

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

CLEMENTS: Thank you. I'm Rob Clements from Elmwood, I'm in District 2 which is Cass County, and parts of Sarpy, and Otoe.

McDONNELL: Mike McDonnell, LD5, South Omaha.

HILKEMANN: Robert Hilkemann, District 4, West Omaha.

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

BOLZ: Kate Bolz, District 29.

WISHART: Anna Wishart, District 27 in west Lincoln.

DORN: Myron Dorn, District 30, Gage County in southeast Lancaster.

STINNER: Assisting the committee today is Brittany Bohlmeier, our committee clerk. Our page for today is Cadet Fowler, he is studying film studies at the University of Nebraska-Lincoln. At each entrance you will find a green testifier sheet. If you are planning to testify today, please fill out a sign-in sheet and

hand it to the committee clerk when you come up to testify. 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 hearing. To better facilitate today's proceeding, I ask that you abide by the following: please silence or turn off your cell phones, move to reserved seats when you are ready to testify. Order of testimony is introducers, proponents, opponents, neutral, closing. We would ask also as you come up to spell your first and last name for the record before you testify. Be concise. It is my request that you limit your testimony to five minutes. Written materials may be distributed to committee members as exhibits only while testimony is being offered, hand them to the page for distribution to the committee and staff when you come up to testify. We will need 12 copies. If you have written testimony but do not have 12 copies, please raise your hand now so that the page can make copies for you. With that, we will begin today's hearings with Supreme Court, Agency 5. Good afternoon.

MIKE HEAVICAN: Good afternoon, Mr. Chairman, and thank you. Good afternoon, members of the Appropriations Committee. My name is Mike Heavican, that is spelled H-e-a-v-i-c-a-n. I'm the Chief Justice of the Nebraska Supreme Court testifying on the committee's preliminary recommendations for the next biennium. My remarks are divided into three parts: a thank you, a proposal, and a future budget concern. First, the thank you, I appreciate that you have committed to funding the fifth and final year of justice reinvestment. The Judicial Branch is doing its part and more to successfully implement the goals of LB605. We have done this despite the challenges of a probation population which increased above the Council of State Governments' projections, post-release supervision clients with few or no services received during incarceration, and increased judicial workload from additional post-release required hearings. I also appreciate that the committee has committed to funding the fiscal impact of LB259. LB259 changes how the courts work with persons that have a limited ability to pay fines and fees. The bill was signed into law in 2017, but those portions with a fiscal impact do not become effective until July 1 of this year. Your preliminary recommendation contains the nonjudicial resources to implement LB259. Finally, I would like to thank the committee for including Probation in service-

provider rate increases. As you know, juvenile probation in particular is a relative newcomer to providing services keeping our rates consistent with those of the Department of Health and Human Services has been a challenge. Becoming an ongoing participant in the provider rate increase process is very important for the continued success of juvenile justice reform. As I mentioned, the second portion of my remarks is a proposal with two major requests. The first request is to adjust the base appropriation in the personal services limitation of several budget programs. This would be accomplished by transferring two and a half million dollars from Program 427, which is Juvenile Probation, primarily to Program 52, Court Operations. This will allow us to resolve a budget sustainability issue and fund items not included in the committee's preliminary recommendations, both without additional General Fund dollars. The second part of the proposal is to give back twelve million dollars from last year's carryover appropriation. In response to all the uncertainty in recent years declining General Fund receipts and multiple budget reductions the courts and probation have implemented new programs and services very cautiously. The result has been that carryover appropriation has increased to a level beyond what is needed for the remainder of this fiscal year. Hence, we will-- we intend to return twelve million

dollars to the state's General Fund. This proposal would first adjust base appropriations. To explain this request requires review of our recent budget history. The Judicial Branch has a long-standing request before this committee related to a much needed salary increase for Judicial Branch employees. Six years ago, I testified before this committee that salaries were lagging behind the labor market of other political subdivisions. The committee expressed interest in this issue and responded by-- and we responded by contracting with the National Center for State Courts to conduct a salary analysis. That analysis recommended salary increases for many court and probation job classifications. In 2014, this committee approved an increase in PSL so that available Judicial Branch funds could be used for a salary increase. This was a commitment made in addition to regular across-the-board salary increases given to state employees. It should be noted that a follow-up study was done in 2016 which found that salaries for certain job classifications were still lagging behind the labor market. However, there are two pieces of unfinished business from the 2014 decision. First, there was a sufficient-- there was insufficient funding to get-- or there was sufficient funding to give only 75 percent of the survey's recommendations. Since that time, we have consistently requested funding to give the remaining 25 percent increase.

Second, to sustain the increase on an ongoing basis the committee has chosen more than once to give the Judicial Branch authority to carry over unexpended funds between each biennium rather than in-- increasing our base appropriation. However, relying on carryover funds as you know is not a sustainable-- is not sustainable long- term. Moving a portion of the base appropriation from Program 437 would provide funding to implement the remaining 25 percent of the original National Center salary, salary recommendations. It would also make it possible to finally stop relying on carryover funds to sustain the 2014 increase. Next you may recall that in this year's State of the Judiciary Address, I commend-- commented that, quote, we completely exhausted our allocated resources for problem-solving courts and had to move some probation, probation dollars, unquote. This proposal also solves that issue by adjusting the base appropriation for Program 420, Problem- Solving Courts, to more accurately a-- align probation and problem-solving court expenditures. Again this would be done without increasing General Fund appropriations. It should be noted that this proposal include-- includes a transfer of PSL to several budget programs. It also includes a request to continue, as in past budget bills, the ability to transfer General Fund appropriations between budget programs and estimated cash fund

authority. Second part of our proposal again is a request to reduce our carryover appropriation from June 30, 2018, by twelve million dollars. This will come primarily from Program 437, Juvenile Probation. As you are aware we have proposed it-- we had proposed a five million dollar reduction which was based on only a few months of expenditure data. Two-thirds of the fiscal year is now complete. The projections were again reviewed and we have concluded that a greater reduction is possible. Will Juvenile Probation still be, still be effective after transferring base appropriations and reducing carryover? Yes. Our proposal provides sufficient funding not only for current operations but includes funds to continue development of several initiatives to address gaps in services, for example, additional alternatives to detention, service capacity building in Western Nebraska, and expedited kinship placement. How is this possible? To begin with the juvenile population served by probation has decreased approximately 17 percent from its highest level in calendar year 2014. More importantly, Probation's efforts to provide appropriate supervision and services to youth has produced results. Since calendar year 2015, the number of youth in nondetention out-of-home placements has dis-- decreased approximately 13 percent. And from detention it, it has decreased approximately 22 percent. These are two examples of

probation programs and services which have combined to decrease expenditures allowing the remaining appropriation to be used for this proposal and to develop additional needed services. As I stated, my last remarks refer to a future budget concern. Your preliminary recommendation does not include our request for \$350,000 in General Funds for Judicial Branch education. The Supreme Court education cash fund was created in 2003 to provide education and training for judges and all court staff. However, the demand for education and training has increased significantly largely because of statutory changes such as justice reinvestment so that the education cash fund is used almost exclusively for judges' education. As a result, more pressure is placed on our General Fund appropriation to cover the cost of required training for court and probation staff. Revenue from the court fee created with this cash fund has not kept pace with demand due in part to no increase in the fee since 2003. Unfortunately, this is a trend we are seeing in several Judicial Branch cash funds. As a result, there is increasing concern as to whether the education of other cash funds have the long-term ability to sustain, sustain the activities for which they were created. You will continue to see similar requests for General Funds to offset declining cash fund revenue. In summary, as I also stated in this year's State of

the Judiciary, Judiciary Address you will find there are no better spent tax dollars than the tax dollars you allocate to the courts and probation. We will spend wisely the dollars you have allocated to us, but ask that you consider long-term solutions to revenue, revenue challenges. Finally, we ask for approval of our proposals which include a \$2.5 million reduction in the base appropriation for Juvenile Probation and a transfer of that reduction to other budget programs namely Court Operations and Problem-Solving Courts. Funding of the final 25 percent of the 2013 salary survey recommendations and sustained funding for these salary increases given in 2014 and a twelve million dollar reduction in the June 30, 2018 carryover appropriation. Altogether, this proposal will realign our base appropriation so that past budget issues and reliance on carryover funding can finally be resolved. It will give the Judicial Branch opportunity to go forward with successful problem-solving courts and juvenile justice initiatives, once again, without any additional General Fund dollars. Thank you, and I would be happy to ask-- answer any questions you might have.

STINNER: Thank you. Questions? Senator Bolz.

BOLZ: Thanks, Chief. Glad to see you again. A couple of questions, and thanks for the good news.

MIKE HEAVICAN: I, I hope you like it.

BOLZ: I guess one, one question. But where I want to start is, can you-- it sounds to me as though part of the reason that we have savings in the juvenile probation is because things are working effectively because things are, are working as they should and we're using more of those detention alternatives. Can, can you tell me just a little bit more about those successes so that we can be assured that, that that savings is based on a how we're administering during the program?

MIKE HEAVICAN: Well, our big emphasis as you know on those programs is to have fewer young people removed from their homes. Fewer young people put in detention and fewer young people placed in alternative housing kinds of situations. So with that emphasis we had a, a great grant from, from the Sherwood Foundation to set up programs across the state so that emergency treatment, if you will, psychological, and so forth can be brought to families that are in crisis situations. So if a kid is having a crisis of some kind, typically in the past and still some today the immediate response is to put the kid in jail. And

the idea behind the grants that we got was for help to come to the home and to diffuse that situation in the home and not remove the child if at all possible or if necessary not put the kid in jail but put him in some alternative placement of some kind. That has been a successful program for us simply reeducating our probation staff and our judges that removing a kid from their home is not always the best alternative. And finding more fos-- foster care alternatives and so forth. All of those things have been successful for us and you can see that, that they are successful in your budget or in everybody's budget here. Also, I would have to say that we owe thanks to the Department of Health and Human Services. They have been very cooperative in getting some of our most difficult long-term out-of-home placements handled by Medicaid dollars rather than General Fund dollars and that has been very helpful also.

BOLZ: Well, that's, that's great new, and thank you for the hard work and success. If Senator Vargas would here-- was here he would probably connect the dots to that, that work being successful because there is capacity for detention alternatives.

MIKE HEAVICAN: Um-hum.

BOLZ: It seems to me like even though some progress has been, been made there's probably still room for conversation around building up capacity and alternatives to detention for you.

MIKE HEAVICAN: Absolutely, yes.

BOLZ: OK, well that's, that's my plug for Senator Vargas' work.

MIKE HEAVICAN: And, and he is, he's on our,--

BOLZ: Two more questions.

MIKE HEAVICAN: --he's on our JDAI Committee and that is essentially the committee that works on efforts to not place as many kids in detention. Douglas County over the last five years has had a dramatic reduction in the number of kids in detention. So is Lancaster County and a number of other counties are working in this program: Dodge County, I believe, Gage County, and Sarpy County. And I think Scotts Bluff County also. But it, it definitely works.

BOLZ: I, I think that's-- it's helpful to talk about as we consider Senator Vargas' bill, too. I've got just a couple more questions and I'll clear them out and then I'll be done. The, the next question I wanted to ask about is, so with the additional funding capacity that you're bringing to us, you're

asking that we circle back to the salary survey. I hear you. I've, I've heard you the last four years that I'm glad that maybe there's an opportunity to finally close that circle. But the other piece around the problem-solving courts, the, the first ask is I hear you making is funding the staffing to, to appropriately staff what you're already doing. Correct?

MIKE HEAVICAN: Correct.

BOLZ: And the next question is, is there room, is there interest, is there opportunity to do additional work in problem-solving courts? One of the reasons that I ask that is that the LR127 committee which is looking at the corrections overcrowding emergency made problem-solving courts a recommendation in their report and I'm wondering if from the Judicial Branch there's interest and opportunity there as well?

MIKE HEAVICAN: There certainly is interest. We did not ask for any expansion of problem-solving courts in our budget request. What we asked for you is simply, as you noted, is to fund what we're doing right now because last-- in the last biennium we borrowed from probation funds. But the potential-- big potential areas are mental health courts. And, again, where these would be most effective is where you have the largest concentrated-- or

concentration of folks in the court system and that would be in Douglas, Lancaster, Sarpy, and Hall Counties. And we have a very good problem-solving committee. They work on these issues all the time. They've already been working on standards for mental health courts. But we have not-- we do not have any mental health courts in Nebraska at this point in time. Other possibilities are DUI courts, we have only one DUI court and that is in Scottsbluff, Nebraska. We have not replicated that anywhere else. And, of course, reentry courts. We have a reentry court now in Sarpy County and we have one in Grand Island, and both of those have great potential. Of course, they would be dealing with people coming out of the penitentiary system, but all of those are potential items. It is costly to set up a problem-solving court, not as costly as it is to incarcerate someone. But to get one started, we estimate a fully functional problem-solving court is about \$650,000 a year and that includes about \$200,000 of services to be provided. That does not include judicial resources. Our judges in Douglas and Lancaster County in particular are maxed out. They cannot do any more problem-solving courts unless we add some kind of judicial resources to those particular counties.

BOLZ: OK, that's, that's really helpful, and I see Eric and Corey over your shoulder. I may connect with the two of them and see if it can't further flush out those ideas.

MIKE HEAVICAN: They are experts.

BOLZ: They're nodding their heads at me, so I'll take that as a good sign. My, my last question is just-- I-- it was brought to my attention that maybe we haven't been fully spending the appropriation for the Office of the Public Guardian, and I just wondered if you could speak to that a little bit?

MIKE HEAVICAN: The Office of Public Guardian has an-- I'll exaggerate a bit here, but they have an infinite possibility to be funded for more and more guardian positions. The demand for guardians and conservators is huge in this state and it is growing because so many of us are getting to the age where we're going to need guardians or conservators. So Michelle Chaffee, who runs that program, is fully aware of this. We've set up a program to ration the number of guardians that we have at the moment, but the demand from our judges is very great in that area. I should note that just flooding alone we've had to move-- how many?

_____ : Nineteen [INAUDIBLE].

MIKE HEAVICAN: We've had to move 19 people that we serve as guardians for those people and had to find emergency places to, to place those people, so our guardians clean out apartments, they move people, they do all kinds of things. And I cannot even tell you the difficult situations that they have to deal with, so the possibilities for increasing the number of, of people acting as guardians for us is great.

BOLZ: I-- that's all helpful context and I admire Dr. Chaffee and their work, too. I-- I'm not sure you answered the question which is with all that demand I would expect their budget to be that they would fully expend everything appropriated to them, and the commentary I received was that maybe that's not the case.

MIKE HEAVICAN: To the best of my knowledge they spend everything appropriated to them. I would be shocked if there's any money left there.

BOLZ: OK.

MIKE HEAVICAN: And a--

BOLZ: OK. Well, maybe I'll circle up with the, the fiscal analyst and the, and the source of that comment and make sure that that's--

MIKE HEAVICAN: Um-hum.

BOLZ: --that we, we square up anything that's not as,--

MIKE HEAVICAN: Right.

BOLZ: --as you expect it to be. OK, thanks for your patience committee, that's-- those were my questions.

STINNER: Senator Wishart.

WISHART: Well, Senator Clements wanted to go.

STINNER: Go ahead, Senator.

CLEMENTS: Thank you, Chairman Stinner. Thank you, Chief Justice.

MIKE HEAVICAN: Um-hum.

CLEMENTS: Regarding the salary increase request and the salary analysis, was that an overall salary increase you're wanting or are there particular positions that we're targeting?

MIKE HEAVICAN: There may be a few positions that did not get increases. It was-- the, the survey was done-- you know, job classification by job classification so there were a few rare instances where we were competitive but mostly we were not. That's-- the initial survey was done in 2014. That's a long time ago. We are further behind now and this is especially difficult for us in Douglas, and Lancaster, and Sarpy counties where we cannot compete with the salaries that are paid to other people in those courthouses. So our biggest concentration of employees is in the county court in Douglas County. We just get those people trained on how to use the computer system and so forth and they are hired away by particularly the Douglas County Clerk of the District Court which is a county office but uses the same computer system and so forth. But they are hired away also by other county offices. That is true, as I said, in Lancaster and Sarpy Counties, but it is also true in places like Grand Island and Scottsbluff and North Platte and even smaller counties. Not always, sometimes we're more competitive, but largely we are not.

CLEMENTS: Thank you.

MIKE HEAVICAN: Um-hum.

STINNER: Senator Wishart.

WISHART: Well, thank you so much for being here today and for the work you do. So I'm-- I want to talk broadly about the state of emergency that the state could be facing if we don't address our overcrowding issues. What role do you see the courts playing in, in helping us address this 2020 date that, that we're-- we all have in our minds?

MIKE HEAVICAN: And, and you're talking about prison overcrowding?

WISHART: Yes.

MIKE HEAVICAN: Well, obviously the alternative to incarceration is Community Corrections in Nebraska, that is probation. I do not think you have other alternatives. So we have fully and vigorously participated in LB605 and its amendments and so forth. We, we can increase capacity in probation. I don't know how many more individuals that are actually going to be eligible for probation programs. I mean, that's a-- it's a very complex system and you have to educate everybody in the process. That includes bringing along prosecutors, judges, and so forth. We can do the judge education but I don't know that we can-- we don't do the prosecutor side of things. We can increase problem-

solving courts. We've already talked about that. Problem-solving courts try to handle really high risk individuals who are likely to reoffend if they're not properly supervised and so forth, and that the dollar cost of doing problem-solving courts is considerably better than incarcerating somebody. But again, where-- those are gonna be most effective in your urban areas where you really have the base of enough people for-- to make it worth the time of a judge to concentrate on those kinds of things. It is-- those are very judge intensive-- time intensive labors. We ultimately have to look at our judicial resources in those urban districts. And like I said our judges are maxed out in Douglas, Lancaster, and probably Hall Counties.

WISHART: In, in terms of the problem-solving courts-- because I do see this as, as a way where we can stop the people from entering into the system.

MIKE HEAVICAN: Um-hum.

WISHART: And so I think it's, it's a better investment.

MIKE HEAVICAN: Um-hum.

WISHART: And it's also just, I think, makes more ethical sense in terms of helping people before they, they go through the

incarceration process. So with problem-solving courts, do you typically deal with people who would be going to, to jail or, or, or do we have people who otherwise would be going to-- into our more maximum security facilities?

MIKE HEAVICAN: Oh, absolutely. Both, but,--

WISHART: OK.

MIKE HEAVICAN: --absolutely, people who would otherwise go to the penitentiary system. Yes, very definitely.

WISHART: OK. So what is the admissions process for somebody who would go through a problem-solving court?

MIKE HEAVICAN: Well, that has a lot to do with prosecutors, defense attorneys kind of coming to an agreement that they, they asked to have the person placed in a problem-solving court. A judge has something to do with that, too. But initially prosecutor has to agree with that.

WISHART: Yeah. You know, I'm trying to figure out from, from my position on Appropriations. You know, I really want to know what it is that we can do, and what the, what the dollar amount is attached to that, that we can provide to both the Sup-- the Supreme Court in our judicial system but then also to

corrections so that in 2020 we've at least made our best effort in, in addressing a prison overcrowding. So I'm hearing problem-solving courts, \$650,000 per court?

MIKE HEAVICAN: Um-hum.

WISHART: Per court. So from your perspective--

MIKE HEAVICAN: And that doesn't include judges.

WISHART: And that doesn't include judges.

MIKE HEAVICAN: Right.

WISHART: So have you-- has your staff in your office looked at what, what it would cost to, to put in place the kind of mental health courts, additional drug courts that would be needed to significantly slow the amount of people that are entering our, our prison system?

MIKE HEAVICAN: We can give you those kinds of numbers--

WISHART: OK.

MIKE HEAVICAN: --and certainly the number we gave you on \$650,000 has something to do with that.

WISHART: Yeah.

MIKE HEAVICAN: Now I would suggest that you also look at a probation-- at probation alternatives which are even less expensive than problem-solving courts. And we have high risk programs for probationers including our SSAS probation alternative which is-- which concentrates on people with substance abuse issues who have very high risk to reoffend. And if you haven't, if you haven't figured this out yet, substance abuse and mental health drive what is going on in our criminal justice system hugely. They are often intertwined.

WISHART: And-- you know, I'll talk more into the details with, with your office after this because I do think you've done really good work with the investments and responsibilities we've given. And, and what, what I'm wondering is if, if we as a committee would step up and as a Legislature and, and fund the programs that you know would work in helping address our overcrowding system, would we be able to ramp that up with the kind of investment this year where we could see a significant dent in addressing the overcrowding by that state of-- that date of emergency?

MIKE HEAVICAN: We would be happy to work with you on that.

WISHART: So you see that, that could be a possibility that with the time frame we're dealing with an investment could make a big impact on that?

MIKE HEAVICAN: Seems to me that was the idea behind LB605.

WISHART: Yeah.

MIKE HEAVICAN: Yeah.

WISHART: OK, thank you.

MIKE HEAVICAN: The other thing as long as you've got me here and you-- the supervision coming out of jails and particularly out of the penitentiary is really important. The idea behind that is to cut down on recidivism, otherwise these people are going to fail again and they are going to be coming into the criminal justice system in the next couple of years. And doing that supervision is something that we ramped up to do. We are doing it but it is important that that be sustained or you're gonna see these people coming back. Again, if you're talking about long-term supervision and I would say the same thing about juvenile justice. The way we approach juvenile justice is so that these young people are not going to be the adult-- the next adult criminals. And that's why it's important to do juvenile

justice correctly. And that's why, I think, it is significant that the number of people in out-of-home detention has gone down, the number of people in our juvenile justice system has gone down. And again, that should pay off, not just now, but it should pay off later on to.

STINNER: Additional questions? Senator Erdman.

ERDMAN: Thank you, Senator Stinner. Thank you for coming, Chief Justice. I, I noticed in your comments you made a comment about additional alternatives to detention and you said the service capacity building in western Nebraska is one of those issues.

MIKE HEAVICAN: Um-hum.

ERDMAN: Can you elaborate on that a bit?

MIKE HEAVICAN: Right, particularly in western Nebraska, we don't-- we have difficulty finding foster homes for kids. We have difficulty getting service providers the substance abuse and mental health treatment that these kids have to have. There just, as you know, there just aren't a lot of those services out there. And it is a chore to get any-- everybody's afraid that we are not gonna sustain funding for them so they are afraid to make the investment that it would take in dollars. For example,

to have a group home in North Platte, because they don't think we will be able to pay them five years from now or ten years from now.

ERDMAN: Isn't there a group of counties out there talking about doing something in that regard?

MIKE HEAVICAN: I'm not, I'm not the expert on this, but certainly in regard to detention in the past year or so Scottsbluff has been sending kids across the state to be detained for very short periods of time in Sarpy County and perhaps in other places, too. That is not a good situation. And I think that there certainly ought to be a facility in the western part of the state that can handle a small-- it doesn't have to be a large facility, just a small number of kids who are in emergency kinds of situations or enough to cover that sort of thing.

ERDMAN: We've had several instances where some of our counties have transported youth to Madison,--

MIKE HEAVICAN: Yes, probably.

ERDMAN: --and the next day or two go back and pick them up--

MIKE HEAVICAN: Absolutely.

ERDMAN: --and bring them back again.

MIKE HEAVICAN: Yes.

ERDMAN: And that's a six-, seven-hour trip each way, and it is a difficult thing.

MIKE HEAVICAN: It is difficult and it doesn't make any common sense.

ERDMAN: All right, thank you.

STINNER: And thank you for that [INAUDIBLE]. [LAUGHTER] Senator Dorn.

DORN: Thank you, Chairman Stinner. And thank you very much for coming today.

MIKE HEAVICAN: Um-hum.

DORN: Definitely some-- I, I-- very, very helpful information that you've given today. With the, with the juvenile probation system-- very intrigued by Senator Bolz's questions and, and some of your comments. But, I guess, is, is part of the savings there because of the incarceration or of those juvenile that costly, is that costing more than others? Is that why we're seeing the savings or is it that we're-- they've gone from there

to probation and now we're having the end result which is the at home basically, and, and I mean in that-- that's definitely gonna be a lot cheaper than in jail?

MIKE HEAVICAN: All of, all of the above. When we took over juvenile justice we inherited-- and still have a number of very, very difficult cases of kids who are aggressive. They are-- they have mental health problems, and they are basically long-term institutionalized individuals. As I said, the Department of Health and Human Services has been very cooperative with us in a number of those cases which cost a whole lot of money in, in getting those appropriately funded by Medicaid. But also, as you mentioned, the number of kids coming into the system has gone down. The number of, of people we are actually incarcerating has gone down. And, as you mentioned, we are treating more kids in their homes. And also the kids that we do have at out-of-home placement, we are trying to reduce the amount of time that they are in out-of-home placement. That's a little bit more difficult to measure, but we think that is gone down also. So it costs a lot of money to put somebody in jail. It costs a lot of money to put somebody in any kind of an out-of-home placement.

DORN: Yep, one more question.

STINNER: Go ahead, Senator.

DORN: And this, this is a little bit on the line of-- where I thought Senator Wishart was going with her questions, and on July of 2020, we are faced with a deadline or whatever. One of the things that indirectly we've heard-- don't know how true it is, but-- because we don't get to always hear Judiciary Committee or the plans they're coming up with, but is that a good share of those will go out on probation in July of 2020? And then you, you talked about the fact that they don't just get to go from day one of jail to day two of probation or whatever and the whole part of that system. Could you-- I guess, I don't know-- I, I don't want you to enlighten us because I don't-- I hope that's not the problem solving we're gonna have. But I don't-- I mean, we hear some of those things.

MIKE HEAVICAN: Well, certainly there-- we anticipate and have anticipated this in our budget that there are gonna be more people coming out of the institution that are gonna have to be supervised by probation, by our reentry folks. And we've tried to build that system as, as best as we possibly can. So we are anticipating, we are anticipating at least some of those increases.

STINNER: Additional questions? However, if you've got 700 all of a sudden thrust upon you that would overload the system I would think.

MIKE HEAVICAN: That would overload the system, yes.

STINNER: Well, thank you for being here. I, I always appreciate your comments. One of the things I was trying to get my arms around is the salary survey and completing 100 percent of it. We have funded 75 percent for a couple years. Have you seen--

MIKE HEAVICAN: With carry over.

STINNER: We've-- yeah, exactly. And I want to thank you for [INAUDIBLE] up your budget, too, because it's been an issue and we've talked about it. So thank you very much. Have you seen a decrease in turnover rates since we increased debt? What is the turnover rate today?

MIKE HEAVICAN: That's a, that's a little bit hard to measure. But I have to think that we have in particularly-- we keep track of that in probation. I think I can get better numbers to you, but our turnover rate for our frontline probation people I think has stabilized quite a lot. Again, our biggest competition for our probation officers is on our borders. So we have problems

with Scottsbluff. We have problems with Iowa. And we have problems with the federal courts taking our probation officers, but we're more competitive than we once were.

STINNER: OK. I was just looking at the total funding would be across for nonjudge positions would be a million seven sixty five and one point eight million so we're talking about three point five for the biennium--

MIKE HEAVICAN: Um-hum.

STINNER: --of additional salaries to fulfill that requirement. I'd really like to see kind of a turnover report. If we've got a turnover problem, that's the first indication we're not paying enough,--

MIKE HEAVICAN: Absolutely.

STINNER: --and so I just need to get that in my mind.

MIKE HEAVICAN: Um-hum. We can get you some numbers on that.

STINNER: The training side of things, you're requesting \$350,000--

MIKE HEAVICAN: Um-hum.

STINNER: --of General Funds to go into a cash fund. And I've kind of looked at your cash fund, it is decreasing, it's--

MIKE HEAVICAN: Um-hum.

STINNER: Are, are-- what level are we going to continue to have to spend for education of judges? Because you're getting about \$300,000 in from court fees.

MIKE HEAVICAN: Um-hum.

STINNER: Are we gonna really spend \$650,000 a year on training?

MIKE HEAVICAN: Well, we're gonna spend very--

STINNER: It's my simple math, that \$650,000 a year [INAUDIBLE].

MIKE HEAVICAN: --we're gonna spend [INAUDIBLE] on that because we're not training just judges there, we're training all of the probation officers and all of the court employees which is primarily clerks of the county court around the state of Nebraska, but also the court reporters and various other people. And education may sound frivolous, but that's a whole part of making sure that the things we do we do well. And just LB605, for example, that was a revolutionary change in the way courts, judges, and staff people, probation approaches how they do their

job. So you can't just assume that, that anybody is gonna pick up those kinds of changes by osmosis. They have to be trained and, and that's particularly important. All of the things we talked about here today about alternatives to incarceration, if we don't have good probation officers those programs are gonna fail. And those defendant, prisoner types, they're gonna end up back in the courts and it's just gonna be a revolving door. So if you're gonna do this, if you're gonna do it in alternatives to incarceration, and I know many of you committed to this when you voted for LB605, it has to be done right. And that's why education is, is an important component in, in what we do with the, with the courts.

STINNER: OK, well I--

MIKE HEAVICAN: So it, it certainly takes more than \$300,000.

STINNER: I'll, I'll give you that. I just didn't know if it was 250 you could get by with or 200 or something just ramps up. Appropriations dol-- they're precious.

_____: Right now, Senator, it's pushing about one point nine million on training for all probation, court, and, and judges. That comes out of--

STINNER: How much comes out of this though?

_____ : We, we will expend that \$300,000 in two year-- project that that will be gone, will be depleted within two years based on its current trend, the trend that we're doing on our study. And we're gonna turn over, over a third of our bench in the next four to five years of judges. And so just even judicial training is gonna be on the increase as well.

STINNER: I should of probably had him come up to the mike and identify himself so we could get it on the record].

MIKE HEAVICAN: That's exactly right. He knows what he's talking about.

STINNER: Problem-solving courts-- I think we've talked quite a little bit about that. In order to have an impact, the problem-solving courts has to ramp up and then we feel the impact. Tell me what the timing is of that? Say that we would allocate dollars to you to do more problem solving-- so you have to figure out on Douglas County, you can't do anymore because you don't have enough judges. The rest of the state, possibly a few more courts, but it takes some time for training-- ramping up time, and then moving people to those courts. So we're not gonna

see an immediate effect of-- and I would guess I'm reflected on
2020 as the--

MIKE HEAVICAN: Um-hum, 2020 is coming very soon. You can have
some of those courts in operation by 2020, this is 2019. You're
not gonna see a lot of people diverted-- you know, by 2020.

STINNER: I guess what I was getting at is even if we give you
all the money it wouldn't have been-- the timing isn't right to
ramp up for that date.

MIKE HEAVICAN: Well, no, but 2020 is followed by 2021 and 2022.
But if you don't--

STINNER: No, I, I--

MIKE HEAVICAN: If, if you anticipate the problem-solving courts
can help alleviate this--

STINNER: It's not an immediate solution, it's one that takes a
little bit of time to kick in.

MIKE HEAVICAN: That is true.

STINNER: OK. Additional questions? Senator Wishart.

WISHART: So I sat on the sidelines as a staffer when LB605 was going through, and it was, it was really exciting to watch the Legislature do that, and, and it took a lot of people at the table. What are-- from your perspective, what have you seen that has worked with LB605? And what are, what are the problems? Because what, what I-- my understanding is that while we may be seeing some successes in probation in the work you're doing there, we are still not seeing the, the level that we need to in terms of addressing overcrowding within our corrections system. And so what, what is-- what has not worked out of LB605? First of all, what, what has worked, so that we know what we should continue to support?

MIKE HEAVICAN: Well I can really only speak to our part of it, which is probation. So what do I think is working? I think that we have taken a lot more people onto probation, we have shifted probation from spending our resources or more of our resources on lower-risk people and we move that to the higher-risk people. I think that's good, and I think that that is working. I think reentry supervision is working also. I think one of the things that we all need to realize is the criminal justice system is very complex. And when LB605 was put in place not everybody was brought along with a change in philosophy. And I think that,

that process has to be continued on a constant basis. Defense attorneys have to understand this. Prosecutors have to understand this. Judges have to understand this. Probation officers have to understand this. The Department of Corrections has to understand this, and parole has to understand this. And that means you sort of have to have an ongoing education session with people. And I don't mean that in necessarily a formal way, but you have to constantly understand what their problems are and what their concerns are and hugely their concerns about public safety. So everybody has to be, everybody has to be convinced that people can be put on probation and that the public can still be protected. And that takes, that takes persistence. You can't just pass the bill and think everybody has bought into this, and, and, and, and all is well and good. We have judges that don't like the program. We have prosecutors who don't like the program. We have law enforcement people who don't like the program. And they have to be shown, and it takes time that it's actually gonna work. But that means this gets back to the education of our probation officers and so forth because that's, that's a difficult kind of thing and it's a complex thing and it's a long-range thing.

WISHART: So while we're seeing a movement towards encouraging pro-- the, the route of probation,--

MIKE HEAVICAN: Um-hum.

WISHART: --are, are we also at the same time seeing-- because I'm just wondering why we're also seeing a continued influx into our correctional system. Are we seeing-- are, are, are there some judges that are, that are giving longer sentences than they were before? What is it, what is it that is-- I'm just thinking the front end. Why are we still continuing to see an increase in the amount of people that are entering our corrections system?

MIKE HEAVICAN: Well, to the best of my knowledge there have been increases in criminal filings.

WISHART: OK. OK.

MIKE HEAVICAN: So yeah.

WISHART: Yeah.

MIKE HEAVICAN: But all of those things can be, I don't have numbers in front of me today, but all those-- we can, we sit down. Somebody can do an analysis of whether or not there were

more filings and, and so forth. We know and, and I talked to you today about we know there are more people on probation.

WISHART: Yeah, yeah. Well, thank you.

MIKE HEAVICAN: Yep.

STINNER: Questions? Seeing none, thank you.

MIKE HEAVICAN: Thank you very much.

_____ : Thank you.

STINNER: Any additional proponents? Good afternoon.

ELIZABETH NEELEY: Good afternoon, Chairman Stinner and members of the Appropriations Committee. My name is Elizabeth Neeley, E-l-i-z-a-b-e-t-h N-e-e-l-e-y. I'm the executive director of the Nebraska State Bar Association and I am here today in support of the Chief Justice's testimony. I think you all know the Judicial Branch has worked hard to be good stewards of its resources. They've used technology to bring better service and more efficiency to the system and it's imperative that an appropriate level of funding be made available to enable the judiciary to manage its functions properly and provide meaningful access to the citizens of Nebraska. So we thank you for your support of

their budget and for justice reinvestment in particular. Today,

I urge your strong consideration on two additional issues.

First, maintaining an adequate level of judicial resources is essential to effectively manage and resolve court business while providing meaningful access to the courts for the citizens of Nebraska. The primary tool by which states measure the supply and demand of judicial resources is a workload assessment.

Nebraska's assessment has not been updated in more than ten years. In that time we've experienced a significant increase in the number of self-represented litigants and cases requiring a court interpreter. The current case weights do not take into account the additional time it takes in a case where one or both parties are representing themselves and in cases that require a language interpreter. The current case weights also do not take into account judicial time required to effectively operate our state's problem-solving courts. In the past ten years we've made some changes to technology making us more efficient in some respects and where this body saw it appropriate, the court has also made changes in how certain cases are handled sometimes requiring additional hearings, etcetera. In short, a lot has changed in the last ten years and in order to make an accurate and informed decisions about the allocation of judicial resources moving forward the judicial workload assessment needs

to be updated. Second, as a state we must continue to invest in problem-solving courts. As we've talked about today most of our Nebraska problem-solving courts or drug courts providing substance abuse treatment, drug testing, job training, support group meetings and other appropriate rehabilitative efforts coupled with frequent judicial oversight hearings. With your support, veterans courts, and reentry courts have also been established. Data indicate that problem solving courts are not only effective they save money. As the Chief Justice has indicated in his State of the Judiciary, it costs approximately 38,627 taxpayer dollars per year to warehouse a prisoner in our state's prison system. It costs \$2,865 per year to fund a defendant's participation in our problem-solving courts. The Legislature has heard testimony that Nebraska's jails are heavily impacted by incarcerated individuals who have mental illness that greatly influence their criminal behavior and the state needs to continue to support, support and expand our problem-solving courts particularly mental health courts. That can only happen with your support, and we ask for your continued leadership in this regard. In closing, I know that the Appropriations Committee has some tough decisions to make in relation to the budget, and we thank you for your work on behalf of the citizens of Nebraska.

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

ELIZABETH NEELEY: Thank you.

STINNER: Any additional proponents? Seeing none, any opponents?
Seeing none, anybody in the neutral capacity? Seeing none, that
concludes our hearing on Agency 5.