for me about-- or give me an idea about their safety and well-being.

**DOUG KOEBERNICK:** Yeah, I mean, overcrowding causes a lot of safety issues you have, not only for the inmates but also for staff. For instance, right now, in one of the housing units at the Nebraska State Penitentiary, where they have people in a-- a restrictive housing setting where you stay in your cell for 23 hours a day, a lot of those cells are double bunked, so you have two people in there at any one time, I mean, and they're in there 7 days a week, 23 hours a day and everything. And when you-- if you're a staff member and you have to remove people from that setting, it is very difficult and it's also very crowded. And you have guys that are very upset at their situation and everything and can lash out. They see that as a safety issue, the staff do. We had a death in Tecumseh where two people were in restrictive housing together and the one murdered the other one. There's assaults that go on in-- in that setting too. And just the crowded conditions, even at community corrections, like in Omaha where it's running almost double, it's hard to, if you're a staff member, to effectively do your job when you have twice as many people in a setting. Back in the minimum side of the State Penitentiary, that was a temporary unit that was built about 25, 30 years ago. And it was designed to have 50 people on each side of this pod-- each pod. And now there's 100 on each side. And I was out there a few months ago and there was two staff running that 200-bed unit. And they're trying to do checks on people, make sure they're not-- they don't have weapons, hiding places, they're not making illegal alcohol, they don't have drugs, that they're not assaulting each other, things like that. But they're also trying to hand people toilet paper, because they need toilet paper when they go to the-- to the bathroom, or they-- they have grievances, different things, paperwork, they're trying to move people around, and how in the world can they-- two people do that and-- and have that be a safe situation for anybody? There's fights

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that go on that the staff never see. And-- and I really worry about the staff, and inmates, too, but, I mean, they're-- we put the staff in a really difficult position and that's one of reasons why we have a tough time keeping, attracting, and retaining staff.

**STINNER:** So if I-- I said from a scale of one to ten, one being a really safe environment, ten being a really critical environment, where-- where would we be? Just quantify that for me. I mean, I know I'm putting you on the spot, but--

**DOUG KOEBERNICK:** Well, hey, that's what you pay me for. So, no, it would depend on each facility and everything. I think on the system, it's got to be, you know, compared to-- I haven't gone out to other systems except for Colorado. But from what you read, as far as the overcrowding conditions, I mean, we've got to be up in that seven, eight, nine. And some of the facilities, like the State Penitentiary, is a very concerning place that troubles me greatly. Diagnostic and Evaluation Center is designed to hold 160 people. The warden there told me that sometime this past year they had 570 people in it. Now how-- that can't be safe. You have people that never even go into a cell. So you have to lock down the unit. You're going to have maybe up to 20 guys that are just milling around the unit because they don't have a cell to go behind-- or go-- to go into and be locked into.

**STINNER:** Any additional questions? Senator Dorn.

**DORN:** Yeah, thank you, Chairman Stinner. I should have maybe asked this when Senator Lathrop was up here. But, you know, we're-- we're looking at building about 480 beds, 380 plus 100. And I see on here that we're 661 above the 140 percent design capacity. So that won't bring us even down to there. I haven't heard anybody explain this, but if we-- if we got to the 140-bed capacity, how many beds do we need to build a year to maintain that? What-- I mean, when you look at your chart and we're seeing a trend, are we going to need to build 100 beds a year or 50 or-- I don't know. I just-- does anybody have a thought on that?

**DOUG KOEBERNICK:** I don't have the actual data, but, I mean, it's something we can definitely figure out for you and everything. One of my recommendations in my last report was that we actually put together a group, including all three branches of government and other people, and we start doing that, trying to figure out the answers to these questions as a group. We can't just do it isolated here or there. This is-- has to be a united effort, a team effort to address this problem,

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not only for the overcrowding but also for the staffing and other issues.

**DORN:** Yeah, because that--

**DOUG KOEBERNICK:** I mean, the-- Director Frakes and those-- and the folks at the department have a really difficult job, almost impossible job.

**DORN:** Thank you. I'd appreciate some kind of data, if you could--

**DOUG KOEBERNICK:** OK.

**DORN:** --like that, what-- what number we're looking at. Once we're-- you have the 661 here today and you take the 480 beds and put those in there. What do we need to build per year? Because that would enter into a little bit what we're trying to do here also.

**DOUG KOEBERNICK:** OK.

**STINNER:** Senator Wishart.

**WISHART:** Yeah. One more question, Doug, kind of following up on what Senator Erdman was talking about with county jails. You know, we're-- right now, we're talking about 300 additional beds in Omaha for community corrections. But in the future, if we're looking at expanding capacity for community corrections, would there be a potential where jails could have a program like this where individuals were staying in the jail but then going and working during the day and paying part of their stay so that it reduces the cost to the county?

**DOUG KOEBERNICK:** Yeah. A few years ago, I appeared in front of the Appropriations Committee and talked about how like the state of Washington had like smaller community settings across the state and everything. And one of the things I did was reach out to NACO and asked them to do kind of a survey of county jails to see how many would be interested in housing people that would be returning to their home community and kind of have a work release-type setting. And I believe like seven counties indicated an interest. I don't remember what they all were right now. But I know one of them was Hall County that actually had a-- I was out in Hall County and they had a work release unit that's-- it's a pretty new jail out there, and I think it housed about 30 people and they had 2 people in it. And I said, if we gave you-- if we contracted with you guys to provide-- or to give you funding to have work release-type people out here to fill this unit,

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who are going to be returning to that tri-cities area, I mean, would you be interested in that? And the jail administrator said absolutely. So, I mean, there are some facilities out there, Senator, that we could tap into.

**WISHART:** And just for the committee, for just discussion with the committee, I remember two years ago working with the College of Technical Agriculture. Their dean at the time was very interested in sending in dual-eligible professors into correctional facilities to teach people how to do center pivot irrigation welding, where you come out and make more money than I'll probably ever make in my life right on the job, because every day the College of Technical Agriculture is called with-- from companies saying they have hundreds of jobs that they can't fill. So there could be a potential where we would utilize this community corrections system also as a workforce development opportunity, not only for-- for the-- those that are serving their time but also an opportunity for chambers of commerce and businesses who are struggling to find people, a workforce.

**DOUG KOEBERNICK:** Correct. I agree, and I think Senator McDonnell has a bill that I'll be testifying on later that's pretty interesting--

**WISHART:** OK, great.

**DOUG KOEBERNICK:** --that kind of taps into that a little bit.

**STINNER:** Senator Clements.

**CLEMENTS:** Thank you, Mr. Chairman. Thank you, Mr. Koebernick. If we open up 300 beds now, are there 300 people that have done their programming or available-- eligible for community corrections?

**DOUG KOEBERNICK:** I don't know for sure, but that-- the beds wouldn't be built probably for another couple, two or three years, and so we would lay that challenge before the department to get people ready. And like Director-- or Senator Lathrop said, that-- the sooner you can get people into that programming, that gives them a longer window to hit that community corrections settings and everything. I think it's a goal of Director Frakes's is to get programming done sooner and earlier in the process. He's been very vocal about that. They've made some strides on-- in some of the areas on that and if they continue to do that. I mean, and with our population growing, I just don't see how we couldn't fill those 300 beds.

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**CLEMENTS:** Thank you.

**STINNER:** Any additional questions? Seeing none, thank you. Good afternoon.

**ANTHONY CONNER:** Good afternoon. I'm Sergeant Anthony Conner from the Omaha Police Department, Omaha Police Officer's Association. First name is Anthony, A-n-t-h-o-n-y, last name is Conner, C-o-n-n-e-r. Our address is 13445 Cryer Avenue in Omaha, Nebraska. I'm here in support for LB916, and I want to take this opportunity to thank Senator Lathrop for proposing this legislation to add 300 additional beds to the Omaha Community Corrections Center. One of the things that we've looked at as an association was where exactly is the problem when it comes to corrections and some of the things that we've-- we hear-- some of the things that we've heard is like the push-- to push some of these folks out of the prison in July, July 1, when that emergency is declared. One of our concerns is when you push those folks out into-- out of prison without the proper programming, without the proper rehabilitation, it now becomes a working condition for the everyday police officers that are on the street having to now, most likely, rearrest the same folks and send them right back to prison. So we've looked at-- we've looked at this-- these-- these issues for a while now, and we've also looked at the exact numbers of beds when it comes to the state of Nebraska compared to the states that-- that are in our region. And our numbers are so much lower than the rest of the-- the states around-- around us. We're actually the lowest when you look at the states that touch us. The second lowest is-- is Iowa. The addition of these beds still won't even get us close to where we should be. The reality is we're at a place where we really should be considering what you just said earlier, Senator, more brick and mortar and more-- building more space for prisoners. One of things also with police officers is obviously I have a membership with police officers that make arrests. They arrest violent offenders every day. When they arrest these offenders, we know in Omaha it takes a lot for someone to get state-- sent to the State Pen. It really takes a lot. They have to do something really violent to get sent to the State Pen. So we start looking at the numbers is-- are we-- am I looking at these things wrong? Is-- are-- are-- is our-- our perspective wrong when it comes to these things when we looked at the numbers? And we realize that there is a problem with the space and the amount of beds when you compare Nebraska to the states that touch us. So we're-- we're happy to have Senator Lathrop propose these 300 beds. In our opinion, it's still not enough, but it still is a step in the right direction. One

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of the things that has-- that Senator Lathrop and others have said this morning or this afternoon is this has been a problem where the-- the can has been kicked down the road. There's been reports since 2006 that have shown the projections, and we continue to kick the-- kick the can down the road. And I think it's time that we actually have a serious conversation about addressing the issues with overcrowding and actually building more-- building more space. I'm available to answer any questions if anyone has questions for me.

**STINNER:** Questions? I would like to ask you a question.

**ANTHONY CONNER:** Yes, sir.

**STINNER:** Of the prison population, do you know how many come from the Omaha area?

**ANTHONY CONNER:** I've heard that there is a high percentage. Exactly the number, I don't know the exact number, but I'm-- I'm-- I've been told the vast majority will be coming back to Omaha.

**STINNER:** So, and a vast majority do come back home to Omaha after they get out, so the community custody bed would be transitory for them and-- and be helpful to them.

**ANTHONY CONNER:** Yes, sir.

**STINNER:** OK. Additional questions? Seeing none, thank you.

**ANTHONY CONNER:** All right. Thank you for your time.

**TIMOTHY RODGERS:** Good afternoon, Chairman Stinner.

**STINNER:** Good afternoon.

**TIMOTHY RODGERS:** Members of the Appropriation Committee, my name is Timothy Rodgers, T-i-m-o-t-h-y R-o-d-g-e-r-s. I am here to testify in support of LB916 and I'd like to thank Senator Lathrop for introducing it. I believe that whether the funding goes to building a new facility or upgrading an older one, I do believe it would be beneficial. The overcrowding in jails, as been mentioned a couple times already, can cause many issues. But this bill can reduce the capacity in existing facilities, as well, lessening the need also to transfer inmates to-- from being sent to further, less crowded facilities, which I've seen, which can also save the jail's time and resources while allowing easier access for the support network and families to visit the

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inmates. When it comes to the help with the overcrowding, I think there's many facets for the reason behind the overpopulated jails. I don't have any of the answers to those, but there's a lot of theories, ideas, and questions, and I don't have any of those answers because I'm simply an imperfect father, husband, friend, alcoholic, and Christian who's made plenty of mistakes myself. I can offer a slightly different perspective than those who work within the justice system. I have been to jail multiple times in the last couple of years, a few years ago. The last one was about two years ago. Those experiences made me realize much about what it is really like to be on the other side of the issue and to realize that some relatively small things can make a huge impact for those who are struggling to find their way. One of the things I think that if we look at not just building a new facility, but adding and maybe just remodeling or revamping some of the other ones, is additional phone lines. I know that sounds kind of odd, but phone access was a huge point of contention daily among inmates. Often, having to share one phone amongst a dozen, the desperation to reach out to loved ones caused frequent fights, tension, and even caused racial divides amongst inmates who otherwise got along. An increase in the number of available phones would allow for quicker access with more people getting connected with loved ones, drastically, in my opinion, elevating moods, decreasing tension. Looking forward to phone time was what helped keep me sane. Additional space for beds-- due to limited spacing, a lot of temporary bunks were placed on the gym floors, sometimes housing up to 80 people, which contained very limited phones, restrooms, and no showers usually. The issues arise easily-- issues arise-- excuse me-- easily due to cramped living conditions, leaving nowhere to go to avoid confrontation. It also would allow the gyms to be used for exercise, which definitely would help blow off steam and energy. It breaks up the monotony sometimes of just the daily routine and allows the entire jail to use the gyms as well, instead of keeping it as an overflow area. Additional fundings, I believe, also could be provided for extra spaces, remodels, or extra rooms for church services and AA. I never learned when I was younger to properly cope with my issues. Instead, I definitely chose to anesthetize my feelings and emotions with alcohol and drug use. I mean, there's-- which is nobody's fault but my own, without a doubt. But getting involved in AA, a couple of meetings both inside the jails and certainly outside, June 23 of 2018 was the last time I took a drink or smoked anything and my-- with a clear head, life is truly better and that seed helped get planted within the Sarpy County Jail. It helped me be honest about my issues and with my issues. It helped me address those issues with a sponsor. And I

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learned to accept who I am and learn from my mistakes. I believe many seeds can be planted in the jails. I believe also, too, that funding for the new facility in the area would allow easier access for visitation of spouses, children, and loved ones. Looking forward to those visits helped me make it through a pretty dark time. It also eases the burden put on caretakers of children with incarcerated parents, giving inmates incentives to make the right choices. For me, personally, it helped me continue to follow the rules. I wasn't in there, obviously, for doing quite that, but while I was there, it gave me an incentive as I understood the consequences to my action could result in the loss of privileges. These are just some recommendations I can present out of my personal experiences that I believe can each make a small but positive impact for people that are sometimes lost, often broken, with some being just unlucky and at the wrong place at the wrong time. And sometimes it's the little things that can make the biggest impact on people that are scared, lonely, and misguided. I know this because I was, and sometimes am still, one of them. I was able to come out on the other side of a scary but necessary situation. I learned from my experience and I continue to strive to be a positive, productive, and functioning member of society. That's about all I have. Thank you.

**BOLZ:** Thank-- thank you for sharing your story and your progress.

**TIMOTHY RODGERS:** Yes, ma'am.

**BOLZ:** Do-- do I have questions from the committee? Thanks for being here.

**TIMOTHY RODGERS:** Thank you very much, appreciate the time.

**JEFF LUX:** Good afternoon. My name is Jeff Lux, first name Jeff, J-e-f-f, last name Lux, L-u-x. I'm a deputy Douglas County attorney here representing the Nebraska County Attorneys Association in support of LB916. Our association, and specifically even the Douglas County Attorney's Office, has met with Senator Lathrop several times on the issue of overcrowding and to try and, you know, work ideas, work solutions across the whole spectrum of the criminal justice system, from law enforcement contact to charging to diverting felony cases, sentencing, and then even, you know, what happens with inmates when-- when they get out. Kind of our cog in that is, you know, we-- we've been working a lot on the problem-solving courts. We've-- we've got a very large drug court. We started the Veterans Treatment Court, which we're now in the process of expanding because it's been very

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successful. We have a Young Adult Court, which Senator McDonnell is going to be testifying before you to expand that. We have a felony diversion program, which we're also expanding. So we're trying to, you know, do our part in terms of diverting cases away from the penal system. And in doing that and working with the participants of these problem-solving courts and working with service providers out in the community that we've been trying to reach out to, in addition to just probation and the folks that normally work with probation, but expanding that, you know, we've-- we've basically seen that there is a need in at least the Douglas County area. There's businesses that are willing, because of the practically full employment that the state is in, that are willing to explore hiring people who are in the criminal justice system, are convicted felons, are willing to supply training, sometimes paid training. So I think we're in a unique spot in time and location in terms of having maybe something like this in Douglas County. The-- you know, the-- the business community and the trades are in a position now that they're willing to explore these types of opportunities and to get these types of workers. And they're-- what they're asking for is a kind of a partnership on the government side, whether it's in a problem-solving court scenario where there's oversight by a court, where the person is going in front the court every two days or we've spoken with probation about this when we we're working on the-- on the act, bill that Senator McDonnell is going to present, and I could see an opportunity with community corrections as well. You know, once we get a good working relationship with some of these folks and say, yeah, you know what, we can start with a problem-solving court scenario, which is probably the most oversight, and then roll into probation, roll into a community setting like community corrections. So I think that there is some opportunities here, especially at this time, that I think is-- is-- is out there. I mean, there's-- there's, and like you said, a workforce development aspect to this, Senator. We've been working with nonprofits that are working on that very thing in terms of working with businesses, working with trades as kind of almost a middle man to expand on this, this idea and this need that's in the community for workers, you know, and telling somebody, hey, you know what, we can train you, but the-- it could also-- potentially you could be paid. I mean, that's a pretty unique type of situation. So I think that there's an opportunity here to-- to explore that in Douglas County. It's why I think the location is important. I think you've heard other testimony about, you know, that Senator Wayne also has businesses that are willing to explore this and do that. So I think it, you know, it-- it-- it takes-- it takes work. And there's a level of trust that you build with working

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with these folks. But I think that's definitely an opportunity that should be explored. So I'd take any questions if there are any.

**BOLZ:** Thank you. Do I have questions from the committee? Thank you for your testimony.

**JEFF LUX:** Thank you very much.

**BOLZ:** Do I have further proponents? Do I have any opponents?

**SCOTT FRAKES:** Thank you.

**BOLZ:** Good afternoon, Director.

**SCOTT FRAKES:** Good afternoon. Do you like Vice Chair or--

**BOLZ:** Just go right ahead.

**SCOTT FRAKES:** All right. Good afternoon, Senator Bolz, members of the Appropriations Committee. My name is Scott Frakes, F-r-a-k-e-s. I'm the director of the Nebraska Department of Correctional Services. I'm here today to provide testimony in opposition to LB916. In 2016, NDCS opened a new 100-bed community custody unit at CCC-L. In March of 2019, NDCS opened a 160-bed, state-of-the-art female living unit at CCC-L. That construction was important for many reasons. It provided adequate space for core services, as well as living space for all women assigned to community corrections. It allowed the agency to pursue trauma-focused care for incarcerated women, and it added capacity to the system. This year, the agency will add another 100 dormitory beds at the penitentiary in Lincoln for men in minimum custody. We have already transitioned the former 36-bed control unit there at NSP, providing-- also to provide living space for those assigned to minimum custody. In 2022, we will have completed the transformation at LCC/DEC to create a single campus that will include the 384 beds for men who are considered to be high security risk. Last year, the Legislature approved the \$49 million appropriation to make this project happen. All told, the Legislature has approved funding for more than 800 beds since 2015. Three hundred and sixty of those beds are minimum and community custody beds. As it stands, NDCS is situated to be in a good place with its complement of minimum and community custody beds. In fact, the challenge recently has been keeping all the community custody beds filled that are available. Building more community custody beds would give NDCS a substantial excess that would not go utilized-- or that would go un-- unutilized.

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At NDCS, classification and housing assignments calls for placing the right inmate in the right bed at the right time. That describes a prison system that is making maximum use of its resources. When we achieve that combination, we have the greatest potential for helping people make a successful transition from incarceration to society and also reducing the risk for recidivism-- recidivism. That does not mean forcing people into situations they are not prepared for, including moving them into community custody. That is especially true if they continue to demonstrate behaviors in prison that put themselves, staff, and others at risk for harm. My overriding concern is that LB916 will create an expectation that NDCS assign people to community custody that are not ready for community custody. The NDCS classification process is designed to place people at the lowest custody level that is safe for everyone. Simply putting people into a lower custody setting and presenting them with an opportunity for work detail or work release is not the formula for success. In fact, it has the potential for disastrous outcomes. In recent months, we've had a number of walkaways from community custody, often in which the individual has been just months from discharge. For whatever reason, and with full knowledge that they will ultimately spend more time incarcerated, these individuals opted to escape. Building community custody beds that we can't safely fill will not benefit anyone. The 2014 NDCS master plan, much like the 2006 master plan, is a guiding document. It reflects the outlook and the philosophies of the administration that paid for it. The \$150 million in new prison construction funded over the last five years is reflected in the 2014 master plan, but modified to meet changing needs and approaches. Senator Lathrop's proposal to add capacity is much appreciate-- is much appreciated. However, it's premature. I would ask the committee to not make a funding commitment at this time. This will allow the agency to properly and fully inform the Legislature of the most appropriate capacity option. In seven months, I'll be submitting a budget request for the upcoming biennium. I provided you with copies of a consulting report that I received last Friday. Senator Lathrop referenced that report. The report provides inmate population projections and better informs us of future construction needs. Between now and September, I'll be gathering information and exploring options to best address our bed-space needs. For those reasons, I respectfully request the committee not fund LB916, and I'd be happy to try and answer your questions.

**STINNER:** Questions?

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**WISHART:** Senator.

**STINNER:** Senator Wishart.

**WISHART:** Thank you so much, Director, for being here--

**SCOTT FRAKES:** Thank you.

**WISHART:** --today. I wanted to touch base first on the-- the conversation that you had with Senator Lathrop in November in stating that in terms of the male population, we are about 150 beds away from being fully saturated. Can you explain to us-- that's the first time I've-- this is-- today is the first time I've heard that. Can you explain how soon we may be hitting that saturation and what our plan is for-- for dealing with that?

**SCOTT FRAKES:** Let me answer the first part first. Good news is, is that we're in a little better place than we were in October. So today I might say we-- we might be closer to 200, but still it's not a lot of extra beds, not-- there are no extra beds. It's not a lot of beds. If the JFA forecast is right on the money, we might have another year before we filled all those beds. But at the same time, we do have 100 beds that are coming online at NSP, so that does give us some flexibility and that could potentially carry us out until June of '21. So that's the first piece of it. There's no question we're right, you know, on the edge of filling the beds. We do have the potential to look at renting additional jail beds if they're available. One of the challenges that we have with our jail beds is who we can put in them, because we don't want to put people in them that have programming needs and sentence structure that if we send them off to a jail bed for any length of time, we may not be able to deliver the treatment or the programming they need. They may have other medical issues. There's just a wide variety, and so we haven't found that there's this large part of our population that we could just readily ship off to other places. And I think, as Doug mentioned, the supply definitely tightened up from where we were when it was a funded, actual appropriations request. So we would look at that. We would look at other options across the agency in terms of are there other locations where additional beds can be put that will provide for humane conditions and safe conditions and-- but I don't want to go into any great detail around that because those decisions need to be thought through, vetted, and then communicated to all the people that are impacted at the time we make those decisions. I don't want to get

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people concerned at any location that tomorrow we're going to do something that changes their life.

**WISHART:** OK. I'm-- I'm trying to get a better understanding of the sort of types of populations of-- in terms of security and risk level within our corrections facilities, because for me, from the appropriations side, it makes the most sense to me that if somebody is a lower security threat, that we're not spending unnecessary dollars housing them in a more maximum-security facility. And so from-- Inspector General Koebernick talked about a risk assessment where 75 percent of the individuals within our corrections system were male, male individuals who are low risk. Can you speak to that risk assessment, and can you speak to what you're looking at doing so that we have a better understanding of the population within our corrections system?

**SCOTT FRAKES:** OK. So systems across the country use a variety of classification processes. I'd guess today that most of them use some kind of a tool. We're fortunate to have one that is evidence based and has been put together by people that have the background to be able to verify that it is. But even the best risk assessment tools don't hit quite 70 percent predictability. Typically, I think ours right now, we're saying, is at about 72 percent, so that's a good tool. Risk assessment tools run anywhere from 60 percent to, again, the lower. I don't know anybody's claiming they've got a 75 percent predictability. Still a lot better than tossing a coin, but it's also a wide gap. So you can't just depend on that tool alone, so that's why we have a classification process. What Mr. Koebernick saw early on and he mentioned, you know, we also had concerns. It didn't make sense, the numbers that we were seeing on the male population, and it certainly felt like we were overclassifying-- that tool was overclassifying the female population. So we worked with the experts that put it together. There were some modifications made, some adjustments in cut-offs, and a recognition that we need to better quality control, that we did definitely have operator error in terms of failing to enter things so that the tool did exactly-- predicted as well as it should. I can't tell you today what the breakdowns are. It's something, though, we could circle back. I could give you those breakdowns. So that's the starting point. Then you have to look at the-- who the person is. You still look at their prior history, even though the tool takes that into consideration as part of making that evidence-based assessment, what's their current behavior; if you've had them for awhile, what was their behavior before; if they're a repeat offender; what are their

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medical needs, mental health needs, programming needs; what are their separate needs. Unfortunately, that's a big issue in our department. We have people that can't be housed with other people either because they're victims of them or they victimized them or they testified against them or vice versa, so there's all these factors that have to be considered. It is always our goal to house people in the least restrictive setting possible. It's our goal to push down our system in terms of having the least restrictive beds kind of dominate the system because they do cost less. Right now, I'm guessing, because I can't remember off the top of my head exactly, but I think our top-end beds, just general population, max custody, are running about \$38,000 or \$39,000 per inmate. And our community custody beds, I think they're close to \$30,000, so still a very-- that's a significant amount of money. And if we add some-- if we were to build a brand-new facility today, as proposed, as an example, we could probably drive that cost down even more because you get ener-- today's energy efficient designs and technology and we can do things to make it more staffing efficient. So anyway, it is always the goal of a good corrections system to operate at as unrestricted, less restrictive as possible. But it's also critical that we don't shove people into less restrictive beds just because that's only beds we have to fill because that leads-- as I said in my testimony, that can lead to really bad outcomes.

**WISHART:** One-- one more question, and I want to preface this by saying I think-- I think sometimes it's unfortunate that when we talk about corrections reform, a lot of times, most of the blame goes to the Department of Corrections. And I recognize that you're only a piece of that and the reality is that you have to house the people by law that are sentenced in-- into our correctional facilities.

**SCOTT FRAKES:** Correct.

**WISHART:** So I want to just preface this conversation by saying--

**SCOTT FRAKES:** Thank you.

**WISHART:** --that and acknowledging that, that a lot of times we put you in a tough situation and you've got to deal with it. But I think in this case, with this bill, and-- and from some of the research I've done with the work, with some pretty incredible work you did in Washington when you were there, I think this offers us a real opportunity to look at the population we currently-- you currently have within your correctional facility and give-- give you the time to

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really find the-- the men who would benefit from waking up every day in a facility where they go to work, like the rest of us do, and paying their taxes and paying for their child support and doing all the things that we would expect an individual to do when they're in the community, paying victim restitution, saving, all of those things that-- you know, really earning, earning sort of some of their stay. Are you-- are you telling me that if we were to invest these dollars, that there are not 300 individuals within our corrections system now who, over this two-year ramp-up phase, we wouldn't be able to move into a community corrections situation?

**SCOTT FRAKES:** Yeah, that is exactly what I'm telling you. Now, again, we're going to continue to do our work. We're continuing to find the right cut-offs. We initially-- because when I arrived, we were not doing a good job of getting people even ready at parole eligibility. So we set a goal, first of all, that people would be done with their clinical treatment before parole date so that they were eligible. We're doing really well with that. We're not perfect but we're doing really well with that. We're now starting to get back to where people are completing clinical treatment at 12 months before parole date, even 18 months before parole date. And so those are people that, if there are not other factors, can qualify. So I think, yes, we continue to sharpen our work and will increase that number. Plus, if the system continues to grow as-- as projected, then statistically we've got about 15 percent of our beds that are dedicated to community custody. So as our population grows, then that total number would grow as well. But I don't see it in a couple years. And there are other priorities that I believe, you know, and I'm going to-- I'll be bringing that information forward. It's just not-- I'm not ready to do that today, so-- and the last piece I'm going to say because Doug and I have had these conversations. If you want to compare us to Washington, so Washington State-- we have about 15 percent of our beds are community custody. Washington has about 7 percent of their beds as community custody. In Washington, if you get to work release at six months, it's about a miracle. Most people get about four months. We're now getting people to work release at somewhere between 12 and 18 months out when possible, if sentence structure allows for it, so we have significantly more beds, significantly more time and opportunity. And unfortunately, there's a reason for that in Washington State. There was a heinous outlier event in the '80s where someone on work release murdered his victim, his victim's eight-year-old daughter, and the victim's neighbor, and that-- that clouded and overshadowed the work release program for years and years. I think they're finally at a

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point where they're-- they're willing to move forward and expand. I saw some stuff where they're out looking. But of course, what we found the last time when I was still in Washington was when you talk about work release and you go out and try and cite those community-based-- that ideal that people think about, the "not in my backyard" syndrome raises its head very quickly, which is why our work releases are located where they are. They-- one is next to the airport and the other one used to be out in the middle of nowhere. It's not anymore now that Lincoln has grown up around it, but-- so those are just some of the dynamics.

**STINNER:** Senator Bolz.

**BOLZ:** Thank you, Director Frakes. I don't want to belabor the point. I just-- I want to quickly, briefly try to get clear on something that I'm having a hard time reconciling, which is you're expressing that we don't need additional community corrections beds, but the statistics that I just support-- cited to IG Koebernick, if I remember correctly from the report, you're at 179 percent of capacity in the Community Corrections Center in Omaha. So help me reconcile what you're saying with the over-capacity numbers,

**SCOTT FRAKES:** Have you toured-- toured-- toured CCC-O? Have you been there?

**BOLZ:** I've toured CCC-L.

**SCOTT FRAKES:** OK.

**BOLZ:** I haven't toured CCC-O.

**SCOTT FRAKES:** OK, since the new construction and the additions?

**BOLZ:** Um-hum, yeah.

**SCOTT FRAKES:** OK. Do you feel that that facility was dangerously overcrowded and problematic because of the number of people there, in your opinion?

**BOLZ:** To-- I-- I-- I'm honestly having a little fun with you and-- and this-- take this light heartedly. What you have taught me is to-- to be a senator and not a corrections expert.

**SCOTT FRAKES:** That's really nice.

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**BOLZ:** The--

**SCOTT FRAKES:** OK. But you get a feel, you know? We get a-- there is a difference. Senator Lathrop and I have talked about it. There is a difference in walking through the higher security side of-- of NSP. And even-- unfortunately, even the minimum side just because it is packed too tight. But our work releases, because of who they are, because of the population, these are people that are one foot out the door, people that have jobs, people that are getting out on furloughs, that have high hope because they are near release. The fact that we're at 179 percent of design in that facility isn't problematic. I don't remember exactly what the operational stress number was on CCC-L, but, you know, it's-- it's OK. It works fine. It runs good. It needs some, you know, upgrades. It's been awhile. But in-- just in terms of-- because of the custody level and everything else. So just to build more community custody beds so I could empty beds, that, to me, wouldn't lead to any better outcomes.

**BOLZ:** OK. You--

**SCOTT FRAKES:** There's other needs in the system, and then once we-- as we address those needs, like I've talked about the 384, we will repurpose other beds; we will drop down custody levels in other locations. Tecumseh specifically is one area that we're looking at which will allow us to bring in a more compliant, more treatment-- you know, less treatment-resistive, more programming-interested kind of population that behaves better and makes it easier to run.

**BOLZ:** Sure. Yeah, I don't-- I don't want to take up the committee's time, but you-- you can appreciate my struggle with trying to understand when something is over capacity, what that means in-- in terms of the decisions that we can make around here, especially when it's something like 179 percent of capacity.

**SCOTT FRAKES:** Yeah. Right.

**STINNER:** I-- I'm going to take a couple minutes here and ask a couple questions and hopefully get a brief explanation. I do not want to lead the nation or be second in overcrowding. I want to make that statement. So I'm going to do a little bit of a math problem. First of all, you handed out a Table 15 that shows ten-year projections. Do you agree with these assessments or somewhere close? Is that where we're going to be?

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**SCOTT FRAKES:** I think they're reasonable. It's still marked "draft" because we're meeting with the consultants on Tuesday to go through, ask a few questions, but it's close enough.

**STINNER:** Plus or minus 10-- plus or minus 10 percent.

**SCOTT FRAKES:** Yep, agreed.

**STINNER:** So my goal, if I'm sitting where you're sitting and where I'm sitting, my goal is 100 percent design capacity. That's where I would like to achieve. So our 100 percent design capacity-- let's do the math problem. You're at 5,610, the last we looked, 156 percent of the design capacity. If I throw in the-- the folks that are in the counties, it's 159. So we need 2,075 beds. What we've approved, and I'm looking at this, trying to reconcile, but we've got the 100 beds already figured in the calculation on community custody at CCC-L, we've got the 160 for the female, and I believe the 100 beds are-- that-- of your dormitory beds are also embedded in the design capacity.

**SCOTT FRAKES:** They're already-- they're already reflected.

**STINNER:** OK.

**SCOTT FRAKES:** So there's about 384, 484, and then we often don't think about there's 64 beds that are being built in phase one of RTC, so it's 540 beds--

**STINNER:** OK.

**SCOTT FRAKES:** --roughly that are under design and construction.

**STINNER:** So we're going to build 384 more that have been approved, the maximum security. You talked about that and reconfiguring--

**SCOTT FRAKES:** Yeah.

**STINNER:** --and the like at that, so-- and I hear 75 percent of our population is low risk. So tell me what we can build, what we can't build. How do we solve this problem? It's in a master plan that you turned out first-- second year you were here. I think there was a master plan.

**SCOTT FRAKES:** I inherited it.

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**STINNER:** You inherited it.

**SCOTT FRAKES:** Yeah.

**STINNER:** OK, but there is a master plan out here.

**SCOTT FRAKES:** There is, yeah, and we've used it--

**STINNER:** And we chose not to follow that master plan.

**SCOTT FRAKES:** We have. We really have used it--

**STINNER:** We have?

**SCOTT FRAKES:** We have used it. You can find connections to everything we've done in that master plan.

**STINNER:** OK. Well, I'm sorry I misinterpreted that. So our next step is-- is what? You're saying you don't want reform, so the alternative is to build the beds. And I get the fact that we have to build the right beds, but isn't that embedded into the master plan? Didn't somebody already do the work on that and--

**SCOTT FRAKES:** So each master plan is a reflection of the administration that pays for it, so that's part of the-- that's part of the equation here. And I did not agree with everything that I saw in that master plan document in terms of approaches.

**STINNER:** OK. But you've been here five years.

**SCOTT FRAKES:** Yes.

**STINNER:** We've begged you to come up with a plan. We've given you as many dollars as we possibly can. And I know that, from Judiciary, they wanted-- I took money away from you because you weren't using it.

**SCOTT FRAKES:** Yes, you did.

**STINNER:** So-- and frankly, appropriations dollars are pretty precious. So if you're not going to use the appropriations dollars, I will take it away back again. I mean, that's just what we're going to do.

**SCOTT FRAKES:** Yeah.

**STINNER:** But I want to know from you the plan to get 2,000 more beds. And if I add 1,700 on in ten years, you've got a major-league project.

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You've got to double the size of the prison based on what I'm looking at.

**SCOTT FRAKES:** Well--

**STINNER:** You've got 3,500 design--- design capacity. Two thousand plus 1,700 is 3,700. That's a double on a design capacity in a ten-year period of time.

**SCOTT FRAKES:** Yeah.

**STINNER:** Now if I put my math hat on and start putting brick-and-mortar numbers to that, these are major-league expenses that we have to plan for. And this committee is part that process of trying to plan and-- but we-- we need cooperation and we've been begging and begging and begging the administration to come up, tell us how we solve this.

**SCOTT FRAKES:** OK.

**STINNER:** And that's what Steve Lathrop-- he's-- he's been here eight years before, then took a four-year sabbat-- now he's back at it and he's still frustrated. So he's been at it a long time.

**SCOTT FRAKES:** Right.

**STINNER:** I--

**SCOTT FRAKES:** So we've built 800-- we've-- we've funded 800 beds. We passed a major reform bill that didn't result in the reduction of population that was predicted.

**STINNER:** I did-- I did recount all of that.

**SCOTT FRAKES:** OK. All right.

**STINNER:** And I don't know what happened to that LB605.

**SCOTT FRAKES:** Yeah.

**STINNER:** And I'd really like-- and maybe that's something we can dig into.

**SCOTT FRAKES:** Um-hum, and, yes, we need to build beds, just not community custody beds. And I don't need an appropriation right now to figure out what the next steps are and-- and come and tell you what we

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do need to build. So that's why I'm here today, to say we don't need to invest in this and that there will be-- I'll be putting forward a request in the coming biennium.

**STINNER:** Six months, but the request had better address ten years so we have a plan.

**SCOTT FRAKES:** Fair enough.

**STINNER:** OK. I just wanted to make it abundantly clear that there's property tax, there's LB720, there's University of Nebraska's Med Center. There's a whole lot of folks-- things on our schedule right now, so you need to get on the radar screen. We need to get-- we need to get this solved.

**SCOTT FRAKES:** OK.

**STINNER:** And I think I'm looking to you to get it solved, so--

**SCOTT FRAKES:** I appreciate that.

**STINNER:** And we're-- we're partners with you.

**SCOTT FRAKES:** Yeah.

**STINNER:** We're begging you to help.

**SCOTT FRAKES:** Yeah. So this document I gave you is a big piece of that. It's--

**STINNER:** OK. That's the end--

**SCOTT FRAKES:** And now we have numbers in hand.

**STINNER:** --end of my sermon and end of my statement. Senator Erdman.

**ERDMAN:** Thank you, Senator Stinner. You know, we-- we continuously talk about design capacity. And I think this follows up with your comments with Senator Bolz on the 179 percent. And your comment was, have you been there and seen how those people function? So the question is, who has determined what the design capacity of these facilities are? Is it based on we built this facility 30 years ago and this was the capacity that it was designed for, or is this a design capacity that was passed down to us by the federal government that changed the requirements and now the capacity is smaller because the

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requirements have changed? Speak about design capacity. What does that mean?

**SCOTT FRAKES:** Simply, design capacity is the number that you tie to the appropriations request. It's a pretty standard approach across America, so we often refer to-- unless we're building something that doesn't include beds, then we talk about the number of beds we're building, like the 384-bed project. If you're building a new facility, it will be identified as a, you know, 1,500-bed facility or a 2,000-bed facility, and that's the design. Once upon a time, and we have a number of facilities that fall in that category, prior to American Correctional Association standards around bed space and square footage space and things like that, the difference between design and operational wasn't so significant. Today, everything that I've come forward and asked for since I got here in 2015, it has a design bed number to it and that can't change or we won't be able to stay accredited, and we are an accredited state by statute, so-- but we have facilities-- LCC, D&E, NSP-- that all predate and the construction predates, and so the design capacity there doesn't lock us in, in terms the accreditation piece, because it was prestandards. So then the question is-- we built those facilities. We pretty much double bunked all of them, in some cases even more than double bunked. Now did we do the other pieces that we need to do so that we can pass the straight-face test and say design doesn't really matter, it's the operational capacity? Are the dining halls big-- I think it was either the senator or-- or Koebernick talked about-- dining halls big enough? Are the programming spaces, etcetera, big enough? And that's been an area where we haven't done everything that we need to do. So that's part of the long-term goal is to address those issues that would really allow us to say there's 1,350 people housed in the Nebraska State Penitentiary and there's all the infrastructure and space to do that. It's not a great example because that campus is too dang small. LCC, D&E actually is a much better example of where we've done the phase one RTC project, which ultimately becomes the reception and treatment center in which we're addressing that, increasing: new dining halls, new kitchen space, new programming space, new space for staff. Ultimately that facility, when those projects are done in 2022, will have the right capacity to house the number of inmates there. But it will never change the design because the original design numbers were what are they-- whatever they were, 160 for D&E, and I don't remember what LCC's original design was, 290, I think, something like that. Can't change that because that's-- that was the appropriation request. That becomes kind of etched in stone. And then, as Senator

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Lathrop talked about, we've got statutory language. It says we use design capacity as an important measurement, and then we define operational capacity statutorily by being 125 percent of design. So in that way, our hands are kind of tied, but I'm more concerned about the health of the system and being able to deliver the services and achieve the goals and the outcome that I need to be than I am around design numbers or operation numbers. But they're all important.

**ERDMAN:** OK.

**SCOTT FRAKES:** July 1 is coming and that's an important date in terms of, you know, we've got a statutory requirement and there's nothing that's going to change. I'm not going to drop below 140. If every single person that was parole eligible left tomorrow, we still wouldn't be below 140 of design. So that's a reality.

**STINNER:** Senator Erdman.

**ERDMAN:** Thank you again. So where you're at and what you're saying is that the design capacity was placed into statute has-- not based on the amount of square footage it takes to house a person? Is that what you're saying?

**SCOTT FRAKES:** Correct. It's-- the design capacity comes from whatever request was made to build those beds.

**ERDMAN:** So we have a facility that has single beds and you now put bunk beds. Does that mean you're at 200 percent capacity?

**SCOTT FRAKES:** By design, yes, but not necessarily by-- not necessarily operational--

**ERDMAN:** OK.

**SCOTT FRAKES:** --because if you have all-- if-- but if those beds were built after whatever the date is-- I just can't remember the date. I'm going to go with about 1990 roughly. If they were built after that, then the ACA standards come into effect. And so then, because we have to be accredited and want to be accredited, then we have to comply with those, as well, so.

**ERDMAN:** Wouldn't it make sense to have the capacity tied to the square footage or whatever, the functionality of the facility, rather than the statute?

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**SCOTT FRAKES:** Today we're-- I'd say we're there because, again, of that piece of-- you've got the appropriation process and then we've got our accreditation process, and so the 384 beds that we're just about ready to start building, I-- there's nothing I can do to ever change that number.

**ERDMAN:** OK.

**SCOTT FRAKES:** You know, if I-- there are-- it's a combination of one-man and two-man cells. And there's actually space that we could probably add a second bunk into those one-man cells. But then we would, I think, be in trouble with ACA.

**ERDMAN:** All right.

**SCOTT FRAKES:** I think we'd be pushing the square footage issue and then they wouldn't give us accreditation, so--

**ERDMAN:** OK.

**SCOTT FRAKES:** So 50 years from now, or whatever it is, this-- this conversation won't mean a whole lot because everything we have will be built after and not only have, you know, the design number that we use as the ACA number, they'll line up cleanly.

**ERDMAN:** I have one more question. You were here when Senator Lathrop made his opening statements and said that there was a law-- there is a lawsuit pending by the ACLU. I'm going to ask a question about that. If you can answer, fine. If you-- if it's an issue you can't speak about, I understand that. But can you explain, is that lawsuit because we are overcrowded according to the statute that we have or is that lawsuit because we-- functionality, we don't have the room for those people? Can you speak about what the lawsuit is actually about?

**SCOTT FRAKES:** No, sorry--

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

**STINNER:** Senator Wishart.

**WISHART:** I wanted to--

**SCOTT FRAKES:** --because I'm-- I'm named in the suit, so.

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**WISHART:** I wanted to go back and touch on the conversation we had around being able to have 300 people who would be eligible for community corrections by the time that these beds would be open. I just-- are-- do we currently have within our corrections, our maximum-, minimum-, and medium-security facilities, nonviolent offenders who are low risk?

**SCOTT FRAKES:** Yes. Most-- I would say the vast majority should be currently at either the low end of medium or in minimum beds, but yes.

**WISHART:** So what-- what is it then that would keep us from recognizing those as candidates to go into a community corrections situation?

**SCOTT FRAKES:** What's their length of sentence, what are their programming needs, what are their other potential treatment needs, are they a part of the protective custody world-- it's all of those factors that we use to make decisions about where we can safely house people.

**WISHART:** And so from your understanding, going through all of those assessments, we would not have a population who are currently within our minimum-, medium-security facilities, nonviolent, who would be eligible for community corrections?

**SCOTT FRAKES:** Yes. So there's a big difference when you move from minimum custody to community custody. You know, minimum custody at the penitentiary is a fully secured perimeter, so it's actually a little bit over. Minimum security at OCC is a fully secured perimeter, so it's a-- it's more secure than I typically need. The Work Ethic Camp is a great example of, for me, a true minimum-custody facility. It has a fence around it and it has some-- but no perimeter detection. It has enough tools to keep people in unless they're really motivated to get out. And we just had somebody go over the fence here last week, ten days ago. Fortunately, we got them back within just a short amount of time. But that's typical of a true minimum facility. It has a security perimeter, but it is not a secure perimeter. Community custody, we have a defining fence, says this is where the line of the property is. Depending on your age and your agility, you might be able to vault over it, because they're community based. You know, people leave and get on a bus or get other transportation and go to work and they're out in the community and then they come back, and that happens 24 hours a day because we don't tie people to only being able to work, you know, so--

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**WISHART:** So then--

**SCOTT FRAKES:** So it is such a big difference from who can be in facilities that have adequate security and that we have full, total control of, or at least, you know, reasonably good control of, to that community based where we don't have significant amount of control.

**WISHART:** So-- so this population that I'm thinking of then, the, you know, nonviolent, low risk, will they-- will all of them make it through community correction or are some of them just going to go from minimum security to the public?

**SCOTT FRAKES:** We have people released from all levels of security, and that's just also a reality of-- of prison systems. And there's-- all the things that I talked about are all the reasons that lead to people-- including their own behavior. The more they misbehave, the higher the security level they're typically going to be housed at.

**WISHART:** So why-- why would it be-- why would it be-- I'm just trying to walk through the thought process here. Why would it be safer for the public or-- or why would it make sense where-- wouldn't it make sense that we move as many people who are nonviolent and low risk-- instead of going straight from medium or minimum security into the public, wouldn't it make sense that there is a step down where there is an opportunity for-- for those individuals to be in community corrections instead of not-- instead of just in the public? Because that's what-- that's what I'm kind of looking at is they're going to serve their sentence, one way or another, and then be in the public. Doesn't it make sense that a significant portion of that, as much as possible, is them, you know, getting on their feet while still under the oversight of-- sort of, of our law enforcement?

**SCOTT FRAKES:** Much like we'd hope that everyone had supervision when they release, but there are all these different factors that work against that. So right now, about 50 percent of our population is going out through community custody, which is a pretty good number for a prison system. If there was a general 100 percent acceptance across society that whatever bad decisions people made were the person's fault and not the government's fault or the system's fault or the prison system's fault, I think we could stick everyone in community custody and see what happens, but there's not; there's not anything close to that. And so, again, I talked about the outlier event in Washington State. That's-- that's a far-end-of-the-spectrum event, but unfortunately those things happen. We've been really fortunate in that

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the people that have escaped over the last couple of years have done nothing more than minor law violations before they were recaptured. But--

**WISHART:** But I'm not-- I'm not-- and I don't think anyone on this committee is-- and I just want to-- OK. I have-- well, I have one more thing I want to say though. I don't think anyone on this committee is advocating for-- for us to put the public in safety-- put the public's safety in threat by us moving people prematurely into community corrections. What I'm saying is we're giving the opportunity for us to have that step down so that you can increase the amount of people going through community corrections from 50 percent to--

**SCOTT FRAKES:** But I'm not-- I'm not denying anybody the opportunity today that's qualified--

**WISHART:** OK.

**SCOTT FRAKES:** --and that could be there, so.

**WISHART:** OK.

**STINNER:** Additional questions? Seeing none, thank you.

**SCOTT FRAKES:** Thank you.

**JASMINE HARRIS:** Good afternoon, Chairperson Stinner and Appropriation Committee members. My name is Jasmine Harris, J-a-s-m-i-n-e H-a-r-r-i-s. I am the director of public policy and advocacy for RISE. We are a nonprofit that works with people who are currently and formerly incarcerated. We run a six-month program that focuses on employment readiness, character development, and entrepreneurship. We serve people incarcerated at seven of the Nebraska correctional facilities with this program and offer reentry case management services as people return home. We thank Senator Lathrop for his leadership in finding ways that the Legislature can help alleviate the overcrowding, understaffing, and other issues within the Department of Corrections. However, we do not believe that LB916 is a solution to meet that goal. Allotting funds towards the building of a new community corrections or expansion of the current facility in Omaha is not the solution to deal with the issues of our Department of Corrections. Whether this funding is used to build a new community corrections center or expand the current one, one thing we must remember is that even though it's called a community corrections, it

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is still a prison by definition, a building in which people are legally held as a punishment for a crime they have committed or while awaiting trial. With creating 300 new beds, this facility or expansion will still need to be staffed. As we all know, we're not just facing an overcrowding issue. We are facing an understaffing issue, which is a component of overcrowding. There was a staff turn-- turnover of about 30 percent last year within the Nebraska Department of Corrections. Although an agreement has been reached to increase staff wages, we don't know if this will be enough to recruit more staff. If there are problems staffing the facilities that we have, the return on investment of building another facility will not pay off. In the same vein as the staffing issues, the current processes and procedures within the Department of Corrections are not conducive to opening another community corrections facility. Two of the facilities we serve are the community corrections centers in Omaha and Lincoln. These facilities are unique in that at some point of an incarcerated person's sentence structure, they may have the opportunity to transfer to one of these facilities, obtain employment, and save money for when they are released. Although this sounds great, it isn't always without complications. As we work with program participants, there are many barriers that they navigate when transitioning to community corrections. These barriers include: the classification process and the wait times that are endured, whether it's to move to community corrections, work a state detail job making the same wages as in the secured facilities, or get approval to go look for employment in the community; having another individual transfer to the community corrections with a shorter sentence and individuals who have been waiting are bumped back to accommodate that person with a shorter sentence to go look for employment; rent requirements starting on the first day of being eligible to find employment; limited programming being offered at the community correction facilities, and so forth. Building another facility or expanding the current one without addressing these issues will only continue the inefficient processes that are in place. Building or expanding this facility in Omaha, where there are more jobs and community supports, is a great idea on the surface; however, the Department of Corrections closed the women's side of the community corrections facility in Omaha and moved all the women that were residing there to the newly expanded women's side at the Community Corrections Center in Lincoln. These women were around jobs, community support, family support, but that was not considered when being shipped to Lincoln to fill the newly built facility. Will women then have the opportunity to come to an Omaha facility for women to be around those same jobs and support, or will funds be wasted on

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what will be a half-used women's community corrections facility in Lincoln? We also run into the issue that the building of a new facility or expansion of the current one will not be completed for a few years. We are already operating in crisis mode and need to look at other options that can immediately attend to the problem at hand. There are many things that funding can be allotted for outside the building of a new facility or expansion of a current one. An option can be to look at people who are currently serving sentences for offenses that may have undergone sentencing restructures or became legal. Expanding supervised release options for nonviolent offenders is another way that can be explored. According to the Nebraska Department of Corrections website, 26 percent of fiscal year 2019 admissions were for drug offenses. Coupled with the expansion of a community supervision and funding for mental behavioral health services, this could be an avenue where we see an impact. When I recently conducted a facilitated discussion with community stakeholders, mental health was one of the salient-- across the spectrum of incarceration, from pre to post. Funding more mental health services for individuals and working with community partners to ensure that people are receiving mental health services is a better option for funding. If we are truly about decreasing our incarcerated population and lowering recidivism, allotting more funds towards mental health and substance use services, job programs, diversion courts, organizations like RISE, housing, and other preincarceration and postincarceration needs, would provide longer-term solutions to the problem, instead of new prison "Band-Aids." We ask that LB916 not be voted out of committee, but for legislators to look at other alternatives to decreasing the population that are in our state prisons through other methods. Thank you.

**STINNER:** Thank you. Questions? Seeing none, thank you.

**JASMINE HARRIS:** Thank you.

**DANIELLE CONRAD:** Hi. Good afternoon. I'm going to give you that. I'm going to go ahead and give you these too.

**HALLETT MOOMEY:** Yes, ma'am. Thank you.

**DANIELLE CONRAD:** OK. Thank you so much.

**STINNER:** Thank you for sticking around.

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**DANIELLE CONRAD:** Hi. Good afternoon. My name is Danielle Conrad; it's D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d. Today I'm here on behalf of the ACLU of Nebraska. Number one, I-- I want to thank Senator Lathrop for his ongoing leadership in terms of the many issues before the Judiciary Committee and this body as a whole, and particularly the strong leadership that he's shown on smart justice reforms in our overcrowded and underresourced prison system. That being said, the ACLU does come forward today in opposition to this measure, which is consistent with our long-standing position that in addressing these critical issues that are before you and before the state, you simply cannot build your way out of this problem, from a fiscal perspective or from a moral perspective. And we don't have to just guess about that. We can look at the experiences of our sister states in these great laboratories of democracy, and we know what works and we know what doesn't work. And simply by doubling down on failed policies like the war on drugs and trying to be tough on crime and just trying to incarcerate and warehouse more and more Nebraskans without requisite access to programs, services, robust reentry support, thoughtful diversion and front-end sentencing reforms, it just-- it just doesn't work. If you look at what Nebraska has invested in additional prison beds over the last couple of years, it's significant and it has yet to make a dent. I think that if you look in our Smart Justice report, there's a section that's specific to the budgetary impacts towards the end, and the metric that we explored from about the mid-'80s until about 2016 demonstrate that prison spending in Nebraska, now I think the second largest state agency before you, has grown almost 300 percent in that period. When you compare that to, say, for example, higher ed, it only grew by about 50, 55 percent in that same period. So I know from sitting in these chairs for eight years, when we see that kind of explosive growth in state government and big government and government spending, it typically raises a lot of red flags and-- and I think that we're-- we're at that point today and we have to ask ourselves these really hard questions. Do we have the political will to try another way? And we hope that you do. And we're grateful for Senator Lathrop for opening up this conversation beyond just the Judiciary Committee so that we can all get a handle on this because it impacts all the decisions you have before you. The more money you spend on-- on prisons, the less money you have for education and economic development and property tax relief. And that's why there has been a growing sense across the political spectrum of people coming together to say we-- we have to get smart on crime, we have to put public safety first, and we have to conserve our resources so that we get a better bang for the taxpayers and we have better human impact

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outcomes for our citizens. So in this Blueprint for Smart Justice, Nebraska, there's specific information about what's driving prison population in Nebraska. If you look, and some other testifiers have already talked about it, it's a little bit dated, but through 2015 there's not a dramatic difference to where we are today. Drug offenses are driving that population. It's followed by assault, public order offenses, behavioral health issues like DUI, and then nonviolent offenses like theft. That's what's driving our prison population in Nebraska. That's something to keep in mind. There have been some important and meaningful reforms, like LB605, which stopped the bleeding to a certain degree but hasn't had the anticipated impacts that policymakers had hoped, and that's for a host of different reasons. But we-- we pledge to work with Senator Lathrop and the committee to find a collaborative path forward that has better outcomes for the state budget, for the state taxpayer, and-- and for the kind of future that we want to build together in Nebraska. I know that time is short and, you know, this is a perfect perhaps analogy or metaphor for what we're talking about here today. Look how much more uncomfortable this room is when we're packed to the gills. Right? It puts a lot of pressure. I mean, I'm not-- I'm not joking around. It puts a lot of pressure on-- on everybody in the room today because we are crammed in. And that's what is happening every day in state prisons across Nebraska. It's a lot of pressure for front-line staff, for incarcerated Nebraskans, and it-- it makes us all less safe. When people come out less hopeful, more angry, and more likely to reoffend, that hurts public safety. Happy to answer any questions. I know I got a few shout-outs beforehand, so now that I'm literally on the hot seat, happy to-- happy to respond to any questions or follow up with you individually, because I know the day is running long and you have a lot of important issues before you too.

**STINNER:** Thank you. Questions? Seeing none, thank you.

**DANIELLE CONRAD:** All right. Well, it's always great to be back in the friendly confines that is the Appropriations Committee. They should have given you the big room today.

**STINNER:** Any additional opponents? Seeing none, anyone in the neutral capacity? Seeing none, Senator, would you'd like to close?

**LATHROP:** I would. And I'm sure brevity would be important at this point.

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**STINNER:** Yes.

**LATHROP:** Thank you for your kind attention to all the testifiers. I think you can get a glimpse of my world, which is we have those in law enforcement-- I will put Mr. Conner, the OPOA, anybody in your community that-- that is involved in policing, your prosecutors and the Attorney General, they come into Judiciary Committee and say, no sentencing reform, we don't want to see it, these people need to be locked up, don't be letting them out, because we're-- we're the law enforcement arm of government and this is our philosophy. Then you have Jasmine Harris, the ACLU, and-- and people all across the country who recognize there's a smart way to do this and it has to involve a certain amount of sentencing reform. The director came in today, and I sat in my chair and tried to figure out what I was going to say when I came up and closed, and I'll just make this point. He's been here five years, been here five years. And what he did today was say, don't do anything, I'll bring you a plan in a year. We should have had a plan a long time ago because there's nothing about these projections that are new to anyone. They follow the line that we've been looking at. Every projection-- there was one done in '06. There was one done, I think, in '09, '12, and '14, something like that. This is like our fifth one. We know what's going to happen, what's taken place, and that testimony basically says to everyone else in the room, don't look at sentencing reform, don't look at any other idea, because I'm going to bring you guys a plan in a year from now. So nothing is going to happen over in Judiciary Committee to try to resolve it in terms of any kind of sentencing reform because he just froze everybody with a "don't do anything, don't spend the money, I'll bring you a plan in a year." He's had five years and we're now at 180 percent in the men's, 160 percent overall, and it is a crisis. The Department of Corrections, parole, and probation are in the risk-management business, and here's what I believe is the problem. We're not willing to risk that someone will go over the fence or walk away from community corrections and not come back because it'll be a story in the paper and somebody will be embarrassed. So we put a fence around Kearney, we lock the doors at Geneva, and we say nobody in community corrections. My belief, and I-- and I would readily admit that Director Frakes knows a lot more about this than I do, but I can't get him to tell us what the-- what the recipe is. But my belief is most of the problem they have with community corrections is twofold. One is we're unwilling to risk more people walking away. The more people that are in community corrections, the greater the chance that these people will walk off, it'll be a story in the paper, and somebody is embarrassed. That's

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part of the problem. The second is if they had these people through their programming a year before their parole eligibility date or their mandatory discharge date, then we would have more suitable candidates. But what I heard in there is we don't have enough suitable candidates, which is why it's frustrating for Senator Wishart to say you got all these minimum guys, how come you can't fill up community corrections? Well, I think the answer is they're not done with their programming in time to go in there for a year or we don't want to take the chance that one of them will walk away because every time it happens it's in the World-Herald, and when it's in the World Herald, somebody gets embarrassed. I am happy to work with you. Over in the Judiciary Committee, we'll do what we can to work with the people who were for, against, and neutral to try to come up with some kind of-- some kind of reform that we can agree to where people that don't need to be there aren't put there, people that need to be there are there no longer than they need to be, and people have an opportunity to be released sooner if they're suitable candidates. That's what we can do. But we can't make-- we can't build brick and mortar. That's your guys.

**STINNER:** Anybody, questions? Seeing none, thank you.

**LATHROP:** All right, thank you. Appreciate it.

**STINNER:** I have one letter of support for LB916, American Institute of Architects, and that concludes our hearing-- [LAUGHTER] Yeah. Imagine that, huh? That concludes our hearing on LB916. We will now open with LBB995. Senator Gragert, welcome.

**GRAGERT:** Thank you. Chairman Stinner and members of the Appropriations Committee, I'm Senator Tim Gragert, T-i-m G-r-a-g-e-r-t, representing District 40 in the northeast corner of the state and here today to introduce LB995. LB995 proposes to appropriate \$150,000 from the General Fund to the Commission for Public Advo-- Advocacy for aid to the Legal Education for Public Services and Rural Practice Loan Repayment Assistance Program. This program, which I will refer to as our RLAP, provides educational loan repayment assistance to qualified attorneys. The purpose of the program is to recruit, retain-- and retain attorneys who either work for tax-exempt charit-- charitable organizations that provide legal services to low-income people or practices in designated legal profession shortage areas in the state. Loan repayment assistance can help encourage attorneys to seek employment in these areas. Currently, there are 11 counties with no attorneys and 20 counties with three or fewer attorneys. The-- the shortage of attorneys in these rural Nebraska areas means that people

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may have to drive hundreds of miles for legal assistance. As Nebraska's population continues to age and many attorneys in the rural areas are reaching retirement age, it is important to attract young attorneys to these areas of the state. Providing stable funding for this program would assist in such efforts. RLAP also provides loan repayment assistance to attorneys working for nonprofit organizations such as Legal Aid of Nebraska. Legal Aid represents people with the lowest incomes in the state, as clients must have incomes below 125 percent of the federal poverty level to be eligible for services. There are ex-- exemptions to the income requirement for victims of domestic violence, the elderly, and farmers and ranchers. There are approximately 50 attorneys that work in the eight Legal Aid, offices across the state, handle 11,000 to 12,000 cases per year. Legal Aid attorneys are prohibited from having any outside legal appointment. The RLAP board is required to develop and recommend to the Commission on Public Advocacy rules and regulations that govern the program, as well as review qualified applications and make recommendations to the commission. However, the commission makes the final determination. Eligible participants must be either a full-time attorney working at tax-exempt charitable nonprofit organizations whose primary duties are public legal services or a full-time attorney serving in designated legal profession shortage areas in Nebraska. A designated legal shortage area is a rural area within any county with a population of less than 15,000 and determined by the board to be underserved by available legal representation. The application must agree-- the applicant must agree to remain employed for at least three years for assistance or assistance has to be returned. The maximum annual amount that may be awarded to the participant is \$6,000, with a lifetime cap of \$42,000. The average debt for the law school's graduate is estimated between \$125,000 to \$150,000, which amount to a monthly loan payment between \$1,400 and \$1,700. This program won't resolve the applicant's financial debt, but it will help to reduce the principal on their loan. RLAP was created in 2008 but was not funded. It was relied on donation-- it relied on donations. But that-- that route didn't-- wasn't very successful or was not successful. In 2014, Senator Brad Ashford was successful in obtaining \$500,000 in General Funds. In 2017, Senator Wishart introduced a similar bill to LB995, but instead of funding the program through the General Fund, your committee instead transferred \$125,000 and \$150,000 to the-- from the State Settlement Cash Fund to this program. I would like to offer an amendment, which I have passed out, an-- an amendment and also a letter from one of my constituents. AM2137 strikes funding for the first fiscal year. The Commission on Public Advocacy-- Advocacy makes

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loan assistance awards based on calendar year rather than fiscal year. And since they were just made-- were-- were just awarded in-- in December of 2019, the appropriations for 2019 and '20 is not needed. The intent of this legislation is to provide ongoing funding of \$150,000 annually for this program. I became interested in-- in this issue when a constituent contacted me, asking me for information on rural student loan forgiveness program for attorneys. I gave her information for the RLAP and then-- and a contact number for the Commission for Public Advocacy-- Advocacy, but when she called them, she was informed that they had depleted their funding. Making sure that Nebraska's rural communities and low-income residents are able to access the service of an attorney is an important task before this Legislature and LB995 will help assure that these individuals and the areas of the state are given access to legal representation. Loan repayment assistance may help provide the necessary encouragement for students to practice law in communities and public service jobs where the initial salaries are less than those-- than what they could earn in bigger cities or larger law firms. I urge your support for LB995, which would provide permanent funding source for the Legal Education for Public Service and Rural Practice Loan Repayment Assistance Program-- that's quite a name. This is a-- this will allow the continuation of loan repayment assistance for-- to attorneys who choose to re-- represent low-income Nebraskans and rural residents of our state. If there are any questions, I'd be happy to try and answer them.

**STINNER:** OK. Thank you, Senator. Any questions? Senator Erdman.

**ERDMAN:** Thank you, Senator. And thank you, Senator Gragert, for coming today. So \$150,000 amongst all the counties, and you said there's 11 counties that don't have any attorneys?

**GRAGERT:** That's correct, and 20 with fewer than three.

**ERDMAN:** I think that one of my counties doesn't have-- maybe two. So how many-- how many recipients would be avail-- eligible for \$150,000?

**GRAGERT:** Well, you know, in the past, in 2015, they had 29 that were-- that applied and were eligible. And they paid-- they paid out \$4,685 each for those individuals that year; 2016, they were able to fund 54 at \$2,500 each; 2017, they funded 33 individuals at \$4,600 each. And then as-- December, where they were-- they had just \$60,000 in the

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program, they were able to fund 37 individuals at \$1,640 for that year. That's annual.

**ERDMAN:** OK. So from one year to the next, in those years, '16, '17, '18, were those recipients the same people? Were they eligible to get another compensation the following year or is it one time and you're done?

**GRAGERT:** No, they could--- that's-- that's possible that you can get more than one year as long-- you've got to live in the-- in that community for three years. As long as you're living in that community, you can apply. That doesn't mean you're going to get it, but you can apply for additional years, up to seven years, because they cap it at-- they cap it at \$42,000. So it's \$6,000 a year. So I don't-- I really-- I don't know if you only get \$4,685 that year, if that-- that's considered toward your \$42,000 overall. I don't know about that. It would be-- whether it's just-- if you happen to get \$6,000, you're not going to get any more than that and you're not going to get any more than seven-year period at \$42,000 then.

**ERDMAN:** OK. Thank you.

**STINNER:** Thank you. Additional questions? Senator Bolz.

**BOLZ:** Can you just clarify the amendment you brought? I'm a little confused because you said that the gal that you were trying to help was told that the sources were depleted. But it seems like your amendment is trying to strike the '19-20 addition of dollars. So I'm just trying to reconcile what you said with the amendment that you brought.

**GRAGERT:** Trying to clarify that? What-- what this is, is it would be \$150,000 over the biennium started, you know, last year and they were already-- they-- in 2019-20, they only had \$60,000 in this program. It was depleted. So we didn't need-- you know, where-- so where it is so late, they don't have time to-- they don't have time to start it, the-- you know, the calendar fiscal year over. So those-- those monies were just-- this will start-- just--

**BOLZ:** So it-- it's too late to help the constituent that you-- I see. Thank you.

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**STINNER:** So he's on-- you're only asking for '20-- '20-- fiscal year 2021, you're not asking for \$150,000 on an ongoing basis, just a one-time--

**GRAGERT:** I am asking for this to just be ongoing, you know, for-- starting in this year and then just carrying it on at \$150,000 a year.

**STINNER:** How come it doesn't show that? OK, I'll rectify the fiscal note then. Any additional questions? Seeing none, thank you.

**GRAGERT:** OK. Thank you. I'll stay for closing.

**ELIZABETH NEELEY:** Hi. Good afternoon.

**STINNER:** Good afternoon.

**ELIZABETH NEELEY:** My name is Elizabeth Neeley, N-e-e-l-e-y. I'm the executive director of the Nebraska State Bar Association. Thank you to Senator Gragert. And we are here today in support of LB955 [SIC]. You heard the senator talk about the increase in student loan debt, and this is an additional, for a lot of students, between \$1,400 and \$1,700 a month on their student loan payments, so we're caught-- I mean, a lot of people refer to it as this is the household-- house payment that I'll never live in, right? This major increase in law student debt hinders Nebraska, and especially rural Nebraska's ability to attract lawyers to work in their communities. So our-- what we're seeing is new lawyers are pressed to look, instead, to jobs in larger cities that have the possibility of higher pay just so that they can afford their student loans. What I've passed out to you is an updated map for 2020 to show you the population of how lawyers are disseminated across the state. There are 11 counties in Nebraska without a lawyer and 20 others with three or fewer. Now the Nebraska State Bar Association has a rural practice initiative where we work to connect graduates, new associates with opportunities in rural Nebraska. You're going to hear from our law schools about some of the innovative things they're doing to encourage practice in rural Nebraska. But we really see LB955 [SIC] as an important tool. It's important because it attracts new graduates to rural areas. It helps us to ensure that rural Nebraskans are getting access to legal services. It keeps our courthouses in rural communities open, and it's an investment in our future for our rural communities. If you think about how wealth is transferred, how kids get adopted, how new business and commerce happens, those communities need lawyers in rural Nebraska. In 2019, 37 lawyers were provided financial assistance

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through this program, and it's having, in my opinion, its intended impact. Four of those are working with nonprofits-- profits, providing legal services to low-income Nebraskans. These are people providing services to victims of domestic violence, to people who were impacted by the historic flooding that Nebraska experienced; they're people that are providing pro bono services in these rural communities. The lawyers in the rural areas, they come from Albion, Alma, Bloomfield, Bridgeport, Cambridge, Chadron, Curtis, Gothenburg, Humboldt, McCook, O'Neill, Ord, Palmer, Pawnee City, Scribner, Tecumseh, Valparaiso, Wayne, and York. I mean, these are the size of communities-- I know that you're-- you're familiar with them-- that we're trying to bring rural lawyer-- lawyers to. What I've also included in the materials, I've asked several of the people that received funds this year to give you a firsthand account of why this is important, not only for themselves in terms of their loan repayment, but how it's impacting the communities that they're serving. One thing that we're seeing is that a lot of these lawyers are not only serving their county, they have to serve all of the surrounding counties as well. And I-- I think there's some pretty good information in those letters. I just want to close by saying that many states are struggling with this issue. Nebraska is-- you're going to hear, has a multipronged approach through its Bar Association, our law schools, our higher education institutions, and our Legislature, and we're very proud of the investment by all of those groups and we want to thank you for your continued support of this program. I'd be happy to answer any questions.

**STINNER:** Thank you. Questions? Seeing none, thank you very much.

**ELIZABETH NEELEY:** All right. Thank you.

**STINNER:** Good afternoon.

**RICHARD MOBERLY:** Good afternoon. Thank you for the opportunity to testify in favor of LB995. And thank you, Senator, for bringing it forward. My name is Richard Moberly, M-o-b-e-r-l-y, and I currently serve as the interim executive vice chancellor at the University of Nebraska-Lincoln. I'm testifying today in my personal capacity as a citizen and resident of Nebraska. My views, though, are shaped by my experience as a law school dean. Since 2016, I've been the dean of the University of Nebraska College of Law, where I have also served as a law professor since 2004. In 2017, I testified in favor of a bill similar to this one, LB538. At that time, I told this committee that Nebraska's loan assistance program plays a crucial role in a

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multipronged effort to encourage students to practice law in rural Nebraska and in the public interest. And that effort, that holds true today as numerous Nebraska institutions continue to participate in this effort. The stakes now are the same as they were two years ago, whether the state of Nebraska will continue its implicit partnership with these institutions to help solve the problem of a scarcity of lawyers in greater Nebraska and in public interest organizations. One aspect of this partnership occurs when potential lawyers who can solve this problem are actually still in high school. Rural high school students are recruited to participate in the Rural Law Opportunities Program, which is a partnership with the University of Nebraska College of Law and three undergraduate institutions. The RLOP, as we call it, is unique in the country. Bright and talented high school students from small communities are given four-year, full-tuition scholarships to either Wayne State College, Chadron State College, or the University of Nebraska-Kearney. While there, they have mentors and participate in programming from the College of Law. They do an internship with a small-town lawyer. If they maintain a 3.5 GPA and achieve a certain score on the LSAT, they will automatically be admitted to Nebraska Law with the expectation that they will return to greater Nebraska to practice law after they graduate. We have a similar program with University of Nebraska-Omaha for bilingual and first-generation college students who want to work in the public interest. We call it the Underserved Law Opportunities Program, or ULOP. These programs started in 2017 and together now have over 55 students participating among the four colleges. A few have already matriculated to the College of Law and we expect-- expect classes of 15 to 20 students from the four colleges to begin enrolling at Nebraska Law in 2021. All of these students should practice law in rural Nebraska or in the public interest after they graduate, which we hope will dramatically reshape the practice of law in Nebraska to better address the needs of rural communities and chronically underserved populations. The Nebraska State Bar Association joins the effort by working with these students to find them mentors and jobs, and the NSBA also funds LSAT prep courses to encourage underrepresented-- represented populations to go to law school. And finally, when these students graduate, the state's loan forgiveness program helps them repay their law school debts. Even though Nebraska Law students graduate with the fifth lowest debt load in the United States and our resident tuition is the lowest of any law school in the top 100, law school debt can still exceed \$60,000. Having help with their debt can provide the necessary encouragement for students to practice law in communities and in public service jobs where the

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initial salaries out of law school are often less than what they could earn in bigger cities or for larger law firms. In other words, the state's law forgiveness program is a crucial piece of a multifaceted effort to solve a serious problem. And it not only helps students who are involved in these opportunities programs; it's helping students right now. In our graduating class of 2018, about 15 percent of our students went to rural counties to practice law, but it could help even more. Depending on what you count as public interest, between 3 and 11 percent of the class took a public interest job right out of law school. Removing the loan forgiveness program would significantly impact the effectiveness of all the other efforts to encourage students to practice law in rural Nebraska and in public service organizations, and it would negatively impact the current students who are deciding where they want to practice law and what type of law they want to practice. A relatively small investment from the state receives a multiplier effect because it works in tandem with efforts from many other institutions to address access to justice and economic development issues in Nebraska. People often joke that there are too many lawyers, but I don't think that's very true. The problem is that there are too many-- is that not too many lawyers-- the problem is not too many lawyers-- excuse me. I ruined the punchline, right? [LAUGHTER] The problem is not too many lawyers; it's that the lawyers we have are not necessarily practicing in the areas where there is the greatest need, such as in rural communities and in the public interest. LB995 can help remedy that problem and, therefore, I respectfully urge you to approve it. Thank you.

**STINNER:** Thank you. Questions? Seeing none, thank you.

**RICHARD MOBERLY:** Thanks.

**TANA FYE:** Good afternoon.

**STINNER:** Afternoon.

**TANA FYE:** My name is Tana Fye, T-a-n-a, last name is Fye, F-y-e. I am an attorney from Holdrege, Nebraska, Phelps County, a town of about 5,000 people. I am in private practice. I have my own law firm, Fye Law Office. My office, we practice in several of the surrounding counties in addition to the county that we reside in. I practice regularly in Harlan, Kearney, Phelps, Franklin, Furnas, Gosper, Red Willow, Dawson, and Buffalo County. That's just a feature of what-- what it takes to survive as an attorney practicing in a rural community. There is a need for legal services in all of those areas,

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and so we pick up that need and meet it by traveling. I predominantly practice in the areas of juvenile law, criminal defense, some family law, but just in the nature of being in a rural community, we're a general practice firm. We take the cases that our community needs us to take. I am testifying today in support of LB995 and the Rural Loan Repayment Assistance Program for two predominant reasons. The first is because I'm a recipient of the program in the past and at the present time, and also as an employer and a law firm owner trying to attract attorneys to the area to help solve the problem of access to justice in our rural communities. You've heard some testimony previously about the amount of debt that law students come out of-- of school with. I myself came out of law school with about \$85,000 in debt, which, considering the price of a legal education, isn't too shabby. But it also makes it really difficult, especially when you're a new attorney, to make sure that you're able to pay those bills that you have in your own household, to pay the bills of a law firm, make sure your staff's needs are met, those sorts of things, as well as then take on the kinds of cases that rural communities need. I take a lot of court-appointed cases. Those pay much lower than a regular hourly wage than an attorney in private practice typically pays. I take those cases because I think they're important and because there is a need for those to serve the community that we serve and live in. I-- I personally received the loan repayment assistance on two separate occasions, most recently just in December of the last-- of this last year, as well as once previously. My husband is also an attorney and he has also received loan-- loan repayment assistance. That's made it feasible for him to serve as the county attorney in the county that we reside in. That's made it possible for me to take those court-appointed cases, criminal defense, juvenile law cases, made it possible for me to do pro bono work, do low bono work, help those people who don't have the ability to work with Legal Aid just due to the location of their offices. But I also am testifying today in-- in support of this program as an employer. I hired last fall an associate attorney. She's from Hastings, Nebraska. This program has, in part, made it possible for her to come back to the area where she grew up, made it possible for her to do those same kinds of cases that I do to serve those populations that so desperately need it. She currently takes a lot of cases with the Volunteer Lawyers Project, pro bono and low bono, because she thinks family law cases in particular need attorneys to take them. This has helped to attract her. It's also, I think, important to retain attorneys in underserved areas. As I mentioned, my husband and I, this makes it possible-- helps to make it possible for us to stay in the communities that need us. I am aware of

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many older attorneys in the area who would love to retire, but they can't do it because there's no attorneys to come in and take over their practices. I think a program like this is instrumental to help those folks. Several members of this committee come from areas that have underserved legal communities, and so I hope that you can talk to the attorneys that are in your communities, if there are any, or talk to the community-- the attorneys that come to your communities, because they can give you more information about what your struggles are in your local areas. But I would venture a guess that it's very similar to the experience that I can testify about in my particular geographic area. Some of the members of this committee do not come from underserved legal areas, which is great. But in doing a little bit of research about you folks, trying to figure out who I was going to be talking to today, I noticed that several of you do have interest in workforce development issues, stopping the brain drain out of Nebraska to other-- other states. And I think that this bill is instrumental in helping solve those particular issues as well. And so I support LB995, and I hope that you will all support it as well, and I am open to any questions that you may have for me.

**STINNER:** Any questions? Thank you for driving in.

**TANA FYE:** Thank you.

**STINNER:** Holdrege is a big town though.

**TANA FYE:** For our area, it's considered a big town, yes.

**STINNER:** Yeah.

**TANA FYE:** Yeah. So thank you.

**JOSHUA FERSHÉE:** Senator Stinner and the Appropriations Committee, thank you for the chance to testify in support of LB995. My name is Joshua Fershée, J-o-s-h-u-a F-e-r-s-h-é-e. I am the Dean of Creighton University School of Law and I will endeavor to be brief. The need to support lawyers who represent clients in underserved communities is recognized all over the nation. When you don't have access to a lawyer when you need one, you don't have a chance at justice. LB995 helps make sure people who have access to lawyer-- will have access to lawyers when they need one. Twenty-four states have some version of a loan repayment assistance program and I com-- commend Nebraska and this Legislature for choosing to be among them. I was on the faculty at University of North Dakota and West Virginia University before

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joining Creighton, both states that have similar challenges in seeking to serve their rural populations, particularly, and neither have such programs, and so it's nice to be in a state that supports the people of the state. It is-- it speaks volumes to what this Legislature is doing to commit to the people of Nebraska. This program may seem modest, but it can be what helps make a new lawyer choose to live in a community and serve a community that she wants. I thank you for considering these appropriations, and I urge you to continue to support lawyers who support the underserved populations of Nebraska. I'd certainly be happy to answer any questions and I thank you for your time.

**STINNER:** Questions? Seeing none, thank you.

**MILO MUMGAARD:** Yes. Thank you. Good afternoon, Senator Stinner and the Appropriations Committee. My name is Milo Mumgaard, M-i-l-o M-u-m-g-a-a-r-d. I'm the executive director of Legal Aid of Nebraska. Legal Aid is rather an interesting participant in-- in-- our staff is an interesting participant in this program because we're both the public service side of the coin on this particular and we're also a rural provider. We have eight offices, you heard earlier, across the state. We serve a full range of legal services. So our attorneys that are located in Norfolk or Scottsbluff have to also be--whether they're in Lincoln or Omaha or any-- any of our offices, have to be able to provide the full range of advice and counsel all the way to significant amounts of representation, Supreme Court, federal court, and so on. So from that perspective, we have a very strong vested interest in programs that enable attorneys to represent our low-income clients across the state. So the materials that I have passed around is just to give you a window into what Legal Aid is today and what we're up to. The newsletter there gives you at least a bit of a taste of the wide variety of activity that we do at Legal Aid across the state. We basically focus on four broad areas: children and families, debt and-- debt and finance, income and benefits, and housing. And by providing legal services in those areas, we're able to provide the largest amount of impact. And so on the back page of the written testimony that can go on the record here, you'll see that there is a-- a summary of the 2019 statistics, or some of the statistics related to Legal Aid's activities, and as you can tell, we're a very, very busy place. We've-- as you heard earlier, we've closed over almost 13,000 cases this year. But most importantly, we had a huge economic impact from the work that we did this past year all the way across the state. When you add it all up, from the amount of income that has-- the

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amount of assets that we've protected to the income that we've been able to increase to the debt that we've been able to decrease, as well as the ability to protect the victims of domestic violence and the exploited elders and things of that nature, we had well over an \$18 million impact this year on the ground on behalf of our clients. So when you multiply that through rural communities and-- and the state as a whole, the work of Legal Aid is extensively important to not just the people that we serve but to broader communities. So in that light, in the written materials you have there, if you have a few minutes, you can take a look. We've-- on pages 4 and 5, we have some of our-- our attorneys that have been able to and are participating in the RLAP program and reasons they-- they're giving for why they're participating and why it makes a difference for them to decide to come work at Legal Aid and be a part of such a profound impact across the state, including our rural-- our rural attorneys who point out, very accurately, I think, and this has been one of the-- the reasons that Legal Aid is such a vigorous proponent of this program, is that, but for the existence of these programs, like the-- like the RLAP program, with Legal Aid's inability to-- to pay at the same salary rates as private firms, or, for that matter, even at the rates of other public service and government attorneys, such as public defenders and so on, these loan repayment programs are-- are huge reasons, incentives for the participation by attorneys in taking the Legal Aid positions and allow them to do this satisfying work. So, and furthermore, I would also point out that we've got many examples of where more folks have been Legal Aid attorneys in rural Nebraska and have wound up becoming full-time participating private attorneys in those communities. In other words, they put down roots and so on. So Legal Aid has a lot of reason to be supportive of not just the-- not just because our staff has taken advantage of and is supported by these type of programs, but also because it's so important to the service that we're delivering and the benefits we're delivering to communities across the state. So with that, I'm happy to answer any questions you might have about Legal Aid or anything about our attorneys or anything about our work.

**STINNER:** Any questions?

**MILO MUMGAARD:** Thank you very much.

**STINNER:** Seeing none, thank you. Any additional proponents? Any opponents? Anyone in the neutral capacity?

**TODD LANCASTER:** Good afternoon. My name is Todd Lancaster. I'm leg-- agency legal counsel for the Nebraska Commission on Public Advocacy.

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I've been with the commission since 2007. Chief Counsel Jeff Pickens would rather be here today, but he is in the middle of a first-degree murder jury trial that's supposed last three weeks, so he can't be here. I'm familiar with the program. I've been briefed by him and by our fiscal officer, so hopefully I can answer any questions you have. Since 2014, the commission has administrated-- had administered the loan payment program. Just like Legal Aid, we distribute funds. We're a neutral party. We have no dog in this fight and we're happy to administer any programs that the legislature-- Legislature asks us to do. A lot of the things I was going to say have already been mentioned by Senator Gragert; for example, we have designed rules and regulations, and that's why I provided to the court-- I'll give you guys-- or the court-- the committee that will kind of give you an idea of what our rules and regulations are. The awards that we have been distributing since 2014 are based on the funds appropriated and the number of participants involved in the program. We have awarded \$727,165 since the loan program has been in effect. I think it's been mentioned that these amounts range from \$1,640 up to \$6,000. No one participant can get more than a \$6,000 award in a year with a maximum of \$42,000 in aggregate. These-- these amounts have varied, up and down, based on the amount of money we've had to appropriate or give out to the program. Again, we have ranged from awards of \$1,640 to \$6,000. In the first year, I think the low number of participants was 29. The high was 54 in 2000-- 2014-2015 fiscal year. The last year-- last year there were 37 participants. We average around 38 participants a year. You know, the purpose of this-- this loan repayment program is to assist people that are practicing in Legal Aid services and rural communities that need attorneys there. We have heard from our participants, as we have heard today from Tana Fye, that the ability to have this money to help pay their student loans has enabled people to stay in these areas where they need attorneys. There is a lack of attorneys and it's-- it's encouraged them to stay there and to bring other people to work there as well. Again, this is a program we administer. We're happy to do it for the Legislature. I think there was a question earlier by Senator Bolz about the appropriations for this year. And I haven't seen the amendment, but I was aware of it. The reason we aren't able to appropriate any more funds this year is because we've already done that. The fiscal year ends June 30. If we were to have more funds this year, we would have to take in applications, call the board of commissioners to make recommendations, choose the recommendations and get those worked out by June 30, and it's just probably not possible we could do that. So

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if the-- if the committee has any other questions, I'm happy to answer them if I can.

**STINNER:** Questions? Seeing none, thank you.

**TODD LANCASTER:** Thank you.

**CLEMENTS:** Excuse me.

**STINNER:** Yes, I'm sorry, Senator Clements.

**CLEMENTS:** Thank you, Mr. Chairman. Thank you, sir. I was wondering if-- it sounds like the amount of awards varies. Does that mean everybody who applies is eli-- that qualifies gets it, and then you just divide that into the amount of money or [INAUDIBLE]

**TODD LANCASTER:** Exactly. If you-- if you're a qualified participant and we have 35 and we have X amount of money, we divvy that up, equal amounts for each one of those participants.

**CLEMENTS:** That's what [INAUDIBLE]

**TODD LANCASTER:** There's not more for one person or the other. It's how many qualified participants and we divide that money equally among all of them for that year.

**CLEMENTS:** So all qualified ones get something--

**TODD LANCASTER:** Right.

**CLEMENTS:** --rather than--

**TODD LANCASTER:** They all get-- they all get the same.

**CLEMENTS:** --rather than some get \$6,000 and some get zero.

**TODD LANCASTER:** Correct.

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

**TODD LANCASTER:** Sure.

**STINNER:** Any additional questions? So if we had 40 applicants times \$6,000, you'd need \$240,000, so just doing the math for you. Thank you.

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**TODD LANCASTER:** Don't make me do the math.

**STINNER:** OK. Thank you.

**TODD LANCASTER:** Thank you.

**STINNER:** Anyone else in a neutral capacity? I did lock that door. It resonates here in the mikes, and so I apologize. And I should have probably told the audience that as they ran into it, but if you could exit in-- through the offices, I'd appreciate it. Seeing none, Senator Gragert, would you'd like to close?

**GRAGERT:** I'll shorten your day.

**STINNER:** OK, thank you. There is a letter of support from Nebraska Voices for Children, and that concludes our hearing of LB995. We will now go to LB1017, Senator Geist.

**GEIST:** I feel like you should all stand up and--

**STINNER:** We could probably take a five-minute break if you'd like to.

**GEIST:** Well, that's fine with me if you would like to.

**STINNER:** Is that right?

**GEIST:** Sure.

**STINNER:** OK. We'll take a five-- five-minute break.

[BREAK]

**GEIST:** [RECORDER MALFUNCTION] Yes. Thank you. And thank you, Chairman Stinner, and good afternoon, members of the Appropriations Committee. For the record, my name is Suzanne Geist, Suzanne, S-u-z-a-n-n-e, Geist, G-e-i-s-t, I represent the 25th District in the Nebraska Unicameral. And before I get started, I would like to thank Senator Bolz and her staff for doing a lot of the background and the footwork on this bill. We've worked closely together and it is in great part to her that I'm introducing LB1017. It will appropriate \$617,788 to the Supreme Court. This will provide a pilot program for mental health courts under the Division of Problem-- Problem-Solving Courts and will run for three years. The bill will appropriate an additional \$150,000 for fiscal year 2021 and '22 and fiscal year 2022 to '23 to evaluate the mental health court pilot program. I introduced LB1017 because of

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the passion I have to help those who suffer from mental illness and get caught in the judi-- in the criminal justice system. I have attended and watched drug court for the past two years. Drug court has changed so many lives of the people that have graduated from the program while keeping them out of prison, I started looking into alternative problem-solving courts to see if there was a way to help those who have a mental illness avoid going to prison once they enter the criminal justice system. Mental health courts will give the judge the ability to give a mentally ill person a second chance by allowing them to go through strict programming that will help them get the medication, education, programming, and services they need. This will not be an easy option and the average participant will take 18 to 24 months to graduate. If the person does not comply with the rules and regulations of the program, they end up serving the sentence that they plead guilty to in a correctional facility. Mental health court will cost between \$5,000 to \$7,000 per individual, compared to around \$35,000 a year that it would cost for a person to be incarcerated. Currently, the Supreme Court is meticulously working on standards that are to be followed by judges and mental health court services and participants. There will be those behind me to answer specific questions, but I'm happy to take any of your questions and I thank you for your attention.

**STINNER:** Thank you. Any questions? Seeing none, thank you.

**GEIST:** You're welcome.

**COREY STEEL:** Chairman Stinner, members of the Appropriation-- Appropriations Committee, my name is Corey Steel, C-o-r-e-y S-t-e-e-l. I'm the Nebraska State Court Administrator and I'm here to testify in support of LB1017. I want to first thank Senator Geist, Senator Bolz, Senator Dorn. I know Senator Stinner and others have attended problem-solving courts and provided leadership in their own communities, so thank you for that. Mental health courts across the country were created to improve outcomes of justice-involved in-- individuals with serious mental health and co-occurring disorders. Participants of mental health courts receive mental health treatment, intensive clinical case management, drug and alcohol testing, and appear frequently in front of the courts for status hearings to receive incentives for their achievements and sanctions for any violations that may occur. Nebraska standards for mental health courts were created after a similar need was identified and in anticipation of a possible expansion. Those standards are currently in their final

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form and will be in front of the Supreme Court very soon for adoption and moving forward. This intensive process includes examination of existing studies, assessments, evaluations, and research literature on mental health courts and engage the expertise of research, behavioral health specialists, probation administrators, and judges. You may recall recently the Honorable James Doyle of Lexington and Dr. Richard Wiener from the University of Nebraska Law and Psychology Program spoke to members of the Legislature on January 7 of this year. They discussed the standards, strengths, limitations of mental health courts. The model of the Nebraska Mental Health Court targets high-risk and high-need individuals who have been diagnosed with a major mental health disorder that contributes to their involvement in the criminal justice system. By stabilizing their behavioral health through accurate diagnosis, integration into mental health treatment, and developing a system of community support, individuals would be better prepared for success. If the Legislature sees fit to move forward with adding mental health problem-solving court pilot program in Nebraska, it will require a commitment to the necessary resources for behavioral health services, a staffing infrastructure, and an evaluation that we feel is necessary to make sure we get this right. That's a component that we talked about after that January 7 program in front of the Legislature to make sure that this isn't just a, "Does it work?" We want to make sure it does work, so that evaluation component is-- is vitally necessary. In closing, I'd like to say that Nebraska problem-solving courts will continue to utilize innovative court programs in which individuals and their families thrive and all Nebraska communities become safer. One last piece I also want to-- want to say is after that January 7, we felt the-- necessary to have this a pilot. Again, in going forward, we want to make sure-- mental health courts are unique in-- in the nation. They're not as prevalent as drug courts or as prevalent as veterans treatment courts, so we want to make sure we get this right in Nebraska with what we do. So a pilot program is what we've recommended to Senator Geist and I believe is in the legislation, along with that evaluation component. At this time, we haven't picked where that pilot program would take place or what would take place. But we want to make sure we have the right community, the right staffing, and the right resources in order for that pilot program to be successful. And this is not-- as I've talked to Senator Bolz about and Senator Geist a lot about, this is not the answer. This is one of those puzzle pieces to the answer when we look at criminal justice reform. So I'll be happy to answer any questions that the committee may have.

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**STINNER:** Senator Erdman.

**ERDMAN:** Thank you, Senator Stinner. Thank you for coming. So Senator Geist said there would be others to answer the questions that may be more technical. But I read the bill here and it says you're going to appropriate \$617,788, 2021, then in 767 [SIC] for the next two years. And then later on down the bill, it says no more than \$416,708 shall be used for permanent and temporary salaries, then \$150,000 for an evaluation program. Those numbers don't add up. So \$416,000 and \$150,000 is not nearly \$617,000. Where's the rest of the money go?

**COREY STEEL:** I would have to guess. I don't have the bill in front of me to add those figures up, but we provided a-- an A bill as well-- I'm not sure I have with me. From our aspect, that is resource dollars and then staffing dollars, as well as-- what I'll do, Senator, is we'll give Senator Geist some of these figures and make sure they-- they do add up, that--

**ERDMAN:** Then the other question I have is, you're going to spend \$150,000 to evaluate the program?

**COREY STEEL:** Say that again?

**ERDMAN:** You want to spend \$150,000 to evaluate the program?

**COREY STEEL:** That was the first estimate that we've got. We-- we'll work with the University of Nebraska-Lincoln Law and Psychology, Dr. Richard Wiener. We think that will come in a lot-- a lot cheaper. I just actually was talking to Senator Geist in her office and said we may be able to amend that down as--

**ERDMAN:** You may want to put that up for an RFP; \$150,000 is a lot of money to evaluate a program. Is this one court?

**COREY STEEL:** This would be one court, correct. But it's not just evaluating the program. It's the effectiveness of the program, it's the mental health treatment that goes into that program, the recidivism study. It would be encompassing of all of those-- all of those types of things.

**ERDMAN:** It says here \$150,000 General Funds for evaluation of the program-solving [SIC] courts.

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**COREY STEEL:** Correct. It would be the-- encompassing everything in-- within that problem-solving court.

**ERDMAN:** OK.

**STINNER:** Just for clarification, \$416,000 is the salary limit, so there are other expenses associated with that. It's kind of like a PSL for it.

**ERDMAN:** OK.

**STINNER:** So that limits that. And the \$150,000 also goes to evaluation, then there's probably other expenses in there. We'd have to look at what they budgeted.

**COREY STEEL:** Right. There would be training expenses. There would be service cost for mental health treatment and those types of things. So there's-- there's also a service cost that goes into that.

**STINNER:** So I-- I mean, if you want to break out on the budget to tie back to those, I think probably somebody can provide those.

**COREY STEEL:** We can give you an exact breakdown, Senator Erdman, of the budget.

**STINNER:** Yes, Senator-- Senator Erdman, are you finished? Senator Clements.

**CLEMENTS:** All right. Thank you, Mr. Chairman. Thank you, Mr. Steel. I see \$150,000 twice, so that would be two evaluations?

**COREY STEEL:** No, it should just be one evaluation for the court.

**CLEMENTS:** Again, it's going to be \$300,000?

**COREY STEEL:** I don't believe the \$300,000-- no, I think it should be \$150,000 for the evaluation of the-- of the court.

**ERDMAN:** That's not what it--

**COREY STEEL:** So we'll get that clarified.

**CLEMENTS:** Yeah, it's saying fiscal year '22 is \$150,000, '23 is the--

**COREY STEEL:** It should only be a one-time \$150,000 for the evaluation.

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**CLEMENTS:** OK.

**COREY STEEL:** OK.

**STINNER:** Are you sure it isn't an-- you sure it is an ongoing evaluation over a two-year period of time or is it a--

**COREY STEEL:** It's-- it's supposed to be an ongoing evaluation over a two-year period, but it's not \$154,000 each year. It should be a one-time \$154,000, both years. We'll-- we'll get that clarified.

**CLEMENTS:** And of the \$767,000, is \$150,000 part of the \$767,000?

**COREY STEEL:** I believe so, yes.

**CLEMENTS:** It's not in addition?

**COREY STEEL:** Correct.

**CLEMENTS:** OK. I just wanted to clarify that. And your testimony talks about mental health courts across the country. I believe when I heard the presentation about Mr. Doyle and the University of Nebraska, the success rate sounded a little questionable, maybe 50 percent of success. Are we going to be able to do better than that?

**COREY STEEL:** Well, that's-- that's always the goal, Senator Clements. But I think that's why we want to take this slow. That's why we want a pilot program. This is that-- as we talk about, and-- and I know this was a discussion early, those high risk and high needs, those individuals that have that severe mentally-- mental health issues are the-- are the hardest clientele that we see come through the court system. So that's why you see a lower success rate than the general population that come in even with substance abuse. So that's why we want to pilot this. That's why we want to study this, to make sure is it effective and is it worth the dollars. If it's not, a pilot, then we can-- we can say this did not work based on the research. That-- that's why there's that evaluation component in there.

**CLEMENTS:** Does the court have a judge that's capable to conduct this program?

**COREY STEEL:** I feel we have several judges that would-- that would be willing to step up and say we would-- we would take this-- take this on under their purview.

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**CLEMENTS:** So you would not hire a new one? You would use existing--

**COREY STEEL:** No, we would not. We would-- we would utilize exist-- an existing judge that we currently have.

**CLEMENTS:** Thank you.

**STINNER:** Additional questions? Senator Bolz.

**BOLZ:** Just one, really briefly, and may-- forgive me. It's maybe a little bit more of a comment in response to Senator Clements' question. I think it's a good and fair question. Some of the data and statistics that I've seen about mental health courts, while the success rates are-- are not perfect, they do outperform some of the programs for people who are incarcerated. So it depends on what your benchmark is. Is your-- is your benchmark 100 percent or is your benchmark a program that performs better than someone who would otherwise be incarcerated? And I-- I think they do outperform, so I'll let Corey-- sorry. I'll let Mr. Steel articulate that further.

**COREY STEEL:** Yeah, that's correct. These individuals, if we did-- if we would not have a mental health-- mental health court, would wind up in prison and/or jail. And we know that there's lack of services or no services that they receive for mental health treatment in the-- in the jail or in the prison population. So again, 50 percent with this population is a-- is a pretty good percentage nationwide that they're getting the treatment, the help, and the support systems they need within their community and keeping them out of the jails and prison where we know they're not getting the treatment.

**STINNER:** Senator.

**CLEMENTS:** And where do they reside while they're in this program?

**COREY STEEL:** It would be like any other problem-solving court. They'd be in the community. So not only would they be receiving the therapeutic services, the mental health treatment that's needed, they would also then be working, be engaged with a probation officer, being case managed, a problem-solving court officer, so they would be in the community residing with that support services and that supervision and case management that comes along with it.

**CLEMENTS:** Like in their own home?

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**COREY STEEL:** Correct, could be.

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

**STINNER:** Let me ask this. When somebody comes-- in the intake process, you have to evaluate the person. Is there another assessment tool that you're going to use to say this person really has and belongs in mental health court or not, and are you developing that tool?

**COREY STEEL:** Absolutely. There is a rigorous assessment process that an individual would go through: mental health assessments, mental status exams. Our-- our-- our probation office would then do their risk assessments, but-- so there would be criteria that an individual would have to meet in order to be even accepted into a potential mental health court.

**STINNER:** But are your evaluators going to need some specialized training to identify these problems and say this person should go to--

**COREY STEEL:** Those evaluations currently exist already within the community, those--

**STINNER:** Oh, they do?

**COREY STEEL:** Yep. Yes.

**STINNER:** OK. And is it accurate--

**COREY STEEL:** They're providers we utilize.

**STINNER:** Is it an accurate statement, because of the resources that you need and looking at rural Nebraska, that this really kind of is going to reside in the Lincoln, Omaha, some of those--

**COREY STEEL:** Yeah.

**STINNER:** --metro areas that have the resources, as you put those things?

**COREY STEEL:** Particularly with this pilot program, for the potential for success, we need to have all of the components in place, not only the-- the judge, in order to provide the oversight, the case management, and then also the therapeutic services that-- the intensive therapeutic services that go along with this type of-- with this type of court.

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**STINNER:** OK.

**COREY STEEL:** So it would be in the metro area.

**STINNER:** Senator Dorn.

**DORN:** No-- thank you. Thank you for being here. Approximate number you're looking at in this pilot study of in-- of in-- individuals, I guess?

**COREY STEEL:** So typically we-- with-- within this we have 24 individuals per problem-solving court officer, so you typically-- it's an 18- to 24-month program, so you could potentially say we'd see about 50 individuals go through the mental health probably during this phase of pilot.

**STINNER:** Additional questions? Senator Erdman.

**ERDMAN:** I-- I wasn't clear on that. Can you-- can you repeat that-- what the number is?

**COREY STEEL:** So our caseload for individuals that go through is 1 to 24, so 1-- 1 probation officer--

**ERDMAN:** OK.

**COREY STEEL:** --problem-solving court officer to 24 individuals that go through the-- because of the case management and the intensive-- and intensity. So as you see, this is probably an 18- to 24- month phase as they go through the problem-solving court, so within three years, anywhere from that 24 to upwards of 50 individuals. As they come on, graduate, we bring more, more individuals on for that.

**ERDMAN:** So-- so you're saying you'll reach-- you'll reach 24 to 50 people? Is that what you're saying?

**COREY STEEL:** Approximately, yeah.

**ERDMAN:** OK.

**COREY STEEL:** It's hard to tell exactly how many people go through in one year but--

**STINNER:** Additional questions? Seeing none, thank you.

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**COREY STEEL:** Thank you.

**STINNER:** Afternoon.

**SEAN FLOWERDAY:** Howdy. Good morning, Chairman Stinner and the members of the Appropriations Committee. I wrote this in the morning, apparently, so that's what it says. [LAUGHTER]

**STINNER:** I get it.

**SEAN FLOWERDAY:** My name is Sean Flowerday; it's S-e-a-n F-l-o-w-e-r-d-a-y. I'm a member of the Lancaster County Board of Commissioners and I'm here to testify on behalf of Lancaster County and in support of LB1017. Lancaster County believes in and wants to foster the use of these specialized, treatment-oriented, problem-solving courts in order to divert mentally ill offenders away from the criminal justice system and into court-mandated, community-based treatment programs. We need to recognize that the last place you want someone who is experiencing a mental health crisis is in a locked prison cell and that community-based treatment is far more-- is a far more humane and sustainable option for this population. I speak to you today as both a county representative and as a former unit caseworker for the state of Nebraska. I served three years on the maximum security, mental health, and sex offender units at the Lincoln Correctional Center. I've seen firsthand the warehousing of mentally ill individuals here in our community. These are critically ill people who do not improve in a correctional setting. They use a greatly outsized portion of correctional resources and the deleterious effects of the prison environment means that they decompensate quickly and very often fail to improve in that world. We must turn our focus to treatment-oriented, community-based options in order to best serve this population and the community-at-large. I do want to make clear, just like Mr. Steel said, Lancaster County does not believe that mental health courts should become the go-to option for all mentally ill individuals who find themselves crossways with the law. It's a tool; it's not the only one, absolutely. We do not want to further criminalize mental illness and believe that, whenever possible, we should employ programs such as mental health diversion programs in order to find the least restrictive option available for this population. We recognize that mental health courts are a specialized tool, but we believe that they are no less crucial for that special-- specialization and we would welcome one here in our community. The next paragraph is going to be the interesting one to you guys. Lancaster County hopes to become the home of this pilot

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program. While I can only speak for myself at this current time, I believe that a mental health court in Lancaster County would be such an asset to our community that I'd be open to discussing Lancaster County sharing some of the cost of this pilot program with the state of Nebraska. Lancaster County is hosting its midyear budget review meeting tomorrow. I intend to bring up potential shared funding for a mental health court pilot program as a discussion point at that time. If we're going to actually talk brass tacks, I've got-- on a four to five, I've got two hard yeses and three maybes, so I think I could get something done anyways. I'd like to thank Senator Geist for recognizing the need-- Senator Bolz is pretty good, too-- in exploring this issue. I urge you, on behalf of people in our community today who are struggling with mental illness, to find a way to secure the resources needed to make this program happen. Be happy to answer any questions at this time.

**STINNER:** Questions? Seeing none, thank you.

**SEAN FLOWERDAY:** Thanks a bunch.

**ELIZABETH NEELEY:** Hello again.

**STINNER:** Welcome back.

**ELIZABETH NEELEY:** Thanks. My name is Elizabeth Neeley, N-e-e-l-e-y. I'm the executive director of the Nebraska State Bar Association, and my comments actually apply both to LB1017 and LB1097, which is later on your agenda. The judicial branch currently operates 32 problem-solving courts across Nebraska's 12 judicial districts. They provide substance abuse treatment, drug testing, job training, support group meetings and other appropriate rehabilitative services, coupled with frequent judicial oversight hearings. And with your support, veterans courts and reentry courts have been-- also been established. Data indicate that problem-solving courts are not only effective, they save money. As was indicated in the Chief Justice's State of the Judiciary, it costs approximately \$38,000 taxpayer dollars per year to warehouse a prisoner in our state's prison system. It costs \$2,865 taxpayer dollars per year to fund a defendant's participation in our other problem-solving courts. The Legislature has heard testimony that Nebraska's jails are heavily impacted by incarcerated individuals who have mental illnesses that greatly influence their criminal behavior. Lawyers and judges see the need in their courtrooms every day. The state needs to continue its support and expansion of problem-solving courts, particularly mental health courts and young adult courts,

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where we can hopefully address defendants' underlying mental health issues and keep young adults from further penetrating into the correctional system. Progress can only happen with your support. We ask for your continued leadership in the expansion of problem-solving courts in Nebraska. Happy to answer any questions.

**STINNER:** Thank you. Questions? Senator Clements.

**CLEMENTS:** Thank you, Mr. Chairman. Thank you, Ms. Neeley. I-- did you say \$2,865 is a yearly cost for a person?

**ELIZABETH NEELEY:** That-- so in the Chief Justice's State of the Judiciary Address, he discussed at great length kind of the impact that problem-solving courts have, and that's the number for the other problem-solving courts. I'm not sure you could apply this to the mental health pilot that's going to happen. But for the other problem-solving courts, that's the average cost per participant.

**CLEMENTS:** All right, because I took \$150,000 off of the \$617,000 and divided it by 24 people, and that's \$19,500 per person, per year.

**ELIZABETH NEELEY:** Right.

**CLEMENTS:** So it's much different.

**ELIZABETH NEELEY:** Yes.

**CLEMENTS:** I'll be curious to see where that difference comes. Thank you.

**ELIZABETH NEELEY:** Yes

**STINNER:** Senator Bolz.

**BOLZ:** Ms. Neeley, let's-- could we unpack that a little bit? The-- the \$2,800 number you cited, is that for services? Does it include the judge's salary? Does it include administrative support? I'm just-- I'm not-- I want to make sure if we're-- if we're doing the calculations that Senator Clements is doing, we're comparing apples to apples and oranges to oranges.

**ELIZABETH NEELEY:** That would probably be a better question for Corey Steel.

**BOLZ:** OK.

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**ELIZABETH NEELEY:** Yep.

**BOLZ:** We'll follow up--

**ELIZABETH NEELEY:** Yep.

**BOLZ:** --with Corey. I see him. I think he'll-- he'll help us out. OK.  
Thank you.

**ELIZABETH NEELEY:** Thank you. Other questions?

**STINNER:** Any additional questions?

**ELIZABETH NEELEY:** Thank you.

**STINNER:** Seeing none, thank you. Afternoon.

**JOE NIGRO:** Good afternoon. Chairperson Stinner, members of the committee, I'm Joe Nigro, J-o-e N-i-g-r-o. I'm the Lancaster County Public Defender, and I appear on behalf of my office and the Nebraska Criminal Defense Attorneys Association in support of LB1017. I want to thank Senator Geist for introducing this bill. I'm the chair of the Supreme Court Mental Health Court Committee. We have worked to develop standards for mental health courts. Those were just recently completed and have been forwarded to the problem-solving court committee for review, and then they will go to the Supreme Court. I've been very involved with the Lancaster County Adult Drug Court and I was involved in the development of the Lancaster County Veterans Court. Problem-solving courts work. They cost nationally around \$5,000 to \$7,000 a person, per year, as compared to \$35,000 to \$38,000 per person to put someone in prison. Problem-solving court-- problem-solving courts have proven to make communities safer because the recidivism rates for graduates of problem-solving courts are lower than for people coming out of prison. Prison is the most expensive thing we do and it's the least effective. Applicants for problem-solving courts, and this will include mental health courts, are screened for eligibility. If accepted, they plead to the charges. Sentencing is then delayed with the incentive of dismissal of the charges upon graduation. I believe there are over 250 mental health courts nationally, so there are a number of mental health courts. There just are not as many as drug courts. Sixty years ago, we used to warehouse people in mental hospitals. Fifty years ago, there was a move to deinstitutionalize people. Unfortunately, as the number of inpatient beds decreased, we never provided adequate outpatient mental

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health services. The result has been that we now warehouse people with mental health problems in our jails and prisons. This is a national tragedy. Correctional facilities are ill equipped to treat mental illness. This is costly, ineffective, and inhumane. The simple answer to this tragedy is that we must spend more money on mental health services, but that is an issue for you to deal with on another day. Mental health courts offer a proven opportunity to reduce the large number of people who go in and out of the criminal justice system like a revolving door due to mental illness. The intensive supervision of a mental health court, with help obtaining medication and housing and supervision, will get these people out of that revolving door. LB1017 is a modest proposal to fund a pilot program mental health court. I'm confident that this program will prove itself, then we can expand mental health courts and reduce the number of incarcerated people with mental health issues. I strongly urge you to advance LB10-- LB1017. I'm happy to answer some of the questions that you had for Corey Steel or others about some of the technical aspects of how problem-solving courts work. And, Chairperson Stinner, I also have opinions about LB605, if you want to hear those too.

**STINNER:** OK. Questions?

**JOE NIGRO:** I-- I know that there was a question about capacity, and what Corey Steel was talking about is for each supervision officer, they can supervise 24 people, but a court can probably handle around 100 participants. So you have to have more than one supervision officer. But our drug court, for example, here in Lancaster County, has a capacity 105. So you're not going to have that many people the first day a mental health court is up and running. But over time, you build on that. But after you-- if you get beyond 24, you need to have a supervision officer. So that's how those-- that's-- those are national standards for problem-solving courts. And, you know, these people-- I know that there were also questions about how people are screened. I know for drug court we use a thing called the RANT and people fall into four quadrants. The high-risk, high-needs people is the target population. We'll use a different screening tool for mental health courts because it will have to be something that evaluates mental illness. You're talking about people who aren't going to meet an insanity defense test. You're looking at people who suffer-- in all likelihood, suffer from a major mental illness, such as schizophrenia, bipolar disorder, schizoaffective disorder, major depression and it's obvious to all of us in the system that that's why this person is coming in and out of the criminal justice system, but it doesn't rise

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to the level of an insanity defense. On the other hand, there's a different standard for competency to stand trial. They have to be competent enough to understand the proceedings and they're going to have to want help. They're going to have to have enough insight into their illness that they want to take advantage of a program like this. But these programs have been used around the country, and again, they're much more effective than prison. And-- and I think it's long past time that we-- we got this up and running. This is something I've been quite passionate about for a long time, since the first time I-- I read about a mental health court out in King County, which was Washington State, about 20 years ago because the entire time I have worked as a public defender, and that's 36 years, I just-- it's tragic to me to deal with clients who are in jail because they're ill. And we did the right thing to get these people out of places like One Flew Over the Cuckoo's Nest, but we haven't taken care of them in our society and they-- and they get arrested, and the criminal justice system isn't-- it's not set up to take care of them. And as a society, we can do better for these people, and this is one way to attack that issue.

**STINNER:** Thank you. I'll get back to you on LB605. I might have members perishing from hunger if we kept at it, so--

**JOE NIGRO:** OK. Thank you.

**STINNER:** Thank you.

**DORN:** Senator, he's--

**STINNER:** Oh. I'm sorry. Senator Clements.

**CLEMENTS:** One quick question. Thank you. Were-- are you saying that there-- about one judge could handle 100 cases, but then one probation officer is limited to 24, something like that?

**JOE NIGRO:** Correct. I don't remember the exact national standard for the total capacity, but-- but it would be around 100 and-- but each-- but the national standards call for a supervision officer to not have more than 24 people.

**CLEMENTS:** All right. Thank you. That's what I thought.

**STINNER:** Thank you.

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**JOE NIGRO:** You're welcome.

**DANIELLE CONRAD:** Hi. Good afternoon. I'll be very brief--

**STINNER:** Welcome back.

**DANIELLE CONRAD:** --but I have to fill out my green sheet. Hi, my name is Danielle Conrad; it's D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d. I'm here today on behalf of the ACLU of Nebraska and just very briefly. I won't reaffirm the important data points or policy arguments that you've heard from and learned testifiers before me. But I did want to come and to thank Senator Geist for her leadership and to say how impressive and meaningful I think her approach to these issues has been during her term of service to really bring an open heart and an open mind to how we can work together to improve this broken criminal justice system. And this is absolutely a key piece of the puzzle along the way. It's a better outcome for taxpayers, it's a better outcome for incarcerated Nebraskans, and it's the humane and right thing to do. We-- we know that these programs work from our experiences in sister states. And anything that we can do to reaffirm and build up a public health response to public health needs, instead of a criminal justice response to behavioral health and public health needs, is-- is an absolute step in the right direction. So again, we just wanted to thank Senator Geist and to-- to really elevate for-- for this committee and the body as a whole that this is why criminal justice reform continues to draw broad support across the political spectrum. We all kind of come to it for different reasons, but the end-- the end result is the same. And that's when politics is really powerful and cool and impactful. And so we have a chance to continue that tradition in Nebraska and encourage you to advance this legislation, which is a-- a modest investment in-- in turning the-- the-- the tide in this very broken system.

**STINNER:** Questions?

**DANIELLE CONRAD:** Thank you so much.

**STINNER:** Seeing none, thank you. Any additional proponents? Any opponents? Anyone in the neutral capacity? Seeing none, Senator Geist, would you like to close?

**GEIST:** Very briefly. I would like to close with letting you know that we will get an adjustment for you for the \$150,000. It's a one-time, and in the bill it's reflected twice. And I will help you, Senator

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Clements, with the math. This is a great day, I just want to say. I am helping Senator Clements with math. My husband would be proud. OK, if-- the salary cap is the \$416,000, and so the \$676,788 that's allocated each biennium, we'd have to take the \$150,000 off of that--

**CLEMENTS:** Yeah.

**GEIST:** --and \$416,000 off of that because that's salaries and per diems and all of that. So that doesn't reflect the participants. So when you divide what's left by--

**CLEMENTS:** OK.

**GEIST:** And I divided by 50, just saying a midrange number of people participating, is about 400 that-- I mean, is about \$4,000 plus a few dollars, what, \$21 or \$36, depending on what number you get, but it's a little over \$4,000 per participant if 50 are participating.

**CLEMENTS:** All right.

**GEIST:** OK? So--

**STINNER:** OK.

**GEIST:** And again I would reiterate, as well, we are 1 of 50 states who has a mental health problem. It's a national problem. It's not unique to Nebraska. This is not the answer. It is a answer. But it's certainly an answer to get some people, who would necessarily be in the system, out of the system, treated, better, and a participating member of society. It's so important and it's a huge first step and one I think we need to take. Thank you.

**STINNER:** Thank you. Questions? Seeing none, thank you.

**GEIST:** Thank you.

**STINNER:** I do have a letter in support from Nebraska Association of County Officials, and that concludes our hearing on LB1017. We will now open with LB1096, Senator McDonnell.

**MCDONNELL:** Thank you, Chairperson Stinner and members of the Appropriations Committee. Also, before I get started, the next two bills, I'd like to thank the people that have stayed here to testify. I know it's been a long day and I-- I appreciate it. My name is. Mike McDonnell, representing LD5, south Omaha, spelled M-i-k-e

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M-c-D-o-n-n-e-l-l. LB100-- LB1096 will increase the appropriation for the Vocational and Life Skills Grant Program by \$500,000 for fiscal years 2020-21 and '21-22. The Vocational and Life Skills Program was created by LB907 in 2014, with the goal of increasing employment for individuals who are incarcerated or who have been within the prior 18 months with the goal of reducing recidivism. Currently, programming is offered in all ten Nebraska correctional facilities and in the community with the community-based partners. Services provided under the Vocational and Life Skills Program include mental health programming, housing, vocational training, job readiness skills, college courses, behavioral therapy, job certifications and more. When passed in 2014, the legislation was to provide funding to aid in the establishment and provision of community-based vocational training. The-- this appropriation increases the funding available and requests the private sector to put skin in the game to access these additional funds, since the training provided will directly benefit these employers by putting participants directly into the workforce. In the most recent report to the Legislature, the Nebraska Center for Justice Research at UNO reported 8,224 participants have been served by the Vocational and Life Skills Program and 5,608 have successfully completed their programming, which is a 68 percent success rate. Through the-- through my role as a state senator and my-- in my professional life, I've heard of many of the success stories of this grant program, including the work of the Metropolitan Community College's 180 Re-Entry Program, ReConnect, Center for People in Need, the Mental Health Association and others. Recently we've been hearing a great deal about Nebraska's workforce shortage and the needs to increase the number of people in our skilled trade workforce. We know that one of the biggest needs of the people coming out of the correctional setting is a good, well-paying job. Because of the recent attention to our workforce shortage and the constant coverage of the overpopulation of our correctional system, new opportunities that may not have existed in the past are emerging. Both private employers and apprenticeship training programs have reached out to me about being open to the hiring and training of recently incarcerated individuals. These individuals could be paid approximately \$15 an hour during their hands-on training and, for example, Laborers' Local 1140 could schedule the 40 hours of classroom education specifically for people being released from one of the NDCS's facilities, provided they meet the minimum qualifications. After passing the 40 hours of classroom time, participants would be officially entered into the apprenticeship program and start at 75 percent of journeyworker rate with apprenticeship benefits of health and welfare training and pension

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funds. That is a total compensation package of over \$29 an hour. The Department of Corrections does not currently ask for a cash or in-kind match with their grants. The intent of this appropriations is that because the private sector is receiving a direct benefit from this program, that they be asked to contribute on a dollar-for-dollar cash or in-kind basis. Employers dealing with the workforce shortage have indicated to me they would be willing and able to contribute to the vocational rehabilitation of formerly incarcerated individuals. The current grantees of the Vocational and Life Skills Grants are doing great work and many are providing skills and translate directly into the workforce. The hope with this appropriations is that the department and their grantees continue the great collaborative trends they have developed. By increasing the funding to the Vocational and Life Skills Grant for the purposes of placing recently incarcerated individ-- individuals directly into the paid apprenticeship programs, it is my hope that the individuals participating take advantage of the total compensation and career opportunities being made available to them through the trades and gain from the long-term hope and stability that this will provide. As a state, we are already being limited in-- on our economic output by our workforce shortages; and with anticipated retirements and large construction projects on our horizon, it is a great time to bring business, labor, and the Nebraska Department of Correctional Services together to build a bench of skilled workers. It is also time that formerly incarcerated individuals get opportunities in careers that make over a livable wage with benefits. I'd be happy to try to answer any of your questions.

**STINNER:** Questions? Senator Clements.

**CLEMENTS:** Thank you, Mr. Chairman. Thank you, Senator McDonnell. You said this was created in 2014. What has been the appropriation for this in the past?

**McDONNELL:** Five million, with 30 percent going to administrative costs within the correctional system, meaning also, when I say administrative costs, the idea of-- of counseling and others, \$3.5 million based on the grant process.

**CLEMENTS:** And this would add \$500,000?

**McDONNELL:** This would add \$500,000 to the current \$5 million--

**CLEMENTS:** All right, thank you.

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**McDONNELL:** --specifically adding to the idea of a dollar-for-dollar match coming from the-- the private sector.

**CLEMENTS:** On the entire \$5,500,000 [INAUDIBLE]

**McDONNELL:** No, of only the \$500,000 that we're adding to basically the \$3.5 million because 30 percent, \$1.5 million, is already within the administrative costs of corrections. The other \$3.5-- right now-- million is available for grants. So this would add to the grant program \$500,000 but specifically with a dollar-for-dollar match from the private sector.

**CLEMENTS:** And that's--

**McDONNELL:** And that could be a dollar or it could actually be in-kind contribution, so it could be the training, the ability to pay someone to train.

**CLEMENTS:** All right. Has the \$3.5 million been used every year?

**McDONNELL:** Yes. Well, I'm going to-- as far as I know, through the grant process, yes.

**CLEMENTS:** Thank you.

**McDONNELL:** And I can double check that for you.

**CLEMENTS:** Well, that's why you're asking for more.

**McDONNELL:** Exactly. It's been-- I haven't-- I don't know of a year it has not been used since 2014.

**CLEMENTS:** OK. Thank you.

**STINNER:** Have-- have you talked to Corrections about your program?

\_\_\_\_\_: Yes.

**McDONNELL:** And I'll-- I'm hoping he's going to be, yes, here to-- yes, so--

**STINNER:** OK, I-- this is Program 214 and it--

**McDONNELL:** This is Program 214, yes.

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**STINNER:** It did have \$1,247,000 in carryover. Don't know if that's grants or if we could repurpose some of whatever it is that we define to help the grant program. I'd truly like to-- to help the grant program to do what you're trying to get done here. I think it has great purpose. But I think a little bit more research into Program 214, and we've got our fiscal analyst right here, so I-- we can-- he can probably do a better deep dive, but go ahead. I'm--

**McDONNELL:** The difference on this amount of money would be it has to be matched by the private sector.

**STINNER:** True.

**McDONNELL:** And talking about the carryover versus the 30 percent, that's for administrative costs throughout the corrections system versus the 70 percent, the \$3.5 million, that's for the grants.

**STINNER:** I-- I understand.

**McDONNELL:** OK.

**STINNER:** Additional questions? Senator Erdman.

**ERDMAN:** Thank you, Senator Stinner. Thank you, Senator McDonnell. So in your comments you made, you said: Employers dealing with the workforce shortage have indicated to me they'd be willing and able to contribute to the voc-- vocational rehabilitation of formerly incarcerated individuals. So that's where the dollar-for-dollar-- is that what you're talking about?

**McDONNELL:** Yeah. So, for example, they'll be-- Ron Kaminski will be testing-- testifying from Laborers' 1140. He's going to talk about, as one individual coming from the private sector, that he'd be willing to match dollar for dollar.

**ERDMAN:** OK. Thank you.

**STINNER:** Additional questions? Seeing none, thank you.

**McDONNELL:** Thank you.

**RON KAMINSKI:** Hello. Chairman Stinner and members of the Appropriations Committee, my name is Ron Kaminski. I am a representative of Laborers' International Union of North America. I was former business manager of Laborers' Local 1140 that trains

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workers and employs workers across the state of Nebraska. I currently serve as the chairman for the Contractors-Laborers Training Fund, which is a board that is set up by representatives from construction companies and from labor organizations to train individuals in the Nebraska area. We offer over 40 different classes in construction training, everything from OSHA to MSHA to pipeline safety, wind turbine construction, just about everything you can think of in the construction industry. I've had many conversations with Senator McDonnell and I appreciate him introducing this bill. The reason what we're facing and why we think this is so important is, first of all, one of the biggest-- as I've been here listening all day, one of the biggest things to ensure people don't go back to prison is to make sure they've got a good-paying job, with benefits, that they can take care of their families. But what we're facing within construction industry is a total lack of workers. With unemployment being 2-- 2 percent or so, we don't even have enough people coming in to apply, with or without training or-- or experience, to fill these jobs. So that's creating a big issue on our end. I've met and talked with our labor or our-- our construction company representatives. They like this idea also. We're talking about having these individuals come in for a 40-hour week in our training facility to learn about the basics of construction. First of all, I think we're going to be able to learn a lot within that first 40 hours. They show up on time. They-- they follow through with testing, so on, so forth. And then if they're successful in that 40-hour training, then we move them into a Department of Labor-registered apprenticeship program, which we have at our training facility. At that point, they would essentially be working for about 75 percent of a full journeyman wage. They would also immediately start getting healthcare for them and their dependents and a retirement contribution on their behalf. Little by little, as they train more and they have on-the-job hours, we essentially get them out 40 hours later. So we're looking at 80 hours and then they'll be out working. Then at that point, they receive that 75 percent of-- of journeyman rate, and then they would stagger up every six months as long as they come in for all their training at the facility and they do-- they get their on the-- on-the-job hours also. And they learn a lot more out there in the field than we can possibly train inside of a training facility. But little by little, they start building up and our guys are making anywhere from \$30 to \$35 an hour. So I think it's very, very important to help not only with the-- with the fact that we're helping these people stay, maybe make better decisions with a good-paying job, but also we're going to need people

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for the workforce because we have a lot of stuff on the plate right now, so--

**STINNER:** Thank you.

**RON KAMINSKI:** --think that's all.

**STINNER:** Questions? I want to thank you for hanging around all afternoon.

**RON KAMINSKI:** Yeah. Thank you.

**STINNER:** Thank you.

**DORN:** Does he need to spell his name? He-- you got it?

**BRITTANY BOHLMeyer:** I got it.

**RON KAMINSKI:** All right. Thank you guys. Appreciate it.

**STINNER:** Well, welcome back.

**DOUG KOEBERNICK:** Thank you. I put my glasses on so I can see better now. Thank you, Senator Stinner and members of the Appropriations Committee. Again, my name is Doug Koebornick, spelled K-o-e-b-e-r-n-i-c-k, and I'm the Legislature's Inspector General of Corrections. I'm here to testify in support of LB1096. LB1096 is probably one of my favorite bills of the session-- I'm not testifying on very many this year and-- because it would provide the department with-- with another tool in their rehabilitation toolbox and-- and it would really, just as described by the-- by Senator McDonnell and Ron, there's so many benefits from this, this idea, this concept, and I'm very supportive of it. Vocational and job skills programs in the department have decreased over the last few decades. And as a result, I've constantly advocated for an expansion of these programs because of the-- of the reasons they described. The Legislature has also done the same thing and I have two things that I handed out and they're connected, they're stapled together, and one is from the LR127 Committee of the Legislature, where they support doing things like this, providing opportunities for-- for people on the inside to get these kinds of skills and everything. So I wanted to share that with you, because I think this bill kind of falls right in line with that. Before I end my testimony, I'd also like to advocate for an overall increase in the whole Vocational and Life Skills Grant program, which was described in great detail by Senator McDonnell. He-- like he said,

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incredible work is being done by groups such as ReConnect in Omaha, the Metro Community College, Bristol Station in Hastings, Center for People in Need, the Mental Health Association and others. And I know some of you have visited those programs and if you haven't and you want to get out there, let me know. I'd like to set up tours for you. You can learn a lot about what's really going on and-- and just hear from the people who are impacted by it. And it really will help you understand more of what this program does because I want to-- it hasn't had any increase, as-- as said before, since 2014. I've also provided you with a handout with some information from findings from UNO's Nebraska Center for Justice research on the program. And if you have any questions on that, you can ask me or Dr. Spohn from UNO. He-- he said he'd be willing to share any more with you on that. I've also had past department staff that worked on the program that said that adding funds to that program would do so much for our community, for the people coming out, so they've advocated for that in the past with me. We-- every grant cycle, they have more providers or community groups that are trying to get that funding, whether it's Southeast Community College or RISE or others throughout the state. This last time, they added some funds out in McCook for the community college out there, and York College in York. And-- but every time they add that, they have to take funding away from some other program that's been doing really good stuff. So I would advocate for that. And finally, two last things. One is even in a meeting recently of the recipients of that program, Director Frakes said that he was going to ask for more money because he-- of all the great things they were doing. So I've had a few different people that were in that meeting that have shared that with me, and so I hope he's supportive of this as well. And just yesterday, the-- the Governor said reentry services are critical because over 90 percent of the inmates housed in state prisons will return to the community after they complete their sentence. I totally agree with him, and that's why I'm here supporting this legislation.

**STINNER:** Thank you. Any questions? Thank you.

**DOUG KOEBERNICK:** Thank you.

**STINNER:** Additional proponents? Any opponents? Anyone in the neutral capacity? Senator, would you like to close?

**McDONNELL:** I would, thank you. Again, if you want a reference, Agency 46, program 214 with the idea of what we're talking about with the \$500,000, adding it based on-- it would have to be a dollar-for-dollar

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match from the, the private sector. But if you look at operations under the budget for '15-'16, it was at \$1,119,000 for the aid. It was at \$3 million, which is the grant side; \$3,479,000. For 2017-18, it was at \$1.3 million for the operations side and it was at \$3.4 million for the aid side, the grant side. And then it's appropriated '18-'19. But there's some good history and it's on page 200-- page 277. Again, this is different based on the-- the \$500,000 would have to have a private-public partnership and it would have to be a match.

**STINNER:** I just looked at that as well. We're spending about that \$3.5 million on an average. So sometimes a little bit below, sometimes a little above, some carryover. So any additional questions for the Senator? Seeing none, thank you.

**McDONNELL:** Thank you.

**STINNER:** We do have a letter of support from the Nebraska Community College Association and that concludes our hearing on LB1096. We do have a letter of neutral from Jason Witmer. Also-- well, that concludes our hearing on LB1096. We'll now open the hearing on 10-- LB1097. Senator McDonnell.

**McDONNELL:** Thank you, Chairman Stinner and members of the Appropriations Committee. My name is Mike McDonnell, M-i-k-e M-c-D-o-n-n-e-l-l. I represent Legislative District 5, south Omaha. LB1097 is an appropriation to the Supreme Court to double the capacity of the young adult court. Earlier this session in the State of the Judiciary, Chief Justice Michael Heavican said that problem-solving courts have effectively reduced recidivism, while also increasing community safety. It costs the state approximately \$2,865 to put an individual through a problem-solving court versus as much as \$38,000 to incarcerate the same individual. Every person we can put through a problem-solving court instead of incarceration can save the taxpayers up to \$35,000 per year, per person. The bill deals specifically with doubling the capacity of the Douglas County Young Adult Problem-Solving Court. The court provides a sentencing alternative for youthful offenders age 18 to 24 who are charged with a felony. These offenders participate in a program of selective assessment, rehabilitation services administrated by multi-disciplinary agency-- agencies and the swift sanctioning by the court. The young adult court started in 2004 in one court under Judge Lamberty because she wanted more options for young-- younger clients. In 2009, the young adult court officially started taking defendants from other courts and, and for most years, the average was 20 participants. The young adult court

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has had over 100 graduations, which may have saved the taxpayers as much as \$3.5 million per year that incarceration would have cost. The number of referrals to the young adult court has greatly increased over the last three years. In 2017, there were 31 individuals in the program and by 2019, the total increased to 59. By having only one probation officer, the young adult court is capped at 30 participants. Today, there are 37 in the program, with one pending plea. Since the young adult court is currently over the maximum capacity, requests to the young adult court are being deferred to other courts because they can't accept any more participants. This problem and desire to increase capacity was first brought to me in conversations with the Douglas County Attorney's Office when trying to find ways to help at-risk youth become successful, active participants in our community and help with our overcrowding issue with the Department of Corrections. This bill is a great example of government working as it should, with the legislative, judicial, and local governments working together to expand something that we all know works. Nebraska State Probation was able to quickly tell us what it would cost and what is needed to expand the young adult court. And the Douglas County Attorney's Office was able to talk to the judges to get their buy-in on expanding the capacity and total participants entered into the program. The other great opportunity this appropriation will allow by doubling the capacity of the young adult court is increasing the opportunity for service providers to partner with the court. As you heard in my previous bill, because of our low unemployment and workforce shortage, employers and the trades are willing to take a chance on the participants in a young adult court. If we can work with these young adults and help them develop the life and work skills they need to succeed, it prevents them from being repeat customers in our prison system and makes them valuable, productive members of our society. This leads to cost savings at all levels of government and helps expand our tax base and impact our workforce shortage. Also here to testify is Katie Benson from Douglas County Attorney's Office and State Court Administrator Corey Steel. I appreciate your support and I'm here to try to answer any of your questions.

**STINNER:** Thank you. Any questions? Senator Erdman.

**ERDMAN:** Thank you, Senator Stinner. Thank you, Senator McDonnell. So on this document that was held out by the judicial branch-- have you seen that?

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**McDONNELL:** Yes, that's a letter for-- you should have-- it's two pages, make sure everybody has the two pages. It's a letter from Corey Steel--

**ERDMAN:** Yeah, so--

**McDONNELL:** --about the cost.

**ERDMAN:** It shows that one employment specialist, \$94,000 salaries and benefits. And this is going to be-- court's going to be in Douglas County?

**McDONNELL:** Yes, it's currently in Douglas County.

**ERDMAN:** OK.

**McDONNELL:** What we're trying to do is double the size of the court right now.

**ERDMAN:** And we have \$9,000 for travel expense?

**McDONNELL:** Yes.

**ERDMAN:** Where are they going to go?

**McDONNELL:** Corey Steel can answer any questions.

**ERDMAN:** So that person is going to cost \$106,000 and the person, the special populations officer, is going to cost \$101,000-- a pretty significant wage.

**McDONNELL:** And remember, these are based off what currently is going on with the young adult court. We're trying to do-- is double the young adult court to go to an additional 30 at-risk youth to try to make sure that we can stop the recidivism. We can make sure we give them a different kind of opportunity to save taxpayers money, which we all know potentially costs \$38,000 a year to incarcerate someone.

**ERDMAN:** Let me see if I can say that differently. So one person is going to get \$94,000?

**McDONNELL:** According to this, yes.

**ERDMAN:** OK, thank you.

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**STINNER:** Additional questions? That's pretty cheap, Senator. That's-- should be about \$180,000. I'm just kidding. Anyhow, thank you.

**McDONNELL:** Thank you.

**COREY STEEL:** Since my testimony is short, I will clarify with that. That is, that is not only salary. It's salary and benefits and so--

**ERDMAN:** Uh huh.

**COREY STEEL:** --35 to 40 percent of that--

**ERDMAN:** So that's it.

**COREY STEEL:** So a problem-solving court probation officer is a high-risk officer. They're at our higher scale. There are-- it's about a \$50 to \$52,000 salary job per year, correct. So it's a four-year degree with additional years on and additional training requirements. They go through that.

**ERDMAN:** OK.

**COREY STEEL:** Yes, so we're not paying our probation officers as much as they would like, a \$94,000 salary per year. So Chairman Stinner, members of the Appropriations Committee, my name is Corey Steel. I'm the state court administrator, C-o-r-e-y S-t-e-e-l, and I testify in support of LB1097. I want to thank Senator McDonnell and the Appropriations Committee for their leadership and support-- continued support of the Nebraska problem-solving courts. Definitely, I want to thank Senator McDonnell for coming to us with this idea and then with the partnership of the, of the job skills program. LB1097 represents the effectiveness of problem-solving courts and their ability to avert high-risk, high-needs individuals from the prison system. The Douglas County Young Adult Court, under the judicial oversight of the Honorable Shelly Stratman began in-- operation in 2004, as Senator McConnell had talked about, and provides a sentencing alternative for young adults up to age 25 who have been charged with a felony offense. If not for this problem-solving court model, a young person who has admittedly made a bad decision would also have to contend with the status of being a convicted felon for the rest of their life. Upon successful completion of the young adult court, individuals can have their charges reduced or dismissed. Other key aspects of the young adult court are intensive supervision within the community, behavioral health treatment, frequently-- frequent drug testing, life skills

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program. In an 18 to 24-month program, the young adult court focuses on addressing individuals' risks and needs and the problems-- provide them with the tools needed to be successful within the community. LB1097 would provide the needed funding and increase the capacity of the young adult court and bolster programming. The enhanced programming would be-- specifically target-- targeted at employment for participants through the public-private partnership that would provide apprenticeship and job placement opportunities, as Senator McDonnell talked about. The one position within this is a new position within probation that we're looking at a job skill placement individual in Douglas County. Not only would this help the young adult court, but we believe this would also help with just the overall probation population and that linkage between the public-private partnership with the unions to provide individuals that are on probation and in the problem-solving courts opportunities for employment. So we would bolster that with that individual. Preparing individuals for employment is a crucial evidence-based strategy for reducing recidivism. As you have heard, having a job enables, enables individuals to contribute income to their families, which generate more personal support, strong, positive relationships, enhance self-esteem, and improve mental health and reduce future financial burdens on the state. One of the things with the young adult court, currently, there-- that-- this would be the only court that standards are not engage-- that the Supreme Court standards are not involved in. We've already met as a small committee of the problem-solving court group and we are going to start a committee to start the young adult court standards. So that way then, not only-- this may be going in Douglas County because it's just been one court with one probation officer coordinator. Now if it's expanding and could expand into other areas of the state, we're going to look at creating those Supreme Court standards and get those approved so then all problem-solving courts that we have across the state will have Supreme Court-approved standards. So that'll be in the works within the next six months to a year, should be completed at that time. I'm happy to answer any questions the committee may have. And again, thank you for your support.

**STINNER:** Thank you. Questions? Seeing none, thank you.

**COREY STEEL:** Thank you.

**KATIE BENSON:** Good evening.

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**STINNER:** Good evening.

**KATIE BENSON:** I was so worried about the procedure, but after being here all afternoon, I think I figured it out.

**STINNER:** Thank you, thanks for staying.

**KATIE BENSON:** My name is Katie Benson, K-a-t-i-e B-e-n-s-o-n. I'm a deputy county attorney in Douglas County and I'm also here on behalf of the Nebraska County Attorneys Association. First, I want to thank all of you. I know it's been a long day and I want to especially thank Senator McDonnell. I met with him a couple months ago. And to be frank, I really wasn't sure what really would happen with that. But then, lo and behold, I got a call about a month ago and I realized that he really was going to react to this and try and expand the young adult court. As I stated, I am a Douglas County attorney, so I am a prosecutor. I prosecute actively in our office, but I also run our drug court and young adult court. And what I noted today, as we've obviously heard from Corrections, the issue with the overcapacity at Corrections-- and you've also heard on mental health diversion and is this going to work? But the different thing about young adult court in this bill is this-- is that you don't have to look into a crystal ball. I can tell you sitting here, it does work. You know, we don't really know for sure what will happen with the mental health diversion court. We don't know what Corrections is going to do. You've seen both ends of the spectrum, but this does work and this is coming from our prosecutor. We-- it's a postplea court. These young adults enter a plea in, 18 to 24 years old. And ultimately, the case is dismissed, but that's not what important-- what is important about this court. It's we give them their driver's license, we make victims whole, we give them education, and we give them employment and good employment. And that's what's required to graduate. And so that's what I think is important to note that's different from everything here today, is if you choose to go forward and join on with Senator McDonnell, this does work and it will work. And the, the statistic that I think is the saddest about this program is that from 2017 to 2019, we found 60 young people ineligible. And this isn't because they're bad kids. It's because we don't have the capacity to help them all. And so when you consider that-- some of them truly are ineligible, but a lot of them, we just have to be truly picky and have to find kids we think can succeed. But if you allow us to expand, we, we don't have to turn as many kids down. For example, I could have two 19-year-olds. They both are charged with burglary. They both went through the juvenile system.

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They both lack the family support, but one, I may be able to give a shot to. And just by where we are in the program, I may have to say no to another. And so if you allow us to go forward, we won't have to do that. And the thing with these kids compared to drug court, which I also run, is they haven't been through the system. And so even if they may not be completely successful, they're going to take something out of this. And hopefully, they don't commit crimes again because we're giving them these tools early on compared to a 40 or 50-year-old who has already led a life of crime. Just to make this a little more personal because today, you know, there isn't a lot of that, but I went back through my list today and I-- without going to their names, this just shows the different positive things that can come out of this program. Jifea [PHONETIC], she committed a robbery at a Bucky's in Omaha. She screens as high risk. This is somebody who had-- who could not be in a diversion program. There's no way. We would not give them a misdemeanor. So this is their one shot to turn things around and not have a felony and not go to prison. She committed this robbery. She already had a young baby. She had never had full-time employment. She made it through an entire program. She then graduated Metro while she was in her program and she is currently working a full-time job in Omaha and supporting her daughter, who was not taken away through juvenile services. Kirsten [PHONETIC], he was homeless at the time he entered the young adult court program. He was selling drugs on the street. He had no family support. Through our program, he was able to go through treatment, get an apartment. He runs his own business and he's actively involved in the recovery program and has come back and spoke at our program. Mr.-- Jonathan [PHONETIC], I don't want to say his last name, but Jonathan, he was somebody who was very lazy. He had never had a full-time job. He would do petty thefts and then eventually, he stole an amount over, over \$3,000. And during his time in the program, he paid all that money back and so that victim was made whole. And he currently-- now-- he just emailed me this morning and he got a manager job at a prison in Missouri. So he's not in prison because he's incarcerated, but because he's working there. This is a program that works. I know it works and so I hope you join in Senator McDonnell. Do you have any questions?

**STINNER:** Thank you.

**KATIE BENSON:** Thank you.

**STINNER:** Questions? Thank you for staying.

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**KATIE BENSON:** Thank you.

**STINNER:** Any additional proponents? Any opponents? Anyone in the neutral capacity? Seeing none, Senator, would you like to close?

**McDONNELL:** Quickly, we know the history. This, this court started in 2009 officially. When I met with Katie Benson, I knew one thing: she wasn't going to sugarcoat it. If this was not working, she was going to tell me this isn't working, it's a waste of taxpayers' money. But that's not the case. This works. This is making a difference. I'm not-- sometimes we look and-- we look at legislation and we're looking at doing the best we can and trying to solve a problem and thinking this really could make-- this really possibly could work. No, we've got a proven track record. It's working daily. We double the money, we're going to double success for these kids, these young adults. It is going to make a difference and it's going to save us money as a state because we are not going to be incarcerating these people. Thank you. I'm here to answer any of your questions.

**STINNER:** Questions? Seeing none, thank you.

**McDONNELL:** Thank you.

**STINNER:** That concludes our hearing on LB1097. We will now open the hearing on the Supreme Court Agency 5.