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Appropriations Committee
March 10, 2015

[AGENCY 46]

SENATOR MELLO: Are there any other testifiers in here on Agency 15, the Nebraska Board of Parole? Seeing none, that will close today's public hearing on Agency 15, the Nebraska Board of Parole, and take us to our last public hearing of the day for state agencies, Agency 46, the Department of Correctional Services. [AGENCY 15 AGENCY 46]

SCOTT FRAKES: (Exhibit 1) Good afternoon, Chairman Mello, members of the Appropriations Committee. My name is Scott Frakes, F-r-a-k-e-s. I'm the director of the Nebraska Department of Correctional Services. I'm here to testify on both the deficit and the agency's biennium budget request. Inmate admissions have continued to increase, resulting in an average daily population of 5,340 inmates. As of March 8, 2015, 168 inmates were housed in county jails in Nebraska helping to reduce the NDCS facility population. The previous appropriation did not include staffing for this program, and the deficit and biennium budget request include funding for staff to operate the program. NDCS is requesting funding to expand this program by 50 additional inmates in its biennium budget request. The use of jail beds to house state inmates provides temporary relief to our overcrowding issues, but it is not a permanent solution. At this time I'm asking for funding through the next biennium. This will provide a transition period for the reforms under consideration to take effect. In addition to the proposed reforms, more work needs to be done to establish the true capacity of our system, including space utilization, program needs, and inmate classification levels. I'm reviewing a plan to repurpose some existing beds and consolidate residential, inpatient mental health treatment for male inmates. The proposal increases the number of high-security, residential mental health treatment beds at LCC, moves us towards greater transitional services for mentally ill inmates, and eliminates the need for residential mental health services at TSCI, Tecumseh. Repurposing of beds will allow consolidation of protective custody housing at TSCI and LCC, freeing up higher security general population beds at NSP, the penitentiary. These changes will help reduce

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crowding at the Diagnostic and Evaluation Center, DEC, and facilitate the transitional use of jail beds. NDSC is asking the Appropriations Committee to fund the county jail program for the upcoming biennium, as indicated below. Moving down, there are not enough authorized FTE to fill all custody and unit posts that must be staffed to meet minimum staffing requirements. The recommended FTE increase in the coming biennium will help address this issue. From January 1, 2014, to December 31, 2014, a total of 244,386 overtime hours were worked by prison security staff, typically paid, usually paid at time and a half. Overtime eligible custody and unit staff comprise 56 percent of all NDCS staff, and overtime is primarily driven by vacant custody/unit positions that must be staffed to maintain safe and secure operations. Roster vacancies are a combination of permanent vacancies that are caused by promotions, transfers, resignations, and terminations, and temporary vacancies caused by a variety of factors. In either case, with a 24/7, 365-day operation, some overtime is inevitable. Positions may be listed as filled, but overtime will occur until these employees complete required training and actually report to their post at their assigned facility. I have directed the human resources staff to become more proactive in our hiring practices, including the use of nonpermanent employees. Staff retention is a factor in the vacancy rate at some facilities, with mandatory overtime contributing to staff dissatisfaction. I am confident that successful implementation of these approaches will reduce overtime costs and improve employee morale. I have submitted a technical assistance request to the National Institute of Corrections, NIC, to provide staffing analysis training, which will help provide our staff with the knowledge and skills to complete an agencywide staffing analysis and provide additional insight into our staffing needs. Facility Essential Services: In response to your request, I will discuss the facility essential services in our budget submission. While the need may exist for these positions, it's too soon for me to ascertain the department's resources, including...if the department's resources, including staffing, are being optimally utilized and support the core mission. Over the next few months, I will continue to look at the overall priorities of NDCS and determine if our resources are properly aligned, to include identifying if staffing deficits exist. Behavioral Health Services: I'm in the process of evaluating NDCS's behavioral health

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system to include the organizational structure and where we house the offenders needing mental health services and treatment. Housing of inmates should be mission specific. It's not an efficient or effective use of limited resources to have all mental health services available at all facilities. We need to house offenders based on their programming and treatment needs to ensure they obtain the needed services. We are also faced with the challenge, like the rest of Nebraska, of filling mental health treatment positions outside of the Omaha and Lincoln areas. Funding was requested for an additional 14 FTE dedicated to behavioral health. Until we can complete a review of our needs related to mental health services and programming, it's premature to add additional positions. The exception would be the creation of a Chief of Psychiatry position to serve in a lead role within behavioral health services. Personal Services Limitation: NDCS is requesting an increase in PSL of \$1.3 million. Due to increased overtime costs, NDCS's PSL allocation will not be sufficient for estimated fiscal year 2016 and fiscal year 2017 salary costs. NDCS is asking the Appropriations Committee for funding, as indicated below. Appropriation short...2014 Appropriation Shortfall: The fiscal year 2014 deficit appropriation was intended to cover an unforeseen shortfall. However, based on the increased expenses for medical services and hepatitis C treatment and increased utility costs, an additional shortfall is expected for this fiscal year. This assumes NDCS receives the Governor's recommended deficit funding. NDCS is asking the Appropriations Committee to fund this request, as indicated below. I'm closely reviewing the department's expenditures and identifying ways to reduce costs. Data analysis will help identify strategies to reduce food service costs. Overtime expenditures are being analyzed to determine how these expenses can be reduced, which will also...which also benefits those staff required to work mandatory overtime. I expect other savings can be realized by ensuring all of our resources are being used in the most effective and efficient manner. We will work diligently to align NDCS's expenditures to its appropriation, with the understanding that adjustments to our base are needed in some areas. Remaining Deficit and Biennium Budget Requests, Vocational and Life Skills Program, Programs 214, 200: Funding for this program was appropriated based on an entire fiscal year. However, due to program start-up and

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development, there are savings associated with vacancies and the grants were awarded in February 1, 2015, creating a one-time savings of \$2.2 million. Additionally, your recommendation reduced funding by \$17,025, which was allocated through LB907 to ensure all inmates have a reentry plan by the time they complete 80 percent of their sentence. If this funding is removed, the \$17,000, we will not be able to fill one FTE, leaving two reentry specialists to review and coordinate reentry plans for 1,000 inmates. To ensure the success of this program, it needs to be fully staffed. Capital Outlay and Equipment: NDCS is appropriated \$1.25 million for its equipment needs for the entire agency, which has not increased since 2002. Using a conservative replacement schedule for security cameras, computers, servers, kitchen equipment, perimeter vehicles, medical and dental equipment, etcetera, NDCS is requesting \$400,742 in additional funds. Mainframe Offender Management and Inmate Accounting Systems: NDCS currently operates its offender management system from a mainframe platform developed over 35 years ago. There's a shortage of programmers knowledgeable with mainframes, and the system lacks the ability...the agility and flexibility needed to keep pace with ever-growing demands for data. A Web-based system provides low-cost adaptability, utilizing in-house programmers, and can better meet the changing data analysis needs of the correctional environment. Many legislative bills brought forward this session have included requirements for accurate electronic data. The \$100,000 funding for the consultant is a critical first step to address this need. Last summer, NDCS automated the calculation of offenders' sentences. In the process of doing this, we identified other manual processes and gaps where potential errors or error could occur. The estimated cost to complete this project is \$478,470. NDCS asks the Appropriations Committee to fund this request in addition to the Governor's recommendations. The NDCS asks the Appropriations Committee to fund the following, as indicated below. In summary, NDCS is asking the Appropriations Committee to increase its funding from its preliminary recommendations, and those numbers are listed for fiscal years '15, '16, '17. Finally, before I close my formal remarks, I want to note that my schedule will not allow me to be here for your consideration of LB237 and LB654, both of which propose to add new facility space within my agency. I want to

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thank both Senators Coash and Seiler for introducing these bills; however, I'm still in the process of evaluating the department's capital facility needs. I would like more time to present a thorough business case to you on what is needed. Also, the reforms proposed by the Council of State Governments have the potential to dramatically affect the entire criminal justice system, including the size of the prison system that will be needed and the level of offenders that the system should be designed to house. In closing, I'm actively immersing myself in NDCS's operations at all levels, which will allow me to assess where policies, procedures, and practices need to be improved; identify where we can continue to build in existing strengths and opportunities; and make needed changes to enhance accountability and transparency. As my knowledge of the department increases, I will know if existing resources are being used in the most efficient and effective manner. And if additional resources are needed to ensure NDCS serves and protects the public...read that one more time. I will know if existing resources are being used in the most efficient and effective manner and if additional resources are needed to ensure NDCS serves and protects the public, staff, inmates, and parolees. I would be pleased to answer any questions you have at this time. [AGENCY 46]

SENATOR MELLO: Thank you for your testimony today, Director Frakes. Are there any questions from the committee? Senator Kintner. [AGENCY 46]

SENATOR KINTNER: Well, hi. [AGENCY 46]

SCOTT FRAKES: Hello. [AGENCY 46]

SENATOR KINTNER: Welcome to Appropriations. What's the total amount? I mean at the end you give us a number: \$4.1, \$6.1, and \$5.5 million. What's the total number? If I go to the front page request, then on the third page it looks like you've got more requests, and then a few more requests on the last page. I added all those up and it's a little more than you, in summary, asked for. So what's the actual number? Just...I want a number for fiscal year '15-16 that you're requesting, the total amount of General Funds.

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[AGENCY 46]

SCOTT FRAKES: Well, the number listed on the last page is the total needed for fiscal year 2016. [AGENCY 46]

SENATOR KINTNER: So I'm guessing that starts July '15-16,... [AGENCY 46]

SCOTT FRAKES: Yes. [AGENCY 46]

SENATOR KINTNER: ...starting this July. [AGENCY 46]

SCOTT FRAKES: Yes. [AGENCY 46]

SENATOR KINTNER: Okay, so we're on the same page. [AGENCY 46]

SCOTT FRAKES: And... [AGENCY 46]

SENATOR KINTNER: Well, let me tell you what I did. You have a request on the first page. I added that up. The request on the second page in PSL. I didn't add that. So I went to the third page. I added all those numbers, \$4.1 million. And then I went to the fourth page and I added up all those number for '16: the \$17,000, \$400,000, \$100,000, \$478,000. And I got \$11.4 million. Now that would be adding all those numbers up. Or we can just take your number, which I like a lot better, (laugh) right here at \$6.1 million. So what's...what are we looking at here? [AGENCY 46]

SCOTT FRAKES: Well, I know that part of this...part of the answer to your question is that we were trying to tell more than one...speak to this in more than one way.
[AGENCY 46]

SENATOR KINTNER: Okay. (Laugh) [AGENCY 46]

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SENATOR MELLO: Senator Kintner, I may be able...I think, Director, I may be able to try to provide a little clarification. I believe on page 2 of your testimony, it appears that there's a request from the department to reduce appropriations the committee made for the Violence Reduction Program and behavioral health sciences (sic--services) that equates to about \$1.5 million the first year and, give or take, about \$1.35 the second year, which helps balance out the numbers that you see, I believe, on page 4 in regards to the current year, which would be the deficit year, and then fiscal years '15-16 and '16-17. [AGENCY 46]

SCOTT FRAKES: That's correct. [AGENCY 46]

SENATOR MELLO: Am I correct in reading your testimony on this page? [AGENCY 46]

SCOTT FRAKES: Yes. [AGENCY 46]

SENATOR MELLO: Senator Kintner, you... [AGENCY 46]

SENATOR KINTNER: Yep. Yep. [AGENCY 46]

SCOTT FRAKES: That is a piece of it. [AGENCY 46]

SENATOR KINTNER: Okay. All right. I wasn't trying to put you on a spot. I was just trying to... [AGENCY 46]

SCOTT FRAKES: It's okay. [AGENCY 46]

SENATOR KINTNER: Okay. [AGENCY 46]

SCOTT FRAKES: I expect to be in... [AGENCY 46]

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SENATOR KINTNER: No, that...okay, that makes a little more sense. So we're talking just the number on the last page then. [AGENCY 46]

SCOTT FRAKES: The number on the last page... [AGENCY 46]

SENATOR KINTNER: Okay. [AGENCY 46]

SCOTT FRAKES: ...is the request. [AGENCY 46]

SENATOR KINTNER: All right. That answered my question. Okay. [AGENCY 46]

SCOTT FRAKES: And I should be able to sit here and do a better job of explaining each piece of this. [AGENCY 46]

SENATOR KINTNER: (Laugh) Well, I didn't get it either. I'm supposed to know this stuff, too, so. [AGENCY 46]

SCOTT FRAKES: So I have a note. Even that tells me above the recommendation. Okay. So I guess that is the final piece of the numbers on the final page are above... [AGENCY 46]

SENATOR KINTNER: That is after we net the money out. [AGENCY 46]

SCOTT FRAKES: ...above their recommendation. [AGENCY 46]

SENATOR KINTNER: Okay. Fine. That's my...you answered my questions. Thank you. [AGENCY 46]

SCOTT FRAKES: Well, she did, but... [AGENCY 46]

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SENATOR MELLO: Senator Bolz. [AGENCY 46]

SENATOR BOLZ: Good afternoon, Director, and thanks for being here with us.
[AGENCY 46]

SCOTT FRAKES: Senator Bolz. [AGENCY 46]

SENATOR BOLZ: You sent some information to my office earlier today and I do appreciate that. I know pulling together numbers can be hard work. But your requests and the numbers that you gave me, I'm having a hard time kind of matching up your vision. So you know, I see the statistics you've given me where we've got some very significant challenges in our mental health staff to inmate ratio; you know, 76 to 1, 113 to 1. And you've pulled back on your behavioral health services request. And I understand that there are some vacant positions, but I'm having a hard time understanding the vision for how we're going to address what I see to be some pretty significant mental health needs. And I don't understand why a request was made previously and now is being pulled back. [AGENCY 46]

SCOTT FRAKES: Okay. Well, I would have liked to have had an opportunity to review that material and have some more conversation around it before we sent it forward, but we knew we needed to get it to you. And with all of the other pressing demands, didn't get it until really too late. Specific to the...a good example I think specific ratio number that's listed there, as I did look at that, so that's a ratio of mental health or behavioral health staff to the entire population. Well, there's still a strong question on my mind about what percentage of the population actually has a need for mental health services. Traditionally or in conversation with people across the country, we typically talk about 20 percent of the population having some need for mental health services. We appear to have a higher standard here or we have a population that has higher needs. I haven't figured out which that is. But even if I were to agree that my population of inmates, that

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there's 30 percent that need some level of service, now we're talking about 1,600-1,700 rather than that, you know, divider of about 5,000 that they used for that ratio. So then the question becomes, is the existing staffing ratio adequate in relation to a population that has a need? It's still a question for me as well. Another piece of that, too, is whether we say that it's 20 percent of the population or 30 percent of the population, it is a continuum from people that need an occasional conversation with a provider to people at the far end that need deep psychiatric work. And it spreads across that. So that's part of how we need to review and figure out what are the real resources that we need and at what level are those resources. So that's a piece of it. On the programming end, right now it feels like we have invested much, if not most, of our resources into good quality, therapeutic programming. So can't find any fault with that. I think our recidivism numbers are something to show to others and go, we're doing some things right in this department. There's also though a point of diminishing returns and that's another question I don't have a good answer to. While what we're currently doing has led us to a good place and obviously we can do better, do we spend the same amount of money again and only see 1 percent reduction in recidivism. And I'm just putting numbers out there just to illustrate the point. So I just need time. I met with the leads of the different sections of behavioral health last Friday; talked about their programs; got a sense of what they're doing; heard about some of the challenges in maintaining, keeping positions filled; saw some initial assessments of waiting lists; tried to get a good sense of whether or not our programs are adequately staffed and adequately attended. But I end up still today with more questions than I have answers. So I don't know if I got close, but that's where I'm at today. What I don't want to do is tell you, yep, I need a bunch more positions and then, first of all, struggle to fill them or to create additional programming that doesn't have the value that we intend it to, because it's a serious commitment. And I'm going to lose my voice, I fear. [AGENCY 46]

SENATOR BOLZ: (Laugh) I guess I would like to believe that we could solve these problems without additional dollars, but I'm afraid that that's contrary to what we heard hour after hour on the LR424 Committee. I mean we had some very tense testimony in

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terms of the lack of adequacy in behavioral health, not just programming but basic support, crisis response. That was serious and real. And so, you know, it's difficult for me to have faith in the idea that we just need a different plan. You know, we've had years and years to develop a different plan. And I understand we have new leadership. But you can perhaps empathize with my hesitation here. I think the related question is, you know, the statistics you share illustrate that we have 195 parole-eligible inmates who are awaiting treatment and but for that treatment might be able to be parole eligible. And so when you're asking for 200 jail beds with a pretty high price tag but for some additional programming we could be letting some other folks out, I'm having a hard time matching up the numbers. Can you help me understand? [AGENCY 46]

SCOTT FRAKES: To some degree. Again, there's another number that if we'd had some more time to dissect it and have some more conversation, what I was able to glean fairly quickly was that is a population that represents people that have been denied parole but not just specifically because of programming. Often, it's other issues as well--the level of crime or the criminal history. There's other factors that contribute to that. Still not...removing that barrier of completing program only makes good sense, so that is a piece of what we've got to get a better handle on. Okay. There was another thought that I was going to add to that. There was kind of two parts to your question, wasn't there? You asked about that group and you also said... [AGENCY 46]

SENATOR BOLZ: I'm trying to balance kind of your request for the additional jail beds with maybe some other strategies that could help free-up space. [AGENCY 46]

SCOTT FRAKES: Okay. Right. So the other piece of it kind of really goes back to what I kind of tried to stumble through a few minutes ago. One of the numbers I heard last week that raised my eyebrows was that about 25 percent of our population is receiving some kind of medication for mental health needs. I find that to be significantly higher than the system that I come out of. So that for me is an example of an area where either we have a very different approach in how we're dealing with mental health needs in

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Nebraska or there may be an opportunity to provide a different approach. And again, that's from a low-level antianxiety med to true psychotropics and other things that deal with the highest level of offenders that have mental health needs. So I just say that to say, until I can get a better sense of what we really are doing with behavioral health and mental health, I'm just not ready to commit and say throwing more FTEs at it and moving forward in that direction is the right answer. [AGENCY 46]

SENATOR BOLZ: Uh-huh. So a slightly different question, you know, I think that we've heard in this committee previously, we heard through the LR424 Committee the value of community beds and community placements and how that can ease some pressure on the system as a whole, but I don't really see any plans or ideas or recommendations around community beds. And I'm just wondering what your vision, if any at this point in time, is related to community beds versus some of the other space that you're looking at. [AGENCY 46]

SCOTT FRAKES: Yeah. It is always my desire to house people, while incarcerated, at the lowest, least-restrictive level. Those are the places where there should be the best opportunities for programming. If we can get them to the community level, they'll have better opportunities for work and for other activities as opposed to keeping people at higher custody levels, so. But what I can't get a good handle on today is my classification system really telling me what I need to know? I don't feel like it is. We have about 35 percent of our population that's classified as max custody. That's probably about double of what I'm used to. So I have...I'm trying to get a good sense of why that is. I say classification system, but I'm using the word "system" pretty loosely, because we have a lot of overrides, so that the more overrides you do, the less like a system your classification process is. So until I can really figure out what I'm dealing with, what the real needs are, I'm just not ready to say we need to build community beds or we need to build minimum custody beds. What I consider to be true minimum custody beds, they look a little different than what Nebraska has used in the past. I'm pretty...I'm not thinking we need to build more at the other end of the high-security level, although if

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there's a decision...I mean if through a process we determine that we really do need a different location than anything that exists to really effectively deliver behavioral health, mental health services, you know, that's a conversation I'd come back to. I'm not even close to saying that though today. Just I don't... [AGENCY 46]

SENATOR BOLZ: I can appreciate that it's a complex system with a lot of pressures, and I can appreciate that you're new. I guess what I will share in terms of the perspective of myself serving on this committee is that I actually pulled our testimony from the agency hearing on DCS from two years ago and we had a very similar conversation. And we had a conversation about how there was lack of clarity and there was lack of a plan, and we should be patient and wait for the master plan. And so there's a point in which, you know, representing the public safety and the people who are serving time in those correctional facilities, you know, there's a point at which you become inpatient. So I look forward to working with you. I'll let other committee members ask question. [AGENCY 46]

SCOTT FRAKES: Thank you. [AGENCY 46]

SENATOR MELLO: Senator Stinner. [AGENCY 46]

SENATOR STINNER: Thank you, Senator Mello. One of the comments that you have in here kind of drew my attention, because I had a different understanding, and it was on page 1. It says: There's not enough authorized FTEs to fill all the custody and unit posts that must be staffed. I thought there was a lot of openings, according to what I've read. And you're saying that there isn't enough? [AGENCY 46]

SCOTT FRAKES: There's not enough authorized FTEs. We do have some issues in at least two facilities with filling vacancies, but that's a different issue. A bigger issue is that our authorization, FTE authorization, doesn't line up with the need. As the population has grown, as we have increased the size of living units, as we have filled different

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spaces, it has driven the need for additional posts just to maintain safe and secure operations. And so we have been behind the curve in getting authorization to actually formally recognize those FTEs. The numbers in both Appropriations' and in the Governor's budgets head us in the right direction, the additional 59 FTEs. So that will make a good dent in addressing that issue. Doesn't completely fix it, but it heads us the right way. [AGENCY 46]

SENATOR STINNER: It does not fix it? [AGENCY 46]

SCOTT FRAKES: No. [AGENCY 46]

SENATOR STINNER: What number does fix it? Do you know? You probably don't know yet. [AGENCY 46]

SCOTT FRAKES: Well, I did actually review some stuff so,... [AGENCY 46]

SENATOR STINNER: And we're going to provide you some flexibility. [AGENCY 46]

SCOTT FRAKES: ...you know, I think it's, yeah, I don't want to say a number and then you come back and say, but you said... [AGENCY 46]

SENATOR STINNER: And I understand. Then 244,000 overtime hours, that equates to a pretty high turnover level, I believe. Or is it salary or is it number of hours or is it both that causes the turnover? [AGENCY 46]

SCOTT FRAKES: All right. So it is...that is just a number piece. It doesn't reflect the actual cost, which was we mentioned generally time and a half, so. [AGENCY 46]

SENATOR STINNER: I actually computed the time and a half out at an average salary at \$30, as about \$73 million...or \$7,300,000. If I put a fringe benefit on that of 10 to 15

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percent, we're over \$8 million, which gives you the opportunity to save money over. But anyhow, go back to the turnover thing. [AGENCY 46]

SCOTT FRAKES: Okay. Definitely the turnover at the facilities that are experiencing the most mandatory overtime, at the penitentiary and Tecumseh, is probably the biggest, easily identified issue around driving overtime. But there is a long list of things that also contribute to overtime and that's...I mention all these different things. Some of them are good things. When people promote to new opportunities, there's a gap that's created. And in prisons, in corrections systems across America, a good part of how people move up within these departments is they start as officers, case managers, case workers, and then take promotional opportunities. Not...because of the hiring, recruitment, five weeks of training, you could easily run 60-70-90 days of vacancy, so that can...that's a piece. But you don't want people to not promote. The people that are leaving because they're unhappy, that's a piece we've got to address as quickly as possible. There's...I think Tecumseh is probably still a challenge, but what we have agreed is that the strategies we haven't done well are being proactive. We've just been reactive. So we have met and I met twice with the head of HR. I'm going to be meeting again hopefully next week. And if we can get a good proactive strategy going, because we already know the trends. We know that turnover at Tecumseh last year was between nine and ten custody security positions a month, so high. Penitentiary is probably closer to four, four or five. But the missed opportunity there is if you know that's the trend and you've got some good data to support it, start planning your hiring in anticipation of vacancies; don't wait for the vacancy knowing that you're going to create 90 days of overtime while you fill it. And we'll probably use a couple different strategies so that we can have people in class and as they're coming out of academy, they're available to fill vacancies. That's an important strategy that's going to help move us in the right direction. You get a handle on...we get a handle on mandatory overtime, that not only increases just general staff satisfaction but there's no question that you get into a trend, and we've got some people that are working several mandatory overtimes a month, at some point then they have to call in sick. They're either too tired, they need that day off for personal needs, whatever

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it is. And it creates a cycle. So I was mandatory today, I call in tomorrow, and now someone else is mandatory to fill behind me, and it just builds. So that's another piece that we're going to work very hard and fast on to try and eliminate the mandatory piece. [AGENCY 46]

SENATOR STINNER: Just a quick question. On page 2 you talk about behavioral health, 14 FTEs dedicated to behavioral health. Do you want to hire those or are you going to outsource them or is it going to be a little of both? [AGENCY 46]

SCOTT FRAKES: Actually at this point I want an opportunity to review our services and be able to come back and say I need 14 or I need 6 or I need 27, because this population, for whatever reason, has got higher needs than the population that I was dealing with before. And it is possible. It is definitely a compacted population. I think Nebraska has done a wonderful job of keeping the rate of incarceration down for the most part. I would say pretty much across the board, the people that are coming into prison are people that need that piece as part of the interdiction to criminal behavior. And it could be that because of that compactness and that low rate of incarceration that there's a higher rate of mental illness among the population. But I don't have it. I still don't know. So the short answer is I want to come back to this committee and say, this is what the need is and based on this review, this data, this information. [AGENCY 46]

SENATOR STINNER: And this chief of psychiatry, are you going to try to get that filled right away so that... [AGENCY 46]

SCOTT FRAKES: I am. [AGENCY 46]

SENATOR STINNER: ...that would be a part of that? [AGENCY 46]

SCOTT FRAKES: Yes. [AGENCY 46]

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SENATOR STINNER: What's in place right now, by the way? [AGENCY 46]

SCOTT FRAKES: There is a director of mental health that...hopefully that's the right term. I believe that is the job title. So there is a person that is over behavioral health and they supervise all of the components. That includes the psychiatric services; the sex offender treatment; the substance abuse treatment; the violence, anger management components; and outpatient services and inpatient services. So I value having a behavioral health specialist, but I also highly value having someone that has the psychiatric background and can bring that component into the system. I phrase it carefully. I say to serve in a lead role. I'm also looking for recommendations. Should it be that...I come from a model where chief of psychiatry and behavioral health or mental health directors work side by side in partnership. They don't supervise each other. So that's a model I'm used to. I don't know that that's the right model either for Nebraska. So I have someone that I trust and have worked with for a number of years. He is the chief of psychiatry in Washington. He'll be coming out next month. He's going to spend some time talking to people and I will have sent him a lot of information before then. He's going to review our practices. I know he's already very interested in the medication question, but he's going to basically look at all of it. And other than the cost of bringing him out, flying him out here and putting him in a hotel, he's going to provide I think not a consultant level of overview but I think he's going to give me enough information to help me really shape my ideas as well as continuing to find the data I need to really analyze what we have. [AGENCY 46]

SENATOR STINNER: So this is...are you going to eliminate a position or are you going to create this new position and new structure? That's your idea? [AGENCY 46]

SCOTT FRAKES: New position and new structure. [AGENCY 46]

SENATOR STINNER: Okay. Your page 3 you have medical services, hepatitis C. I was the one that commented to the folks here on the committee when we first looked at it,

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that \$161,000 to address, per patient, to address the hepatitis C. And I know that Gilead Sciences, their treatment cost \$84,000, \$1,000 a day for one pill. They've now cut their cost in some situations by 46 percent. So I'm just a little hesitant to say, yeah, this is a good number. It's... [AGENCY 46]

SCOTT FRAKES: So since the... [AGENCY 46]

SENATOR STINNER: ...fluid right now, so. But I think it's a lot less than we think. [AGENCY 46]

SCOTT FRAKES: It is definitely fluid daily it feels like right now. The latest estimate we have for the treatment that will meet many of the offenders' protocol, \$87,000 was the number that I was given. [AGENCY 46]

SENATOR STINNER: Okay. [AGENCY 46]

SCOTT FRAKES: So we're kind of in that same ball park. There are still some offenders that require a different regime and there will a higher cost. I don't have a good sense of...I don't have a good sense of what the numbers are. But I think in general our estimates definitely have come down on the overall cost of medication. There is concerns though that as the treatment improves that there are now more...a broader number of patients that could be responsive to treatment. So that may have...drive some different numbers. But we're still trying to analyze what that means as the information continues to come in. [AGENCY 46]

SENATOR STINNER: Okay. Thank you. [AGENCY 46]

SCOTT FRAKES: So at this point, the deficit request was to address what we've spent in excess of what we were funded for. [AGENCY 46]

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SENATOR STINNER: My last question: LB237 and LB654, which is Coash and Seiler's, I heard you say that it's a good program but give me the flexibility as we move out to assess what our needs are. So how do I, as a senator, look at these two bills?
[AGENCY 46]

SCOTT FRAKES: Hmm. [AGENCY 46]

SENATOR STINNER: I'm just asking for some guidance. [AGENCY 46]

SCOTT FRAKES: Yeah. (Laugh) Well, I think that is what my answer to everyone here is, is that until I can tell you really what the department's needs are, I can't tell you that those are the right answers. They may be, but I can't tell you that today. [AGENCY 46]

SENATOR STINNER: Thank you. [AGENCY 46]

SENATOR MELLO: Senator Kuehn. [AGENCY 46]

SENATOR KUEHN: Thank you, Chairman Mello. Appreciate again you visiting with us for another afternoon. Just kind of a 30,000-foot question here, since I'm new both to this committee and to the body, as you are new to your department. Certainly my colleagues and several of them who serve on this committee have invested a lot of time and years and feel that they have thoroughly investigated, researched this situation and have put together a number of very deliberate and thoughtful and well-informed proposals. So kind of following with Senator Stinner's question, they feel they're up to date, up to speed, and ready to act, and you're asking for more time. Specifically, what kind of a time frame do you feel you need? And when you ask for our patience, how long does that need to be? [AGENCY 46]

SCOTT FRAKES: I'm confident that by the time to begin the process to address the deficit budget, which would be September of this coming...this year actually,...

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[AGENCY 46]

SENATOR KUEHN: Uh-huh. [AGENCY 46]

SCOTT FRAKES: ...the next fiscal year but this year, that I should have the answers and the recommendations that are needed. I am definitely hampered by the challenge that it takes to get data. That's...so I'm spoiled. Come out of a system that's data rich. In fact, there's another term, can't remember what it is right now, but anyway it's...so the...I actually, you know, come from a system where I could turn to my computer and get a lot of the answers I needed with my own skill set. And if not, pick up the phone and four people would be in my office with all kinds of information. Don't have those resources and do not have the systems to provide those kind of resources, so that's a big piece of this. But again, I believe as we come into the fall that I'm going to have the answers I need and then be able to look at you and say, based on this data, based on this assessment of the population and the current space, the programs that are in place, these are the things we need to do differently. [AGENCY 46]

SENATOR KUEHN: So my colleagues and myself and I think as well as a number of advocacy groups feel an extreme sense of urgency with this issue. Do you feel an answer by fall is in that same vein of urgency or just simply the only constraints that you have? [AGENCY 46]

SCOTT FRAKES: I think that's a very fair question. So, no, there's some things that need attention now, so that's why I'm working on this piece to pull the...what I would refer, I often refer to the deep-end mentally ill, the people that I think need inpatient mental health treatment. I do not believe Tecumseh is the right place. We don't have the resources. So we're going to get those people back to LCC. We've got protective custody in three locations now. Think we could do that more effectively in two locations. That then frees up true general population, higher security beds at the penitentiary, which would allow us to start pushing people out of DEC, also some of the people that

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have sat in jail beds longer than they should because they're not the right beds. So that's a piece that is a move that's moving based on less...more of this and less of truly data driven, although I've gotten enough answers to feel pretty comfortable about it and brought the right people in the room as well. That's one example. As each day goes by, I'm continuing to look at things and say we can't wait on this; we need to do something differently and figure it out. [AGENCY 46]

SENATOR KUEHN: Thank you. [AGENCY 46]

SENATOR MELLO: Any other questions from the committee? Well, I've saved my questions for last, Director. And I would be remiss not to thank you for being here today and thank you for taking the time to meet with both with the Appropriations Committee during the preliminary process as well as some post-follow-up meetings. And I think all of us know in this room the responsibilities that you have to bear as the director of a very troubled state agency. And to some extent, Senator Kuehn almost used the exact words I was going to use in my initial question, so I don't want to repeat it. But I have to admit, after the last year and a half of being involved with these investigations, I'm a bit disappointed that for the first time in my entire time in the Legislature that there was a request for additional programming dollars or mental health dollars that the department now doesn't want those after this committee appropriated them in the preliminary budget. I understand, I think Senator Kuehn's question was exactly what I wanted to ask, which is I'm willing to give you more time, I think the Legislature is willing to give you more time, but we've never seen a request come forward regarding what we have come to know through extensive research and investigation by the Ombudsman's Office, with the LR424 Committee investigation that we have a deficiency in these two areas and waiting an additional fiscal year before we request anything, I just don't see what benefit the state gets out of delaying the inevitable. And I think the greater sense of urgency right now, there's no bill in the Legislature in the Judiciary Committee, I believe, that is directly appropriating any new money for new programs. And that is something that we've heard over the last two years, is the single, most deficient

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component of Corrections in respects to speeding up the parole process as well as assisting those preparing for reentry. I want to give you ample time, in the sense that I don't want you to have to repeat your response, but if we reduce these requests per your request today, how will we ever guarantee or how will you ever guarantee you'll come back in a future year or future budget years to actually request additional funding for programming? Because I've been here long enough and there's a cynical side of me that you and I have talked about that, unfortunately, sometimes issues like income tax cuts become a bigger priority than fixing the problems of the past. And I'm afraid if we don't do anything on it this year, come next year, when a lot of us may leave this Legislature and other priorities may come up, everything that we've been working on over the last two years to fix this troubled agency starts to go away. I'll give you plenty of time to be able to give me your feedback on it. [AGENCY 46]

SCOTT FRAKES: And I don't want to be redundant. If I were sitting in your chairs, I would be asking me that same exact question. You've had a long, great opportunity to look at a lot of issues within the department to see some of the horrible outcomes that have come, and to make some, what I believe are, recommendations that you feel are solid and based on a good assessment of the needs of the department. And I want to say this in a way that doesn't take anything away from that. I come with a different set of eyes. I come with 32 years of working in this business. I come with 25 years plus of, you know, approaching it from a management level. What I don't see in my department are some of the low-cost alternatives that can be very effective to providing meaningful opportunities for offenders, so that's a piece. I don't have a good feel for the needs of the population and we don't have tools to really assess what they are. We can assess sex offender treatment need; we have a tool to assess substance abuse treatment--key pieces. But what we're not doing is bringing people in the door and doing a good, thoughtful, risk-needs assessment for everyone that comes, because needs cover a spectrum and it isn't just about high-level, expensive treatment. It's about a wide variety of things that we could address, so. And I do think that some of the structures that are in place--the social workers, the reentry pieces, the reentry specialists--are headed in the

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right direction. Definitely can support that. So what I don't want to do, though, is simply say, okay, give me those resources. And then come back to you and have to answer, why didn't you use them the way we intended; or, how come they're sitting there and yet the participation numbers aren't up, the waiting lists haven't changed or haven't changed adequately. Or all that occurs and yet we still run the final numbers and go, you know, we did all this but recidivism didn't change; you didn't really seem to have the outcome that we should be expecting from this investment. So those are the things that I'm thinking about, trying to wrap my head around, trying to get good data to support my decisions and to be able to come back to you and say, these are the needs of the department, whether it's this, less than this, a different version of this. Yeah. [AGENCY 46]

SENATOR MELLO: The only other question I had, and Senator Bolz asked I think a majority of it so I don't want to rehash it, is the appropriation request regarding the county jail program. That last year was appropriated as a one-time appropriation from this committee to serve as essentially a one-year, band-aid approach to figure out how we, as a state, were going to address our chronic prison overcrowding. You've requested it for the biennium, and your testimony was clear that it was only for this biennium, it's not an ongoing program. The one concern that I've heard from pretty much every returning member of the Judiciary Committee, as well as returning members of the LR424 Investigative Committee, was the county jail program, as it's established, provides no programming to county inmates or inmates that are being served in county jails. And so as we have one conversation about the lack of programming in Department of Corrections, we're having another conversation about providing almost \$13 million in appropriations to essentially warehouse state inmates in county jails where they receive no treatment, no programming. And I think Senator Bolz's question was what we've talked about, is if there's a better way to utilize that roughly \$13 million appropriation on something that is a better long-term use of that funding instead of one-time payment to counties. I know the counties appreciate the per diem costs. And don't get me wrong, it's been a mutual beneficial relationship to this

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point in time. But some would make the argument that it's not really served a lot of our bigger intent and focus of wanting to find ways to rehabilitate some of these inmates, obviously. And putting them in county jails just for another two-year process doesn't further that process, at least in the Justice Reinvestment model, that you're well aware of, as well as what we're going to hear, likely, from Senator Seiler and possibly Senator Coash and other options that we've got to consider to deal with our prison capacity. So if there's anything you can shed on that. I know that it's a question that members of the Judiciary Committee have consistently been asking me and we, as a committee, have been working on our preliminary, I told them I would make sure I'd ask it today to you in the sense of how do we address that one major issue of no programming being available to these inmates if we were to continue this appropriation? [AGENCY 46]

SCOTT FRAKES: I've had experience with at least three different models of using jail beds. One model would be to try and just treat it as a mini-prison and create and allocate the resources, including programming. And I've seen it done sort of effectively using a substance abuse model, sort of effectively, not nearly as cost-effective as it can be done in a larger prison. There's always an economics of scale, and so, what is it, it's Hall County I think is our biggest population but it's still not that big of a population. So that's one model. Another model that can be pretty effective in a determinant sentencing state is where you look at people that have a set release date and then you, and if the numbers are big enough, stage them so that they're going to be near their community of release or county of release. And you get them there, you know, 90 days before, whatever. You connect them to their community supervisors, their community corrections supervisors, and you can do a transition piece. It can be effective. Got to have the numbers, though, and again, I don't think that I have those kind of numbers. Then there's a model that I believe is what the department set out to do, kind of stumbled, kind of still struggling to get it all figured out. But when I met yesterday with staff, I was encouraged that we're headed the right direction, especially if by repurposing and creating some movement within our system, where we stage people that have got some, you know, significant amount of time to do, typically more than five

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years left. Stage them there 60-90 days would be kind of the goal that we're looking for, and then get them into the appropriate security bed and then have them in a position so that when the time is right they're moving into programs and then moving towards release. So that's the model that I want to perfect or at least get to be pretty clean. And I think with the things that I talked about, in the next probably, let's see, it is still March, so by July I think we will be a lot closer to where we should be. And then my hope would be that we continue to look at efficiencies within the department. The CSG work begins, is able to gain momentum and begins to change the population numbers and we, in essence, wean ourselves off those beds so...and not that on June 30 of whatever the right year would be, 2017, that we're grabbing 200 people and putting them on buses but that in the spring of 2017 we're...or even sooner, that we're done with those beds.
[AGENCY 46]

SENATOR MELLO: Okay. Well, I still have some healthy skepticism, Scott, a little bit in regards to your testimony today and I'd be remiss not to say that. But I do appreciate, you've been a breath of fresh air in regards to at least the candidness of conversations you've been able to have with the committee and with members privately. And I think a lot of the Department of Corrections' staff as well has been very helpful in being candid in regards to a lot of the conversations that no doubt our branches of government will have to have moving forward to fix the Department of Corrections. So I appreciate it.
[AGENCY 46]

SCOTT FRAKES: Thank you. [AGENCY 46]

SENATOR MELLO: Any further questions from the committee? See none, thank you.
[AGENCY 46]

SCOTT FRAKES: Senators, thank you very much. [AGENCY 46]

SENATOR MELLO: We'll next take testifiers on Agency 46, the Department of

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Correctional Services. [AGENCY 46]

MIKE MARVIN: Good afternoon, Chairman Mello, members of the Appropriations Committee. My name is Mike Marvin, that's M-i-k-e M-a-r-v-i-n. I'm the executive director of the Nebraska Association of Public Employees. We're the union representing the vast majority of correctional employees. I have no prepared testimony today. I came in to listen to what was said and respond to some of it. I am pleased to hear the director acknowledge that there is a problem with retention. We believe that's where most of our problems come from in corrections with our officers and the mandatory overtimes, although I think he underestimated the number of overtimes where he said a couple a month, and it's more like a couple a week. The system that we have in place does not reward people for longevity. We have no means to advance through the pay line. We have a starting wage and a maximum wage. An employee today that was hired in 2002 still makes the starting wage. He makes the same money as a new employee coming in. The previous two Governors have shown no interest in negotiating a means to allow people to move through the pay line. That has created a lot of people saying what's...why should I stay here? I'm an experienced employee and there's no reason for me to stay here; I have no way to advance. And as the Chief Justice and the AG talked about, but it is not acceptable to the CIR when we go in, Lancaster County, Douglas County, Sarpy County all compete for us...with us for correctional employees, because the vast majority of our correctional facilities sit within that area that we draw from, including Tecumseh draws from Lancaster, Sarpy, and Omaha. And they can start at those correctional facilities from \$3 to \$5 an hour more than they can working for the state of Nebraska. We can only compare to states that have half as many state employees to twice as many state employees. In our most recent negotiations, we compared to Minnesota, Iowa, Indiana, Wyoming, Kansas, Arkansas, New Mexico, and the state put Mississippi their array of states. The wage for those states, for most of them, is very low. Right now a correctional employee for the state of Nebraska starts at \$15.15 an hour as a correctional officer. That's \$30,000 a year roughly. They have a very difficult job that they need to do for that kind of money. And with no means to move

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from that beginning wage through the pay line, they do have no incentive to stay. We lose a great many of our correctional officers to the places that will pay them higher. With that experience, you know, you go in and you have to retrain somebody. But let's talk about that a little bit. The vacancy rate, I don't know what the vacancy rate is and, quite frankly, it's because I've never trusted the answers we've gotten out of the Department of Corrections. We have a new director now. From what I've seen, he's pretty open. And I think as he gets a handle on things, I expect to be able to ask questions and get better answers out of him. But we hire employees. We do employee orientations between 40 to 100 employees a month at the staff training academy, so they're hiring people. They're coming in on a regular basis. I would say probably 70 percent of those are security and housing staff. So we're hiring them at a rate. The problem is we're not retaining employees and that's where all of our issues come from. We need to acknowledge the fact that there needs to be a means for the employees to advance through the pay line. And it creates a problem not only in Corrections but it creates a problem in HHS. It creates a problem in Department of Roads. It creates a problem Department of Environmental Quality. People are leaving constantly because they have no way to advance through a pay line. I'm hoping that this Governor, he was part of this negotiation but with no experience coming in, he knew nothing. And I'm hoping that in the next negotiation within two years he'll do something with that. But I see my red light is on. I would be happy to answer any questions that any of you have. Feel free to call me at any time if any of you have any questions about Corrections or any other state agency. [AGENCY 46]

SENATOR MELLO: Thank you for your testimony today. Mr. Marvin. Are there any questions from the committee? Senator Hilkemann. [AGENCY 46]

SENATOR HILKEMANN: Mr. Marvin, you said that the base rate of pay has not changed in... [AGENCY 46]

MIKE MARVIN: Excuse me. No, the base rate changes. Okay? The base rate has gone

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up every year since 2002 and so that a person hired in 2002 just moves up to the base rate. They never move any higher than the base rate. [AGENCY 46]

SENATOR HILKEMANN: Okay. [AGENCY 46]

MIKE MARVIN: Now, you know, for example, I suppose in Corrections we have for a corrections officer currently we have a starting salary of \$15.15 and it shows a maximum rate of \$20.41. But there is no way, no means for that person to move through that pay line to that rate. We even have language in the contract that allows the agencies to give merit raises, bonuses, and the Governors in the past have said, no, we're not going to do that, so. [AGENCY 46]

SENATOR HILKEMANN: So if I get this right, if it...that the present starting rate is \$15.50 (sic), a person who started in 2002 is still at \$15.50? [AGENCY 46]

MIKE MARVIN: Yes. Yes. [AGENCY 46]

SENATOR HILKEMANN: Okay. [AGENCY 46]

SENATOR MELLO: Any other questions from the committee? See none, thank you, Mike. [AGENCY 46]

MIKE MARVIN: Well, thank you for your time. And again, if I can ever do anything or answer any questions, feel free to contact me. [AGENCY 46]

SENATOR MELLO: Thank you, Mike. [AGENCY 46]

A.J. SANTOS: (Exhibit 2) Good afternoon. My name is A.J. Santos, A.J. S-a-n-t-o-s, of the Destination Dad Program. I will be brief and easy here. I am the director of the family outreach team for Christian Heritage, and I oversee the inmate parenting

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program, Destination Dad, for Nebraska Department of Correctional Services. I would like to thank all of you, the committee, for funding this program and I am submitting a report which details the work we have done over the last 15 months and beyond. And then I would also just like to say a couple of objectives or goals we have moving forward for our programming. One is we would like to start more programming in the Diagnostic and Evaluation Center. We'd like to facilitate classes in the restrictive housing units and we actually started that from the 1st of March of this year. We'd like to expand that. Incorporate Work Ethic Camp into our research, and then lastly we really want to be intentional about compiling data that we have collected since we began this program in 2009 so that we can submit it for evidence-based review. If you have any further questions, I am more than happy to answer. [AGENCY 46]

SENATOR MELLO: Thank you for your testimony today, Mr. Santos. Are there any questions from the committee? Senator Kintner. [AGENCY 46]

SENATOR KINTNER: Hi. [AGENCY 46]

A.J. SANTOS: Hello. [AGENCY 46]

SENATOR KINTNER: And thanks for coming out today. Yeah, I didn't get to ask Senator Bolz this last year when we debated this bill when it was passed, but you know most Christian organizations run from state money, run from government money. They don't want to have anything to do with government money because, obviously, it infringes on evangelism, which is our main task as Christians. And as we help people, we do it in the name of Jesus because it's evangelism. Why do you all seek government money and how do you square that with your Christian faith? [AGENCY 46]

A.J. SANTOS: Sure. Thank you. We...all of our programming is non-Christian based. We provide programming for anybody in the department. There are no restrictions. Anybody who wants to take the programming can take the programming. We'll provide

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programming for them. How we square it, we're not really...we don't go into prophesize or to convert anybody or to try to do anything. We simply...our whole goal is to help families and children in the state of Nebraska and we want to walk alongside those people, those participants in our program, and help strengthen families, regardless of what faith you are a part of or not a part of or...our goal is to help strengthen families in Nebraska. [AGENCY 46]

SENATOR KINTNER: Well, as a believer, that sounds ridiculous, absolutely ridiculous. Why? I mean there's plenty of organizations that help people, but the Christian organizations do something very unique. We try to go to the heart of the matter and we try to heal hearts and we do it with the healing power of Jesus. And you're not doing that. I mean why? Why not just drop the Christian part and say, we're just an organization to help people? [AGENCY 46]

A.J. SANTOS: Well, what we would say is, you know, we believe in helping family in the state of Nebraska, children and family, and we don't want to alienate anybody. Why are we in the Department of Corrections? That's maybe a better question. Because this was a very intentional problem that we found within our organization, a foster care organization. Back in 2007 we did kind of an internal review and we found that 90-some percent of the children who were in foster care did not have an involved father, so this kind of started this whole thing. That was an internal review. We did it again. We went out into the community looking for any way possible to help fathers and families in the community. We looked at faith-based. We look every possible sector. And the Department of Corrections reached out and asked us several times to come help with their...they didn't have an inmate parenting program for the Department of Corrections. They asked us and we eventually said...felt called to do this work, to help fathers, to help children. We feel like we can't help a three-year-old very well unless you work with the parents, and we're going to work with whoever those parents are to help the children in the state of Nebraska. [AGENCY 46]

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SENATOR KINTNER: Wouldn't you agree that the root cause of our problems is sin?
[AGENCY 46]

A.J. SANTOS: Well, there's lots of problems. [AGENCY 46]

SENATOR KINTNER: Okay. Well, thank you. I don't...let me... [AGENCY 46]

A.J. SANTOS: Sure. [AGENCY 46]

SENATOR KINTNER: ...apologize for being a little tough on you. [AGENCY 46]

A.J. SANTOS: No. No. [AGENCY 46]

SENATOR KINTNER: And I don't mean to beat you up. I appreciate all the good that
you do. [AGENCY 46]

A.J. SANTOS: Thank you. [AGENCY 46]

SENATOR KINTNER: I just am a little bit puzzled of where Christ fits into the whole
thing. [AGENCY 46]

A.J. SANTOS: Sure. [AGENCY 46]

SENATOR KINTNER: So thank you for coming out. Appreciate it. [AGENCY 46]

A.J. SANTOS: You bet. [AGENCY 46]

SENATOR MELLO: Senator Bolz. [AGENCY 46]

SENATOR BOLZ: Just for clarity, Mr. Santos, your organization applied for funds

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through the Department of Correctional Services and was chosen to administer this program based on your ability to address recidivism rates and otherwise accurately run the program. Is that correct? You were an application and you won the award.
[AGENCY 46]

A.J. SANTOS: Correct. [AGENCY 46]

SENATOR BOLZ: Thank you. [AGENCY 46]

SENATOR MELLO: Any other questions from the committee? See none, thank you, Mr. Santos. [AGENCY 46]

A.J. SANTOS: Thank you. [AGENCY 46]

SENATOR MELLO: Next testifier on Agency 46, Department of Correctional Services.
[AGENCY 46]

JAMES JONES: (Exhibits 3 and 4) Good afternoon, Senator Mello and Senators. My name is James Jones. I'm the executive director of the Community Justice Center here in Lincoln. Name is J-a-m-e-s J-o-n-e-s, and it's a pleasure to be with you, Senators, today. I'd like to just briefly talk to you about a program that I've been doing for 16 years here in Nebraska. We're the number one rated program that, by Probation, and we have done...we have conducted the program all over the state, from Scottsbluff to South Sioux City; rated one by staff and by the probation population that we've been working with. So basically, I wanted to share with the Appropriations Committee the powerful work that we've been doing throughout the state and what we can be doing inside the correctional institutions. We've been in Corrections since 2001 doing programming with good results. So that first sheet I'm handing you, that's coming out, is dealing with "The 10 Musts" the inmates should have. Basically, what I would like to talk to you about is we want to hold offenders accountable. We want offenders to know their victims and

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know how they are harmed. We want to show offenders how to repair that harm, understand anger and its true sources, stop making excuses. That's what we want inmates to come out of prison with, deal with their emotions, better decision making, know their stressors and their triggers, as well as be motivated. Every single reporting center coordinator across the state says, Jim, when offenders take your program they are much, much more motivated to go to treatment, to go to mental health. They get better results over and over and over again. So we have an insane engagement rate. When you have offenders motivated, you get better results. And that last one, it says "The 10 Musts," we want to help offenders seek and secure and retain employment. These ten items, Senators, we are accomplishing and we've been doing this for over 16 years. I'm a former inmate. I've been through the system in '89. I'm convicted for robberies. I'm a former crack addict. No, no, no, excuse me. I am a crack addict and I've done tremendous amount of harm to my communities because I refused to deal with these ten issues. But we have accomplished those and we can help millions and millions more, I mean in general. That's a big, big number. But these are the benefits to the taxpayers: We have safer communities; we save tax dollars; we have reduced recidivism rates. More offenders are paying taxes. They're not taking away from society but they're giving to society, paying taxes, like they should. And habilitated and contributing members to our society. I don't use the word "rehabilitation" because it's wrong. We need to make offenders capable. Rehabilitation implies that they were okay before they broke the law. That is not true. This is a health and wellness issue. We really need to define it as it truly is, Senators, and when we do, we get better results. I'd like to show you the next page. It deals with Department of Corrections and probation population. We've served over 3,316 offenders since we started in 2001. We house almost 4,800 inmates. I've gone over half the population in inmates when you look at the whole number. And then that last document I gave you, Senators, this was an evidence-based study done by UNL. They looked at the probationary individuals who have taken our class. Individuals who take our program are half as less likely to recidivate. We cut the numbers in half. And when they saw this last number on the last page of the study, it says, among the individuals who will take the program, 60 percent

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walk away with understanding empathy and insight to the damage they caused their victims. Ninety-five percent of the victims who take my class...I mean offenders who take my class, how many victims you have? Me, my family. What harm did you do them? They don't have a clue about the harm that they cause. But when they walk away, after my daylong program, they clearly understand the damage that they cause and they have a responsibility to repair that harm. We can do so much more, but I can't secure funding and that's why I'm here. I know this is not particularly for funding programs, but people say, Jim, your numbers will speak for themselves. That's not the case so I'm here to speak for my program and the great work, no, the fantastic work. We've been talked to by the Justice Department in D.C. We're authorized to do this program in the state of Virginia, California, state of Maryland. We just launched...we launched a pilot program in Washington, D.C., with the hardest of the hardest kids in that area. And we retain. The retention rate, we went 95 percent. They usually have a 50 percent dropout rate. They enter this program called Youth Challenge programs. Fifty percent would drop out. It goes up to 95 percent that they stay. The engagement rate is proven and is solid. I'm open for any questions. Thank you. [AGENCY 46]

SENATOR MELLO: Thank you for your testimony, Mr. Jones. Are there any questions from the committee? [AGENCY 46]

SENATOR HILKEMANN: How are you...you said you don't receive any state funding. How are you funded now? [AGENCY 46]

JAMES JONES: I'm ashamed to say it, Senator. The Woods Foundation in town, the Lincoln Foundation, the Cooper Foundation, they have funded me year after year after year. And this is the year they came back to me and said, Jim, you told me Corrections was going to pay for your program. I said, yeah. Harold Clarke and others, this was way back: Jim, here's a letter to take to the funders; when we get funding we will pay for your program. But as you know, over the years, Senator, everything has to go to bricks and mortar and medical. Jim, well, there is no...there is no programming in prisons. You got

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Domesti-PUPS, you have Released and Restored, all that's funded from outside, not Department of Corrections' money. What other programs are they funding? All the money has to go to mental health and drug and alcohol, which is critically needed. But the three years that I spent in prison in my time here, it took me five minutes to do my job and the rest of the time on the weight yard or gambling or doing other not positive things inside prison. So right now the Woods Foundation and Goodwill Industries pays for the program. That pays for the program now in prisons. And again, I'm ashamed to say it, but it's sad that we have to...I have to keep going back to those individuals to fund the program in prisons, in prison. [AGENCY 46]

SENATOR HILKEMANN: What's your budget right now? [AGENCY 46]

JAMES JONES: It's \$100,000, and that's paying for me and a trainer in Omaha and a trainer in Scottsbluff. That's funded through...that's Probation, not prison. That's Probation. That's funded through Probation. [AGENCY 46]

SENATOR MELLO: Any other questions from the committee? See none, thank you, Mr. Jones. [AGENCY 46]

JAMES JONES: Thank you. [AGENCY 46]

SENATOR HILKEMANN: I would just comment that I'm going to applaud you for your efforts in that. Keep up the good work and... [AGENCY 46]

JAMES JONES: I will try. I will try. [AGENCY 46]

SENATOR HILKEMANN: You bet. [AGENCY 46]

JAMES JONES: We can do a better job. [AGENCY 46]

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SENATOR MELLO: Any other testifiers on Agency 46, the Department of Correctional Services? Seeing none, that will close today's public hearing on Agency 46, Department of Correctional Services, and take us to our first of three bills for the night, LB229 from Senator Watermeier. [AGENCY 46]