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Appropriations Committee
January 17, 2017

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The Committee on Appropriations met at 1:30 p.m. on Tuesday, January 17, 2017, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on Agency 5, Agency 14, Agency 15, Agency 21, Agency 31, Agency 35, Agency 46, Agency 64, Agency 78, Agency 10, Agency 47, Agency 48, Agency 50, Agency 51, Agency 83, Agency 72, Agency 34, and Agency 13. Senators present: John Stinner, Chairperson; Kate Bolz, Vice Chairperson; Robert Hilkemann; Bill Kintner; John Kuehn; Mike McDonnell; Tony Vargas; Dan Watermeier; and Anna Wishart. Senators absent: None.

SENATOR STINNER: We do have a quorum up here. So in the interest of time and getting people's testimony, I would like to start and welcome you to the Appropriations Committee hearing. My name is John Stinner. I represent District 48, which is Scotts Bluff County, and I'm also the Chairman of Appropriations. The committee will take up agency testimony in order...in the order it was posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. By the way, committee members, you may see committee members coming and going. We are introducing bills in other committees so don't take personal offense or think that we're disinterested. We are very interested, even I think I have to go to Banking here pretty...about an hour or so into this, so. But to better facilitate the proceedings, I ask that you abide by the following procedures. Please silence or turn off your cell phone. Move to the reserve chairs when you are ready to testify. The order of testimony today will be the head of the agency first and then we'll entertain further testimony on that agency. Testifiers, sign in; hand your green sign-in sheets to the committee clerk when you come to testify. Spell your first name and your last name for the public record. Be concise. It is my request that you be limited, your testimony--and this does not apply to the agency heads--to five minutes. And a light will come on. I think the amber light comes on, you've got about a minute. Try to conclude as quickly as you can. We've got a lot of territory to cover today, so be concise as you can. If you will not be testifying at the microphone but want to go on record as having a position on a bill being heard today, there is white sign-in sheets at each entrance where you may leave your name and other pertinent

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information. These sign-in sheets will become exhibits in the permanent record at the end of today's hearing. Written materials may be distributed to committee members as exhibits only while testimony is being offered. Hand them to the page for distribution to committee and staff when you come up to testify. We need, instead of 10 copies, we need 12 copies. Apparently we got a bigger committee than most, but we do need 12 copies. So if you need 12 copies, hold up your hand. The page will run and get you an extra two copies. To my immediate right is our fiscal analyst, Doug Nichols. To my left, at the end of the table is my committee clerk, Jennifer Svehla. I do have a page here somewhere and I don't know where he went to.

SENATOR WISHART: He ran for (inaudible) quick errand.

SENATOR STINNER: Oh, he ran for her, but how did he want me to introduce him, Jennifer, as...?

JENNIFER SVEHLA: Joe, the new page?

SENATOR STINNER: Joe, the new page. (Laughter) So if you need Joe, the new page, that's how you'd address him. Now the committee members with us today will introduce themselves, beginning at my far left.

SENATOR KINTNER: I'm Bill Kintner, Legislative District 2.

SENATOR McDONNELL: Mike McDonnell, LD5, south Omaha.

SENATOR KUEHN: John Kuehn, District 38.

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

SENATOR STINNER: John Stinner, District 48.

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

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SENATOR WISHART: Senator Anna Wishart, District 27, western Lincoln.

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

SENATOR STINNER: Okay. We will start today's hearings with the Supreme Court. Chief Justice. [AGENCY 5]

CHIEF JUSTICE HEAVICAN: (Exhibits 43 and 44) Thank you, Chairman Stinner. First of all, I've got a handout somebody might want to get around and... [AGENCY 5]

SENATOR KINTNER: He's a full-service Chairman. [AGENCY 5]

CHIEF JUSTICE HEAVICAN: He really is. I like that. [AGENCY 5]

SENATOR STINNER: We're here to help. How's that? [AGENCY 5]

CHIEF JUSTICE HEAVICAN: You are, in more ways than one. Good afternoon, Chairman Stinner and members of the Appropriations Committee. My name is Mike Heavican, that's spelled H-e-a-v-i-c-a-n. I'm the Chief Justice of the Nebraska Supreme Court, here to state the impact of the Governor's budget recommendations for the current fiscal year. Initially, those recommendations appeared to be about \$6 million, but in the first week of the new year they were suddenly changed to \$8 million. The recommendations would affect every facet of the judicial branch but most significantly would impact community corrections and the Justice Reinvestment plan outlined in LB605. LB605 became effective 17 months ago. It put into place the recommendations of both the Platte Institute and the Council for State Governments. We called the plan Justice Reinvestment. All three branches of government committed to implementing Justice Reinvestment in order to increase public safety and use tax dollars more effectively. The specific purpose of Justice Reinvestment is to reduce the prison population and the need to construct more correctional facilities. This would be accomplished by redirecting more state funds to services and programs that decrease crime and reduce recidivism. Unfortunately, the Governor's recommendations would halt the progress already made with LB605. I recognize the judicial branch must do its part to weather this budget shortfall. I

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understand the Governor's reluctance to cut funding to the Department of Correctional Services, given all of the issues the department faces. However, we are the front door to the Department of Corrections, and because of LB605 we are also the back door. The proposed cuts are not prudent. Justice Reinvestment tasked the judicial branch, and Probation in particular, with reducing the number of persons going to prison as well as reducing the number of persons going back to prison. This is to be done through multiple Probation services and programs designed to use evidence-based practices to reduce recidivism. Before discussing the specific impact of the Governor's recommendations, let me describe how we determined our priorities. In general terms, the total judicial branch General Fund budget is \$160 million, with \$60 million for Court Operations and \$100 million for Probation. Eighty-four percent of all court expenditures is related to staff, in other words, salaries and benefits. Probation, until recent years, was also almost entirely staff funding with some services for adult probationers. With the transfer of juvenile justice supervision responsibilities from the Department of Health and Human Services, and increased adult responsibilities from LB605, services now comprise approximately 56 percent of Probation's expenditures. When it became obvious in August that there was a revenue shortfall, the judicial branch, like the executive branch, started delaying hiring and restricted travel. The decision was made to preserve staff from layoffs and furloughs so that Court Operations and juvenile justice reforms, as well as Justice Reinvestment, could continue. In addition, it was decided that programs relating to children, specifically juvenile probation, should be reduced as little as possible. Some of you may recall that during the last budget crisis, because our budget was mostly made up of staff, we had no choice but to propose closing courts. This time we wanted to avoid that option because of the direct impact on all of our citizens. As a result, it was determined that proposed cuts would have to include reductions in programs and services for adult probationers, in other words, areas that directly affect Justice Reinvestment. Now, turning to the document handed out earlier, and this is a sort of list of cuts and totals that you all should have gotten a copy of just a minute ago, I will explain the proposed reductions. Two proposed reductions affect both the courts and Probation evenly. First, both sides would use basically all unobligated funds that were to be reappropriated into the next biennium to sustain 2014 salary increases. That total is approximately \$4.1 million. The reduction was not anticipated and will compound our budget problems for the next biennium. Both the courts and Probation can realize savings from further delays in hiring between now and July 1. At this time, the delay in hiring would be as much as six months. The savings from delayed hiring would

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amount to approximately an additional \$900,000. Regarding the specific...further specific court reductions, budget Program 005 provides funding to use retired judges on a temporary basis to fill judicial vacancies. A vacancy may be the result of a medical issue or retirement. Using retired judges allows courts to continue functioning while replacements ultimately are found. We propose to suspend the use of retired judges. The savings would amount to approximately \$200,000. The last court reduction would shift, where appropriate, information technology expenses from General Funds to cash funds. This would increase use of the Automation Cash Fund that is used to maintain and enhance the courts' case management and e-filing systems and Probation's computer case management system. This would hopefully be a short-term solution, since the balance of the Automation Cash Fund has been declining and will become overobligated. Robbing this cash fund amounts to approximately \$150,000. Further miscellaneous reductions on the court side of the budget might find another \$150,000. Probation's cuts would include the following. We would shift funding from the General Fund to Probation's cash fund, made up of fees paid by other probationers. This shift contributes \$700,000 to the total need to be cut. The following adult services, however, would also need to be reduced in order to reach savings of over \$8 million. First, Probation would have to suspend payment for all short-term residential substance abuse, except for those individuals currently already in treatment. This reduction directly affects Justice Reinvestment, obviously. Why was this service chosen? Short-term residential care is the only service that could achieve the amount of savings needed in the remaining five to six months of the fiscal year. It would affect both probationers and drug court participants. The cut would produce approximately \$800,000. We would still need to find an additional \$500,000 of cuts in community corrections' operating funds. We would terminate certain reporting center programs, also affecting Justice Reinvestment. Probation's reporting centers are an effective means of supervision. They deliver a host of programs, not only to clients on probation rather than being sentenced to prison but also clients on Probation's postrelease supervision following discharge from prison. Examples of the programs that would be reduced include substance abuse treatment and job readiness training. The cuts would find another approximately \$300,000. Despite our intent to not impact programs affecting children, in order to achieve the recommended reduction in the short amount of time left this year, the last Probation proposal is a small reduction in Juvenile Services. It would be our hope that the overall impact would be minimal. The total savings would be approximately \$300,000. To summarize, these are the proposed reductions if the judicial branch is required to

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meet the Governor's recommendations. As you can see, the major impact falls on adult probation, which has a tremendous responsibility to effectively implement Justice Reinvestment as well as juvenile justice reform. As stated earlier, in the final analysis, services would have to be reduced in order to generate over \$8 million in savings. Those service reductions would impact Corrections and Justice Reinvestment. Again, we understand that the judicial branch needs to be part of the budget solution. This committee sets the priorities for state spending. Justice Reinvestment has been made a state priority in order to increase public safety and use taxpayers' dollars effectively. Our judges are not stupid. If they can't be assured that Probation can adequately provide supervision and services to adult probationers, they will exercise the other sentencing option they have available. They will use the option they've always used--they will incarcerate. It costs \$35,000 a year to warehouse a convicted criminal in our corrections system. It costs \$8,000 to \$10,000 to successfully complete probation. Good community corrections saves lives and saves money. Eight million dollars in budget cuts will do neither. Thank you for the opportunity to testify today and I'd be happy to take questions. [AGENCY 5]

SENATOR STINNER: Questions? Senator Wishart. [AGENCY 5]

SENATOR WISHART: Well, thank you so much for being here today. Can you touch a little bit more on the work that you're doing to reduce recidivism through probation? I know it's fairly new so, in terms of the changes from the Legislature, so there may not be a lot of results. But can you talk a little bit about the ones that you've seen? [AGENCY 5]

CHIEF JUSTICE HEAVICAN: Right. It is fairly new, just started in the last year. It was felt by the Council for State Governments and the folks who put together LB605, which...or you folks, essentially, maybe not you individually but the Legislature, the idea of supervision coming out of the prison system was extremely important. Everybody knows that most of the people who come out of the prison system get very little transitional help and they quickly go back to selling methamphetamine, cocaine, and heroin, and committing the kinds of crimes that they committed to get into the prison system to begin with. So the idea is that we would provide a lot of services, emphasis on substance abuse, and these are services they largely are not getting in the corrections system, even today; some mental health help where that is needed; assistance in finding housing; and a big emphasis on job placement and the kinds of tools that you need to get

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a job. And the Probation component is to supervise, have these people come to day and evening reporting centers or to Probation so that they are constantly in contact with Probation officers. It was designed to be intensive and to keep these people from returning to the prison system and to the criminal justice system. We have come up with two new tools to do that. We have intensive probation supervision already in place for people who have substance abuse problems, and we call that program SSAS. But we came up with two new programs for people who don't specifically have drug abuse problems but they may have mental health issues or other issues that have contributed to their tendency to break the law. So we came up with new programs there. Our judges, our trial court judges around the state are putting together reentry courts, which would again intensively supervise these people as they're coming out of prison, because as LB605 is structured now, the preferred sentence for low-grade felons is to put them on probation. Or if they don't put them on probation, when they go into the prison system that initial sentence is to include a period of supervision when they come out of the prison system. I hope that was helpful. [AGENCY 5]

SENATOR WISHART: Yes. [AGENCY 5]

SENATOR STINNER: Further questions? Senator Bolz. [AGENCY 5]

SENATOR BOLZ: Hi, Chief. [AGENCY 5]

CHIEF JUSTICE HEAVICAN: Uh-huh. [AGENCY 5]

SENATOR BOLZ: I want to talk a little bit about the substance use program that we're talking about. In my service on the LR413 Mental and Behavioral Health Committee, I was just astounded. The UNMC report about our gaps in needs in terms of mental and behavioral health illustrated that only 11 percent of the population of people who need substance abuse treatment in our state are getting it, which just blew me away. And so I appreciate how hard you've...your branch has worked to try to serve this population and prevent them from entering the correctional system, as appropriate. I do know, however, that this is a difficult population to serve. [AGENCY 5]

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CHIEF JUSTICE HEAVICAN: Uh-huh. [AGENCY 5]

SENATOR BOLZ: And your programs, I know, are based on best practices and based on evidence. Can you, with the caveat that I understand that it's a hard population to serve, can you tell me a little bit about the outcomes that you're seeing in terms of those short-term treatment programs? [AGENCY 5]

CHIEF JUSTICE HEAVICAN: Uh-huh. And Ellen Brokofsky may give you some very recent recidivism figures that we have. First, I'll talk about our drug courts, which, as you're probably aware, we have drug courts in Lincoln and Omaha, Lexington, Grand Island, now in North Platte and Scottsbluff, and really in most of the larger population centers around the state. About three years ago we made a real effort to get our trial court judges to put together uniform rules and to put together measurements about how successful these programs are. And they worked extensively with the National Center for State Courts to do that and they came up with programs to measure recidivism uniformly. We are very pleased to--and I don't...I can't spout you figures right off the top of my head--but we are very pleased to say that we are getting positive results there, and that our judges, in particular, who do this devote a lot of time to this and they are very pleased with the kind of results they're getting. Ellen, can you give me the... [AGENCY 5]

ELLEN BROKOFSKY: The overall rate of recidivism, Chief, is there's only 15 percent recidivism statewide in terms of all populations in Probation right now. That's just getting ready to be publicized by the University of Nebraska-Lincoln. [AGENCY 5]

CHIEF JUSTICE HEAVICAN: So that's a measurement that the University of Nebraska-Lincoln has done. Fifteen percent is a phenomenal figure and I hesitate to even mention it because it's so good and that somehow someone has made a mistake in their measurement process. Fifty percent is a very good figure. Fifteen percent is a spectacular figure. [AGENCY 5]

SENATOR BOLZ: Well, that's very helpful and we'll look for that information when it is made officially public. A related question is specific to this \$800,000 in reduction of payments for short-term residential substance abuse care for adults. If you don't have the number off the top of

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your head that's okay, but I'd be curious how many adults would be served with that allocation.
[AGENCY 5]

CHIEF JUSTICE HEAVICAN: I've got to look back and see if anybody can help me with that.
[AGENCY 5]

SENATOR BOLZ: If someone could just get back to me, I'd just be curious the numbers that we're looking at. [AGENCY 5]

CHIEF JUSTICE HEAVICAN: Yeah, and we can get back to you later. That's...it's short-term residential treatment is very expensive because any kind of residential treatment is very expensive. It is also the kind of...you know, it's a major part in what the drug courts do and what our intensive supervision program, SSAS, does. [AGENCY 5]

SENATOR BOLZ: Just one more question and then maybe I'll save my cash fund questions for Corey, if that is an appropriate strategy. [AGENCY 5]

CHIEF JUSTICE HEAVICAN: You can try them on me. [AGENCY 5]

SENATOR BOLZ: Okay. Well, then I've got two more questions. One is, can you just describe for me some of the impacts of the potential hiring delays? [AGENCY 5]

CHIEF JUSTICE HEAVICAN: Sure. What we are proposing, we've been doing hiring delays since last August. We started off with a week and we've kind of been building up. Now, in order to come up with an extra 900,000 bucks, every time an opening would come up, we would wait two months. Once a person leaves, we would wait two months before we even advertise the position and then...and this is for every part of the court system, not just Probation. Then of course, it takes a while to hire somebody. And with Probation, in order to get a Probation officer trained so that they can be an active part of the system, it's going to be more than six months before an individual gets in place. So every time there's a reduction there, I'm not going to say that the system is going to come to an end, but it means, overall, that we can serve fewer people and that judges can trust us to have enough supervisory people to watch these people in the

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community. The whole idea behind LB605 really was for our judges to take more risk with people and not to sentence them to prison but we were going to be able to assure them that there would be enough supervision, that these people would not immediately begin to commit crimes while they're on probation, and that our neighbors and friends would be protected from these folks, and that their spouses, whom they often beat, and their children, whom they often abused, would also be protected. So every time you have one less Probation officer available means that there are a few fewer people that can be supervised. And our judges become a little more skeptical about being able to take a risk and put somebody on probation instead of putting them in prison. [AGENCY 5]

SENATOR BOLZ: I appreciate that. I mean I guess what I'm taking away is that the hiring delays have had an impact on caseloads and, therefore, an impact on probation capacity and then an impact on judicial (inaudible). [AGENCY 5]

CHIEF JUSTICE HEAVICAN: Yes. And I will say this. We will not do everything poorly. Typically, if you look at the Department of Health and Human Services when they ran into these kinds of situations, they just reduced their work force, increased the workload, and it resulted in all kinds of problems. Essentially, they were not performing their functions. So we're going to triage the system. We will not do things in order to preserve other things that work. We simply won't do all things poorly. [AGENCY 5]

SENATOR BOLZ: I appreciate that. And then my last question--I promise, Committee--is if you have comments on the impacts of the use of the cash funds, I'd be curious to hear them. I know that some of the ways that you've use the IT cash fund have increased the efficiency in the court system, and I'm just wondering how this transfer will impact the courts overall. [AGENCY 5]

CHIEF JUSTICE HEAVICAN: That is largely...that is largely robbing Peter to pay Paul and delaying. You know, those problems will start to accrue in the next budget biennium. Yes, the IT cash fund has been great. We put together an electronic filing system and a uniform case management system in this state with baling wire and bubblegum. We did not hire any expensive consultants and we have one of the few systems in the country because we were aggressive about forcing it on the system. We're one of the few systems in the country that have a statewide

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system that applies both to the appellate courts and the trial courts. And we'd simply be putting off some of the things that we have planned in the strategic planning process. [AGENCY 5]

SENATOR BOLZ: Thank you. [AGENCY 5]

CHIEF JUSTICE HEAVICAN: Uh-huh. [AGENCY 5]

SENATOR STINNER: Questions? [AGENCY 5]

SENATOR WISHART: I have one more. [AGENCY 5]

SENATOR STINNER: Yes. [AGENCY 5]

SENATOR WISHART: I just wanted a clarification on the recidivism rates. [AGENCY 5]

CHIEF JUSTICE HEAVICAN: Uh-huh. [AGENCY 5]

SENATOR WISHART: You said that those who attend probation have a 15 percent recidivism. [AGENCY 5]

CHIEF JUSTICE HEAVICAN: Uh-huh. That's what we're being told by the University of Nebraska study. [AGENCY 5]

SENATOR WISHART: Okay. And then what is the recidivism rate in the state for those who do not attend probation, drug courts, these programs? [AGENCY 5]

CHIEF JUSTICE HEAVICAN: Those folks who come to prison or go to prison and come out essentially with no... [AGENCY 5]

SENATOR WISHART: And jam out with... [AGENCY 5]

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CHIEF JUSTICE HEAVICAN: ...supervision? I couldn't tell you that. We can get a figure for that. I can guarantee you it's more than 15 percent. [AGENCY 5]

SENATOR WISHART: Okay. [AGENCY 5]

SENATOR STINNER: I have a question. [AGENCY 5]

CHIEF JUSTICE HEAVICAN: Uh-huh. [AGENCY 5]

SENATOR STINNER: It goes back two years ago and it's all about the Juvenile Services to switch from Health and Human Services out to the justice side of things. And I think I understand a lot of the issues, but we went from a budget of about \$35 million, and I'm going to say approximately, simply because I can't find my notes on it, to a little over \$80 million now. Health and Human Services said they would work with you, with the justices, trying to fight programs so that we have coverage. Do you sense that? Where are we going? Are we actually spending the \$80 million that we've appropriated? I...give me some... [AGENCY 5]

CHIEF JUSTICE HEAVICAN: Well, we're definitely actually spending it. I'm not good on the specific dollar amounts to begin with, and I don't think you were probably here when this was actually going on. The Department of Health and Human Services couldn't tell us or anybody else. They didn't know themselves how much money they were spending on juvenile justice. When it was transferred to us, I for one firmly believe that it was a shell game. They passed on a bunch of expenses that they had earlier hidden in their budget. So we started off with a budget crisis, and some of you on here will remember that it looks like a huge budget overrun and, frankly, that was projected to run into this biennium. We have very carefully monitored what's going on and we totally dissipated that initial budget overrun, if you will. So I...part of this presentation is to sort of reinforce in your mind, we're good with budgets. We're not the branch of government that has been penalized tens of millions of dollars for some of the failures in programs that have been attempted to be implemented. We watch things very carefully and I think that we are the competent branch of government. And I think that that is borne out by the fact that you gave us, for example, the Public Guardian Program, you gave us these Juvenile Justice Supervision Programs, and you gave us Adult Justice Reinvestment. So...and we weren't

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always happy with that, but we took it on and we tried to do the very best job we could, and I think that we are. [AGENCY 5]

SENATOR STINNER: But is Health and Human Services reaching out, trying to be helpful (inaudible)? [AGENCY 5]

CHIEF JUSTICE HEAVICAN: They are. And I want to say especially good things about Courtney Phillips and the gentleman who runs their Medicaid program, whose name I have now forgotten. [AGENCY 5]

SENATOR BOLZ: Lynch. [AGENCY 5]

CHIEF JUSTICE HEAVICAN: But they have worked with us on a number of things. One of the really expensive parts of juvenile justice is housing for kids with mental illness and substance abuse issues. That is extremely expensive and was largely paid for my Medicaid when the department was doing that. When we got the program, suddenly it was very difficult to get those Medicaid dollars. They have turned around their policy on that and they have tried to help us to get Medicaid cover as much of those expenses as possible, and we've done that on some of the very difficult cases. [AGENCY 5]

SENATOR STINNER: Any other questions? Thank you, Judge. [AGENCY 5]

CHIEF JUSTICE HEAVICAN: Thank you very much. And if you have further questions, don't hesitate to contact me or Corey Steel or Ellen Brokofsky. [AGENCY 5]

SENATOR STINNER: I think we all know that we've tasked you with a lot of different things and we appreciate your efforts. [AGENCY 5]

CHIEF JUSTICE HEAVICAN: Well, I appreciate that. We enjoy solving problems but we can't do it for nothing. So thanks very much. [AGENCY 5]

SENATOR STINNER: Senator. [AGENCY 5]

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SENATOR PANSING BROOKS: (Exhibit 45) Thank you. Good afternoon, Chairman Stinner and members of the Appropriations Committee. I am Senator Patty Pansing Brooks, P-a-t-t-y P-a-n-s-i-n-g B-r-o-o-k-s, and I represent District 28, right here in the heart of Lincoln. I'm here to testify briefly on the deficit appropriations cuts as it relates to Probation. Over the interim, I chaired the LR34 Department of Correctional Services Special Investigative Committee, which examined the overcrowding, understaffing, programming, and behavioral health treatment deficiencies in our corrections system. I brought copies of this report for each of you, as I know some of you weren't here when we conducted this interim study and others of you may not have had a chance to read it. Why is this report relevant to the cuts you are currently considering? Because our report, which was dated December 22, 2016, points out that Nebraska's prison population has increased by 1,000 inmates from 2005 to 2015. The Nebraska Department of Correctional Services facilities are designed for a population of 3,275 people and as of September 27, 2016, the institutional population was 5,162 inmates, not including that 104 inmates who are housed currently within the county jails. That equates to 157.6 percent of design capacity. Nebraska's prison population system is severely overcrowded. Recognizing this, the Governor has spared cuts to the Corrections Department, but we can't lose sight of the residual effects of the Probation cuts and what that will do to our ability to reduce prison population to 140 percent of capacity by July 1, 2020, which is mandated by state law. An overcrowding emergency will take place at that time if we have not reached 140 percent. The proposed cuts that I have seen from the Administrative Office of the Courts and Probation, cuts that would have to take effect if you approve the \$8.2 million cut recommended by the Governor, would be devastating consequences to programs that keep people out of our prisons. I won't go over the specific numbers as I know you have...that those figures have been provided to you by the courts and Chief Justice Heavican has spoken about it. But I will say that I am deeply concerned that these cuts would include reductions in short-term residual substance abuse treatment for drug courts and probationers, cuts in problem-solving courts, reductions in Juvenile Services, cuts and reductions in adult reporting center contracts, among other things. Legislative Fiscal provided data that shows a correlation between funding for specialized courts, day and evening reporting centers, and substance abuse evaluation and treatment centers, and the prison population. Funding these initiatives is important to our overall efforts to reduce the prison population. The LR34 Committee continually said that our state's budget cannot be balanced on the back of Corrections. We should have been a little bit more specific, because what we also were including

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in that statement was Probation, Parole, the specialty courts, and the community diversion services. Alternatives to incarceration and programming must be funded in order to address the problem of severe overcrowding in our prisons and to reduce the likelihood of lawsuit. So I ask you to think long and hard about these cuts and about the impact that they would have on our justice system and our overcrowding problem in Nebraska. If you have any questions for the members of the LR34 Committee as you consider these cuts, please do not hesitate to reach out. And two of the remaining LR34 Committee members, Senator Krist and Senator Williams, are going to follow me and will further comment about these cuts for Corrections and Probation and community services and Parole. [AGENCY 5]

SENATOR STINNER: Thank you. One of the things I'd like you to explain to the committee members, new committee members, especially myself, I always seem to learn something new, CSG's Justice Reinvestment approach, could you tie back to that as that was actually the authoritative body that we went to. And you might want to explain to these committee members where...who they are, where they're from, and... [AGENCY 5]

SENATOR PANSING BROOKS: Yes. The Council of State Governments really gave us, and I think Senator Krist is going to speak to that a little bit because of his history... [AGENCY 5]

SENATOR STINNER: Okay. [AGENCY 5]

SENATOR PANSING BROOKS: ...being in...I came on in the middle of the second study. But... [AGENCY 5]

SENATOR STINNER: Good. [AGENCY 5]

SENATOR PANSING BROOKS: ...the Council of State Governments...and also Senator Bolz knows a lot of this information and can fulfill...answer your questions. But clearly the Council of State Governments had directed some of the issues that we needed to address regarding LB605 and the different laws and the ways to cut overcrowding and to also deal with recidivism issues and also look at mental health and behavioral health issues. So it's a whole package. And Probation and Parole and community detention, all that is interrelated. And to say, oh, we're just

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not going to touch Corrections, and then make significant cuts to all the other areas that affect Corrections, all we will do is just give the judges, as they said, no other alternative but just to put...if you have somebody in front of you and you can't put them into community detention or into any kind of programming, where are you going to put them? The judges will only have one option and that is to put them into prison. And so we have got to respond to this and realize that, you know, some of the expenses are more expensive up-front. But then if you look at the fact that we aren't putting as many people in prison, those are significant costs on a daily basis to house more prisoners. It's...study after study shows that the costs are much more significant to house prisoners on a daily basis rather than getting people who are able to get community detention or probation. Get those services to them in the community and not put them into prison.

[AGENCY 5]

SENATOR STINNER: Any questions? Questions? Senator Bolz. [AGENCY 5]

SENATOR BOLZ: Thanks for your leadership on the LR34 Committee. One thing that I think you might be specifically well-suited to discuss in front of the Appropriations Committee is the potential for litigation as it relates to overcrowding. I think what we heard from the Chief is that lack of community-based programs will lead to more incarceration. And I think one of the challenges in our correctional system is the potential for litigation related to that issue. And I think you're probably well-suited to discuss that. [AGENCY 5]

SENATOR PANSING BROOKS: Okay. Thank you. Yes, just as I briefly touched on, we have a law, a state law, that requires that our capacity be at 140 percent or lower by January...or July 1, 2020. And if that doesn't happen, then the Governor is required to create or announce a state of emergency, which at that point we will have to start releasing people from the prisons. So rather than continuing to overcrowd and to build up the prison population by not allowing Probation to do its very successful work that we know about, and not allowing the community correctional groups to do their successful work, all we're doing is tying the hands of the judges and making them put more people into prison and accelerating the numbers, which we're currently at 157.6 percent of capacity. And we know that there are continuous...I don't know if they'd be called threats but continuous claims that the state will be sued for this because it's an inappropriate treatment of people to have them at 157 percent. And if you just go to see some of those prisons,

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I think you'll understand what we're talking about, 157 percent. If you go out to...well, it's even higher at D&E. At the Detention Center I think it's up at 315 percent. And people are just lined up in a room on very hard plastic, I don't know, devices. They aren't...they were supposed to be...they're turned upside down and they're actually even being used inappropriately because they had to get them off the ground a certain amount of space. So it's really worth a visit out there to see what 300-plus percent of capacity looks like and why we are at risk as a state for a lawsuit. And of course, a lawsuit like that, if we're found guilty--and there are numerous states across the country that have had this kind of lawsuit--that's just money straight out of our coffers that we don't have. So again, we're cutting the nose off to spite our face by not supporting Probation, Parole, the specialty courts. Those are all important parts of the correctional system that allow us to take some of the pressure off the correctional facilities and keep people at a lower cost out in the community. And these are, of course, people who aren't dangerous. So they do an excellent job, Probation does, Parole. We really need to make sure that we aren't making significant cuts when it's dangerous for our community to do so. Thank you. [AGENCY 5]

SENATOR BOLZ: Thank you. [AGENCY 5]

SENATOR STINNER: Thank you. [AGENCY 5]

SENATOR PANSING BROOKS: Thank you. [AGENCY 5]

SENATOR STINNER: Senator. [AGENCY 5]

SENATOR McDONNELL: A little history on the 140 percent versus 141, 139 percent. What was the history? [AGENCY 5]

SENATOR PANSING BROOKS: I wasn't here. I think Senator Bolz was here. It happened right before we came into the Legislature. Senator Bolz, do you have the knowledge of that, of how we settled on 140 percent? [AGENCY 5]

SENATOR BOLZ: I'm not sure I fully understand your question but I know that in 2013, my first year on the committee, there was discussion with the director then about their capacity to serve

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the individuals in the department because they were at 141 percent of capacity. One of the things just maybe to underscore, since you're asking the question, is that the capacity varies by facility. So the Diagnostic and Evaluation Center that Senator Pansing Brooks is referencing is the front door to the system as a whole and that's where we have the biggest bottleneck. Other facilities are at lower levels of capacity but...and, for example, the women's facility in York is pretty close to where they should be. But the system as a whole is overcrowded and we have a few pain points. [AGENCY 5]

SENATOR STINNER: I think there actually is a threshold of 130 or 140 where the Governor is compelled to call a state of emergency and I think that's... [AGENCY 5]

SENATOR PANSING BROOKS: Yeah, it's the 140 percent. [AGENCY 5]

SENATOR STINNER: It is the 140? [AGENCY 5]

SENATOR PANSING BROOKS: Yeah. And I do think you're right, Senator Stinner, and so I think that may have been created by the American Correctional Facility standards, something like that. There's a group out there so that looks at jail standards. Anything else? Thank you. [AGENCY 5]

SENATOR STINNER: Thank you. [AGENCY 5]

SENATOR PANSING BROOKS: Thank you for your time and for your consideration of these important issues. [AGENCY 5]

SENATOR STINNER: Thank you for all the work that you've done. [AGENCY 5]

SENATOR PANSING BROOKS: Thank you. [AGENCY 5]

SENATOR STINNER: Thank you for the report. [AGENCY 5]

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SENATOR KRIST: (Exhibit 46) Senator Stinner, members of the Appropriations Committee, and I thank you, Chairman, for the invitation to come and speak to you today. You're being handed out a letter and I, just for the sake of clarity and succinct delivery, I'm going to read parts of it. On behalf of your LR34 Committee...and as a matter of point of privilege, that committee actually does not exist anymore at the beginning of this session. So for me to represent the committee's opinion I would have had to have canvassed everyone on the committee, and I can assure you that I did. Thank you for the opportunity to address you on serious concerns regarding the administration's proposed budgetary cutbacks into our justice system. My name is Bob Krist, B-o-b K-r-i-s-t, and I represent the 10th Legislative District. Six years ago the LR424 Special Investigative Committee uncovered a severely broken Department of Corrections. Mismanagement, lack of attention to critical resources and services, and lack of investment in both infrastructure and personnel programs across the board have resulted in overcrowding, miscalculations of prison terms...prisoners' terms, increased recidivism, overuse and misuse of administrative segregation, and overall safety risk inside and outside the institutions. Simultaneously, the Omaha World-Herald investigative reporting detailed the murder of four citizens the ultimate act of violence from a man who was too dangerous to be released--this is a quote--too dangerous to be released into the general population of a penitentiary, by a senior member of leadership in Corrections but said instead was released directly into the community without any supervision. I want you to stop and just grasp that concept for a while because what happened in the Nikko Jenkins issue, when we started to investigate just that particular issue, we found a grossly broken system--Corrections. But the more we peeled back the onion, the more we found that that broken system resulted in a statewide issue in a justice system. These actions were closely followed by the Council of State Governments, CSG, being invited by all three branches, heads of branches of government, to assist in the evaluation of our Corrections issues, first of all, commonly referred to as CSG Phase I. The result of the yearlong study was a host of recommendations, culminating in LB605, aimed at completely changing the sentencing parameters and forming alternatives to incarceration, including treatment programs. The results signaled a deficiency throughout the justice system in Nebraska, including Corrections, detention, behavioral health, mental health, Probation, and Parole. To ensure these deficiencies and proposed changes were evaluated and monitored, the Legislature formed yet another oversight committee through the LR34 legislation, and once again, CSG was invited back to assist. Distinctly different from Phase I, Phase II was focused on the total system changes. It is

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the Justice Reinvestment Initiative, or JRI, and it is still very active. The success of JRI depends on the fidelity within the judiciary to the alternatives of problem-solving courts, reporting centers, and LB561 initiated juvenile justice programs, just to name a few of the issues. The success of JRI demands fidelity to the related Department of Health and Human Services Juvenile Detention Services and facilities, behavioral and mental health initiatives throughout the state. The success of the JRI depends on the fidelity by the Legislature to be responsive to proposed fixes regarding intended and unintended consequences of LB605, LB561, and many others, and, most importantly, and most importantly to this committee, apply the correct oversight and appropriations to guarantee its success. Changes involved in JRI span all three branches of government, so to say that we are being true to this reform by continued supporting of only Corrections, as it's been suggested by the administration's budget, is disingenuous to the fidelity of JRI. You can read that paragraph as many times as you want to. What I'm saying is this is the justice system in the state of Nebraska and it has to do with those patient behavioral patients, those treatment facilities, all of those things that are currently in place, including the way we treat our juveniles. We must not lose focus in our unified fidelity in reforming the total justice system by defunding the key elements of the justice infrastructure. It is our considered opinion, after substantial investigation on behalf of the Legislature, that a fully funded Probation system, as appropriated in the budget as passed, is essential to controlling costs of the other corrections system. We would encourage no cut in the appropriation for Probation, related services including problem-solving courts, especially problem-solving courts, and the community detention, and Parole. And I will stand for any questions. [AGENCY 5]

SENATOR STINNER: Questions? I'd ask the same question that I asked of Senator Pansing Brooks in tying back a little bit to CSG, give some color about who they are, what they've been able to accomplish maybe state...or the United States-wise,... [AGENCY 5]

SENATOR KRIST: Sure. [AGENCY 5]

SENATOR STINNER: ...and why we chose them and... [AGENCY 5]

SENATOR KRIST: We found ourself in a position where to internally investigate all of the possibilities within Corrections at that time, we were ill-prepared to launch an investigation even

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in an oversight capability. We solicited the aid of several different organizations. One of them that came to the forefront was CSG Justice Center. The Justice Center actually enables DOJ's investment throughout the United States. It's not...it is a product of many states that CSG has taken its experience from. For example, we're approximately three and a half years behind the state of Georgia. The fidelity to the LB605, to LB605 and the processes that we are putting in place, the fidelity to that process that was used in the state of Georgia has allowed them to close down three, three systems, three penitentiaries, three prisons at my last count, of course six months ago. Granted, a little bigger state, a little bigger population, probably a little bigger problems, but the fidelity to the system, if you follow it through, has allowed them to have that kind of progress. In Phase I, CSG came out and had a basically free reign to go to all of the agencies, all of the organizations and find out what we were doing, and some of it wasn't pretty. But that metrics, those...that data was briefed to us. I was on the CSG...I've been on every special investigative committee that has been involved since LR424, the CSG Phase I, and to date still with the JRI. But CSG was uniquely capable of coming in and evaluating our pitfalls and our problems. That was Phase I. Once those suggestions and/or the data and metrics and evidence-based suggestions were presented to us, then we were allowed the opportunity to invite them back. And for Phase II they would assist us in going through the process of fixing those things they found in Phase I. And we didn't, obviously, agree with everything that they said, but most things were valid, were metrics-based. And moving forward we needed the evidence-based help to move into that next phase. Simultaneously with all that, I think the legislative oversight function certainly did create an atmosphere of observation that created even Parole and Probation and the rest to respond to some of our questions on almost a daily basis. Holding one's feet to the first sometimes results in...gives you better results than just allowing things to happen. So CSG has been instrumental in getting this process into place. The worst thing we can do at this point is cut these programs to the point where we're going backwards. And I think what you heard the Chief Justice say, and would be my opinion, I'm not going to tell you how to run a bank; you shouldn't tell me how to fly an airplane. When I get Parole and Probation and all of the folks and juvenile justice folks in DHHS and other people to say, if then, then we have to measure whether the "then" is worth cutting the programs that we are proposing to cut. And it's not going to be an easy decision, grant you. But not understanding history will get us in a worse position if we don't understand what's happened. I hope that answers your question. [AGENCY 5]

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SENATOR STINNER: It does. Tell me this. How long has the reform been implemented and started, and what has been the results of what we've seen so far? [AGENCY 5]

SENATOR KRIST: LB561, LB605, LB464, I could rattle off a bunch of LBs and with them, as you know, is a process of passing a bill, having it signed into law, and then six months potentially before that law becomes in effect. I don't believe, and maybe you'll get a head shake or two, I don't believe we've given the results in LB605 enough time. We have less than a year of really the data collected for what's happened. For an example, LB605 was supposed to create an incredible burden on the counties for housing prisoners. We then put together a fund that they could draw back on. Well, that fund was held up, the \$500,000 that you put aside, we put aside, was held up in implementation. So the counties have not really reported back to us to see how big of an impact that was. So I would say in most every case, in almost every bill that's been passed, with the exception of an early juvenile justice bill, we've not seen the extent to which purposefully we should be analyzing the metrics. [AGENCY 5]

SENATOR STINNER: Thank you. Questions? Senator Bolz. [AGENCY 5]

SENATOR BOLZ: Just a brief comment and then maybe a question for you, Senator Krist. One comment that I would share, because the subject that we're on right now is our history and there were some cuts that were made the last time that we had a budget scenario that we had to deal with that related to public safety, that related to Corrections, that related to this whole system of justice, that contributed to the need for the series of committees that Senator Krist and I have served on. So I think that's worth sort of putting into the record, that in 2008-2009 some of the cuts that the Appropriations Committee made contributed to some of the needs of some of the special committees. The other thing that I wanted to bring up or to ask you, Senator Krist, and it's a little bit off subject, but one of the things I think we learned in those years of committees was that we really can't pull this apart. We can't pull apart Corrections from the Supreme Court. And I would add child welfare. We also cannot pull apart child welfare or behavioral health. And so if you have a comment on that, I'd be more than happy to hear it, but I think one of my takeaways from serving on the same committees as you have is that these systems are interconnected and if we want to solve Corrections we've got to look across the board. [AGENCY 5]

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SENATOR KRIST: I'd like to comment. First of all, thank you for your service on those committees because the appropriations process, just like not disconnecting juvenile justice from adult probation from juvenile probation from detention from incarceration, having the proper mix of people on those committees, and yours and Senator Mello's input as members of Appropriations, were critical. And I would encourage future special committees or any committees to draw on that kind of collective experience. I have said one of my passions during the eight years I've been here have been juveniles and juvenile justice. The education process I went through, through the MacArthur Foundation, Annie E. Casey, Juvenile Detention Alternatives Initiative is that it's a heck of a lot cheaper to treat our problems in the playpen than it is in the state pen. It's less expensive to take a child and it's easier to take a child and try to mold their psyche and bring them back to the point where they are beginning to be productive; a little more difficult when you talk about an adult. So I can't separate juvenile justice from the corrections system. I can't separate behavioral and mental health and substance abuse from the corrections system, because here are the feeders. Here's the corrections system that we house people and then we have to get them out the other side. Now the trick is to make sure that once we get them out the other side they don't run around in the swinging door and come back over here. So you tell me, how do you separate any part of this system? How do you take juvenile justice out of the mix? How do you take the incarceration and detention process out of the mix? How do you take the rehabilitative efforts out of the mix? If you're going to control this animal, and it is the Nebraska justice system, you have to look at the entire picture. I will say that I think that there are...have been...there has been money well spent and there is money also that can be delineated in terms of better productivity. I would note that we have facilities that have been cut down by over 100 percent...sorry, 50 percent in their capacity who are asking for the same amount of money. That's for you to decipher. It's not an easy job, I understand, but I don't know how you take any part of the system away. It's a continuum. I hope that answers your question. [AGENCY 5]

SENATOR BOLZ: Thank you. [AGENCY 5]

SENATOR STINNER: Senator Wishart. [AGENCY 5]

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SENATOR WISHART: So, thank you for being here, Senator Krist. In your opinion, and maybe you can't answer this question, but looking at what has happened in other states that have done a similar kind of justice reform and are ahead of us in that, do you anticipate that we could see savings of, you know, where reducing \$800,000, \$700,000 here? Do you think in a few years we could see those savings just out of people not returning to our corrections system and actually see additional savings? [AGENCY 5]

SENATOR KRIST: Based upon the metrics and the results of other states, I would say yes. [AGENCY 5]

SENATOR WISHART: Okay. [AGENCY 5]

SENATOR KRIST: Definitely I believe in that. But I think, Senator Wishart, the other side of this is if you want an example of how not to do things, take a look at the state of California, who did not...they did not show fidelity to any system. Their prisons were overcrowded. There were organizations that brought suit against the state and DOJ came in and told them how to run their state. And there were prisoners released and the criminal rate went up. It was a really bad experience. It's an historical point from which to take memory because we don't want that to happen. And I know there have been members on this committee who have challenged that they're just threatening. I can tell you, they're not just threatening. They're watching for the civil rights and the rights of even those who are incarcerated, which I used the word "even," but I think that's some mentality sometimes is lock them up and throw away the key. Eighty percent of the people who go to prison are going to come out of prison, statistically. Thirty to forty percent, arguably there's a higher or lower depending upon who you look at, thirty to forty percent of those people who are there have mental, behavioral, or substance abuse problems. So you do the math. It is a process whereby we have two choices: lock them up and throw away the key and continue to build cells; or try to reduce the prison population by LB605 and all the other things that we've tried to do and have some fidelity to the system. Will it work? I probably won't be here when you see the results but we'll give it a try. [AGENCY 5]

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SENATOR STINNER: Thank you. Questions? Thanks so much for the input and insight. I really appreciate it. I'm sure everybody here does appreciate all the effort that has been put forth in this. Thank you. [AGENCY 5]

SENATOR KRIST: Well, I'm at your disposal. Thank you. [AGENCY 5]

SENATOR WILLIAMS: Thank you, Chairman Stinner and members of the Appropriations Committee. My name is Matt Williams, M-a-t-t W-i-l-l-i-a-m-s. I am senator from Legislative District 36. Along with Senator Bolz and Senator Krist and Senator Pansing Brooks, I have also served on the LR34 Committee. I would like to, first of all, start by thanking our Governor for his budget proposal and largely leaving the corrections system untouched, in fact actually proposing to use a portion of the rainy day fund to add to our facilities. I would also like to thank and compliment Chief Justice Heavican and Corey Steel and others for their budget proposal, especially that portion that deals with the first \$6 million that was requested before Christmas where they were able to implement and come up with a plan that would save that \$6 million, largely not touching the programming side of the equation. So it's really that last \$2 million that I would like to address a little bit and do it in very simple terms, and especially for the new senators who are here. With LB605 that has been talked about by everyone sitting here today, does really two things that are significant in this area. First of all, it creates a presumption of using Probation for felony IVs, so that we are not directly sending to prison those nonviolent, low-level felons; and it also requires postrelease supervision. The other thing that this Legislature did in the past couple of years is advance the use of problem-solving courts into other areas besides drug court and reemphasize the fact that the problem-solving court in particular, the drug court that Chief Heavican talked about that's working so successfully across the state, is a vital part of this issue. And you've heard other people talk about, it's difficult to try to separate Corrections from Probation and problem-solving courts and those other things, because, as the Chief mentioned, there's the front door and the back door to this situation. If we are going to remain successful with problem-solving courts, if we are going to remain successful with Probation, we can't take away the programs that they have to offer. And that's what is happening with the proposal for the last \$2 million is that the programs, the underlying programs that we can offer to probationers and the underlying programs that we can offer to participants in drug court are being limited. And being real blunt, the purpose of this whole thing is to keep the

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public safe, okay? And if the judge that is sitting there looking at a probationer, the judge is looking, they're making a decision on whether a person is going to participate in drug court or not, can't protect public safety because they can't have the programming, whether it's residential care, whether it's drug abuse, whether it's anger management, all of these kind of things. They're left with one choice and that choice is to send them to prison. And remember, all of these people are already in the criminal justice system, so the judge has every reason in the world and every ability in the world to send them to prison. And you heard Judge Heavican talk about the cost of incarceration in our prison system is in the \$35,000 to \$36,000 a year range. Drug court, the Midwest Drug Court in North Platte and Lexington that I'm very familiar with costs about \$5,000 a year; probation, as the Chief mentioned, in the \$8,000 to \$10,000 range. So it gets pretty simple. It is priorities and I would strongly encourage you to follow what the Supreme Court has put together for the first \$6 million in the cuts that they have offered, which they can do without sacrificing the programming, but let's be very careful and very thoughtful in what we do with that next decision, the decision that takes away that programming. Thank you.

[AGENCY 5]

SENATOR STINNER: Thank you. Questions? Thank you. [AGENCY 5]

SENATOR WILLIAMS: Thank you. [AGENCY 5]

ELIZABETH NEELEY: Good afternoon, Chairman Stinner and members of the Appropriations Committee. My name is Elizabeth Neeley, N-e-e-l-e-y. I'm the executive director of the Nebraska State Bar Association and I'm here today to comment on the proposed cuts to the judicial branch budget. I'll be brief. You've had some really fantastic testimony from your colleagues in the Legislature this afternoon. First, adequate judicial resources are essential to the administration of justice. An extended hiring delay of up to six months on all judicial branch positions can cause considerable delay in the processing of cases and create a backlog for the system. The delay of justice has real consequences for Nebraska's families, for Nebraska's children, for Nebraska businesses. In the past when there are vacancies, courts are kept afloat by the use of retired judges. However, under the proposal cuts, the judicial branch will not be utilizing retired judges to keep those dockets progressing. This alone will put considerable strain on our courts, particularly in rural counties. The courts are an essential part of the justice system, but like any

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system, when one part is not adequately funded, pressure is going to build on other parts of the system. It is important to note that the proposed cuts to judicial resources may come at a higher price to the state and counties in the long run. Court delay means that youth in our child welfare system are in out-of-home placements longer. It means that defendants will be in jail longer. At the same time, under the proposed cuts Nebraska will be losing its ability to effectively supervise a large number of Nebraskans in the system for substance abuse, our high-risk probationers, and will use lose special services in place for our juveniles. Without these alternatives, as been described before, two things are likely to happen. These defendants will return to the community without support or supervision and will experience higher rates of recidivism and cause a public safety issue, or they're will be detained or incarcerated and Nebraska's corrections costs will increase. We know that probation and community corrections are effective alternatives to detention. They're also more cost-effective than detention and incarceration, an important fact at a time when prisons are overcrowded and the corrections system is already strained. Nebraskans have a fundamental right to access the courts. The judicial branch provides an essential service to Nebraskans and inhibiting their ability to effectively administer justice and provide supervision results in poorer outcomes for Nebraskans and will likely only push costs to other parts of our system. Under the current situation, this committee has been presented with the daunting task of balancing the budget. There are difficult decisions to be made, but on behalf of all of those who our members serve, we hope that you will do it. It is possible to maintain an effective court system in Nebraska. Thanks. [AGENCY 5]

SENATOR STINNER: Thank you. Questions? Senator Bolz. [AGENCY 5]

ELIZABETH NEELEY: Yes. [AGENCY 5]

SENATOR BOLZ: Could you just elaborate on your comments related to high-risk probationers and the potential impacts that you see for those that are at the highest risk? [AGENCY 5]

ELIZABETH NEELEY: Right. So if you look at, and I would probably defer to Corey and Ellen, who have the specifics of the programming, but one of the items presented in the budget from the court is a reduction in the SSAS program and the problem-solving courts and for high-risk

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probationers, the \$500,000 in services, and I think that's a combination of the different programs and services available through that. [AGENCY 5]

SENATOR BOLZ: Uh-huh. And maybe just for the sake of the dialogue, you could define what high-risk is and what the threat to the public safety is. [AGENCY 5]

ELIZABETH NEELEY: I think I should probably defer how the Probation Office classifies high versus moderate risk to Ellen Brokofsky. [AGENCY 5]

SENATOR BOLZ: Okay. [AGENCY 5]

ELIZABETH NEELEY: Yep. [AGENCY 5]

SENATOR STINNER: Questions? You got it. [AGENCY 5]

SENATOR BOLZ: Okay. Thank you very much. [AGENCY 5]

ELIZABETH NEELEY: Okay. Thanks. Yep. [AGENCY 5]

SENATOR BOLZ: Do we have any other testifiers on Agency 5, the Supreme Court? Okay. Our next agency is Agency 14....oh. [AGENCY 5]

CHIEF JUSTICE HEAVICAN: I was just going to attempt to answer your question a little bit. Probation has measurement tools to define high-risk, middle-risk, lower-risk, so it's all very scientifically done. [AGENCY 5]

SENATOR BOLZ: Very good. The Chief Justice gets away with some things that others don't, so... (Laughter) [AGENCY 5]

CHIEF JUSTICE HEAVICAN: I'm sorry about that. [AGENCY 5]

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SENATOR BOLZ: (Laugh) It's okay. But we'll get some information to the committee regarding the definition of high-risk. Okay. Next agency is Agency 14, Public Service Commission. Welcome. Please say and state your name for the record. [AGENCY 14]

TIM SCHRAM: (Exhibit 47) Good afternoon, Vice Chair Bolz--Chairman Stinner is absent--and the members of the Appropriations Committee. I'm Commissioner Tim Schram, that is spelled, the first name T-i-m, last name S-c-h-r-a-m, chairman of the Nebraska Public Service Commission, representing the 3rd District. I would like to thank the committee for the opportunity to testify today regarding the Governor's recommended budget reduction in Program 54 and I would like to present an alternative proposal which accomplishes the 4 percent General Fund reduction but still leaves this program whole. Program 54 regulates market entry and service of grain warehouses and grain dealers; household goods movers and passenger transportation carriers; and telecommunications carriers and automatic dialing an announcing devices. We receive and investigate formal and informal consumer complaints and provide aid to telecommunications consumers, including wireless customers. The most pressing challenge within this program is attrition. Of the 15 current full-time staff in this program, 9 are eligible for retirement, including 7 over the age of 60 and 3 over the age of 65. Their vacation and sick accruals as of December 2016 are approximately \$213,000. The commission anticipates the need for deficit requests in the program annually for the next five years. Reducing the base appropriation for Program 54 will only increase this need. Due to the critical importance of the agricultural economy in our state, and agriculture's declining sales revenues, the commission realizes that we are in a deficit situation of some scope. However, in depressed agricultural economies, more oversight of the financial stability of grain warehouses is needed in order to protect producers and landowners. The commission's Grain Department employs seven individuals and is responsible for licensing and inspecting grain warehouses and dealers. The department is tasked with protecting the interests of agricultural producers who do business with warehouses and dealers in Nebraska by ensuring that these facilities are operating in a financially sound manner. To carry out this oversight, all licenses are renewed annually, requiring an on-site inspection of every licensed warehouse facility by department personnel, as well as financial reviews of every dealer and warehouse license. If warehouses and dealers make risky financial deals and get themselves into trouble, this can lead to failure of their businesses. This, in turn, can lead to severe consequences for the producers and the communities around those facilities.

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For example, when Pierce Elevator failed in 2014, there were millions of dollars in losses to producers who did business with Pierce. In the case of Pierce losses, the economy was sound enough that many producers were able to absorb and recover from those losses. If something similar were to occur with the currently depressed commodity prices, the results would be catastrophic, not just in the local area but to the farm economy of the state. The department currently has the highest licensed warehouse capacity in the history of the program with 525 million bushels currently licensed with the commission. The department also inspects over 1,500 moisture meters each year to ensure accurate pricing for the sale of grain. The department's oversight of the operations of warehouses and dealers has never been more critical. Personnel is the main cost-driver in the department, so any cuts to the department funding would require staff layoffs or lead to retirements, leaving the department unable to physically carry out its statutory duty. Additionally, of the seven employees within this department, five are eligible for retirement, including three expected to retire within the next two years. These retirements will result in a substantial deficit request relative to this department. The commission's Motor Transportation Department is in a similar position. The department plays a critical role in ensuring safe and reliable transportation for all Nebraskans. To this end, the department performs vehicle safety inspections, prevents and corrects unjust and discriminatory rates, and enforces statutes and regulations regarding background checks, insurance, and other fitness factors for both passenger carriers and the household goods movers. There are currently 68 household goods movers, 179 passenger carriers, and 2 transportation network companies, TNCs, which are authorized to operate in Nebraska. The Motor Transportation Department currently has two full-time investigators/inspectors tasked with enforcement and performing safety inspections across the entire state. Reductions to this department would impede or outright eliminate the commission's ability to protect the public from defective vehicles, underinsured and uninsured carriers or movers. Each year our staff inspects nearly 400 taxicabs in addition to other vans, wheelchair ambulatory vehicles, and railroad crew transportation vans. A reduction of even one investigator jeopardizes the public due to the increased risk of uninspected and unsafe vehicles on our streets and highways. The department's investigators are also charged with making certain that operators are properly insured. While the majority of the industry provides good customer service and does what is necessary to provide safe transportation, certainly there are rogue operators who attempt to skirt the statutes and regulations, including the requirement that they carry commercial insurance. If these carriers are allowed to operate while uninsured or

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underinsured, the public could be put in financial jeopardy when accidents occur. This practice also harms those carriers who follow the law and are adequately insured. There are hundreds of vehicles operating in Nebraska transporting passengers, and because we are significantly understaffed, the commission cannot inspect all vehicles nor conduct routine enforcement actions. This, too, jeopardizes public safety. Two of the four employees in this department are anticipating to retire within the next year. The leave payouts for these employees will result in a substantial deficit situation relative to this department. In order to manage a 4 percent reduction in this program, the commission is requesting a transfer of salaries and benefits from the Communications Department in Program 54 to the Nebraska Universal Service Fund, Program 686. With the passage of the Telecommunications Act of 1996, Congress allowed for competition in the telecommunications industry. Additionally, cellular and broadband technologies have allowed people to communicate differently, which has introduced additional competition into the market. In recognition of the shift from monopolies to competitively provided telecommunication services, the commission has been in the process of changing its focus from not only regulating but moving towards more economic development efforts. The public-private partnership is reflected in the commission's Universal Service Fund Program. A shift of costs from Program 54, the commission's traditional regulatory scope, to Program 686, the Nebraska Universal Service Fund, is entirely consistent with the commission's longstanding goal of reducing regulation and increasing economic support. By shifting expenses from Program 54 to Program 686 we will still accomplish the desired 4 percent General Fund reduction but will also keep Program 54 whole and will be able to continue our critical regulatory and statutory responsibilities. Please note that the Governor's executive budget recommendations for the next biennium include shifting these salaries and benefits to the Universal Service Fund beginning July 1, 2017. Our request for the current fiscal year mirrors the Governor's recommendations. Thank you for your consideration and I would be happy to answer any questions you may have. [AGENCY 14]

SENATOR BOLZ: Thank you. Any questions? I have just one question. You have a variety of responsibilities over a variety of industries. And I understand that some of the detail that you're providing here relates to your ability to implement rules and regulations put forward by the Public Service Commission. But as I understand it, the Public Service Commission, your

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responsibility for regulating these industries is established by statute. Is that correct? [AGENCY 14]

TIM SCHRAM: Correct. [AGENCY 14]

SENATOR BOLZ: Okay. I guess what I'm getting at is there's an intersection here between what you're being tasked to do by the Legislature and the resources that you need to do it, and that's part of your challenge. [AGENCY 14]

TIM SCHRAM: That would be correct. [AGENCY 14]

SENATOR BOLZ: Very good. Okay. Any other questions? Thank you. [AGENCY 14]

TIM SCHRAM: Thank you. [AGENCY 14]

SENATOR BOLZ: Next testifier. And I will remind folks testifying, we do plan to use the light system throughout the day, so just be thoughtful about your remarks as you testify. Last opportunity for anyone in Agency 14, Public Service Commission. Very good, we'll move on to Agency 15, Board of Pardons and Parole. Anyone here to testify on the Board of Pardons and Parole? You guys are going easy on us. Agency 21, State Fire Marshal, no testifiers? Agency 31, Military Department? Agency 35, Liquor Control Commission, we got a taker. Come on up, Hobie. [AGENCY 14 AGENCY 15 AGENCY 21 AGENCY 31 AGENCY 35]

HOBERT RUPE: Thank you, Vice Chair Bolz, members of the Revenue Committee...Appropriations Committee. I'm sorry. My name is Hobert Rupe. I serve as the executive director of the Nebraska Liquor Control Commission, a position I've held for the last 13 years. We're here today, I guess, partly just to explain how some small agencies deal with cuts, how we deal with cuts and how we deal with unexpected expenditures. This is only the second time in my tenure that we've ever had a deficit appropriation request. Both times the sort of precipitating event has been retirements. In this case, I lost my number two and number three in the agency, almost 80 years of experience, within 30 days of each other as they decided to retire. As my boss, Chairman Batt, said, now I'm actually going to earn my salary. And so that

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sort of put us in a weird position, so we actually asked for a deficit appropriation of just about \$48,000 for those payouts. One had been with the state since 1976 and one since 1977. They were pretty close to being maxed out on vacation and leave and...where we had to do the payout. Also, there was a deficit appropriation for \$5,000 for a computer programming glitch. It came in as part of LB1105 last year and it was...I don't know if anybody remembers, LB1105 was a pretty massive omnibus bill, had a lot of different liquor-related portions to it, one that was creating a new liquor type. Our computer system, our C-1 system, started when I was a sophomore in college. I'm not going to say how long was that. So anytime we have to crack it open and create a new license type, it's about \$5,000. In that case, the...giving the...at the end of the session, it was, you know, it was a...I'm not going to say it was an error but it was a typo of when it was going to be budgeted out, so it was going to be budgeted out for this year, not last year, so that was part of the other, the deficit appropriation. So I'm sort of giving you an understanding of how small state agencies work when they have to do a state...with retirements. The Governor's proposal gives us the PSL a lot, which in a lot of ways is the most important part because, you know, that's the hard cap you can spend on personnel costs. And when you have a small agency with 17 employees, that's your largest cost driver is your personnel costs. I guess it's one of those things you sort of appreciate when they think...give you a compliment and say that your past spending patterns, that you've been frugal enough that you should be able to absorb the \$50,000, and that's what the Governor is proposing. And I think we can do it. It will be...it won't be easy and I guess the way we would have to do it also raises questions in that for the most part we hire...we promote from within. I've already promoted for "wholesale com.," one of the two positions. The other one we just completed interviews for, and both of those are going to be internal candidates. So then I'll have to backfill those positions, you know, is sort of the way it works. For a small state agency, the way for me to cover this roughly \$50,000 shortfall is going to be I'm going to have to, you know, realign the deck chairs a little bit, take from some other agency...parts of the agency where we've been very frugal. When the Governor asks us to refrain from spending, we definitely did cut back quite a bit. We have not done hardly any out-of-state travel. We cut back a lot of other things. So we've been trying to be very good stewards of the people's money. But one of the ways we will probably have to do that is leave at least one of those positions vacant for about three, four months. Does that allow us...or make the books balance? Yes. Of course, that causes other problems because somebody says, well, hey, we just gave you that position, now you're not replacing it, you must not need it so we're going to cut it.

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Trust me, we need the positions. The two positions that are going to be open, and one I'm going to fill right away, is my licensing...the other licensing position. There are statutory requirements that those things be processed in a certain amount of time. That's our single biggest division in the...amongst the commission. The other one is the fiscal compliance analyst, who I promoted her to become my fiscal compliance administrator. So I'm going to have to probably leave that one open till May to make this budget work. Now that concerns me because, you know, that's one of our auditors. Those are the people who go out and do the field audits. They go out and do...you know, make sure that the tax that we're collecting is appropriate. Our budget is right around \$1.5 million. We bring in just right around \$33 million a year in collection of excise tax. So, you know, I'm always leery that, you know, cutting back on one of the watchdogs for too long is dangerous enough; for that then to be seen as not needed would be our other concern. So I guess I just wanted to sort of explain the way a small agency would have to deal with these kind of issues. And be happy to answer any questions. [AGENCY 35]

SENATOR STINNER: Thank you. Any questions? Gee, I ought to stay out of the room. We've kind of just blown through a whole lot of stuff. Thank you very much. [AGENCY 35]

HOBERT RUPE: No problem. Thank you very much. [AGENCY 35]

SENATOR STINNER: Department of Corrections, I think they're passing. Is that correct? Okay. Nebraska State Patrol is passing, I believe. Commission on Law Enforcement and Criminal Justice? Nobody? Okay. How about State Auditor? Okay. Well, let's take a little bit of a break, how's that? We'll be back again, same time, same station, what, 3:30? [AGENCY 46 AGENCY 64 AGENCY 78 AGENCY 10]

CHARLIE JANSSEN: Are you ready, Chairman? [AGENCY 10]

SENATOR STINNER: Yes. [AGENCY 10]

CHARLIE JANSSEN: (Exhibit 48) Thank you very much, Senator Stinner and members of the Appropriations Committee. For the record, my name is Charlie Janssen, C-h-a-r-l-i-e J-a-n-s-s-e-n, and I am very appreciative. I'm a little bit out of breath because I just sprinted from my office

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when I saw people weren't showing up, so I apologize. I obviously come to discuss LB22 and deficit request program for 01...Programs 010 as well as 506. Starting with 506, the General Fund appropriations, that's expended on staff and office expenses for the purposes of auditing state agencies, courts, commissions, boards that spend all types of state funds--General, cash, federal, revolving, trust funds, etcetera--as required by the constitution and state statutes. This program is also used to receive and review over 2,700 Nebraska political subdivision budgets and audits. The proposed cut in appropriations of nearly \$100,000, as well as \$12,650 cut in the carryover appropriation, will be damaging to my office--a theme that I'm sure you've heard quite a bit today. The majority of our budget is for personnel and, as a result, I would be forced to make some staffing decisions that would be detrimental to the office, not only on the morale but also the mission of doing the audits, especially due to the five months left in the fiscal year. It's not a case where we have a new program or a program where we could just cut back that program. And I know the number that we're talking about here is not as much as some of the numbers that you're hearing, but for our office this is people, not programs. I continue to maintain a very qualified audit staff. Currently, I have 47 staff which includes 2 administrative, 3 interns, 2 part-time staff. The APA auditors are required to have a bachelor's degree with a minimum of 24 hours of accounting. Currently, my staff well exceeds that minimum and many of them have various credentials, such as 19 CPAs; 9 CFEs, or certified fraud examiners; 2 certified information systems auditors; and 1 juris doctorate. Auditing is necessary and essential to the state of Nebraska. Over the past ten years, expenditures and programs, more importantly, have continued to increase; however, the percentage used for auditing has actually decreased over that same period of time. I do not believe this is sustainable in the goal to protect taxpayer dollars. In a perfect world, fraud would not exist. However, sometimes the hardest crimes to see are the ones perpetuated by...perpetrated by people who are trusted. When times get tough, like with our current budget shortfall now and programs are being cut, fraud actually becomes much more prevalent. We continue to work on setting...on getting state audits back to the standard three-year rotational cycle. Since July 1, 2015, we completed some audits which had not been done as far back as 2004, such as Tourism, Brand Committee, Agriculture, DAS, Corrections, Education, Economic Development, TIF, and others. The handout passed out provides...or will be passed out, will provide a brief summary of these. We are currently working to get audits more current; however, there are some large and smaller agencies that have not been examined for several years. I do have a listing of them but just in the sake of time, for example talking

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about large, HHS has not been audited for 11 years, their services; Roads has not been audited in 10 years; and some smaller agencies, such as Accountability and Disclosure hasn't been done for 6 years, among others. Additionally, my legislative liaison and staff are continuing to work with senators and all agencies to clean up and resolve some state statutes relating to compliance findings, including some repetitive findings disclosed in our audits. We appreciate our senators and working with...the senators working with us on the compliance issues. We receive numerous audit requests from senators, actually, due to this effort. Most recent, you may have heard about it, I'm sure you have actually, is TIF, Probation, and Corrections. And while we attempt to meet these requests, there are numerous times that we have to postpone them due to other obligations and stay within the confines of our small budget. To put this in perspective, it takes approximately five full-time employees to complete the audit of the statewide CAFR which is required to be done every year and paid for by General Funds. Last year we completed the Corrections audit which took two...which took five full-time employees to complete due to its complexity. These two audits alone took almost 40 percent of our General Fund budget. On top of these, we have to complete annually the county court audits, NPERS audits--the state, county, judges, and State Patrol--for retirement. While understanding that times are difficult, I ask you to seriously consider not cutting Program 506 and restoring the appropriation that was originally passed by the Legislature for fiscal year 2017. I believe the many findings that we have found and the things that we have uncovered actually saved the state much more money than it cost the state. That said in speaking, I understand you're in a very tough position, certainly, and in regard to Program 010, LB22 is projected to cut \$22,000 from the program, from 010, for '16-17. This program is used to cover my salary and benefits. Originally we budgeted the \$22,000 in the event that I chose to participate in the state's health insurance. I find that to be appropriate to cut that out because I did not participate in it. Not saying that won't happen in the future, but. There's something--I came here with a possible cut. [AGENCY 10]

SENATOR STINNER: Refresh my memory. I think it was a year or two ago that you came to us in Appropriations and said I need five or six additional. I think we gave you how many?
[AGENCY 10]

CHARLIE JANSSEN: Uh-huh. I don't have that off the top of my head... [AGENCY 10]

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SENATOR STINNER: Three? [AGENCY 10]

SENATOR BOLZ: Three. [AGENCY 10]

CHARLIE JANSSEN: ...the additional PSL that we had requested. Yes, and we've utilized it and continue to. Actually, that allows us to do more of these special audits that we do that, you know, everybody...I shouldn't say everybody but a lot of people read about the special audits that we do, the investigative audits that we do. They're not necessarily reading about the 2,700 political subdivisions that we've got responsibility over and the least...less exciting audits, if you will, which is the great majority of our work. But nonetheless, the special audits do take up a lot of time and resources. And I think that's important also when we do those so the public actually sees those. They can read them. They can feel them. If you're...you know, most Nebraskans don't know what a Brand Committee is but they read quite a bit about it this year. And that sends out a pretty good message to other agencies that, hey, we can be audited too. The message that kind of gets sent out when we get diminished in our budget and we have a lack of resources is, well, they'll probably never get to us. And we already see how tough it is for us to even get to what we can get to right now, under the current budget structure. So I find myself in a bit of unfamiliar political territory coming to a committee and asking for money back. For those of you who served with me, probably found me on the other side of those issues several times, so. But this is an important one. (Laughter) [AGENCY 10]

SENATOR STINNER: Any questions? Thank you very much. [AGENCY 10]

CHARLIE JANSSEN: Thank you and I appreciate it and I'm really...really, this gives me a chance to think about running more often because I haven't really went full-bore in a long time. (Laughter) Thank you. [AGENCY 10]

BREAK

SENATOR STINNER: We have a quorum and I always like to start on time but the train is about five minutes late, so. I do want to welcome everybody to the Appropriations hearing. My name is John Stinner and I represent the 48th District, which is Scotts Bluff County, and I also serve as

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Chairman of the Appropriations Committee. The committee will take up agency testimony in the order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. Committee members may come and go. That's simply because we have other legislation being presented in other committees. It's not that they are disinterested in what you all have to say. It's just there are competing requests going on right at the moment. To better facilitate today's proceedings, I ask you to abide by the following procedures. Please silence or turn off your cell phone. Also, move to the reserve chairs when you're ready to testify. The order of testimony is we'll take the head of the agency first and that will be an unlimited time, but we will then take five minutes for other testimony in back of the agency head. Testifiers sign in; hand your green sheet, sign-in sheet, to the committee clerk when you come up to testify. Make sure you pronounce your name, spell your name, so that we get the testimony correct. Be concise. It is my request that you limit your testimony afterward again to about five minutes. And we will have a light system incorporated. It goes on amber, it gives you about a minute to conclude your testimony. If you will not be testifying at the microphone but want to go on record as having a position on a bill being heard today, there are white sign-in sheets at each entrance where you may leave your name and other pertinent information. These sign-in sheets will become exhibits in the permanent record at the end of today's testimony. Written materials may be distributed to committee members as exhibits only while your testimony is being offered. Hand them to the page for distribution to the committee and staff when you come up to testify. You will need 12 copies, not 10 copies. So if you only have 10 copies, hold up your hand and our page will...I think we've got a page, don't we? Okay. Our page will make some extra copies for you. To my immediate right I don't have my fiscal analyst so I'll figure that out later, but our committee clerk is Jennifer Svehla, and I will ask that the committee members, from left to right, introduce themselves. And obviously Senator Kintner, from District 2, will be joining us later. Go ahead, Senator McDonnell.

SENATOR McDONNELL: Mike McDonnell, LD5, south Omaha.

SENATOR KUEHN: John Kuehn, District 38, seven counties in south-central Nebraska.

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

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SENATOR STINNER: John Stinner, District 48, Scotts Bluff County.

SENATOR BOLZ: Senator Kate Bolz. I represent District 29 in south-central Lincoln.

SENATOR WISHART: Senator Anna Wishart. I represent District 27 in west Lincoln.

SENATOR VARGAS: Senator Tony Vargas. I represent District 7, downtown and south Omaha.

SENATOR WATERMEIER: Dan Watermeier from Syracuse, District 1.

SENATOR STINNER: Thank you. Our page today...how do you want me to introduce you? Is it...

JOE GRUBER: I'm Joe.

SENATOR STINNER: ...Joe the page or...?

JOE GRUBER: Joe, the new page, I guess.

SENATOR STINNER: Okay. Thank you. (Laughter) Anyhow, our first agency this afternoon is Agency 50, Nebraska State Colleges. [AGENCY 50]

STAN CARPENTER: (Exhibit 49) Good afternoon, Chairman Stinner and members of the Appropriations Committee. I am Stan Carpenter, S-t-a-n C-a-r-p-e-n-t-e-r, and I'm the chancellor of the Nebraska State College System. I appreciate the opportunity to chat with you for just a few minutes this afternoon about the Governor's budget deficit bill. I think the most important consideration for us and I hope for you is the students that we serve. About 50 percent of our students are first-generation students attending Chadron, Peru, or Wayne. And at Peru there's an interesting statistic that I thought was important for this year. In their first year class, about a third of that class comes from families who have a family income of less than \$30,000 a year. About half of the class, just over half of that class, comes from families who have a family income of less than \$50,000 a year. So we are serving students probably who are the most needy

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in the state of Nebraska. And there are similar statistics like that at both Chadron and at Wayne. We are colleges of opportunity or, what some folks call, open-enrollment institutions. We give kids a chance to see if they can make it in college, and an awful lot of them do. But we require strong student support services for those students who come to us and we are always making sure that we give them as much support as we can so they have every chance to be successful. Our students generally come from rural Nebraska where they return to rural Nebraska when they graduate. We train about 20 or 21 or 22 percent of the students who become teachers in Nebraska, and about 80 percent of those return to rural Nebraska to teach as they become professionals. When we have budget reductions, we only have two things to look at basically. We can look at tuition increases or we can look at a reduction in services and programs or a combination thereof. Either one of those issues, either one of those approaches significantly affect our students, either by increasing the tuition or by reducing the services that we think they need to have available to them so that they can be successful. Access to higher education is our primary mission and the effect of either one of those, a substantial increase in tuition or a reduction in services, affects that ability to have access to our institutions. Let me give you just a few quick facts about the State College System, if I could, maybe a clarification for some folks. As I said, we have two sources of income: one is tuition and one is a General Fund appropriation. We do not have any property taxing authority. About 97 percent of our federal dollars that come to us, come to us directly as financial aid for our students. Last year federal dollars to us in terms of grant funds was about \$160,000, so it is not a significant amount of money. And while we do have foundations, as you might guess, they are small, as our institutions are, and reflect for the most part our graduates who oftentimes are students...or are teachers or folks who go back to work in the community as law enforcement officers and things of that sort. Seventy-one percent of our General and Cash Fund dollars go towards personnel issues. And when positions are cut or eliminated at our institutions, there is a direct impact on our students and each position lost also has a direct impact on the economy of rural Nebraska and the three small towns and regions that we are located. With all that said, and I've said to several of you before, we recognize the difficult state financial circumstances and we want to be a good partner in this problem that the state is facing. We have said many times this year that we will make our 4 percent reduction this year work. It's not easy but we will do that. The colleges have already made plans to deal with that through things like, not a hiring freeze, but a close look at replacing vacancies in personnel; travel reductions; and the reduction in costs of

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equipment purchases; and so on and so forth. That action began earlier this year when we first began to hear about the issues with the state's finances, so we've been planning for that since the early fall and we have made a vow to make that work. As I said to some of you, there was a discussion at some point to raise tuition in the middle of this year, but that discussion did not go very far. It would be very difficult for our students to have a midyear tuition increase. So we are able to withstand this on a one-time basis. We can't sustain it going forward. With the advanced warning that we had, we have been able to make those adjustments, as I've said, on a one-time basis, but it is harder for the long term to make those changes work for...as permanent cuts. They're not sustainable for us. As we move forward into 2017 and 2018, we will look at some combination of tuition increases and a reduction in our budgets, our budget cuts, if you will, for the long-term impact. That will be painful and it will not just be a normal 2 or 3 or 4 percent tuition increase that we'll have to ask for from the Board of Trustees. It will be something more significant than that, depending on how things eventually shake out. I do want to thank the Governor, however, for his support of education and his support of higher education and his support of the Nebraska State College System specifically. And as I said, we know we have to be a part of the solution as well. So I want to leave you with a couple, three or four takeaways about us today if I can. As painful as it will be in the future, if the numbers hold that the Governor has predicted or has put forth in his proposal for the next biennium, we'll make it work through a combination of tuition increases and budget cuts. I would ask, however, that if miraculously you find additional money that you want to put into higher education or education, that we share in those additional funds which miraculously will appear at some point, I'm sure, because that will lessen the impact of all of this to our students. And after all, that really is what this is all about for us and the State College System and our Board of Trustees. One of the areas that we are concerned about with the Governor's budget going forward is the reappropriation issue. The Governor has taken some of our reappropriation dollars, about 70 or 75 percent of that, and is looking to reduce what we carried forward. We carried forward from last year about \$205,000, not a lot of money by most folks' standards, but it is a lot of money to us because it's in the system office. Those are the only funds that we have, are General Funds and those funds have really been committed over the course of this past year. We have a long-term employee from the system office who is going to retire and we need to have the payout for that in terms of vacation and so on and so forth. We have hired a new Title IX position this year in the system office, and we've had to make sure we they gave that person enough education and training and pay, if you

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will, to sustain that for the course of this year. So that's a difficult place for us to not have funds to support that. And we've also done an update to our Web site. Now that doesn't sound like it's very important, probably, but it's the first update to our Web site since before I got here in the year 2000. So it is an improvement. It makes it more functional. It makes it more data-driven. It makes it more informational to folks. It makes it easier for folks to get on our Web site and find our policies, for example, find our employees and so on and so forth. So it is critically important that those carry-forward funds, as much of those as we can maintain, if you will think about that to make those things work for us. It is probably in the neighborhood of \$155,000 to \$160,000 or \$170,000 that we would like to keep out of that reappropriation fund. We wouldn't want to give any of it back, but we certainly need that amount as well. So we would ask you to keep those in mind. And also one last thing and that is the Nebraska Opportunity Grants program has been impacted, obviously, as every other program has. Last year our students got about \$3.2 million in those funds and, as you know, that's very important to our students, many of whom, the majority of whom are receiving federal financial aid. And so to have that cut for them this year is going to make it more difficult, just as a tuition increase would have been as well. So I'd ask you to consider that and I'm sure you'll be hearing more about that from the Coordinating Commission for Postsecondary Education. So with that, I know you have a lot of other folks to hear from. I will stop but I'd be happy to answer any questions you have and appreciate the time you've given us. [AGENCY 50]

SENATOR STINNER: Thank you. Questions? Senator Hilkemann. [AGENCY 50]

SENATOR HILKEMANN: Chancellor, you just mentioned the Nebraska Opportunities Fund. [AGENCY 50]

STAN CARPENTER: Opportunity Grant, yes, sir. [AGENCY 50]

SENATOR HILKEMANN: Are you saying that some of these students that are already on that face having that pulled out from under them at this point? [AGENCY 50]

STAN CARPENTER: My understanding, Senator, is that...and I'm not expert on it, my understanding is if those funds are reduced then they will not be able to count on the funds that

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they've had. I'm sure that the executive director of the Coordinating Commission can answer that question better than I, but that's my understanding. [AGENCY 50]

SENATOR HILKEMANN: Okay. [AGENCY 50]

SENATOR STINNER: Senator Bolz. [AGENCY 50]

SENATOR BOLZ: Well, a follow-up on that issue: The deficit budget book says that the Governor is suggesting an across-the-board reduction or lack of allocation or withholding, or whatever term you want to use, of \$274,726. And I understand that that would be spread out among the institutions and the students. [AGENCY 50]

STAN CARPENTER: Sure. [AGENCY 50]

SENATOR BOLZ: But am I correct in understanding that for this semester you, as an institution, were expecting those dollars to be flowing into your budget? [AGENCY 50]

STAN CARPENTER: That's correct. [AGENCY 50]

SENATOR BOLZ: Okay. So... [AGENCY 50]

STAN CARPENTER: Flowing to our students and then through the budget, yes. [AGENCY 50]

SENATOR BOLZ: Okay. So what would happen? Would you have to make it up otherwise in your institution or would the students... [AGENCY 50]

STAN CARPENTER: I assume we'd have to make it up otherwise or we'd have to say to them, you still owe us money. We haven't worked through that process yet, Senator. [AGENCY 50]

SENATOR BOLZ: I guess I find that worrisome if the potential is that a student at the end of the semester was expecting a certain... [AGENCY 50]

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STAN CARPENTER: Sure. [AGENCY 50]

SENATOR BOLZ: ...financial aid package. Even if it ends up being a couple hundred dollars, that... [AGENCY 50]

STAN CARPENTER: Right. [AGENCY 50]

SENATOR BOLZ: ...that can mean a lot to a college student. [AGENCY 50]

STAN CARPENTER: It's a big loss to our students and I'm not certain how we'd handle that, frankly. Probably we would have to try and find a way to absorb that in our budget because we've already issued our tuition bills to our students. But I'm not certain. I haven't thought that through, unfortunately. [AGENCY 50]

SENATOR BOLZ: Uh-huh. And I just want to be clear. You are considering a combination of tuition increases and budget cuts if you were required to respond to the Governor's budget proposals. But because the semester has already started, those tuition changes couldn't occur this year, correct? So... [AGENCY 50]

STAN CARPENTER: That's correct. [AGENCY 50]

SENATOR BOLZ: ...so you'll come back in on the biennial budget to discuss... [AGENCY 50]

STAN CARPENTER: Yes. Yes. [AGENCY 50]

SENATOR BOLZ: ...what plans and impacts might be available for... [AGENCY 50]

STAN CARPENTER: That's right. [AGENCY 50]

SENATOR BOLZ: ...the tuition increases and budget cuts. So tell me specifically with your deficit budget, you know, for the State College System over all it's 2.09 across the board. [AGENCY 50]

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STAN CARPENTER: Yes. [AGENCY 50]

SENATOR BOLZ: What does that mean for your system? [AGENCY 50]

STAN CARPENTER: Well, it means that the colleges have...as I said, we started this process way last fall, even in the late summer, so the colleges have been very careful about hiring so there are vacancies that are savings (inaudible). They've been very, very careful about travel and reducing travel so that folks aren't going off. And it's not just travel fun when we send folks away. It's an educational event for them. So they've been careful about that. And there have been equipment purchases that have been delayed or postponed, and also just some other cutting of costs in the general operations of the institution. So that's painful and it can't be sustained over time because we need to have equipment that is modern so that our students are learning on the kind of modern equipment that they'll go out and work with in industry and business and so on and so forth. So that can't be sustained overall in time. But right now, as a one-time cut, we've been able to do that. [AGENCY 50]

SENATOR BOLZ: So you've been able...you are or will be able to manage the 2... [AGENCY 50]

STAN CARPENTER: Two point. [AGENCY 50]

SENATOR BOLZ: ...2.1 through vacancies, operations, and equipment. [AGENCY 50]

STAN CARPENTER: Yes, Senator, for this year. [AGENCY 50]

SENATOR BOLZ: Thank you. [AGENCY 50]

SENATOR STINNER: Senator Kuehn. [AGENCY 50]

SENATOR KUEHN: Thank you, Mr. Chairman. Following up on the answer that you just gave with regard to how you're handling this year's deficit by essentially deferring expenses, whether that's hiring, equipment, given that we are probably looking at a new normal, at least through the

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next biennium, possibly the following, what process will your institution be going through in terms of program prioritization? How will you be coordinating the campuses to ensure that you're maintaining your core mission, of limiting duplication of services? What kind of process are you looking at going forward? [AGENCY 50]

STAN CARPENTER: That's a good question, Senator. Each institution, each president of each institution has been charged with the idea of going back--they know what their general share of the cut would be, given what the Governor's biennial budget proposal is--and looking at that. And we've established a modest tuition increase, which will probably be not enough to cover things. But anyway, we put those two together and say, okay, here's the amount that you need to look at, at your institution. And so, for example, at Wayne they have just formed a college-wide committee of faculty and staff and students, and they're working with their vice presidential cabinet and they're going to look at ways to say, okay, what programs do we need to look at, what services do we need to look at, what is essential? Maintaining the access is critically important. So they will be doing that hard work. It's the same process basically that we followed in 2002-2003, in 2008-2009 with the Great Recession. They will put plans together and send them or bring them to the system office. We will review them for all sorts of reasons: financial, to make sure they're meeting their goals; making sure that they meet policy issues; making sure that our contracts are honored; and making sure that we are not, not destroying the core of what we do. So it's not an easy process. None of the institutions have the exact same process, but they all are collaborative in ways to look at what's available for them to tighten their belts with. [AGENCY 50]

SENATOR KUEHN: And has there been any dialogue or have you reached out as a system with the other areas of public higher education, whether that be the University System or the Community College System, with regard to prioritizing? And I'm somewhat concerned. Obviously, we've got the "big dog on the block" sitting behind you with the University System. We've got the Community College System, which obviously has, as a property tax base, an additional revenue stream. And you guys are here doing what you do in your mission, you know, fairly dependent upon General Funds appropriated... [AGENCY 50]

STAN CARPENTER: Yes, sir. [AGENCY 50]

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SENATOR KUEHN: ...by this committee. So has there been a dialogue to coordinate, to look at prioritizing our public expenditure of funds for higher education on a broader sense, or so far we're just kind of approaching this system by system? [AGENCY 50]

STAN CARPENTER: Well, we do have partnerships with community colleges and the university now. You may be aware of the RHOP program and now the new RLOP program, Rural Legal (sic--Law) Opportunities Program. We have partnerships with the community colleges, for example, at Wayne State with Northeast Community College. We've opened a joint College Center in South Sioux City. So we have those kind of things in place. I don't believe we've had any conversations since this question has come up about any other kind of collaboration that we might perform. But I would say that programmatically we have programs that probably are not the same at the community colleges or at the university. We have, however, worked very hard with the university and the community colleges to institute a transfer agreement to make sure that students can transfer from one system to the other and that they know what courses they can take and what they'll count for at whichever institutions they're going to. [AGENCY 50]

SENATOR KUEHN: Thank you. Appreciate that. [AGENCY 50]

SENATOR STINNER: Questions? Thank you very much. [AGENCY 50]

STAN CARPENTER: Thank you. Appreciate it. [AGENCY 50]

SENATOR STINNER: Okay. Our next is Nebraska Educational Telecommunications Commission, is that it? Is that the order?

SENATOR HILKEMANN: You have the University of Nebraska (inaudible).

SENATOR BOLZ: You skipped.

SENATOR STINNER: Okay.

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SENATOR BOLZ: You skipped NET and Coordinating Commission. I don't know if they have anybody here.

SENATOR STINNER: Okay. University of Nebraska is next. Sorry about the mix-up.
[AGENCY 51]

HANK BOUNDS: Good afternoon, everyone. Ready? [AGENCY 51]

SENATOR STINNER: Thank you. [AGENCY 51]

HANK BOUNDS: (Exhibit 50) Mr. Chairman, members of the committee, my name is Hank Bounds, H-a-n-k B-o-u-n-d-s. I have the opportunity, great opportunity to serve as president of the University of Nebraska and I have handed my testimony to you along with a number of slides. I won't read that information to you, in the interest of time. I thought I might just take two or three minutes and talk about how the proposed budget reduction will impact our university. So I'll first tell you things that I worry about for our university. I worry about affordability, accessibility, our unique role as the economic engine that drives work force development in our state. I worry about our statewide presence. Want to take just a moment to remind you of our impact: \$3.9 billion impact that was...we have that from an outside consultant. When you add in the clinical portion of the Med Center, you double that number. Each year we educate more than 50,000 students who will become the future farmers, ranchers, teachers, bankers, business leaders, healthcare providers, entrepreneurs, lawyers, and so forth. Our Medical Center is transforming care and research, both here and across the country. We have great partners in the community, great donors who have invested in us. They've observed the state's willingness to invest in the university, both in terms of bricks and mortar and programs. And the good news here is we are growing our enrollment. We are bringing students from the state of Nebraska but also from around the country and around the world to the state and really, I think, placing us in a better...giving us a better opportunity to grow the economy of the state. So all of you know that I'm fairly new here. I've spent a lot of time over my time trying to really understand. I'm really data driven so taken a hard look at the data, this year's data, the previous year's data, the past ten years' data. And what I find is a little concerning when I look at the past 10 years, the past 20 years. What I find is the appropriations that have gone to the University of Nebraska have grown

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at a far smaller rate than any other area in the state. I think it's important that I use the data from the past and ask you to recall the last time that this type cut occurred. Back in the early 2000s, there was a midyear cut, followed by a downturn the next couple of years. I think history can be one of our best teachers. And so what happened then, we had significant tuition increases, double-digit tuition increases in fact. Enrollment dropped significantly. It took six or seven years to recover from that enrollment drop. Jobs were lost, programs were closed. You know the fiscal situation is what it is and we're going to be a good partner. We're going to do everything that we can to absorb cuts that come our way. But I think we all have to be clear that there are consequences when you take action. So this fall, this past fall, we implemented one-time steps, whether it was suspending hiring or other cost-control opportunities, to deal with what we thought were coming. However, in terms of the Governor's proposed reductions, I...let me just speak to about three issues. The first one is the Governor's proposed \$13.3 million cut. I've told the Governor that we can...we will manage through that. It will be painful. We are not hiring people. It is slowing our progress. Two...just so for example, \$2.2 million alone just at the Med Center in people that we're not hiring. Those are researchers. Those are docs. That slows our ability to grow the economy. I really think of us as the engine that drives economic development. The second issue that I have some significant concern about is the fact that the NRI, Nebraska Research Initiative, it's \$5.1 million in carry-forward funds that are going...are to be lapsed back. These dollars allow us to be more competitive in research. These funds are already fully committed. Without the ability to carry forward those funds, we won't be able to make strategic purchases. It impacts our ability, our future ability to grow the research enterprise. And then to Dr. Carpenter's point regarding the Nebraska Opportunity (Grant) Act, our estimate is that it will impact about \$135,000 in student aid. One of the statements, in closing, that I want to call out is that in the Governor's State of the State that I completely agree with him on is that, you know, he talked about...and I'll paraphrase, the only way to grow our state is to grow the number of people in it. I completely agree with that position. We aren't making any more Nebraskans. If you look at birthdays, 20, we're pretty flat. The ability to attract and retain jobs in this state is pretty directly correlated on education's ability to produce a better educated citizenry. I worry, we have such amazing momentum right now. We're growing. Every indicator that you want to be...that you're concerned about is headed in the right direction. And I fear that this cut and future cuts will be...would be like punching the pause button on progress. And so let me stop there and I'll be happy to at least attempt to answer any questions that any of you may have. [AGENCY 51]

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SENATOR STINNER: Questions? Yes, Senator Wishart. [AGENCY 51]

SENATOR WISHART: Well, thank you for being here. One of the questions that I've been thinking about is you mentioned your Foundation. Is the Foundation at all able to help you weather some of these cuts? [AGENCY 51]

HANK BOUNDS: So good news, bad news: The Foundation helps us immensely. Our work along with the Foundation, we are...we have such generous alums, we have such generous Nebraskans, but...and people who live outside of the state, but 99.2 percent of every dollar given is a directed dollar. So if you...so I'll give you an example. If you gave me money you might say, here is X amount of money, but you can only spend that on Y scholarship. And so 99.2 percent of all the dollars that we receive have to be spent in a certain way so I can't take them...take those dollars and mitigate these cuts. And so good news is we, you know, we have lots of generous people who are helping us to build facilities or helping us to start programs or helping us to meet the needs of Nebraskans from an attendance point of view and affordability point of view, but we...the Foundation does not have the wherewithal to help us through these cuts. [AGENCY 51]

SENATOR STINNER: President Bounds, one of the things we've talked about at committee level, you have negotiated an initial cut, needing a runway. Could you explain that to the committee, what that's all about? [AGENCY 51]

HANK BOUNDS: Sure. So it will take me just a couple of minutes. The Governor sent all code...I'm not certain of the right language but those agencies that report directly to him and those that report to boards. I received one of those letters. The Governor called me to have a conversation about it, and in that letter he spelled out a number of actions that he was taking. One was to hold back 1 percent of our allocation. So you know that we customarily receive 25 percent of our allocation from your appropriation at the beginning of each quarter. So in the conversation, I asked, do you anticipate that we will be cut? And the Governor said, we don't know, that we are not planning on that; this is a good...this is a measure that we're taking to encourage people to be frugal in their spending. And I said, well, you know, Governor, it would be helpful to me if, rather than holding dollars back, if we know that we're going to take a cut, let me manage the cash into the cut into the fourth quarter, because that's where we'll run into issues

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from a cash flow perspective. And then we received another letter in the middle of October that said the plan is to hold 2 percent back in January. So at that time I went to see the Governor and said, help me understand this issue. He said, well, the economy is such that we have to cut 4 percent from the allocation. So I said, so what does that mean for the University of Nebraska. And he said, well, you're going to get a 4 percent cut. So we talked about what that means and other entities and how that would square with us. And so then I said, help me understand, does that mean that our debt service dollars are going to be reduced; does that mean that dollars that we receive that we have from carryover; I specifically asked about NRI. And the response was that the debt service pieces would not be included in a recommendation, NRI would not be included in a recommendation, but that we would see a 4 percent cut. That point...so this is...I'm in no-man's land here. I recognize that the members of this committee and the Legislature have to make that call. But this is before...this is about the time...no, this is October, late October. We don't even know what the composition of the Legislature will be at the time, much less this committee. I have some conversations with some of you on the committee; I explain our situation. And the issue for me is that 4 percent in January means that I have to cut 8 percent during the rest of the year to achieve a 4 percent savings over time, if that makes sense. And I shared with the Governor that I can't...I can't devise a math equation that will allow me to cut that much that quickly. So, for example, so part of the issue here, part of the reason for me saying, telling some of you--Senator Stinner, you and I had this conversation--was that, number one, we haven't received the kinds of appropriations that other have. So our appropriations have lagged behind certainly state revenue and state appropriations in general, and that is in your document here, but also the fact that we're spending less money today per student than we did in the year 2000. We've become fairly lean. Now I'm not going to sit here and tell you that we can't find more efficiencies because we're just too large to not have some inefficiencies, and we're going to drive all of that out over...as much as we can for the next couple years. But because we've already found lots of efficiencies, my ability to deal with a \$23 million cut meant that I would have to approach that from both a revenue generation point of view and a cuts point of view. I couldn't get there any other way. And my only revenue opportunity would be that I would have to have a tuition increase in January. And that meant that I had to, a week before the board met, the third week in November, advertise it because of public meetings rules, and I couldn't wait any longer, any...I couldn't wait past the November board meeting because we would have tens of thousands of financial aid packages that would have to be corrected between that point and the

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beginning of the next semester. And so in a meeting that we had, the question was posed, what can you handle and not have to have a tuition increase? And I said, about half of the cut. And so we went from \$23 (million) and change cut to a \$13.3 million cut. Now this \$13.3 million cut is now increased by \$5.1 (million) because I didn't think that those dollars were going to be included in the cut. When you start...when I think about cuts, number one, I would like everybody to recognize that about 81-82 percent of our spend is on people and it's tied up in a very specific way. So I could say, and I want to be careful because I don't want to be reported that I'm thinking about making this cut, but it's a good way to help sort of explain the scenario. If we cut architecture, we said we have enough architects and if we need architects in the future we can just go to another state and bring them to Nebraska, I could save a considerable amount of money, almost \$10 million. Here's the problem. If I made that decision today, the only thing that I could do would be to stop taking architecture students and then I have a three-year runway to close that program out. And so I would burn through cash getting there. So that's, I mean, that's the story. That's how we landed at \$13.3 (million). Can we cut that out? Absolutely we'll cut it out. It will be painful but we will manage through that. The bigger concern is, and I've said this to everyone I've had a conversation with, the bigger concern is what the next biennium looks like because that becomes an enormous mountain climb. [AGENCY 51]

SENATOR STINNER: Senator Hilkemann. [AGENCY 51]

SENATOR HILKEMANN: Yeah, Dr. Bounds, on that...you agreed to the \$13.3 (million) you said, but that did not include this, the Research Initiative money. Is that correct? [AGENCY 51]

HANK BOUNDS: I asked the question and my under...you know, maybe it's my inability to communicate clearly, but my understanding was that the \$5.1 million would not be withheld. And so just so you understand how that works, we are appropriated dollars for that, \$11 million a year. And just a couple of examples, I'll pick on the Med Center. The Med Center has, back in 2015, back before the end of the year, ordered a couple of pieces of equipment. One is a lyophilizer, which is a machine that allows us to preserve cells without damaging them. Our portion of that is about \$400,000. We ordered a magnet for an MRI. Those things, those custom-made pieces of equipment have not arrived yet so we've not spent the dollars, but we've obligated them. And so the idea would be, I mean you're doing a lot of HVAC work and so if the HVAC

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wasn't installed and you didn't pay...you had an appropriation to do an HVAC in an office and you didn't complete it by the end of the fiscal year, those dollars would be pulled back but you still have to pay for it. And that...so that's where we are. We still have to pay for these pieces of equipment. We still have to keep our commitment on matching federal dollars. We still have to...you know, we are a trusted partner with the Department of Defense. We did \$20 million, almost \$20 million in research for the Department of Defense, and we have some matching dollars. We have proof of concept money that allows us to take the dollars that we receive here and apply them toward a proof of concept on commercializing research, which then allows us to bring in revenue to the university. So, you know, at the end of the day, if you say we're going to cut you the \$5.1 million, we will figure it out. But there will be...there are consequences. And frankly, the bigger set of consequences is that it fundamentally changes how we approach being strategic. I mean, we're being smart. We're being strategic with it. We're using money over time. Because what it would tell me people is to go spend this money before the end of the fiscal year as opposed to being really smart, getting the equipment that will position us to be really successful in the research space. [AGENCY 51]

SENATOR HILKEMANN: So if I understand this correct, from what you...your illustration you just gave, if this NRI money is included in the reduction, when that magnet arrives you don't have the money to pay for it at that point. [AGENCY 51]

HANK BOUNDS: I have to cut something else to pay for it. [AGENCY 51]

SENATOR HILKEMANN: These are probably not returnable sort of things. (Laugh) [AGENCY 51]

HANK BOUNDS: That's correct. [AGENCY 51]

SENATOR HILKEMANN: Yeah. [AGENCY 51]

SENATOR STINNER: Questions? Senator. [AGENCY 51]

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SENATOR McDONNELL: I know you've been here a year, but with your experience, what you're bringing to the table, has this been a fair process? [AGENCY 51]

HANK BOUNDS: You know, so the great thing about the process is we're really just starting the process. The back-and-forth, I mean I don't envy this group. I mean the decisions you'll have to make are really hard decisions. You know, you're going to have to make...you're going to have to make priorities. You're going to have to figure out how to spend money on things that matter to the future of the state. And I'm just here before you making the argument that there...you know, when you give us a dollar, we give the state back six. And if we were a stock, you would chase me out the door to try to give me money and invest in us. There's no better investment than the investment you make in the University of Nebraska or in education in general. So to my colleagues at the community college or the state colleges, I don't know how they take a 4 percent cut and continue to provide services and access and be affordable in the same way. And so have to, you know, you folks have to figure out priorities versus consequences. [AGENCY 51]

SENATOR McDONNELL: What kind of impact are we talking about to the students for the tuition hike? [AGENCY 51]

HANK BOUNDS: Well, it...so I...my ability to generate revenue during this year has passed, and so there will be no impact to students this year. Are you asking about the next biennium or about this particular (inaudible). [AGENCY 51]

SENATOR McDONNELL: Currently, with possibly then the tuition hike in the fall of 2017. [AGENCY 51]

HANK BOUNDS: So my...so based on the Governor's recommended cuts and unavoidable increases in cost, we have a budget gap of \$50 million. That's if I assume there won't be any inflation and if I assume there won't be any increase in utilities. There's no...it is mathematically impossible to, in my view, to get to that amount without significant tuition increases. I would be...it would be a little premature. We have built an incredibly robust strategy for making cuts and we are prepared to do that. We'll roll out that strategy publicly in about two weeks. We've put

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teams together and we'll deal with that. But I need to be clear, the university may not look the same way that it looks today. [AGENCY 51]

SENATOR STINNER: Questions? Go ahead, Senator Hilkemann. [AGENCY 51]

SENATOR HILKEMANN: Dr. Bounds, you said that the last time that you had to have the tuition increased, tell me what percentage of an increase was that, that you had during that period. [AGENCY 51]

HANK BOUNDS: So, Senator Hilkemann, I do not have it committed to memory, but I'll give you my best memory of it. [AGENCY 51]

SENATOR HILKEMANN: Okay. [AGENCY 51]

HANK BOUNDS: Over a three-year period, about 37 percent tuition increase. It lost about 1,500 students and it took five, six years to recover those 1,500 students. [AGENCY 51]

SENATOR HILKEMANN: So 37 percent over three, about approximately 10 percent a year. [AGENCY 51]

HANK BOUNDS: And don't, again, Senator, please don't hold me... [AGENCY 51]

SENATOR HILKEMANN: Yeah, I understand. Yeah, I know. [AGENCY 51]

HANK BOUNDS: ...completely responsible. I mean I'm giving you my best recollection of that number. [AGENCY 51]

SENATOR HILKEMANN: That was a good period of time for me. I wasn't paying college tuition for my kids at that time (inaudible). (Laughter) [AGENCY 51]

SENATOR STINNER: I have a few questions I'd like to ask. Senator Bolz, I'm sorry, go ahead. [AGENCY 51]

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SENATOR BOLZ: You just...you got a couple here too. [AGENCY 51]

SENATOR STINNER: Oh, okay. [AGENCY 51]

SENATOR BOLZ: Go ahead, Senator Vargas. [AGENCY 51]

SENATOR STINNER: Senator Vargas. [AGENCY 51]

SENATOR VARGAS: You talked about a university-wide approach for managing budgets, hiring freezes, travel restrictions, tuition increase. Are there any other tools that you're considering using in the long term that are going to be able to potentially address this? [AGENCY 51]

HANK BOUNDS: So, Senator Vargas, I was specifically speaking to the current year... [AGENCY 51]

SENATOR VARGAS: Okay. [AGENCY 51]

HANK BOUNDS: ...to get to the \$13.3 million number. I have to start over for next...for the next biennium. That is for a one-time cut to manage through. So, you know, the problem is budgets are set. We've obligated ourselves. We're 60 percent through the year. We have salary commitments. We have contractual commitments. We have...so I'll have two principles that will drive...or the university will have two principles that will drive how we approach this budget gap. One will be we want to do everything that we can to protect the academic integrity of the institution. The worst thing that we could do for the future of the state of Nebraska is to let a two-year downturn in the economy have a decades-long impact on our university, on our state. The second one is affordability. I grew up in a way where it was very difficult for me to go to college, and it's through that lens that I view access and affordability. But I would not be honest with this committee or anyone else if I didn't tell you that those two principles will be violated. There's no way that we get to \$50 million. We cannot "efficiency" or "tuition" our way out of \$50 million. There will be cuts. I do not think it is appropriate to do across-the-board cuts, do horizontal cuts. This really means that we'll have vertical cuts, which means programs and it certainly means a lot of people, unfortunately. [AGENCY 51]

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SENATOR VARGAS: Thank you. And just as a follow-up, the Nebraska Opportunity Grant, about how many students take advantage of this grant? [AGENCY 51]

HANK BOUNDS: Senator Vargas, I don't have that number. [AGENCY 51]

SENATOR VARGAS: Okay. [AGENCY 51]

HANK BOUNDS: I can try to get that information for you. I know that...I think Dr. Baumgartner is following me. He may be...he may have better detail on that. [AGENCY 51]

SENATOR VARGAS: Great. Thank you very much. [AGENCY 51]

SENATOR STINNER: Go ahead, Senator Wishart. [AGENCY 51]

SENATOR WISHART: Do you have any examples across the country of other states that have, you know, done significant cuts to their universities and the negative consequences of that? [AGENCY 51]

HANK BOUNDS: Yeah. I think those are pretty easy to find. One huge consequence is that I think everybody has done...so there's been a lot of complaint about tuition...rapid tuition increases and rapid debt increase across the country over the last decade. But the rest of the story that no one wants to talk about is that what's happened is appropriations have done this and it's a seesaw. When appropriations go down, there are only so many things that can be cut and you still look like a university. And so tuition has done this all across the country. This state hasn't done that. You haven't lived through that; I have in my former job. And so where we're 65 percent state and 30-some percent tuition, what you find is that dynamic has changed dramatically. And the unfortunate thing about that is you start pricing lots of students, and it's not just poor students, that you drive away from the opportunity to get a degree. And we know what earnings power, I mean I could go on and on and on about the power of more education. We know 70 percent of all jobs in the next decade will require some educational attainment beyond high school, and so that means, you know, community colleges, state colleges, university all have a role. But that's been the biggest, most visible sign. So debt loads have gone up dramatically.

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We're pretty fortunate that our debt load, while it's high, it's, you know, average, probably \$21,000. That's a big number, but it's not like it is in other places. You've seen...so what happens is people start changing the way they think about services, think about land grant. Extension and other parts of the land grant mission has changed. Those things have changed dramatically. The ability to do things across the state...states have changed dramatically and so there are lots of states that look very much like Nebraska, some urban but lots of rural, and so the kind of rural issues that we face in this state don't look any different than they do in Mississippi or Alabama or Oklahoma. You know, it's tough to take care of your youngest, most vulnerable citizens. It's tough to deliver good, quality healthcare. It's why we've made a commitment to have nurse training sites in multiple locations. But I think we have to be clear that every one of those things has to be...we have to really think through cost-benefit, whether or not we can afford to keep doing the things that we've always done. So you could do a quick Google search and come up with a hundred things that have changed in multiple states. [AGENCY 51]

SENATOR STINNER: Senator Bolz. [AGENCY 51]

SENATOR BOLZ: Two questions: The first, can you describe in a little more detail the types of jobs that are being held vacant in order for you to create the cost savings you need to get to this deficit budget request number? [AGENCY 51]

HANK BOUNDS: Sure: researchers; faculty members that are in the classroom; docs; researchers, both basic science. We are holding open Extension jobs. It's really across the board the jobs that we've held back. We've held back also service area jobs that we're really trying to be very thoughtful about how we think about this from a service perspective as one university as opposed to multiple universities. We think that that...but we know that when we make these kinds of cuts, they'll be cuts, not efficiencies, and the kinds of cuts that we're talking about won't necessarily make us more effective. It's going to impact our ability to meet the needs of the 53,000 students that we serve, but it's also going to impact our ability to impact Nebraskans. So A to Z for people right now. [AGENCY 51]

SENATOR BOLZ: But...thank you. I think it's a commentary for me that it matters to me that those are good jobs and jobs that have both economic and social impact beyond the University

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System. So, you know, you've got a researcher who may also be able to hire a phlebotomist or a grant writer as well as those social impacts that you referenced. My other question relates to the research funds, and I don't know a lot about it but I know that research grants don't necessarily come along with my budget fiscal year. So this is really a change midstream for those researchers. Can you describe a little bit for me what some of the banner research projects that might be impacted are? [AGENCY 51]

HANK BOUNDS: Sure. So let me use a good ag example. We have the plant transformation core that's been instrumental in developing dicamba-resistant crops. We know that Nebraska farmers, Senator Watermeier, are some of the most productive in the world, and some of the research that we're doing here is helping to help us to even do more there. So I heard a story some time...I heard a saying some time ago that, you know, the farmer, when you have \$7 corn, the farmer wants to capture every kernel; when you have \$3 corn you have to capture every kernel. Taking this away is eating our seed corn because it hurts our ability to invest. And research grants don't line up in nice July 1 to June 30 time frames. They just don't. And for, you know, maybe two decades now or longer we've been investing in this way. So some of it is equipment, some...you know, it's...I mean I could give you, you know, materials, engineering, biomechanics programs, Food for Health Center. We've used these dollars to help position scientists in a way that they are more likely to be able to capture federal research dollars, whether that's NIH, NSL, USDA, or other, you know, Department of Defense. In some cases, these dollars are matching and it's...and I can't say now, I can't say to the distributor of the equipment or the maker of the equipment, I'm sorry, I was cut so I can't take the equipment now. I have to pay for it. And I have to tell the feds that my part of the match goes away. That is a cut and we'll have...we will manage it, but there's a reaction down the road, something else has to give. [AGENCY 51]

SENATOR BOLZ: Thank you. [AGENCY 51]

SENATOR STINNER: Thank you. I do have some questions. [AGENCY 51]

HANK BOUNDS: Yes, sir. [AGENCY 51]

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SENATOR STINNER: Your fiscal year end is the same as the state's, the end of June?
[AGENCY 51]

HANK BOUNDS: June 30, sir. [AGENCY 51]

SENATOR STINNER: Okay. And we talked a little bit about the fact we have leverage, economic cycles, all of that kind of stuff. And in my business, in your business, when I was on the Gering School Board, because of fluctuations or anticipated fluctuations in business cycles, we built what was called cash reserves or a cushion that would allow us to get through some of these periods. And I'm still trying to recall, but I looked at your audited financial statements, I think, two years ago. You know, you've got dedicated funds, I get that, bond funds, sinking funds, all the rest of that kind of stuff. But there was a considerable amount of...and this was at the end of June so, you know, your tuition has come in and you've paid your bills and you're into a new cycle. How much in cash reserves do you have? [AGENCY 51]

HANK BOUNDS: So it depends on when you look at the number. [AGENCY 51]

SENATOR STINNER: Yeah. [AGENCY 51]

HANK BOUNDS: Probably \$300 million is where we will stay. [AGENCY 51]

SENATOR STINNER: That was the number I was going to put out, but I wasn't sure. [AGENCY 51]

HANK BOUNDS: Some of that is so that the...so a couple of things. We're fortunate, we're not an...we're certainly not an affluent institution. We don't have the kinds of days on cash that our more affluent peers have. We're not sick either. But we are right on the edge of where we should be. Part of the things that we have to...these dollars are our first pledge against facilities core. So when we build a dorm, some of the monies are...some of these dollars aren't fungible. So housing, for example, we have bond covenants that say that every dollar that goes into housing has to stay in housing because you don't guarantee that as a state, you don't guarantee that debt. We...it's our first pledge against debt. And so we can only use those dollars, we can only use

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those dollars for housing. We can put a roof on a building, we can deal with HVAC, we can renovate, we can raze a building. We can build cash and put it toward the building...put it toward the debt service of a new facility so that we can bring the rates to a place where they're at a market rate. We pressure test all of those kind of things pretty hard. We do have...so the other thing is that those dollars, we just had conversations with our rating agency this morning and this conversation, when it shows up in the media, is going to get the attention of the rating agencies. So we're in a good place with our bond rating. I won't be so risk-adverse that I won't use some cash to help us through this issue. But it's just like your fund. You have X amount of cash. It's one-time money. And so I will use some, I mean cash will be part of how we get through the current year. But I can't use cash, it's got to be cuts and revenue, for the next biennium, because if I draw down too much cash then the rating agencies say to me, well, rather than having your rating here, you're here. Now so a quick math equation: if all of our debt, all of our current debt had been offered here as opposed to where we are now, just one level below, we think just the basis points that would have moved us would have caused us to be paying an additional \$5 million a year on our debt. [AGENCY 51]

SENATOR STINNER: Are you going to go back? Are you intending on going back out into the debt markets here pretty soon or some other...? Tell me how that's going to work. [AGENCY 51]

HANK BOUNDS: We will... [AGENCY 51]

SENATOR STINNER: Because you have bond covenants. I, just for the committee's purpose, your rating many times is how many days of cash you have on your... [AGENCY 51]

HANK BOUNDS: That's right. [AGENCY 51]

SENATOR STINNER: ...financial statement that's unencumbered. Okay? That's your ability to pay your bills and provide that cushion that you're looking at. So I can't remember the...if it's a AA or... [AGENCY 51]

HANK BOUNDS: AA-1. [AGENCY 51]

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SENATOR STINNER: AA-1, so that's a really good rate. So that will dictate when they go into the bond market what kind of interest rate they have to pay. I think people get that. [AGENCY 51]

HANK BOUNDS: So the next time that we will go to market will be on iEXCEL. You'll recall that we raised about \$160 million... [AGENCY 51]

(MAN FROM AUDIENCE): Hundred and twenty. [AGENCY 51]

HANK BOUNDS: ...\$120 million in private money there. But you also committed this past biennium to extend our building maintenance. And so around October-November, we'll be at a place where we'll take your \$11 million pledge, our \$11 million in tuition, pledge it to long-term debt. And so what that will mean for us is really, depending on where the market is at the time, somewhere between 10 and 12 years, I'm a little concerned about what's happened with markets over the past... [AGENCY 51]

SENATOR STINNER: Understand. [AGENCY 51]

HANK BOUNDS: ...you know, the...you know, what...so I don't...it may be less than that. But we can't move any quicker than that. I mean you understand arbitrage issues and so forth. But the point is we can move some...we can use some cash but we have to be extraordinarily careful in how we manage that phenomenon. [AGENCY 51]

SENATOR STINNER: I truly get that and I think that on a cash flow basis you have a lot of different issues over here for bond rating purposes, going to what you anticipate. And that's another part of what you have to decide: Is this the prudent time to go to the market; do we want to defer some things? I think that's what the committee is trying to get a handle on. [AGENCY 51]

HANK BOUNDS: Yeah. We're being...we know a range that we'd be willing to go to market. [AGENCY 51]

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SENATOR STINNER: How many days in cash do you have to have to get your AA-1 rating?
[AGENCY 51]

HANK BOUNDS: Oh, I should have that committed to memory, but I don't recall. [AGENCY 51]

SENATOR STINNER: (Laugh) I'm sorry I asked that but... [AGENCY 51]

HANK BOUNDS: And, frankly, across the university, we have different days of cash, depending on what part of the institution that you're talking about. [AGENCY 51]

SENATOR STINNER: Okay. Affordability is a big piece of what we're all talking about. Who's your competition? Where are they at in terms of tuition, what type of hike? And I think I remember somebody throwing out a 10 percent hike in tuition. Where is that going to put us in that competitive environment? [AGENCY 51]

HANK BOUNDS: Everybody is our competition. [AGENCY 51]

SENATOR STINNER: Well, I get that. [AGENCY 51]

HANK BOUNDS: The university world, we don't only compete for talent, whether we're talking about students or faculty, against people within the state of Nebraska. You can turn on the radio and hear advertisements from the University of Arizona all the time trying to recruit Nebraskans to their on-line programs. So that's...on-line has changed the world. We are in a good place. We're in a good market position in terms of how we match up to our peer institutions. And so for the Lincoln campus, their peer and the tuition rates there, versus UNO, versus UNK are very different and, frankly, the Med Center is very different from a peer perspective as well. And so if you looked at Big 10, we're significantly less than our peers. But you can't just look at, for the state of Nebraska and Nebraskans' ability to pay, you can't just look at our peers. You know, you have to consider those points. I think we also have to recognize that we live in a state that's very flat from a population perspective, and if we're going to attract the kinds of jobs, the kinds of companies that we need to be able to, you know, grow different sectors, whether it's IT or

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engineering or other high-end manufacturing types of companies, you know, we're doing...we have probably an appropriate market share of Nebraskans. You know, we can probably...we probably could capture a bit more, we probably could do a bit more with 25 to 35 age population. We probably can be a little more aggressive with on-line education. But the fact of the matter is if we're going to grow the state's population and we're going to grow our university, that's going to come with nonresidents and international students, and we know that some portion of them are going to stay, and we need...you know, so that's the only way that we can grow overall population. Because I think companies outside the state of Nebraska look at this state and say, you know, quality of life here is really good, I love the Nebraska work ethic, public schools are really good, but we question whether or not you have the work force that can sustain the kind of company that we would take to you. And the university and other higher ed entities are the only entities that can...we can...we will only grow ourselves out of this situation that we find ourself in. [AGENCY 51]

SENATOR STINNER: Other questions? Senator Kuehn. [AGENCY 51]

SENATOR KUEHN: Thank you, Mr. Chairman. Dr. Bounds, I just want to address one quick issue on the timing of this process and make sure I'm clear on what you've provided for us earlier today. Obviously, as behind K through 12 equalization aid and Medicaid, University System represents the third largest component of our General Fund budget. So regardless of other items which may have entered in, you still remain the largest opportunity we have to address that issue. So we've heard some testimony earlier this morning in our hearing regarding the timing of this deficit process, including one testifier actually asking us, in essence, to slow walk this process of the deficit appropriation. And earlier you spoke about the challenges that come with moving especially into the fourth quarter of your fiscal year and having to absorb an entire year's worth of cuts in a shorter time frame or in a compressed time frame. So for the benefit of the entire committee, when it comes to the timing, whether that is we advance this deficit process with due diligence as rapidly as possible for consideration on the floor so we can begin the biennial budget versus slow walking this process and extending it into another month, another pay period, what is going to be the best for you to accommodate and be able to adjust and absorb any cuts that we will be making? [AGENCY 51]

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HANK BOUNDS: So this will be a...I don't mean this to sound like an over-the-top answer. The best answer would have been if I had known in October. [AGENCY 51]

SENATOR KUEHN: That's fair. [AGENCY 51]

HANK BOUNDS: So every...we are planning as though we're going to take cut. We're holding things back. And we're starting to look at how we deal with that next year. But from my perspective, the sooner we know the answer because, frankly, if it's 2.3 percent or \$13.3 million and the \$5.1 million issue that we've already committed, if it's \$13.3 (million) there's one way that I deal with it, if it's \$13.3 (million) plus \$5.1 (million) or if you decide, well, Hank, it's not going to be \$13.3 (million), it's going to be \$23.3 (million), I've got to know those things because I have...the shorter that I have...the longer that I have to deal with it, the longer that we have to deal with it as the university the better. [AGENCY 51]

SENATOR KUEHN: So just to be very clear, because we're going to have this conversation as a committee this week in terms of the speed in which we advance this, the more we delay this process, the more difficult and painful absorbing any cuts will be for the university. [AGENCY 51]

HANK BOUNDS: Particularly if the recommend...if it's above the \$13.3 (million). [AGENCY 51]

SENATOR KUEHN: Appreciate that. [AGENCY 51]

SENATOR STINNER: Questions? [AGENCY 51]

SENATOR McDONNELL: Can you talk a little bit about the Cancer Center, the public-private investment in that and the return on that investment? [AGENCY 51]

HANK BOUNDS: I would love to talk about the Cancer Center. (Laughter) Let me give you some facts here if I can pull them up. Cancer Center is obviously an enormous project, \$323 million. The Legislature gave us \$50 million of \$323 (million). City of Omaha gave us \$35

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million. Douglas County gave us \$5 million. We'll issue \$73 million in bonds. We have \$160 million in gifts that are pledged over time to cover those bonds. The day that it opens it will have a \$125 million impact and will employ 1,200 people. But here's the more important statistic about the Cancer Center. If you cut this room in half, at least 50 percent of this room is going to be impacted by cancer in your lifetime. And we will have one of the most technologically advanced cancer treatment and research centers in the world. Everybody is going to be impacted in some way by you individually or...so it's...I think it's a real point of pride, should be a real point of pride for those of you in the Legislature that were involved in appropriating those dollars and certainly should be a point of pride for Nebraskans. And it obviously is for the university.
[AGENCY 51]

SENATOR STINNER: Thank you very much. [AGENCY 51]

HANK BOUNDS: Thank you, sir. Thanks to the members of the committee. [AGENCY 51]

SENATOR STINNER: I've lost complete control on the schedule so... [AGENCY 51]

SENATOR HILKEMANN: I got the community colleges next. [AGENCY 51]

SENATOR STINNER: Anybody else from the University of Nebraska? Otherwise, I believe we're at the community colleges. [AGENCY 51]

SENATOR BOLZ: Oh, Senator,... [AGENCY 48]

SENATOR STINNER: Yes.

SENATOR BOLZ: ...point of order, Senator Stinner. I think the Coordinating Commission is prepared to testify and they were on our list.

SENATOR STINNER: Well, like I said, I've lost complete control of the schedule. (Laughter)

SENATOR BOLZ: That's okay. I'm just trying to make sure they have their opportunity.

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SENATOR STINNER: I've got a...somebody give me a current schedule, will you?

SENATOR HILKEMANN: Here it is.

SENATOR WATERMEIER: Everybody has an agenda.

SENATOR HILKEMANN: Here you are. There you are. There you are.

SENATOR STINNER: I'm sorry.

MIKE BAUMGARTNER: (Exhibit 51) Mr. Chairman and members of the Appropriations Committee, thank you for the opportunity to appear before you today. My name is Mike Baumgartner, spelled M-i-k-e B-a-u-m-g-a-r-t-n-e-r, and I'm the executive director of the Coordinating Commission for Postsecondary Education. Coordinating Commission for Postsecondary Education is given a number of duties in the Nebraska Constitution and statute, but I will only address the following today, briefly: creating and putting into action a comprehensive statewide plan to guide Nebraska's higher education system, administering the Nebraska Opportunity Grant program, administering the Access College Early Scholarship program, and administering the Oral Health Training and Services Fund. The statewide comprehensive plan for postsecondary education, which the commission recently revised, puts a high premium on college affordability through fair, reliable, and adequate financial support for our colleges and universities; financial aid programs for needy students; and system efficiency and accountability. Affordability is paramount to both college access and to the completion of the credentials that will meet the demands of Nebraska's economy. Nebraska stands out compared to other states in its commitment to college affordability but cannot rest on its laurels. There is still a wide gap between college attendance and low-income and non-low-income high school graduates in Nebraska. And as elsewhere, many Nebraska students must borrow significant amounts to complete their degrees. Coordinating Commission appreciates the thoughtful approach you are taking to close the state's budget gap, and my comments to you on the impact of LB22 on the Nebraska Opportunity Grant and Access College Early Scholarship are meant simply to inform your deliberations. Nebraska Opportunity Grant is the state's need-based financial aid program for Nebraska resident undergraduates attending public, independent,

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and private for-profit institutions who have financial need determined by a federal methodology used to determine Pell Grant eligibility. NOG is what we called a decentralized program. Institutions receive funding based on statewide share of eligible students and distribute funds to eligible students at their discretion within the regulations of the program. Last fiscal year 13,739 students received a NOG award out of 42,576 eligible students. The average award was \$1,225. NOG is funded through the lottery at \$10.1 million and state General Funds at \$6.9 million. LB22 will reduce the General Fund appropriation by \$274,726, but does not affect the lottery-funded portion of the program. As the program is decentralized, the colleges and universities will ultimately determine how to spread the proposed reduction among eligible students. But if I put it in terms of the average 2015-16 grant, the reduction will mean 225 students will not receive awards or that looking across, all 13,000, almost 14,000 students would see a reduction of awards by \$20. But again, that's...it is the discretion of the institution and they will have to put that into effect. The Access College Early Program provides scholarships for low-income high school students taking dual-enrollment courses and early-admit college courses at Nebraska colleges and universities. These courses give students a head start on college, saving them time, money, and demonstrating to them that they are college material. More than 86 percent of ACE students go on to college, compared to 77 percent of non-low-income students and about 53 percent of low-income non-ACE recipients, so more than 30 percent difference between those that take the courses and those that don't among low-income students. Last year, 1,894 low-income high school students from 240 high schools across the state received 3,575 ACE Scholarships. Many students take more than one course for which they receive aid. The average award per scholarship is \$228, so that's per class, generally a three credit-hour class. In 2016 the Legislature increased the 2017 fiscal year ACE General Fund appropriation from \$735,000 to \$985,000, which would add 1,100 scholarships at the average amount to the program. The \$39,400 reduction included in LB22 will reduce the number of scholarships awarded by 174 based on 2015-16 average award. I should add that we had 600 students turned away last year and that's before they were told that we were not going to be able to make awards any longer. So there is a large pool of students there and this will affect them as well. Let me move on to the Oral Health and Training Grant Fund briefly. LB661 was passed in 2015 to provide \$8 million to professional dental education institutions to provide oral health training at a reduced fee to students who agree to practice dentistry for five years in a shortage area, provide discounted or charitable oral health services for a minimum of ten years, and provide oral telehealth services.

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Institutions are required to match the state funds in that program on a 4-to-1 basis. Since the contracting institutions will be required to provide services for ten years and report on the use of both state dollars and match dollars, the commission will be required to monitor those contracts for ten years. As LB661 was originally written, the interest earnings would remain in the Oral Health Training and Services Fund and provide sufficient funding for the commission to monitor the contracts over the ten years. However, LB23, Section 17(8) requires that any amounts in the fund not awarded by contract prior to February 15, 2017, be transferred to the Cash Reserve Fund. Our understanding is this language was included prior to the commission receiving proposals and was intended to transfer to the Cash Reserve any amounts of the original \$8 million that were not going to be awarded. The commission has received two proposals with sufficient match dollars to award the entire \$8 million and intends to make the awards prior to February 15. However, LB23, as written, would take most of the interest earnings to the Cash Reserve Fund and so they would not be available for administrative costs beyond approximately two years. The commission requests that Section 17(8) be removed from LB23, allowing the interest earnings to remain in the Oral Health Training and Services Fund to ensure sufficient funding to monitor the contracts over the ten years. With those three points, our ACE, NOG, and Oral Health Program, I would be happy to respond to any questions that you have. [AGENCY 48]

SENATOR STINNER: Questions? Senator Hilkemann. [AGENCY 48]

SENATOR HILKEMANN: The question on the Oral Health here now, all of the original \$8 million has been applied for. Is that correct? [AGENCY 48]

MIKE BAUMGARTNER: That's correct. [AGENCY 48]

SENATOR HILKEMANN: Not necessarily distributed. [AGENCY 48]

MIKE BAUMGARTNER: That's correct. [AGENCY 48]

SENATOR HILKEMANN: Okay. And so there, I think, as the request came from the Governor's Office, it was that portion that was not already requested. Is that correct? [AGENCY 48]

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MIKE BAUMGARTNER: That portion that was not awarded, I believe. [AGENCY 48]

SENATOR HILKEMANN: Is there going to be any apportion that was not awarded? [AGENCY 48]

MIKE BAUMGARTNER: No, there won't be because the match already exceeds...the 4-to-1 match already exceeds the \$8 million. [AGENCY 48]

SENATOR HILKEMANN: Okay. Okay. So...and so what you're asking here is just simply to be able to even keep the interest that that money would... [AGENCY 48]

MIKE BAUMGARTNER: Yes, so that we'll be able to draw on that over the next ten years to... [AGENCY 48]

SENATOR HILKEMANN: And that's so you can continue to monitor that program. [AGENCY 48]

MIKE BAUMGARTNER: Right. Right. [AGENCY 48]

SENATOR HILKEMANN: So no students are going to be hurt by this. [AGENCY 48]

MIKE BAUMGARTNER: No. No, the \$8 million will be awarded and... [AGENCY 48]

SENATOR HILKEMANN: Okay. Thank you. [AGENCY 48]

MIKE BAUMGARTNER: Yeah. [AGENCY 48]

SENATOR STINNER: Any other questions? Thank you. [AGENCY 48]

MIKE BAUMGARTNER: All right. [AGENCY 48]

SENATOR STINNER: Okay. Just tell me where we're at. We got Nebraska...

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SENATOR KUEHN: You can go up to NET or you can go down to community colleges.

SENATOR STINNER: I'm going to go down. I'm going to go down to community colleges.

[AGENCY 83]

GREG ADAMS: (Exhibit 52) Good afternoon, Senator Stinner and members of the Appropriations Committee. I'm Greg Adams, G-r-e-g A-d-a-m-s, executive director of the Nebraska Community College Association. Because of the late hour, I'm going to abbreviate my testimony because I suspect a lot of what you've already heard I would just simply be repeating, although our priorities within the community colleges are a bit different. First of all, we realize, within the community colleges, like everyone else in the room behind me, that you have a difficult task ahead of you. We understand that and we fully intend and are prepared and are doing what we have to do to be part of the fix. I could go through a list of things that currently our colleges are doing. Ever since October they've begun to look at different means for current year and it is difficult, given the commitments that they've made but using a variety of things internally. And it affects different colleges differently. A Metro versus a Western, we're different all across the board in terms of financial situations and a variety of other things. But they're prepared to do what they have to do in the current year. I would tell you this, and I'm preaching to the choir, I know that I am, but I'd be negligent to the colleges that I represent if I don't say something about it. You have a task to perform to make this budget balance. We understand that. The Legislature gave to the community colleges a task as well and we've prioritized that task and we fully intend to do what we can with the resources that we have available to us. Statutorily, we are to provide a work force, career and technical education, which is our priority. And you can see from the data sheet that I hand out that is where most of our degrees are awarded. Let me add to that. We are open access by statute. We take all comers. There's no ACT or SAT. We take all comers and we try to get them into their programs and eventually get them to a job. Secondly, the statutes say that we should provide transfer credit, and we do that. It's not our highest priority, but it is a priority and we do that. We are the gateway. Like Chancellor Carpenter said of the state colleges, community colleges quite often are the gateway, particularly to first-generation students or students that can't afford other tuition, to come to the community colleges and find out, I can do more, I can go on to the four-year. And with our transfer agreements that we're working very vigorously on with all of our public institutions, that's becoming easier and easier. Affordability

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has always been...access and affordability has always been a hallmark of our community colleges--that's why the three-legged stool in terms of our funding--and responding to what the community needs. You know, I heard this said once and I'm more convinced than ever before. The community colleges are not only the trainers but literally for many, many, many businesses across Nebraska we are their HR department, the community colleges. So we are prepared to do what we have to do. We're looking primarily right now at the current year like you are, but certainly we will be back in front of you, as you prepare the biennium appropriation, and making our case. The data sheet that I handed out to you, I put that together. In a way, I tried to put myself in your place: If I were back here again, what quick things would I want to see about the community colleges? I know I might have a million other questions, but I could sit down with the CEO of the community college within my legislative district and ask or I could ask Adams. I'll find out. But those are the quick numbers and you can see we're doing your best to meet our priorities. It just gets, when we don't have the resources, it gets that much tougher to do. And we already know, and you do too, particularly within your legislative districts, there's already gaps in what the demand is of your employers versus what our colleges are capable of producing. I'd try to field questions that you might have. [AGENCY 83]

SENATOR STINNER: Questions? Thank you. [AGENCY 83]

GREG ADAMS: What a presentation I must have had, Senator, huh? (Laughter) Thank you for the time this evening. [AGENCY 83]

SENATOR STINNER: Okay. We've got the Department of Economic Development. Nobody is here for the Department of Economic Development, so let's move to the Nebraska Library Commission. I think they sent in a letter, didn't they? (Exhibit 41) [AGENCY 72 AGENCY 34]

SENATOR KUEHN: Uh-huh. [AGENCY 47]

SENATOR STINNER: Here you go, Department of Education. Thank you. [AGENCY 13]

MATT BLOMSTEDT: I'm waiting for the thumbs up and then away I'll go. [AGENCY 13]

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SENATOR STINNER: Absolutely, go for it. [AGENCY 13]

MATT BLOMSTEDT: (Exhibit 53) All right. First of all, I appreciate the opportunity to be here in front of you today. I have written out several different points that I will try to walk you through. I guess I should start with the first point. I am Matt Blomstedt, Commissioner of Education, Blomstedt is spelled B-l-o-m-s-t-e-d-t. So number one, I thought taking just a couple minutes on the Department of Education as a whole is an interesting mix of federal and state programs, right? From a state perspective, we have about, if you look across the whole agency, about 33 percent of the agency is funded by state dollars and about 66 percent, or roughly the other two-thirds, is funded by federal dollars. And so when you look at that as a whole, there's a lot of different types of mixes, leveraging that we try to accomplish with state funds and federal funds. Another interesting part of the Department of Education, if you're not familiar, is that about 60 percent of the Department of Education is actually Vocational Rehabilitation and Disability Determination systems. So I highlight that just for your...kind of your background as part of that mix. And then as I go through a few different comments, that might make a little bit more sense. Anyway, I have put in front of you a document--looks something like this--gives you a sense of some of our analysis, and I thank our team for working on some of this analysis, of what LB22 actually means for us. It's broken out into kind of two different themes: what the carryover reappropriation cuts would be--I'll go through what we think are somewhat the consequences of those particular cuts and how we can or can't withstand certain cuts; and then the second part of that is obviously looking at current appropriations and how we can handle the 4 percent cuts that are proposed, and again I'll talk through each one of those in some detail. If you flip to the first page, you'll see that I start essentially with Program 025 and Educational Administration, kind of our general operations, pieces of that. And what I would say is generally the proportion of the reductions that you're talking carryover funds are something we can withstand. I will want to highlight our long-term standing relationship with the Appropriations Committee has been to allow us to use carryover funds for prudent management purposes, right; that we don't want to be an enemy or simply spending funds because you wouldn't reappropriate them in the future. And that's an important part of the relationship I think with agencies and the Appropriations Committee over all. So I wanted to highlight that. The next thing I have on that list is actually Statewide Assessment and I want to highlight this because roughly of all of our carryover funds this was the vast majority of those. And if you look at the three or, excuse me,

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the \$6.8, almost \$6.9 million in carried over appropriations funds, there's a cut, proposed cut, of about \$3.6 (million). About half of that, again, if we're doing our math the way that the analysis really comes through, is about half of that, around \$1.8 million, would be a cut in Statewide Assessment dollars, earmarked in the past, appropriated by the Legislature for those purposes. We accumulated those funds, just so you know, in part because we're in a mode of trying to transition to a new State Assessment system, thinking differently about state assessment. There were bills passed: LB930 last year in the Legislature was passed to implement statewide assessment of ACT, really trying to meet our college and career readiness requirements for the future. And we thought that's really an important part of that, but also looking at what we do for grades 3 through 8 for the future and really talking about how important state assessment is in a different way, not just for accountability for the future but honestly for why we run the education system in the first place--to ensure that students are learning and so they can be successful in their own futures. And so State Assessment is...would...underneath this would take a substantial cut. Now here's my uncertainty. I don't know a couple things right at this moment in time. One is we have an RFP out for a new grades 3 through 8 assessment. That RFP will close on February 1. We'll have a better sense of what that total dollar amount will look like and, obviously, we will try to package that and ask for the appropriate level of funds when we're looking forward. But we would want to make sure that there are substantial funds there or necessary funds there to be able to carry out that because it's a statutory responsibility and we, obviously, think a statewide assessment is important for accountability and other things. Another part of the equation, however, is LB930. When that was passed it included a provision that would allow the Department of Education to, for lack of better terms, claim funds out of the lottery funding source, which has been renamed the Nebraska Education Improvement Fund. Roughly, the cost of the ACT on an annual basis statewide for 11th graders is about in the \$1.4 million...approximately about that amount of money. What we could do, and it's allowable under current law, is use those funds to...use part of those funds to be able to do that and fill part of this gap that might be created by cutting the reappropriation. The problem, one problem with that, is we were also asked to distribute lottery funds for grant purposes for these particular funds. I asked the State Board, because last...I guess it was on January 5 or 6, whatever the right date is the State Board met and I asked them to actually delay granting those dollars out, thinking that we had just looked at LB22 and said, whoa, is the message that we ought to be responsible and think differently about that? So I've delayed that decision pending our conversations, I guess,

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here today and, in part, trying to be responsible to make sure if the message is, hey, look, tap those other funds, help move us forward on that, we would not want to grant funds going forward that we couldn't otherwise commit to if that was the case. So, obviously, trying to be responsible with that. So that's one part of the puzzle that we need to work on. Under Program 025, we also have accountability. Accountability in Nebraska was passed. Actually you saw former Senator Adams up here speaking. It was his bill on LB438, passed in 2014, asked the Department of Education to create a new accountability system. Lots of things are happening around accountability right now. New federal laws are taking place, other things along those lines, so we're shaping that. What I would tell you is the accountability dollars that came with LB438 were actually appropriated a year before they were needed and, therefore, that's what created some additional dollars for carryover. I will tell you we can withstand that particular cut. So I think that would actually be appropriate. Puts us in a tighter position for planning, but I understand that. The next part is, Program 025, Step Up to Quality. Underneath Step Up To Quality, the particular act, the Step Up to Quality Child Care Act, similar to what happened with accountability. When it was passed in 2013, funds were appropriated essentially a year before they had to be expended, and that created a year-to-year carryover. Again, we believe that those funds, we can withstand having those funds cut from us at this moment in time, knowing that we have to ask for funds continuously in the future. But that particular cut could be withstood. Underneath Vocational Rehabilitation, back to my point about leveraging federal funds and state funds, Vocational Rehabilitation is roughly a 1 to...I guess it doesn't even have to be roughly, 1-to-3.69 state-to-federal match in dollars. So the proposal would actually cut \$253,000 of carryover funds which were planned with the intention of being able to leverage in the timing of federal funds, and so we know that that will have a significant impact on what we can leverage. Again, I'm not here to say absolutely don't cut it. I'm here to say that having some thoughtful conversation around is that the type of investment you want to make. I think we make our point also that when you think of that, combined with the next year's also 4 percent cut on those funds, it's the same issue, right, that there's an opportunity to match those funds against federal. And so I want you know and understand kind of the consequences of that particular cut and I'd ask you for careful consideration of those ramifications. When you look at the reductions, the other reductions in 2016-17 appropriations, those 4 percent cuts across the board, so to say for the most part--there's one exception to that--but those 4 percent cuts across the board, generally, we think we can find ways to accommodate. And again, not because I want to, not because it's easy

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to make different cuts, but there are choices to be made around what we can sustain going forward. And again, we propose certain things that might be cut as a result of that. Now I will tell you, there will be advocacy for "don't cut that," "don't cut that." You will hear that. That's your ballgame as well. But the reality for us is we think we can do that. However, there are kind of activities that we're trying to identify that better align for our future of the education system. We've just recently, the State Board has passed a strategic plan. Our intent is to organize and "operationalize" that strategic plan, making sure that we're making investments along those lines for the future. And we're going to ask you and continue to engage you in conversations about how we would do that most effectively, even in a point of time of cutting. Programs 401 and 402, I want you to understand, underneath those you'll see that those are both essentially services for deaf and hard of hearing and services for visually handicapped. I believe for the most part the cuts that we would sustain on those at a 4 percent rate, we would have to find other funding sources for. For example, Nebraska no longer has a School for the Deaf. We contract with Iowa for many of those services. That just depends on the number of students that are ultimately going there and what we have to accomplish on that front. And so again, I'd ask you for at least some consideration of how we go about doing that because we would have to make other particular cuts to make that possible. When I think about the blind and visually impaired, we have a Nebraska Center for the Visually Impaired down at Nebraska City. Again, that's a contractual arrangement with ESU 4. We also provide services statewide underneath that. Again, one of those issues of 4 percent cuts there mean we have to think very differently about that relationship and figure out if we can leverage other funds for the future. Obviously, as I think about other types of...other aid programs that we have, Program 158 is, as you know, we're not touching TEEOSA in the current fiscal year, so LB22 doesn't address that particular issue, but there were other aid programs that it did address. I would just want to highlight that there's a proposed outright elimination of the Master Teacher Program in the current year. We do have teachers that have signed up in the current year, right, and have actually paid fees and other things. There are dollars that are reappropriated from the prior year application. I think it's roughly \$134,000 that are carried over from the prior year. Given the demands on that program, we could pay out with those dollars about 30 cents on the dollar for the teachers that participated this year. Again, it could be...the cut in the future years, we would haven't new applicants and, therefore, not necessarily an obligation. But there is an obligation in the current year, but there is a pro-rata distribution available to us if that's the decision. Then ultimately the other 158 Program aid

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distributions, there are some aids that were actually already fully distributed. Some of those aids are listed here below: the Learning Community; the ESU Coordinating Council, their portion of the ESU aid was already distributed in total; the ESU Distance Education Funds; and High-Ability Learners. All those have been completely distributed. Taking a 4 percent cut on those, I don't know how that would actually work. We'd have to ask them for money back, right, so we...I think that's something we'd have to...and our staff is certainly willing to work with you on what those precise calculations would be. I wanted to touch just a little bit on looking forward. I talk to my staff a lot about, well, one shoe dropped with LB22 and we waited for last week to see what the other shoe, so to say, was, right? It's important for us to think about 4 percent cuts and sustaining those going forward, and the Department of Education, like every other agency, proposed budget modifications and things. Some of the budget modifications we proposed were thinking about ongoing 4 percent cuts, right, that we had heard the rumblings of what that would look like. So some of those cuts were actually proposed with that in mind going, hey, look, that's what we would do if there was ongoing cuts. What happens in the proposal, as it is...from the Governor--I forget now, is it LB324 (sic--LB327), anyway, the right bill number--the reality for us is some of those cuts kind of double-up on us. The cuts against the High-Ability Learner position, the cuts on the Multicultural position. Again, positions I don't want to cut but we put them up as current vacancies that we could have cut at that point in time and the State Board decided that. Unfortunately though, if we take a 4 percent in the current budget year and that becomes our new floor, right, those are cuts in and above that, so far beyond the 4 percent cut then for us because those two positions alone are about another 2 percent, are equivalent of about another 2 percent of our General Fund for Program 125 (sic--025). So when I think about the longer term position of the...I've asked several times, by the way, and I...this is only my...seems like longer, but it seems like, but this is only my second biennium. I've made requests, the department has made requests around particular investments in data systems and thinking differently about what an agency needs to look like going forward and how we build this appropriately. And so we've asked for a lot of different funding and thinking of different ways where we'd work with you. One of the things I've asked for in the past was thinking about how we use PSL, how we use personal service limitations, as an agency. One thing that's happened over a period of time is there's a lot of long-term contractual work that I would like to consider shifting to employees in the long run, thinking that that will be more efficient and effective for us, more appropriate for long-term activities, and an opportunity for us to have that conversation

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with you. The struggle is, without knowing that PSL is there, you can't start to make those decisions. And so I think it's a conversation that I want to have with the Appropriations Committee, working forward with the Governor and others, because I think that's prudent management for us as we look at the future. I also think that there are other things that are there and two quick examples: one was the Education Commission of the States that there is a proposal--and, again, it came out of our budget modification, so I'm completely to blame--but to shift that to indirect cost funds. Well, indirect cost funds are essentially those funds that are federal funds that are used to manage the 66 percent of the agency, right, that it gives us a chance to be able to do that. If we shift state obligations to federal funds, that starts to become a problem for us in the long run. Eventually, that becomes problematic and we...and something else that we have to think about. And I think that's something else I want you to think about. The last one that I had on my list is the Council on Student Attendance is something that we put up as a budget modification and, again, something to include. I will tell you, I sit on many different councils, commissions, and have an opportunity, and there are important conversations. Many of them are things that started here in the Legislature and were asked for. But I think in the long run it would be prudent to think about sunset dates on any such activities because the turnover of conversations and people is actually really important. And I think when you see, and I look at it, there's a lot that we committed even though the dollar amount for that particular council is paying expenses for people to show up. Well, it takes a lot of our staff time, too. And as I make other staff cuts, I have to begin to prioritize where we spend our staff time and that becomes quite important for us. So again, I'm here mostly to walk you through all of those different things. I will tell you, it's great to be a Nebraskan and sit in a room like this and have conversations where I can say Hank Bounds is my friend, Stan Carpenter is my friend, Greg Adams is my friend, Mike Baumgartner is my friend. If the other agencies were here, I could say the same thing about their agency heads, right? It's a unique place for us to be and I think a unique place for all of you to be. But I know there's heavy lifting to do. We try to contribute to that conversation in a meaningful way. I'm proud of the education system in Nebraska. You ought to as well. And I don't mean just K-12 but pre-K through 20. We've done great things here. I appreciate what you do. I would take questions from you if you had any. [AGENCY 13]

SENATOR STINNER: Thank you. Senator Hilkemann. [AGENCY 13]

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SENATOR HILKEMANN: Mr. Commissioner, on this Master Teacher Program, a couple of questions. How many teachers are presently doing this program, assuming that...not assuming but told that they would get \$5,000 at the end of this program? Do you know that number?
[AGENCY 13]

MATT BLOMSTEDT: We have...it's roughly or about not quite 70 yet, just under 70 I believe. (Inaudible). [AGENCY 13]

SENATOR HILKEMANN: So you have about 70 teachers. And you say that you've got...you've got... [AGENCY 13]

MATT BLOMSTEDT: About \$134,000 is what I think we had to be able to payout in a carryover. So that's about 30...we had about a \$340,000 estimate if current teachers in the program would be there. So it would be 68, must be, right? [AGENCY 13]

SENATOR HILKEMANN: So how much...now this, we've been called to eliminate this program entirely. What would be the number that we would need to make our commitment to those teachers who have started this program? Are you... [AGENCY 13]

MATT BLOMSTEDT: About \$200,000 I think, so. [AGENCY 13]

SENATOR HILKEMANN: Approximately \$200,000? [AGENCY 13]

MATT BLOMSTEDT: Yeah, to make the whole... [AGENCY 13]

SENATOR HILKEMANN: That would have to be what would be leftover? [AGENCY 13]

MATT BLOMSTEDT: Yeah, to make... [AGENCY 13]

SENATOR HILKEMANN: That could... [AGENCY 13]

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MATT BLOMSTEDT: No, that would...in addition to what the carryover is. So there would have to be \$200,000 more than what LB22 would propose for this current year. [AGENCY 13]

SENATOR HILKEMANN: But you already have some money here. [AGENCY 13]

MATT BLOMSTEDT: \$134,000. And the commitment we have is about \$340,000, so. [AGENCY 13]

SENATOR HILKEMANN: Okay. [AGENCY 13]

MATT BLOMSTEDT: I mean that the 68 teachers that are in there, to pay them out \$5,000 each, right, gets you to the \$340,000. And we have approximately \$134,000 left for carryover to make those payments. [AGENCY 13]

SENATOR STINNER: Just to make sure the record reflects this, we are not trying to eliminate the program. It's defunding right at the moment. Program is in statute, has been in statute for quite some time, and I think that it was last biennium or somewhere (inaudible)... [AGENCY 13]

MATT BLOMSTEDT: Just last biennium. [AGENCY 13]

SENATOR STINNER: ...when Kate Bolz brought in a funding bill for this, so. [AGENCY 13]

SENATOR HILKEMANN: Yeah. I'm sorry, I used the wrong term there. But to properly... [AGENCY 13]

SENATOR STINNER: Just I wanted to correct the... [AGENCY 13]

SENATOR HILKEMANN: ...not...yeah,... [AGENCY 13]

MATT BLOMSTEDT: It actually... [AGENCY 13]

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SENATOR HILKEMANN: ...especially when I used that term. But we would need to, to properly fund it, we would still need \$200,000. [AGENCY 13]

MATT BLOMSTEDT: Right, for the... [AGENCY 13]

SENATOR HILKEMANN: Okay. [AGENCY 13]

MATT BLOMSTEDT: ...in addition to what we have in carryover (inaudible)... [AGENCY 13]

SENATOR HILKEMANN: Okay. [AGENCY 13]

MATT BLOMSTEDT: ...for the...and what I want you to understand, that's...I mean and Master Teacher Program existed for a long time, had not been funded until Senator Bolz had been able to advocate for that. [AGENCY 13]

SENATOR STINNER: Questions? Senator Bolz. [AGENCY 13]

SENATOR BOLZ: I just want to be clear about the information you're providing to me, starting with Program 351, Vocational Rehabilitation. I do think in terms of service provision and bang for our buck, it's concerning that we're losing...essentially losing significant dollars in federal funds. So the 4 percent loss of approximately \$200,000 would match \$737,000 in federal funds. So we're talking \$900,000 total loss from the Vocational Rehabilitation Program as a whole if we move forward. What does that mean in terms of service provision, in terms of helping people? [AGENCY 13]

MATT BLOMSTEDT: Yeah, the estimate from our team was roughly 600 to 700 individuals across the state that would receive benefits if it was that amount of money, so. [AGENCY 13]

SENATOR BOLZ: Uh-huh. [AGENCY 13]

MATT BLOMSTEDT: And again, I'd have to bring Mark Schultz in as our director of VR to be able to detail that a little bit more, but that's what he shared with me. [AGENCY 13]

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SENATOR BOLZ: And those are individuals with developmental and other kinds of disabilities... [AGENCY 13]

MATT BLOMSTEDT: Yeah. [AGENCY 13]

SENATOR BOLZ: ...who are trying to engage in the work force, trying to build up their own earning potential. [AGENCY 13]

MATT BLOMSTEDT: And job retraining and other things due to disability, yes. [AGENCY 13]

SENATOR BOLZ: Right. And so one of my concerns is how this intersects with our developmental disability system. And, you know, we've had some challenges within that system and it seems to me that in terms of being able to serve our developmentally disabled population, trying to use this system can help buffer some of the challenges that we're seeing in... [AGENCY 13]

MATT BLOMSTEDT: Uh-huh. [AGENCY 13]

SENATOR BOLZ: ...developmental disability system as a whole. Is that an accurate assessment? [AGENCY 13]

MATT BLOMSTEDT: Yeah, it's definitely accurate. And by the way, I mean we and our team spends a lot of time working with folks in Disability Determine...I mean in developmental disabilities and others across HHS and continue to do that work. And even we put a request in our budget that I'm going to have to probably explain to you next time I'm here in a little more detail but of some ways that we could actually work together with HHS to better leverage for federal funds in the future. [AGENCY 13]

SENATOR BOLZ: Uh-huh. I appreciate that and I should probably say, for the record, I work in the developmental disability field and my organization does receive some small amount of grant funding from Vocational Rehabilitation, for the sake of transparency. But... [AGENCY 13]

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MATT BLOMSTEDT: I didn't even know that. (Laugh) [AGENCY 13]

SENATOR BOLZ: Well, it is what it is. Just being transparent. I don't think that any of that relates to the issue that we have in front of us. I think my only other question is related to, just so I'm clear, Program 158 Aid has been completely dispersed related to Learning Community, ESU, Distance Education, High-Ability Learners. So that would be a real challenge working with those local entities. [AGENCY 13]

MATT BLOMSTEDT: Yeah. We could actually do a calculation of those that have already been distributed and those that would be otherwise problematic to... [AGENCY 13]

SENATOR BOLZ: Uh-huh. [AGENCY 13]

MATT BLOMSTEDT: ...withhold 4 percent of funds relative to the aid appropriation.
[AGENCY 13]

SENATOR BOLZ: Okay. I just...I wanted to be clear. That sounds like it could be awfully...
[AGENCY 13]

MATT BLOMSTEDT: Yeah. [AGENCY 13]

SENATOR BOLZ: ...difficult and would be challenging. [AGENCY 13]

MATT BLOMSTEDT: I mean I would...I guess if you pushed me to a recommendation I would say, hey, look, with...don't cut those back because those checks have already been cut. We'd have to go through an exercise...I'm not even sure we legally can, to be honest. I'm not sure how that would work, so. [AGENCY 13]

SENATOR BOLZ: Very good. Thank you. [AGENCY 13]

SENATOR STINNER: Any other questions? I just have one question for you then. Back to Kate's question, Senator Bolz's question, excuse me, if you're having a match of that much

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money and it means that many lives, couldn't you repurpose something within your budget to make sure you don't give up that money? [AGENCY 13]

MATT BLOMSTEDT: Well, most of our funds are actually earmarked for other purposes, right, so... [AGENCY 13]

SENATOR STINNER: Okay. [AGENCY 13]

MATT BLOMSTEDT: ...the appropriation for VR itself is specific for VR. And so for us to be able to move other particular funds to accommodate that from our K-12 side, I mean it would be difficult. And I can't match federal funds with federal funds, so that also would be difficult. And so I mean there may be some other ways, you know, I'm not saying there's no possible way, and probably angles that we can look at, including actually our partnership with HHS around fronts that I think would be important, so. [AGENCY 13]

SENATOR STINNER: I'd sure hunt for a place to fund it. [AGENCY 13]

MATT BLOMSTEDT: We always are going to hunt, so. [AGENCY 13]

SENATOR STINNER: Okay. [AGENCY 13]

MATT BLOMSTEDT: I saw Mark Schultz, who's our director of VR, just on the way out and he stopped me and I could barely get away to make sure...I thought I might be late but it wasn't a problem as it turned out. (Laugh) [AGENCY 13]

SENATOR STINNER: Well, thank you. Senator Bolz. [AGENCY 13]

SENATOR BOLZ: I'm sorry. I can't help myself. Just a commentary on that is I appreciate the idea that we should look for every avenue possible,... [AGENCY 13]

MATT BLOMSTEDT: Uh-huh. [AGENCY 13]

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SENATOR BOLZ: ... completely agreed, but I feel compelled to point out that we're also looking at proposed operations cuts and aid cuts in HHS. And so while that's an appealing idea, it's difficult in practice. [AGENCY 13]

SENATOR STINNER: Thank you. Thank you. [AGENCY 13]

MATT BLOMSTEDT: Thanks. [AGENCY 13]

DAVID LUDWIG: Ready? [AGENCY 13]

SENATOR STINNER: Please. [AGENCY 13]

DAVID LUDWIG: (Exhibit 54) Okay. Well, good afternoon. Appreciate the opportunity of being here. For the record, I'm David Ludwig, D-a-v-i-d L-u-d-w-i-g. I serve as the executive director for the Educational Service Unit Coordinating Council. For 34 years I've been blessed to serve as an educator within the state of Nebraska, and for 30 years I've served in the capacity of administrator. And prior to my three years in this capacity, as the ESUCC executive director, I served for four years as the administrator at ESU 2 in Fremont. And prior to that, for 19 years I served as an administrator within the ESU 2 service area. So during that time I understood the value of a collaborative and cooperative system to provide efficient, effective services for students that we served. For 50 years ESUs have been working closely with school districts and the Nebraska Department of Education, providing efficient and effective services. And since the inception of ESUCC, the ESU Coordinating Council, through LB603 beginning July 1 of 2008, the duties of the council include provision of strategic plans to assure cost-efficient, effective, and equitable delivery of services across the state. And as defined in the defined vision within 79-1246, ESUCC and the ESUs do just that. There are many examples I want to provide of the efficiencies that we provide through the Coordinating Council with ESUs, in collaboration with NDE. I want to point out three specifically, the first one of which is our statewide cooperative purchasing program that's been in existence for the past 43 years. As a result of this service and our collaborative efforts, we had a savings for school districts and ESUs during the past two years which equaled \$8.9 million. A second example references the support for technology essential to enhance teaching and learning. Within ESU 3 located in La Vista, the technology

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infrastructure provides support for 90,000 devices per day, which equals the size of Memorial Stadium on a game day, so a lot of effort and resources and efficiencies are put into that. The third and final example references professional development provided statewide. Within Crawford Public Schools specifically, the support provided for their district through ESU 13 in Scottsbluff assisted the district in moving from a low-performing school district to one with significant student improvement and performance. As stated by Barb Edwards, elementary principal, the support provided by ESUs is, quote, survival for us. So as part of the K-12 system, the ESUCC and the ESUs provide an essential system of support for the 245 districts, 22,000 teachers, and then 307,000 students within the state of Nebraska. So any reduction in funding that we have will have a level of impact on that level of service. So as an ESU and the ESU Coordinating Council, for the past several years we haven't been asking for anything other than an understanding that beginning with the 2011-12 year we were provided with a 5 percent decrease in our funding. And since then, we were provided and have been at a 0 percent growth since then. So any further cuts is going to only further diminish that level of service that we have. Right now, as Commissioner Blomstedt alluded to, you know, we're working within an approved budget with contractual obligations and we've received those funds and a lot of those funds have been spent to cover contractual costs. So I'm not sure how that works, but that puts us in a significant amount of unknown of how do we proceed, move forward at this time. As we consider those efficiencies and effectiveness, part of the goal that we've had for the past several years is communication and awareness of efficiencies and effectiveness that we have, working collaboratively with the Nebraska Department of Ed. Nationally, our office has gone through what they call a redesign of the state, of the entire nation, and with that we want to do the same thing. We've been around for 50 years. Where we do go for the next 50 in collaboration with NDE? So again, trying to prioritize services and look at more efficiencies. So as part of the K-12 community, we want to be part of the solution as we strive to maintain the highest levels for support and services for our districts and, most importantly, our students. So anyway, I'd be glad to answer any questions you may have for us or me. [AGENCY 13]

SENATOR STINNER: Questions? [AGENCY 13]

DAVID LUDWIG: Okay. Thank you. [AGENCY 13]

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SENATOR STINNER: Thank you. [AGENCY 13]

JAMIE HONKE: (Exhibit 55) Chairman Stinner and members of the Appropriations Committee, thank you for giving me the opportunity to speak today. My name is Jamie Honke, J-a-m-i-e H-o-n-k-e. I have been teaching in the Nebraska public school system for eight years as a Spanish teacher. I received my undergraduate and my graduate degrees from Nebraska schools. And I teach multiple levels of Spanish at Ralston High School. That includes dual-enrollment Spanish, advanced placement Spanish, which potentially awards students with the Seal of Biliteracy in the state of Nebraska. I bring this up because my students have the opportunity to receive college credit in the high school setting. I also bring this up because I am passionate about my work. I strive to promote real learning, not just the diploma. And above everything else, I am tremendously proud of the work that I do because I am deeply invested in my students' success. I am committed to their learning and I always seek the best ways to help them be bilingual professionals. I was recommended, at the end of last school year, to participate in the National Board of Professional Teachers certification program. The NBPTS certification program is not easy. In fact, it's far from easy. The rigor required separates the leader from the follower. While all teachers come to work with the intention of creating a better life for their students, nationally board certified teachers prove that they are committed, not only to their students but to the betterment of the profession. They are the educators that you do not want to leave your state. They are the individuals who pour their hearts into their career. These are the teachers that you want all your teachers to emulate. They are the role models for exemplary teaching. There are a handful of teachers currently committed to the program to become nationally board certified. Ladies and gentlemen, I am one of those teachers and I have already started the process. To be considered a master teacher in the state of Nebraska and nationally requires perseverance, dedication, and true passion. I knew I had this drive before I became a candidate, but I decided to pursue this certification because I wanted my students and my school to officially have a nationally board certified Spanish teacher, and I knew the reimbursement and subsequent stipend would help my family. Ladies and gentlemen, no teacher stays in the educational field and furthers their education and certification because they are looking for fame and glory. Being an educator is a calling. Investing in educators is not a single person investment. Rather, it is an investment that has generational impact as one educator will reach many students within their career. This investment in educators impacts every student they teach, every young person they

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mentor, and every new teacher that follows their example and says to themselves, that is the kind of teacher I want to be. To remove the reimbursement and funding for the Master Teacher Program would not only seem unfair to those who have already committed the expense with the intention of receiving reimbursement but would also send a terrible message to other educators in Nebraska who wish to pursue this significant certification. In fact, I have already heard from several educators who planned to certify in the upcoming school year but have had to rethink their decision due to the possible removal of funds. National board certification is not an easy process. I must complete multiple modules that examine every modicum of my teaching practice and provide proof that I exemplify my profession. To deny the funding for these teachers would equate to saying these professionals are not valued in the state of Nebraska. Is the return on investment for a valued, exceptional teacher not worth the investment of a program that so many have tried but so few have completed? This program is demanding and it requires that you receive the best of the best. In fact, only approximately 40 percent of teachers pass certification on their first try. Reimbursement comes to those who certify. Would you rather take the risk of losing your board certified teachers because their value was promised but immediately rescinded? If you do truly care about the success of your students and your state, I beg and implore you to consider your decision and continue the Master Teacher Program funding. I have lived in Nebraska my entire life. I received my education here. I started my family here. I continue to work tirelessly as an educator because my heart lies in education and my greatest pride is to see my students succeed. I will continue to work for my students and their best interests. And I appreciate the opportunity to talk with you today. Thank you. [AGENCY 13]

SENATOR STINNER: Thank you. Questions? Thank you for being a teacher. [AGENCY 13]

JAMIE HONKE: You're welcome. [AGENCY 13]

SENATOR STINNER: And a passionate teacher. [AGENCY 13]

TOM EARHART: (Exhibit 56) Good evening, ladies and gentlemen. My name is Tom Earhart, T-o-m E-a-r-h-a-r-t, and I am a high school teacher. Like Ms. Honke before me, I'd like to talk to you about the importance of the Master Teacher Program that is threatened by LB22. I grew up here in Nebraska. I've spent most of my nearly two decades of teaching in Nebraska. But I

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actually originally earned my National Board of Professional Teaching Standards certification when I worked in Florida where I taught for several years. Now before you make a decision about the Master Teacher Program, I want you to understand what it means to be considered a master teacher. It requires a teacher to complete the rigorous, exhausting, and expensive process. The out-of-pocket costs to attempt that process is roughly \$2,000. I want you to understand that this is not just a set of hoops that great teachers jump through to show they're great teachers. It's a reflective process that helps to make teachers better if they're willing to work. The benefits of this program are clear and extremely well-documented. Both Harvard and the Center for Educational Data and Research, in separate studies, found that teachers who completed this program helped their students reach higher educational levels. In fact, students with certified teachers performed as if they had an additional one to two months of classroom time. I could stand here and list study after study of how this certification process helps students, particularly economically disadvantaged and minority students. Master teachers make achievement happen. They make an impact in their own classrooms, and because they collaborate and challenge other teachers they make an impact across their schools and their districts. Master teachers are more likely to be active in building community relationships. Schools with higher numbers of master teachers have higher morale and higher retention rate, which means better achievement. Master teachers make for better schools. Now I know, as everyone up here as said, this is going to be a rough time. You've got to be fiscally conservative. However, I think all of you also know that education is critical to the success of our state. Better teachers mean more successful students; more successful students will help build a greater state. I know you want to save money. We need to save money. But look at the research. Every master teacher that we develop is like getting an extra one to two months of learning for each of their students. That's a bargain, and that's going to result in stronger economy, more tax income, and a greater state. No one in here questions the value of a great teacher, so why does Nebraska lag behind the rest of the country in developing these great teachers? Currently, we are 44th out of 50 as far as states who have the percentage of master teachers. Each one of the six states that surrounds Nebraska has at least double the percentage of master teachers. Why is Nebraska so low? I think the answer is simple: Because historically we haven't supported it. Each of these states, each of the states around us, provides incentives for the teachers to push themselves to be the best educators they can be. Applying for national board is a huge undertaking. It involves hundreds of hours of learning, research, practicing effective methods, recording those methods, and reflecting on how to make them even

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more effective. It involves building relationships with other educators in the communities we serve. It's not a test to show that I'm a great teacher. It's a process that has made me a better teacher. From personal experience, I can assure you that the time I spent earning national board certification to become a master teacher has been a much...had a much bigger impact than any other educational opportunity I've had, including my master's degree. I'm more effective because I completed this process. It's not easy. Less than half of the candidates succeed. The process is expensive. Teachers need to spend nearly \$2,000. It's a risk. I mentioned in the beginning that I began my career in Florida. I spent several years teaching in the "Sunshine State." We had Disney, we had beaches, and we didn't have ice days. But my wife and I raised our...when we decided to raise our kids, one thing brought us back to the "Cornhusker State." As corny as it sounds, we wanted Nebraskan values. I want to raise my family where things like integrity and honesty are valued. So I ask you to live up to that. When the biennial budget was passed, we funded the master program for two years. Live up to your word. Right now there are teachers who have made the decision to pursue master teacher status because they trusted you. Don't pull the rug out in the middle of that promise. They deserve better. They did their part, they filled out the applications. Don't change the rules in the middle of the game. Eighty percent of people think teachers should earn certification. We know it's good for students; we know it's good for the state. I ask you to continue to give teachers the incentive they need to further their development. I'd be happy to take any questions. [AGENCY 13]

SENATOR STINNER: Thank you. Questions? Senator Kintner. [AGENCY 13]

SENATOR KINTNER: You know, we have needs in this state and we have wants in this state, and I think this program is the definition of a want. If we have the money and we have the growth in the economy that's generating money, this is probably a pretty good program. But, you know, if we don't fund this, the educational structure is not going to cave in. If there's other things we don't fund in education, it will cave in. There are things we absolutely have to fund. We have one of the best educational, public education systems in the country without this. Now, this might make it better, but when we're having a budget pinch like we are now, that's when we've got to say this is a want that we'd like to fund if we had the money, and this is a need that we have to fund. I'm pretty convinced this is a want that we can fund when we have the money, but it's not something that we have to fund. With that being said, that's my feeling. I'll let you

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respond to that, but that's kind of where I am on this. By the way, I'm a former teacher, so.
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TOM EARHART: Right. And you know I appreciate the thought process behind that. I agree that there are needs and wants. I would say that I think, as Nebraskans, as a parent myself, I shoot for higher goals than "our educational system won't collapse." That's just me, as a parent. However, I will say the research is clear, this makes sense for the students. We have spent a lot of time here listening to lots of needs. I understand there's a budget shortfall right now. The thing I've heard from the community colleges, the university, and the state colleges is the way out of our budget shortfall is to provide a more trained, more highly educated work force. That starts with better schools, and that starts with better teachers. So, yes, in the short term you could cut this program, you could save, what did we decide, at maximum \$500,000 a year. I can assure you there will be benefits or, I'm sorry, drawbacks that will affect our state for years to come. First of all, there are teachers who currently have put out \$2,000, well, \$1,975, based on the promise that their state made--we will fund this for two years. Those teachers are not going to be happy if suddenly that rug is pulled out from under them. So I think in the short term I think, as a state, we have an obligation to live up to the promises we made, understanding in the future biennial budget I don't know what that possibly is. You're right, the educational system won't collapse, but I think looking at the idea that students get a better impact out of their teachers who have this certification, teachers become better teachers, that's going to pay off. I mean you look at the community colleges, the university, the state colleges that have already talked. I can tell you just from discussing with admission counselors, as a high school teacher I do that a lot, I can tell you one of the things that colleges are spending money on now that they did not expect to, you know, that they didn't past is remedial coursework. How many of our students are spending their university time taking classes of things they should have gotten in high school, middle school, and elementary? The more we can add to those programs, younger, the bigger the benefit it's going to pay down the road. [AGENCY 13]

SENATOR KINTNER: Regardless, thank you for coming down today. Thank you for wanting to be the best. That means something. Thank you. [AGENCY 13]

TOM EARHART: You're very welcome. [AGENCY 13]

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SENATOR STINNER: Any questions? Thank you for being a teacher. [AGENCY 13]

TOM EARHART: Thank you very much and thank you for everything you guys do. I do know that you have some very, very difficult decisions. [AGENCY 13]

SENATOR STINNER: You may start. [AGENCY 13]

NILA JACOBSON: (Exhibit 57) Thank you. Good afternoon, Chairman Stinner and members of the Appropriations Committee. My name is Nila Jacobson, spelled N-i-l-a J-a-c-o-b-s-o-n, and I have addressed your committee previously. I currently teach Spanish at Lincoln Southwest High School, and I'm here to discuss also the implications of LB22. If we are to ensure that all students receive an excellent education that prepares them to succeed in today's world, we must systematically increase the quality of our teaching work force. In short, accomplished teaching must be the norm and not the exception. The Master Teacher Program is a pathway for Nebraska educators to maximize their students' positive outcomes. Harvard University's Strategic Data Project recently reported that students of NBCT teachers in the Los Angeles Unified School District gained roughly the equivalent of two months of additional instruction in math and one month in English and language arts compared with students taught by non-board-certified teachers. In a similar study in Gwinnett County, Georgia, students of NBCTs outperformed their non-board-certified peers with the same level of experience. I'm a National Board Certified Teacher. This process completely changed my teaching and the way that I relate to my students. The National Board model has helped me to reflect on current practices in my Spanish classroom and make adjustments to ensure all of my students reach their potential. This is very important as the diversity of needs continues to grow among our students. I am proud of the way that my students can read, write, and speak Spanish. This is directly impacted by the skills that I learned in the National Board Certification process. And my students not only use their language in the classroom but in the community as well. We must provide opportunities for educators to continue to improve their abilities. Currently, according to the National Board Certification Web site, 112 teachers have been certified in Nebraska; and we know that not all of those are currently practicing teachers. This is a sharp contrast with the South Carolina number which is 8,978. The reason is clear. In South Carolina, teachers receive \$5,000 of a stipend for each year of their certification. This translates into a potential of \$50,000 over the length of their certificate, which

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is ten years. In the past two years since the Master Teacher Program was funded by the Nebraska Legislature, 23 educators have begun the process of certification. This number is really encouraging. I urge you to consider the importance of the Master Teacher Program and its impact on students' learning across Nebraska. Please retain the funding for this important project. I would address any questions that you might have. [AGENCY 13]

SENATOR STINNER: Questions? [AGENCY 13]

SENATOR KINTNER: You know, let me just ask one question, not a hostile question either because I appreciate you going the extra mile to master your field. If South Carolina has 8,000 teachers and by any measure we have better schools than South Carolina, why is that? [AGENCY 13]

NILA JACOBSON: Well, in South Carolina this is something that is unique to their state. The National Board Certification process is a forum for teachers to increase salaries. And the school districts use the legislative support to have more teachers move up on the salary schedule through that process. I do not know the difference between South Carolina and Nebraska systems. Certainly South Carolina is a larger state and they may have to address the needs of more students. But I do also know that the people that I personally am connected to that are National Board Teachers, not only in Nebraska, are very effective. They're very, very good teachers. [AGENCY 13]

SENATOR KINTNER: Okay. I just wanted to get...I much...I look at every measure... [AGENCY 13]

NILA JACOBSON: Um-hum. [AGENCY 13]

SENATOR KINTNER: ...of Nebraska's educational system and it's far better, I think, than South Carolina. You look at graduation rates and efficiency testing and all that stuff that we do much better than them. So God help them if they didn't have that so thank you very much, appreciate it. [AGENCY 13]

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NILA JACOBSON: You're welcome. [AGENCY 13]

SENATOR STINNER: Thank you very much. [AGENCY 13]

NILA JACOBSON: Thanks for your time. [AGENCY 13]

SENATOR STINNER: Thank you and thank you for being a teacher. [AGENCY 13]

NILA JACOBSON: My pleasure. [AGENCY 13]

JAY SEARS: (Exhibit 58) Good evening, Chairman Stinner, members of the Appropriations Committee. I probably won't get through my testimony, but I know you all can read. I lost my voice last Thursday so, as a lobbyist, that's probably not the best thing to have happen, right? But as a teacher, you keep on going. For the record, my name is Jay Sears, J-a-y S-e-a-r-s, and I'm here today representing the 28,000 educator members of the Nebraska State Education Association, minus the 3 excellent teachers that just spoke to you. So whatever they've said is much more important than what the lobbyist for the teachers association has to say. But I know you're receiving e-mails from all those excellent teachers who've either certified and have received their first incentive payment from last year's appropriations. And I thank you, Senator Bolz, for carrying that appropriation. What those teachers are excited about and upset about right now is the fact that in the line item of the Governor's budget in LB22 there's a complete zeroing out of the funding for this current fiscal year. And they worry about the 23 candidates that have just started the process who've already paid their \$1,975 to do the four modules. And we're looking forward to having that reimbursed because it is a cost. So I apologize for all the e-mails you'll be getting, but it's our proud and successful teachers that are writing to you about a program they know that supports the education of the kids in our public schools and private schools. Just to kind of refresh you, the Master Teacher Program was passed clear back in 2000; and there was an appropriation at that time proposed of a million dollars to get us going. That was 17 years ago. And it wasn't funded until Senator Bolz carried an appropriations bill for the appropriation for the Master Teacher Program. It went without funds other than a few federal funds and whatever school districts could put together, many of them from their TEEOSA formula that had...two years ago had \$30 million in it for professional development and those

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who completed their master's degrees, which is no longer there either. And I guess what our educators are saying to us as an Education Association and you as senators is whenever there's a downturn in the economy, much of it lands on the backs of educators. And they're willing to accept that. They're proud people and they keep on doing what they need to do in there, but just a little bit would help them. What we're trying to build in Nebraska is even a better teacher because we know learning goes on in classrooms because of the teacher and the student and the environment in which they come from. So I'm not going to spend any more time. You can read my testimony. You'll get many more e-mails to deal with. And I know your job is not going to be easy. I appreciate all of you in that process. It's not easy to pick out winners and losers when we don't have money. But I know you'll do the best you can and we'll live with it and we'll go on and we'll still have good education in the state of Nebraska. So thank you all for your service and congratulations on your Chairmanship and too bad it landed on you, right? But, hey, we all get paid the same for doing that so. [AGENCY 13]

SENATOR STINNER: I appreciate that. Is there any questions? If not, thank you. [AGENCY 13]

JAY SEARS: Thank you very much for your service. [AGENCY 13]

SENATOR STINNER: Any other testifiers? Well, that concludes our hearings. Thank you all for being here. [AGENCY 13]