

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 18, 2021

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

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

HILKEMANN: Robert Hilkemann, District 4, west Omaha.

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

KOLTERMAN: Mark Kolterman, District 24, Seward, Polk, and York County.

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

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

STINNER: Assisting the committee today is Brittany Sturek, our committee clerk. And to my left is our fiscal analyst, Doug Nichols. For the safety of the committee members, staff, pages, and public, we ask that those attending our hearing to abide by the following. Submission of written testimony will only be accepted between 9:30 and-- between 8:30 and 9:30 with respective hearing-- in the respective hearing room where the bill will be heard later that day. Individuals must present their written testimony in person during date-time framework and sign the submitted written testimony record at the time of submission on the day of the hearing on the bill. Individuals with disability can have other people representing them. Due to the social distancing requirement, seating at the hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend the bill hearing in progress. The bills will be taken up in order posted outside the hearing room. The list will be updated after each hearing to identify which Bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. We request that everyone utilize the identified entrance and exit doors to the hearing room. We request that you wear a face mask covering while in the hearing room. Testifiers may remove their face covering during testimony to assist committee members and transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front table and chair between testifiers. Public hearings for which

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attendance reaches seating capacity or near capacity, the entrance door will be monitored by the Sergeant-at-Arms who will allow people to enter the hearing room based upon seating availability. Persons waiting to enter a hearing room are asked to observe social distancing, wear a face cover while you're waiting in the hallway or outside the building. To better facilitate today's proceedings, I ask that you abide by the following procedures. Please silence or turn off your cell phone. Move to the front row when you are ready to testify. Order of testimony: introducer, proponents, opponents, neutral, closing. Testifiers, sign in. Hand your green sign-in sheet to the committee clerk. When you come to testify, please spell your name for the record before you testify. Be concise. It is my request that you limit your testimony to five minutes. If you will not be testifying at the microphone but want to go on the record as having a position on a bill being heard today, there are white sheets at the 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. We ask that you please limit or eliminate handouts. 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 need 12 copies. If you have written testimony but do not have 12 copies, please raise your hand now so the page can make copies for you. With that, we will open today's hearing with LB304, Senator Hansen. It is a pleasure, sir.

M. HANSEN: Thank you. It's a pleasure for me too. All right. Good-- good morning, Chairman Stinner and members of the Appropriations Committee. My name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent LD 26 in northeast Lincoln. I'm here this morning to introduce LB304, which increases funding to the Crime Commission to add capacity to complete new duties related to officer certification and revocation. Over this past summer, I, like many of us, paid close attention to the listening sessions and interim studies held by the Judiciary Committee, including my own LR417, held in response to the protests and movements following the murder of George Floyd. These hearings examined the interactions between citizens and law enforcement. Many of those testifying expressed the desire for reform regarding use-of-force policies, law enforcement training and practices, and improved transparency and oversight. In those hearings and other meetings, law enforcement pointed out several times that the

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Nebraska Law Enforcement Training Center in Grand Island does not seem to have the resources and staff to fully accomplish their duties. Specifically, the president of the Police Chiefs Association of Nebraska, told the committee that as a result of the Legislature passing LB791 in twenty eighteen, the training center had been forced to pull away instructors from their training duties to conduct investigations on cases involving officer decertification. For context and background. LB791 tasks the Crime Commission with several new duties, including receiving documents from law enforcement agencies on personnel changes, receiving reports from agencies and officers who are terminated or allowed to resign under certain circumstances, and providing waiver forms to agencies giving them permission to contact former employers of prospective hires. Perhaps most important is that LB791 increased the commission's investigatory powers and gave them the duty to review and determine whether flagged officers should retain their certification. It is this requirement that law enforcement and others have pointed to that is being completed at the expense of much-needed education and training requirements conducted at the training center. Recent events have made it more clear than ever that all law enforcement officers should be fully prepared to complete their duties before starting their careers. In order to fully address the issues involving police conduct, we must both increase accountability and make sure we're fully funding officer training and education. I think part of the issue with the funding from the Crime Commission comes from the legislative history of the bill. Most of the provisions of LB791 were actually part of that year's same LB792, which were both introduced by Senator Ebke. When the bills were combined, some of the changes resulted in the fiscal note from LB792 not following the contents of its bill. Thus, to determine the proposal I have in front of you from LB304, I used the amount in the original fiscal note for LB792. In that, the Crime Commission budgeted for additional FTEs, saying that the additional duties under the bill could not be absorbed by the current staff at the training center because it would be a significant workload increase. I will note that I'm always willing to defer to the expertise of the committee and the commission to determine the best amount. I just know that it needs to be more if we want to adequately fund training, education, and accountability of our law enforcement officers. With that, I'll close and be happy to take any questions from the committee.

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

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M. HANSEN: Thank you.

STINNER: Thank you. My goodness. Proponents?

LYNN REX: Senator Stinner, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We're here today in strong support of LB304. This bill is tied into, again, providing additional funding for the Crime Commission. We do think that they are woefully underfunded, and this is based on conversations I've had with a prior director of the Grand Island Training Center. He's no longer been there. He hasn't been there for several years, but he left because they've not had a new instructor in 25 years. Other than Lincoln, Omaha, Papillion, La Vista, everyone else, their training goes through the Grand Island Training Center for the certification. And so we have 529 municipalities in the state of Nebraska. And the reason for this handout, of the 529 cities and villages of the state of Nebraska, half of them are up against the maximum levy limit, the 45 cents plus 5. Half of them cannot even raise the 2.5 percent that was spent, basically that they could spend if they had the authority to do so. And frankly, probably the only thing that says it all is on page 5, the very bottom. This is just kind of the history of one fund after another cut, cut, and cut and eliminated by your predecessors. And in 2011, LB383 passed. And contrary to the Syracuse report, contrary to the tax modernization report of 2013 that the Revenue Committee did, basically the Legislature did just the opposite of what was recommended. The single most important thing that could be done to alleviate property taxes is to properly restore funds to local governments due to exemptions granted by previous Legislatures. Instead, the Legislature, as you can see, at the recommendation of Governor Heineman, on page 5, eliminated state aid. All of our major funding sources, except for the Municipal Equalization Fund, have been eliminated. So with that, this is really important because municipalities cannot pick up the difference to send their folks to the training center. And again, I'm not talking about Omaha or La Vista, Papillion, or Lincoln that have their own training centers. Everybody else, though, is going to Grand Island. LB51 is a bill that Senator Lathrop introduced this year. We're going to be supporting Senator Wishart's bills as well. We really appreciate additional funding that could be done. We think that it is not sufficient in terms of what the offset will be for the unfunded mandates of LB51, but it is really important and we think any step forward is really

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important to have some kind of an offset to-- to provide assistance here. One of the things that I think is really important is that the Judiciary Committee, I think, just did an outstanding job holding hearings after the George Floyd murder. And essentially that resulted in a number-- I think over 185 individuals testified before Judiciary those two days. Another set of hearings, another hearing set was done in October by the Judiciary Committee. We testified in that; others did as well. And LB51, in and of-- even though the league opposes LB51 in its current form, we look forward to working with Senator Lathrop to make some accommodations for our smaller entities because, of course, it's going to work for Omaha, it's going to work for Papillion. They already have their own training center. But for some of your cities, it's not going to work. And so we want to make sure that that accommodation will be done. We're really looking forward to working with Senator Lathrop in that regard. So these funds are really important. I mean, I don't think it's sufficient. I don't think it's enough. But we really appreciate Senator Hansen putting this bill in. We appreciate him also putting in LB303, which is a bill that was heard before the Government Committee last week. That bill would provide an exemption from the lid on unrestricted funds. That is extremely important. When the Legislature put those caps in, in 1996, and I know, Senator Dorn, you're aware of this because you're a longtime county official, and you, too, Senator Erdman, maybe some of the rest of you are aware of this in your other capacities, but in 1996 the Legislature decided that they were going to institute levy limits. The Legislature passed levy limits for municipalities. Well, the maximum was \$1.05 per \$100 of valuation. It went down to 45 cents plus 5. Second-class cities and villages had two years to do that, two years, from 1996 to 1998. The lid on restricted funds went in immediately, and the reason for all of that was because Senator Warner at the time thought that there were areas of the state that weren't paying enough in property taxes, other areas paying too much. But what does that-- how does that align with this? Because, again, our smaller communities have still really not recovered from that. If the state, if the federal government said to the state of Nebraska and the Appropriations Committee was tasked with here's your income tax rate, here's your sales tax rate, you have two years, reduce it by half and good luck with that, that's really the position that the Legislature put second-class cities and villages in. Every one of them was up against a maximum levy limit. So these funds are so critically important. What Senator Hansen is doing here, not only with LB304 but

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LB303, to provide an exemption outside of the lid on restricted funds in 13-520 to say that that does not apply to additional law enforcement funds and so forth. And that would, of course, help counties too. In addition, LB303, in addition, your bills, too, Senator Wishart, these are all extremely important and we, again, look forward to working with Senator Lathrop to make LB51 work for small communities. With that, I'm happy to respond to any questions that you might have.

STINNER: Questions? Senator Dorn.

DORN: When-- when you're visiting-- or in your comments, or you talked to Lincoln and Omaha, wouldn't have some of the same issues, some of the-- I call it the smaller municipalities with the training that's required, or even there's some bills this year that are proposed. What-- how are some of the cities, the smaller communities, handling that? Are they going without enforcement or what-- what are they doing to get the required training?

LYNN REX: OK, so I-- I-- let me just give a little bit of backdrop here, Senator. LB51 would increase the training hours from 20 hours of training annually to 40 hours of training annually, and to be a new officer, 48 hours. And that's an additional two days' training at-- there's three different classes at the Grand Island Training Center, 16 weeks. In talking to Don Arp, that adds an additional two days to it, which is neither here nor there, other than to say it's more money, it takes more to make this happen. And the smaller communities, one of the issues that we'll be discussing with Senator Lathrop is the notion that was talked about by Senator Hansen, which is law enforcement officers in this state are not required to go to the Grand Island Training Center or a training-- get certified for up to a year. But the reason for that and the history behind that is because the Grand Island Training Center couldn't take in more people. And so as-- in talking to a number of law enforcement officials even yesterday from our smaller communities, and a couple of the largest communities were there. Tobias [PHONETIC], by the way, I didn't have a chance to get to his issues, but he was on that call, Senator. But at the end of the day, what they're doing now is they are struggling. What happened after LB1114 passed in 1996, coupled with LB299, the lid on restricted funds in 1996, the lid taking effect immediately, the levy limit taking effect two years later, what occurred from that is that several folks said, isn't this great, there's all this consolidation. Well,

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what happened is the smaller communities lost their law enforcement officers, and at that time several of them could afford to contract with the county sheriff to provide that law enforcement. Many of them cannot even afford to do that now. So it has really been a struggle. And to the-- and to the extent that we also support training, I mean, the league has over-- I think we've got over 30 of-- we have over 170 members of our League Association of Risk Management, which is a risk management pool; of those, about 30 of them are municipalities with law enforcement agencies. We have over 140 municipalities in the pool, but 30 of them have law enforcement agencies. And, I mean, so the training element is really important. And one of the other bills we'll talk about is for online training. To have that, you need broadband across the state of Nebraska that is fast and works. But what's-- what's happening right now is people are struggling. And we agree. We hope that we can come up with some language that's acceptable because people are not just putting law enforcement officers out on the street with a gun, a badge, and a car, and say "go forth" on day one. They are partnering with people. They are making sure for liability reasons, if no other reason. But still, you can't expect to get a position in the Grand Island Training Center unless you have a name and an officer ready to go. You can't have a name, an officer ready to go, if you don't have that person hired. And one of the-- one of the issues that have come forward at the hearing on LB51, which I thought was a great hearing, was to talk about the issue of maybe community colleges and others providing some level of training too. And I talked to Greg Adams about it this morning because back in the day, we worked-- the league worked with the Grand Island Training Center and community colleges, the notion being, wouldn't it be great if when kids are in college or in high school, they could decide, I'd like to have a career in law enforcement. And at that time, community colleges were prepared to partner with the Law Enforcement Training Center, but then other things aligned and there weren't even positions for the law enforcement officers hired, much less letting a kid in college or-- or-- or high school take that position. They have a maximum of 50 people that they allow in those classes out there. And again, they haven't had a new instructor. They have seven instructors and they haven't had a new instructor in over 25 years. So they-- as-- as a former director, not the current director, the-- a former director who has now gone on to do other things told me, he said, I left the Grand Island Training Center because we have been cut, cut, and cut to the bone, and there's no way I can accomplish our mission in good faith.

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DORN: Thank you.

LYNN REX: Thank you.

STINNER: Additional questions? Seeing none, thank you.

LYNN REX: Thank you very much, and we really appreciate Senator Hansen introducing LB303, LB304, and we'll be testifying in support of Senator Wishart's bills too. We really appreciate it. And again, LB55 has got some great elements to it and we appreciate that.

STINNER: Thank you. Afternoon-- good morning. Excuse me.

JIM MAGUIRE: Chairman Stinner, good morning. Senators of the Appropriations Committee, my name is Jim Maguire, J-i-m M-a-g-u-i-r-e. I'm president of the Nebraska Fraternal Order of Police, and we're here to support this bill, which we believe is vitally important. LB51 was introduced to help shore up some of the shortcomings that come along with decertifications. And we believe that this, this funding, is-- is needed to help fulfill that promise that-- that a lot of the senators and-- and people in law enforcement made during-- over the course of the summer with all of the protests to try and improve policing in Nebraska, and we believe that this bill will do just that. Be happy to answer any questions.

STINNER: Questions? Seeing none, thank you.

JIM MAGUIRE: Thank you.

***SPIKE EICKHOLT:** Members of the Committee: My name is Spike Eickholt and I am a Registered Lobbyist for the ACLU of Nebraska and we are in support of LB304. LB304 would provide funding to the Nebraska Commission on Law Enforcement and Criminal Justice (Crime Commission) for the Crime Commission to carry out the provisions of existing law. The Crime Commission is charged with the responsibility to oversee the various police agencies throughout the state with respect to certain instances when law enforcement officers end their employment with law enforcement agencies. Specifically, section 81-1456 requires police agencies to maintain records of officer conduct which could constitute grounds for revocation or suspension of a law enforcement certification by the Crime Commission and to report instances of officer misconduct to the Crime Commission. The instances in which an officer's certification may be subject to revocation or suspension

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include instances in which an officer is found to have committed neglect of duty; is otherwise incapacitated; is found to be dishonest; or conviction of certain crimes, among other reasons. The existing provisions of section 81-1456 were codified in 2018. This bill would provide for appropriate funding for the Crime Commission to ensure that the police agencies are collecting and reporting such records of officer misconduct. The funding is also necessary to aid the Crime Commission in compiling and maintaining such collected records. The duties of the Crime Commission to provide meaningful oversight over police agencies is of particular importance to many Nebraskans. Since the death of George Floyd at the hands of police in Minneapolis, thousands of people across the country and across Nebraska have been protesting and appealing to their elected representatives to demand police reform. Protesters have been clear and united in their call condemning police brutality, demanding priority funding for alternative community-based solutions to crime, and illuminating the use of excessive force and police practices that have been tolerated for too long in this state. This bill funds the Crime Commission at a level necessary for it to provide the oversight necessary to carry out the provisions of section 81-1456 and 81-1457. We encourage the Committee to advance this bill and pledge our assistance in supporting this effort.

STINNER: Any additional proponents? Seeing none, any opponents? Anyone in the neutral capacity? We do have written submitted testimony on LB304, proponent, ACLU of Nebraska. Senator, would you like to close?

M. HANSEN: Yes, I would, briefly. Thank you all, and thank you to the testifiers in support and written testimony. As you can kind of see by the stakeholders that have all come in, in support, I think supporting the Crime Commission, supporting the Training Center is one of the things that is genuinely consensus right now. I know we've heard a lot of different things and a lot of different bills we're focusing on this year. You know, my bill exists kind of independently of any other things the Judiciary Committee was doing and certainly could also help things the Judiciary Committee might be doing. I think, just as we look at it and what I've heard from the summer and I-- what I believe Senator Wishart's heard from the summer, is that there's-- right now, there's just a really clear bottleneck at the Crime Commission, at the Training Center, and that just some increased staff, some increased operational efficiency would pay huge dividends across the state. So

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with that, I urge you to support LB304 and happy to work with the
committee.

STINNER: Thank you. Additional questions? Senator Erdman.

ERDMAN: Thank you, Senator Stinner. Thank you, Senator Hansen. So why
is this just one-time, one-year expenditure? What happens next year?

M. HANSEN: Yes, thank you. I should have clarified. Originally, the--
basically, it's a drafting error. We meant to do a-- have that be
split over two years, be about \$80,000 over two years for FTEs. They
got drafted as a one-time lump sum. So I should have mentioned that in
my opening. But that's-- that was my intent, is to-- for it to be FTEs
kind of perpetually.

ERDMAN: OK.

M. HANSEN: And again, like I said, I'm not the appropriations expert.
I don't necessarily know the right amount of FTEs. But as you've heard
multiple testifiers, it-- they-- consensus seems to be that they are
understaffed.

ERDMAN: OK

STINNER: Just for a point of clarification, you-- should I divide this
\$172,000 by 2?

M. HANSEN: Yes.

STINNER: OK.

M. HANSEN: So we are all--

HILKEMANN: You just answered my question.

M. HANSEN: Here, I will-- if you'll allow me, the original fiscal note
for LB792, which is how I got this number, had a fiscal note of-- this
is-- this would have been '18-19, '19-20, but they had \$84,900 and
then \$80-- \$86,000 the next year, and it was for a deputy director of
administration and operating costs and travel and so on, is-- is how
they proposed. It was a new full-time position and this was that
amount for.

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STINNER: OK, for the record, divided by 2 is \$86,000 per year, so good catch. OK, additional questions? Senator Hilkemann.

HILKEMANN: I just picked up on this last-- your last statement here. This is-- this is not going-- your-- what you're using this money, resource for, is for an individual that will work at that-- at that department?

M. HANSEN: Yes.

HILKEMANN: So this is not going into the direct training of-- of officers?

M. HANSEN: Yes, so what I understand currently has happened is we assigned new duties to the Crime Commission, but we didn't give them any staff. So they've repurposed some staff from their original duties of training to the revocation process that's new. My-- my idea is to give permanent staff to the revocation process and allow them to transition the training staff back, if that makes sense.

HILKEMANN: OK, so this is not going to be utilized directly for training.

M. HANSEN: The net effect would be that they could do more training because we would allow some of their original trainers to go back to their original duties by allowing them to hire new staff that the trainers are the new kind of temporarily. Does that make sense? Honestly, if you wanted to change this bill and repurpose it to directly go into training and allow the people who are currently doing revocations, that would support my missions and goals. Fundamentally, the issue, and I think we'll address it, is just there's not enough people at the Crime Commission. That's why there's a waitlist for cities to get people to the Training Center. And part of the reason the waitlist got worse is they had to pull some people away to do the other duties we assigned them.

STINNER: I just have one question, is, where's the Crime Commission at? Are they favorable to this? If we allocate the money, are they going to actually use it for this purpose? I mean, they haven't made a budget request for this, right?

M. HANSEN: No, they-- not to my knowledge. As with you, sometimes, I think state agencies have some difficulty asking for what they always

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need. I haven't necessarily talked directly with the Crime Commission
to see how they feel.

STINNER: I haven't seen too many agencies that-- shy about that, but
that's-- I'll follow up with the Crime Commission.

M. HANSEN: Sure.

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

M. HANSEN: Thank you.

KOLTERMAN: John?

STINNER: Yeah, we have letters of support from Lancaster County Board
of County Commissioners, and that-- that ends are hearing on LB304. We
will now open the hearing on LB192.

WISHART: Well, good morning, Chairman Stinner. Members of the
Appropriations Committee, my name is Anna Wishart, A-n-n-a
W-i-s-h-a-r-t, and I represent the great 27th District here in west
Lincoln. And I am here today to introduce LB192. LB192 appropriates
\$140,000 from the General Fund to the Nebraska Commission on Law
Enforcement and Criminal Justice, or the Crime Commission, for each
fiscal years 2021-22, and 2022-23 for in-person and online training
for law enforcement officers to be certified through an accreditation
agency approved by the Nebraska Commission on Law Enforcement and
Criminal Justice. LB192 would provide for the purchase of an online
training system that would help law enforcement to meet their
continuing educational requirements. These online trainings cover
everything from antibias to First Amendment laws. Representatives from
the Fraternal Order of Police will be here to walk you through the
specifics of these trainings, as well as the need and the continuing
education requirements for law enforcement in Nebraska. As you'll look
at the fiscal note, the Crime Commission, the agency did identify that
they would spend the total of these intended appropriation on this
training if it's passed. And again, there's a wide variety of
trainings that would be available to meet the specific needs of lo--
local law enforcement agencies. Similar to Senator Hansen, I brought
this bill in response to some of the conversations and dialogue that
happened last year, and recognizing that there was one space where all
parties tended to agree, which was that if you want to be very skilled

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in any profession, that takes time and energy and practice and that, and so the more we can invest in law enforcement training, the better results we'll get. And as a spouse of a former police officer who spent five years on Lincoln Police force, you know, I saw firsthand the dangers of working in law enforcement and the benefits of access to quality training. We want to make sure that training isn't just available in Lincoln or Omaha, but it's available across the state equitably for other communities. So that's why I'm bringing this bill and happy to answer any questions.

STINNER: Any questions? Senator Dorn.

DORN: Thank you for bringing this. How does this funding-- or will-- will this funding be used different than the previous bill, from Matt's?

WISHART: So this is online funding, so it wouldn't be directly just towards the Grand Island Training Center. This would be flexible in its use and-- and it's online. So it is a little bit different. And again, I'm willing to work with the committee on determining what is the best to prioritize and work with the Fraternal Order of Police and other stakeholders in sort of figuring out what funding we want to prioritize this year.

STINNER: Additional questions? Senator Hilkemann.

HILKEMANN: Senator Wishart, so-- and in following up from our previous testimony that-- so your bill is going to actually be directed more to the officers themselves rather than to an administrator?

WISHART: Yes, this will be available to the police forces themselves. Yep.

HILKEMANN: OK, is this-- is this a matter that the-- that the-- the training is there and this is just a way for them to get the training, or are we having-- or are we going to be-- is this for the development of the-- of the training program itself?

WISHART: Oh. Yeah, no, the training-- the training is there, but there are costs associated with getting accredited and accessing accre-- accredited training. And so this would allow for that. This would give access to training, like nonbias training, training in terms of nonlethal use of force, just a lot of sort of virtual opportunities

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that are available to police officers in certain areas, making sure
that the funds are available so that they are accessible to law
enforcement that may serve in a much smaller community, that hasn't
had the opportunity for this.

HILKEMANN: At \$140,000, approximately how many officers could be
trained with this?

WISHART: Jim will be able to better answer that question.

HILKEMANN: OK, thanks.

STINNER: Senator Erdman.

STINNER: Thank you, Senator Stinner. Thank you, Senator Wishart. I
have a-- have a question that was prompted by your conversation with
Senator Dorn about online training. The-- the bill says for in-person
and online training.

WISHART: Yes.

ERDMAN: So if it's in person, how would that happen, at the-- at Grand
Island, or where would that training take place?

WISHART: Oh, no, that training would-- I mean, it could take place in
Grand Island, but it also could take place at the local law
enforcement office as well. And again, there's-- and Jim can talk
about this. I've had the opportunity to tour and experience some of
the training facilities at the Omaha Police Department, which are
unbelievable, I mean, and so this would give the opportunity for types
of those training experiences, equipment, virtual training, all that
kind of stuff, to be available for law enforcement in greater Nebraska
as well.

ERDMAN: Yeah, thank you.

STINNER: Additional questions? Seeing none, thank you.

JIM MAGUIRE: Good morning.

STINNER: Good morning.

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JIM MAGUIRE: Chairman Stinner, Senators of the Appropriations Committee, my name is Jim McGuire, J-i-m M-a-g-u-i-r-e. I'm president of the Nebraska Fraternal Order of Police and I am thrilled to be here supporting this bill. This bill is vitally important. Even when you go from in LB51, we're trying to increase the hours from 20 to 40 hours, currently, you-- only 10 of those can be Internet based. Under-- if-- if-- under LB51, all 40 hours can be Internet based, but you have to have some kind of a way to get the training. We know that when Senator Chambers passed his antibiotics bill, that there were some agencies that struggled to find quality antibiotics training. There are-- there are several companies that offer that training. It does cost some money. However, there are-- there are certain companies that we've-- that we've looked at that have nationally accredited people that go through. They will track how much training online that you've done. And in order for us to improve policing in Nebraska, we have to have a means of training them. That's-- it's there's-- there's no other way of getting around it. We have to train people better because you-- you have an expectation of getting pulled over in Omaha of a-- of a certain, I guess, profession when-- when the officer pulls you over in Omaha or even Valentine or in Scottsbluff, you should-- you should know that the-- the officer that's coming up to you is fully trained and knows what they're doing. So with-- with the improvement in training and everything else, we believe that we will meet that goal with that. So with that, I'll-- happy to answer any questions.

STINNER: Any questions? Senator-- Senator Hilkemann.

HILKEMANN: Thank you for being here. So as I asked Senator Wishart, the \$140,00, how many-- how many officers would this actually-- could you train with this-- this amount of money?

JIM MAGUIRE: So I-- I had talked to Director Brenda Urbanek out at the-- the Training Center. She told me that there was 4,200 police officers in the state of Nebraska and that would train all of them.

HILKEMANN: Oh, OK.

STINNER: It-- it-- online-- online training, you're not seeing if the person actually is paying attention. Is there a testing com-- part of this thing so that you can ensure that they got the information?

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JIM MAGUIRE: They can certain-- we know that they can do that. It would be up to the individual agencies to make sure that that's part of the compliance part of it.

STINNER: OK. Any additional-- Senator Dorn.

DORN: Thank you, Chairman Stinner. Thank you for being here again. What happens if they don't get the training done? What happens? Is that officer then now not able to work or what?

JIM MAGUIRE: Yes. Yeah, if you don't meet your-- your annual continuing education requirements, you can no longer-- your-- your license is essentially suspended.

DORN: And that's 40 hours every year, or how often is that?

JIM MAGUIRE: Yeah. Currently, it's 20 hours. This-- this-- there's a couple of bills, but in LB51 it would increase it to 40 hours, and that's just a proposal right now. But with this allocation of the money, everything can be done online. You could do it during a roll call. If you're a little slow, you can go into your office and-- and watch one of the videos so that you can be caught up on what you want to be-- it would be-- each individual agency can tailor-make it to what they think it's important, to what video that they should be watching. So if-- if a certain agency is having issues, let's say, with somebody understanding the First Amendment, they have videos on this is what the First Amendment allows you to do, you cannot overstep on this.

DORN: Thank you.

STINNER: Very good. Thank you. Any additional questions? Thank you for your testimony.

JIM MAGUIRE: Thank you.

LYNN REX: Senator Stinner, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We really appreciate Senator Wishart introducing this important bill. We do think it's important the Legislature knows that it ties into LB51. The league was not the only group opposing LB51 in its current form, and again, we look forward to working with Senator Lathrop on amendments that make this workable for smaller entities. We

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can certainly see why it works for Omaha. We can see why it works for Papillion. We can see why it could work for Lincoln, because they have their own certified training centers. But I think this kind of-- this bill is important in that element. But the Nebraska Sheriffs Association opposed LB51, as did the Greater Cities of Nebraska, which is comprised of Hastings, Kearney, gosh, Holdrege, Grand Island, and others. So with that, just to underscore the need for this, my understanding is that what this will basically do is that there'll be free online training or that there'll be some kind of subscription purchase for the law enforcement officers in the state. There are, as I understand it from talking to folks, 210 law enforcement agencies in the state, minus the 93 counties, minus about 100 municipalities. Others are Game and Parks and other agencies that are trained. There's-- we were told 4,300 sworn officers, and Jim was apparently told 4,200, but there's a lot of officers. So with online training, there's a number of things that you can do. But a lot of this, too, also requires in-person training. And so we think this is important and this bill would allow for that. We would want to underscore the importance of giving maximum flexibility to the Crime Commission in how to proceed with this so that they don't just have a directive on here's the specific training. The bill itself, LB51, has an additional 24 hours of training that's mandated in certain components, and we think that those compon-- there's nothing wrong with those components, per se, in terms of those types of topics. For example, it includes one hour on mental health and substance abuse; two hours' antibias/implicit bias training; scenario decision based, four hours; firearms, two hours; officer wellness, one hour; legal updates, some of the things that Senator Wishart talked about, including, but not limited to, First Amendment, Fourth Amendment issues, four hours; defensive tactics and use-of-force reporting, eight hours; emergency vehicle operations, two hours; training as determined by a law enforcement agency. So that's in addition to what we have here. And again, we're getting a lot of pushback from our smaller entities in particular, and even some of our first-class cities, about the application of it. But that being said, there are some extremely important elements of LB51. This bill's a very important piece of it. The Law Enforcement Training Center has been underfunded for a long time. The Crime Commission needs maximum flexibility. And we hope that you take that into consideration too. And we just can't thank the committee enough, Senator Wishart, Senator Hansen, and others who are

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working to try to provide funding in this important area. With that,
I'm happy to respond to any questions that you might have.

STINNER: Questions? I have one.

LYNN REX: OK.

STINNER: Very briefly, would you tell me if there's any federal money
coming down? I know that the Fed-- or the Congress was working on
something related to this, and I thought maybe we were getting money
for this.

LYNN REX: The answer is, I don't know.

STINNER: OK.

LYNN REX: We work with the National League of Cities. They-- we
partner with them, all-- their 50 state leagues, obviously, we partner
with them, Senator Stinner, and the messages have been mixed messages
about what's going to come out and what isn't. So I don't know that
anything's definitive.

STINNER: Thank you.

LYNN REX: But whether it is or isn't, this money is really necessary.
It's-- it's critically important. We really appreciate Senator Wishart
introducing this and we hope the committee will include this in their
recommendations.

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

LYNN REX: Thank you.

***JON CANNON:** Good afternoon members of the Appropriations Committee.
My name is Jon Cannon. I am the Executive Director of the Nebraska
Association of County Officials. I appear today in support of LB192.
This legislation provides intent language that the Legislature
appropriate \$140,000 from the General Fund to the Nebraska Commission
on Law Enforcement and Criminal Justice for in-person and online
training for law enforcement officers to be certified through an
accreditation agency approved by the Nebraska Crime Commission. Among
the many benefits of law enforcement officials obtaining accreditation
training, included are: • accreditation promotes the health, safety

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and welfare of society by assuring more competent law enforcement professionals; • assurance that the curriculum covers essential skills and knowledge needed for today's law enforcement jobs; • involves law enforcement practitioners in the establishment of standards and assures that educational requirements reflect the current training needs of the law enforcement training profession; and • provides advancement for law enforcement profession by promoting standards of practice and advocacy of rigorous preparation for the job. We ask you to please consider our thoughts as you evaluate the merits of LB192. Thank you for your willingness to consider our comments. We encourage you to advance LB192 to General File. If you have any questions, please feel free to discuss them with me.

STINNER: We do have written submitted testimony as proponents. Jon Cannon of NACO has submitted his written testimony. Are there any other proponents? Seeing none, anyone in opposition? Seeing none, anyone in the neutral capacity? Seeing none, would you like to close, Senator?

WISHART: Well, I'll just come up for my-- just wanted to be clear that there is another bill, LB51, that outlines some other things. It's not in front of this committee. This bill is just \$140,000 per year and we give the ability of the Crime Commission to determine how those dollars are spent.

STINNER: Thank you for that. Questions? Thank you, Senator. Letters of support are from Lancaster County Board of County Commissioners, United-- United Cities of Sarpy County, Nebraska Alliance of Child Advocacy Centers, and Nebraska chapter of the National Association of Social Workers. And that concludes our hearing on LB192. We will now open LB193, Senator Wishart.

WISHART: Well, good morning, Chairman Stinner and members of the Appropriations Committee. Again, my name is Anna Wishart. A-n-n-a W-i-s-h-a-r-t, and I represent the 27th District in west Lincoln. I am here today to introduce LB193. This bill would appropriate a one-time fund of \$800,000 from the General Fund to the Nebraska Crime Commission for fiscal year '21-22 for the purchase of two law enforcement training systems and software to simulate real-life encounters of law enforcement officers, in person. These systems and software would be designed for law enforcement officers to train on the use of-- on the use of force, especially on the use of nondeadly

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force. In order to ensure that the two new systems are available to currently underserved areas in law enforcement agencies, the Nebraska Police Standards Advisory Council would decide on the location of these systems so that they are not located where similar systems are already in place. I had the opportunity last year, with Senator Wayne and Senator DeBoer, to go to the Omaha Police Department's training center and train on this virtual system. The system that they have costs, I believe, approximately \$400,000. It is incredible system. It-- you-- it's a virtual reality system that walks you through different scenarios so that police officers can find ways to de-escalate a situation. And it's real-time, real-life training, which is critical that we take advantage of these innovations to ensure the safety of police officers and the safety of the public. So my goal is these training systems exist on the east side of the state and we need to make sure that mobility and mileage doesn't get in the way of officers having more frequent access to similar training systems. And I would encourage anyone on this committee to make an appointment with the Omaha Police Department and go and train on this. It's absolutely incredible, and Jim from the Fraternal Order of Police can talk more. Again, the goal is that we move forward as a state leading in terms of public safety for the public and the officers, and these types of systems move us in that direction. Happy to answer any questions.

HILKEMANN: Are there any questions that we-- members of the committee? Senator Erdman.

STINNER: Yeah, thank you, Senator Hilkemann. Thank you, Senator Wishart, for this. I read the fiscal note, and at the bottom it says that they assume that the equipment would be warrantied for two years. And then their-- their comment was, what happens to the maintenance going forward? So we will have to make an appropriations for that maintenance of that equipment going forward?

WISHART: My anticipation is that that would need to be covered by the-- the agency and the Crime Commission.

ERDMAN: OK.

HILKEMANN: Additional questions? Senator Kolterman.

KOLTERMAN: Thank you, Senator Hilkemann. Senator Wishart, thanks for bringing this bill. I-- I did have an opportunity yesterday to visit

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for two hours with my-- my sheriffs in person to talk about some of their concerns about training and-- from Seward and York Counties, and-- and they've been active in the Sheriffs Association. And as you-- as you indicated, they are supportive of LB51, but not quite to the extent that-- not the 40 hours. But at the same time, they expressed concerns. They-- they want to be very professional. I will say they are both very professional operations. However, the need to find people and train them and make sure that they are properly trained in western-- when I say western Nebraska, I'm thinking anything west of Lancaster County line-- needs to take place. And it's not happening at the present time because of lack of resources. And so I-- I think-- I appreciate the fact that, you know, you're right, Lincoln and Omaha, they have their own training centers, but you get west of here and it's not available. And-- and we deserve-- the people that are being pulled over in western Nebraska and central and north Nebraska, all should have the same opportunities that exist in the bigger communities. So I appreciate you bringing this bill and the one before and also-- it-- it's just a matter of how much can we do. And so as we look at these, I'm-- I'm sure we're going to have to prioritize some, but appreciate the opportunity to discuss it with you. Thank you.

STINNER: Thank you. Additional questions? Senator Hilkemann.

HILKEMANN: Senator, do you-- so do you anticipate that this software would-- or this program, and I-- and I know it's more than software and I-- and I-- so in the medical profession, we use lots of virtual training on things. And do you anticipate that this would be located in Grand Island then?

WISHART: No, it's up to the Crime Commission and the Police Standards Advisory Council to determine where it would need to be placed. So I-- probably that would be one of the locations for this type of training since there are also police officers coming there. But the-- the-- and I'll have to ask Jim if there is one there already.

JIM MAGUIRE: In Grand Island?

WISHART: Yeah, no. So I'd imagine--

JIM MAGUIRE: [INAUDIBLE]

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WISHART: I'd imagine potentially in Grand Island, but then there's
and-- there's an opportunity for another one in the state, and I would
hope that the commission would consider going to the full western
portion of the state to provide access to people there.

HILKEMANN: Is just the type of thing we-- we have-- in the medical
profession, we have the EMTs and so forth that can train on-- on a--
on a mobile van type of a thing. Is this the type of thing that we
could do the same sort of a thing with?

WISHART: That is an absolutely great question. It would have to be a
huge mobile station--

HILKEMANN: OK.

WISHART: --because the room that you walk into where you train on this
is the size of all of you sitting there because you're really training
in a real-life situation where the vehicles, the people, everything is
actual size and you are wearing virtual reality glasses and you are
walking through real-life situations that have happened to police
officers and they are walking you through. Those that are watching are
then critiquing you based off of the decisions you make on how a
situation escalates or de-escalates. It's-- it's state of the art and,
again, something that should be available to all portions of the
state.

HILKEMANN: OK. Thanks.

STINNER: Additional questions? Seeing none, Scottsbluff's a wonderful
place. We actually have an iWall out there, so.

WISHART: Yes.

STINNER: Morning again.

JIM MAGUIRE: Chairman Stinner, Senators of the Appropriations
Committee, good morning. My name is Jim Maguire, J-i-m M-a-g-u-i-r-e.
I'm president of the Nebraska Fraternal Order of Police, and I am here
to support this bill that will provide state-of-the-art equipment
availability to law enforcement in Nebraska. As-- as Senator Wishart
said before, she had attended and saw the actual simulator. There are
three in Nebraska that are like this. One's in Omaha; one's in
Bellevue; one's in Lancaster County. That's it. We have multiple

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officers that are being trained out in Grand Island that don't have access to this kind of training. What is fantastic about this is that it goes from the old days-- I-- I've been a law enforcement officer for 29 years. Training has progressed immensely from when I first started to where we're at now, but this is the next step. There's no other training like this. Before, there was no money, so there were times where we would have to literally do-- train hands-on with plastic guns. This, you can-- you will have a sidearm that is not real. It basically just blows out air, but it will simulate where the round is going. And if you are doing everything right, it-- they-- the person behind you can get on a computer and de-escalate the situation to where you don't have to use a firearm. You may not even have to use any force at all. It is true de-escalating training, and that is what is needed right now. We have to have this. This-- this-- not only can the officer on the street use this, you've got-- if you've got SWAT teams, they can put up a-- a door to where you can breach and then you can go in and see people if they're just coming up with their hands up so you don't shoot. There's-- there-- there are so many scenarios in this that it is-- it is so vitally important that we-- that we provide this kind of access of training to all our officers in Nebraska rather than the select few. I'll be happy to answer any questions.

STINNER: Questions? Seeing none, thank you.

JIM MAGUIRE: Thank you.

LYNN REX: Senator Stinner, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. Once again, we're a strong support of this measure. We think that this bill-- and thanks, Senator Wishart, for introducing LB192 and LB193. This particular measure is important because I think it provides equity for law enforcement across the state to have access to this critical training. Like I said, we're looking at 100 law enforcement agencies. And so you basically have 97 of them that have-- municipal agencies, 210 law enforcement agencies, 100 of which are municipal, and of course your 93 county-- your-- our 93 counties. And with that, you know, you're looking at basically only three entities right now that have access. I was told yesterday that Kearney just purchased a simulator. You do have maintenance costs that are tied into this, too, but this is really critically important. And officers across the state want access to this. So we appreciate the committee seriously thinking about this as well. And again, if it's a-- if

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misery loves company, let me just say there is not enough that you can do to reinforce the Law Enforcement Training Center and also the Crime Commission in providing them adequate funding because they have been cut so severely over the years by your predecessors. With that, I'm happy to respond to any questions you might have.

STINNER: Any questions? Seeing none, thank you.

LYNN REX: Thank you very much. Really appreciate it. Thank you. And again, thanks to Senator Wishart for introducing these bills, and that-- Senator Hansen. Thank you.

***JON CANNON:** Good afternoon members of the Appropriations Committee. My name is Jon Cannon. I am the Executive Director of the Nebraska Association of County Officials. I appear today in support of LB193. This legislation provides intent language that the Legislature appropriate \$800,000 from the General Fund to the Nebraska Commission on Law Enforcement and Criminal Justice for the purchase of two law enforcement training systems and software to simulate real life encounters of law enforcement officers. The intent of the purchase is to train law enforcement officers on the use of nondeadly force. Today's virtual reality simulators are a tool that can be used in many different ways, including for law enforcement training. Virtual reality simulations also can include judgmental training. The question for the officer in training situations becomes "What are you going to do?" Skills are generally taught in a classroom environment first, and then the officers are immersed into a complete sensory experience in a virtual reality scenario where there are so many different outcomes. Such outcomes can include no injury and no force whatsoever. We ask you to please consider our thoughts as you evaluate the merits of LB193. Thank you for your willingness to consider our comments. We encourage you to advance LB193 to General File. If you have any questions, please feel free to discuss them with me.

STINNER: Thank you. We do have written testimony in support from Jon Cannon of NACO. Is there any additional proponents? Are there any opponents? Seeing none, is there anyone in the neutral capacity? Seeing none, Senator Wishart waives closing. Thank you, Senator Wishart.

WISHART: John, we also have letters of support.

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STINNER: I'll reopen the hearing on LB193. We do have letters of support that I failed to read, Lancaster County Board of County Commissioners, United Cities of Sarpy County, and Nebraska chapter of the National Association of Social Workers. That concludes our hearing on LB193.

WISHART: Our committee will now open the hearing on LB304.

HILKEMANN: LB341.

WISHART: LB341.

STINNER: I was just looking at my book. I said--

WISHART: LB341.

STINNER: --must not be up then. Good morning, Vice Chairperson Wishart and fellow members of the Appropriations Committee. For the record, my name is John, J-o-h-n, Stinner, S-t-i-n-n-e-r, and I represent the 48th District, which is all of Scotts Bluff County. LB341 limits the balance of the State Settlement Cash Fund to \$5 million. Any unobligated or unencumbered balance in excess of \$5 million would be transferred to the General Fund at the end of the fiscal year annually, June 30. This bill is an attempt to limit the buildup of unexpended funds under the Settlement Cash Fund, which is a cash fund administered by the Attorney General for the purpose of consumer protection litigation in conjunction with other states. It consists of recoveries from the Consumer Protection Act resulting in civil damages in and out of court, as well as other payments received on behalf of the U.S. Department of Justice for the benefit of the state of Nebraska or general welfare of the public. Based on General-- the Attorney General's fall 2020 budget request, the State Settlement Cash Fund is projected to have a June 30 balance in 2021 of \$14.1 million. Transferring the balance over \$5 million would bring an estimated \$9.1 million into the General Fund. The projected 6-30-22 balance is \$12.7 million. That figure, minus 9.1, results in an adjusted June 30 balance of \$3.5 million under the assumption zero would be transferred on June 30, '22. Should be noted that the revenue stream in this fund is difficult to predict due to the nature and amount of settlements that may occur. The Attorney General's budget request asks for \$1.75 million appropriated from the fund each year. Utilizing a cap of \$5 million, that provides approximately 2.8 years of appropriation,

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assuming revenue to be funded at zero-- that revenue to the fund is zero. Please keep in mind this legislation in no way hinders the ability-- AG's ability to carry out its mission of consumer protection. I don't intend to encumber AG's mission, which is why I allowed for sufficient coverage of more than a full budget cycle. For most funds at-- we as a committee use a three month as a guideline in the event of revenue absence in the-- into the fund. This committee would be tasked with considering additional appropriations out of the fund, just as we do in various other cash funds in the state under our jurisdiction. I also have an amendment for your consideration, AM137, which incorporates feedback I've received from the AG's Office. This feedback includes striking obsolete provisions which include transfers to the Capital Construction Fund and the Legal Education of Public Service and Rural Practice Loan Repayment Assistance Fund. This change in the bill would harmonize provisions under the current statute. I look forward to the discussion and will welcome any questions.

WISHART: Senator Erdman.

ERDMAN: Thank you, Senator Wishart. Thank you, Senator Stinner. So the cash fund is now 14-- did you say \$14 million? I didn't write that down.

STINNER: It's \$14.1 million is what the projections are, yes.

ERDMAN: Fourteen-point-one-- and how is that-- how is that money put in that cash fund?

STINNER: It's from settlements from various things and I-- how is it? It's exactly as I described in my opening comments: could come from the U.S. Department of Justice, could come from suits, consumer protection suits, those types of things.

ERDMAN: So it was generated by things the Attorney General did--

STINNER: Yes.

ERDMAN: --on our behalf to get those settlements?

STINNER: On behalf of the consumers.

ERDMAN: OK, and so we're going to sweep \$9 million-something out of that account?

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STINNER: That's what the fiscal note-- \$9.152 million would be the
projected number to be swept out.

ERDMAN: So then the remaining balance would be \$5 million.

STINNER: Yes, and that's 2.8 [INAUDIBLE]

ERDMAN: Have we swept that account before?

STINNER: We've swept it, but we've had-- we've had to wait till we get
back in session. We've had to wait till we can have a budget hearing,
those types of things. So this is-- this is putting in a little bit
more discipline.

ERDMAN: So-- excuse me. So we'll-- we'll probably hear from the
Attorney General on that.

STINNER: I presume we will.

ERDMAN: Are they-- but what happens in your discussion with them about
taking this?

STINNER: I think the discussion has-- has really occurred between my
staff and-- and the Attorney General specifically on this, and it was
clean-up language that we added in the amendment, not sure that we've
had that discussion specifically on this. We've had discussions on
other items.

ERDMAN: OK, well, we have been-- we've been kind of restrictive. We're
kind of holding down the Attorney General's budget in some of the
decisions that we've made, and they have this cash fund that they
actually were responsible for getting. It doesn't make any sense that
we would have a heavy hand on them for some of their budgetary
requirements when, in fact, they have this kind of cash fund.

STINNER: I think we've adequately provided for the needs of the
Attorney General's Office based on historical analysis and based on
actual versus what we've budgeted. We've provided cushions for them.
We're providing 2.8 years of appropriations that they attempt. We've
also increased cash funding appropriations as to accommodate them. I
definitely disagree with your analysis that we've been heavy-handed or
restrictive. That may be their term, but I think the Attorney
General's Office has never spent over the appropriations amount. And

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many times-- and I think they've done a great job, frankly, I'm not going to say they haven't done it, but I don't think appropriations have been unusually restrictive at all.

ERDMAN: OK.

WISHART: Thank you. Any other questions? Seeing none, thank you. Any additional supporters of LB341? Seeing none, we do have-- actually, I'll read that after. Do we have any letters in support? So, seeing none, then let's move to opposition.

JOSHUA SHASSERRE: Good morning, Vice Chair Wishart and members of the Appropriations Committee. For the record, my name is Joshua Shasserre, J-o-s-h-u-a S-h-a-s-s-e-r-r-e. I am assistant Attorney General and chief of staff of the Attorney General's Office here to testify somewhat reluctantly on behalf of the Attorney General in opposition, and I say reluctantly because I'd prefer that we wouldn't be in this position. Nonetheless, I think Senator Stinner's opening remarks and the exchange with Senator Erdman was educational in terms of what this settlement fund consists of and how it may be spent. And I do want to just note at the onset that we do appreciate Senator Stinner's willingness to amend the bill, at least to the degree where we are eliminating obsolete language. Nevertheless, we are opposed to LB341 because, first of all, the funding for this cash fund in large part are court-ordered settlements, thus, the language of those court orders should be taken into account when we are making decisions about then transferring money away from that fund. Those terms of those settlements, most of which I have-- I can give you some example, but each of them normally constrains spending to purposes such as cost of investigation, attorney time, future consumer protection enforcement and consumer education and litigation costs. Our office has, over the entire tenure of Attorney General Peterson's terms, only utilized this fund for those purposes, and the statute itself says-- if you take a look at it in the bill, the relevant section that's amended first begins in sub (3) to say that the fund may be expended for any allowable legal purposes as determined by the Attorney General. We take that rather literally to say that the-- those court-ordered settlements, the terms within them, thus govern how we ought to spend it; thus, we have never then come back to this committee to ask for any state settlement dollars on our own behalf other than to fund those personnel and outreach efforts upon-- from our office that are consumer protection solely. So we view that LB341 is at least not in

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keeping with the primary-- primary intent and terms of these settlements, nor the statute itself. LB341 also, as was noted by Senator Stinner's opening, it is unpredictable, and the handout that I passed around, the loose-leaf Excel sheet, will give you the last ten fiscal years of deposits on an annual basis to the State Settlement Cash Fund. You will see that the last several years have been good, that we had years in the past where we're under \$50,000 per deposit yearly. That is just to reiterate that it is inherently unpredictable. Again, these are settlements that the-- our office enters into, usually in conjunction with multiple other states, and then those funds are allocated back to those states, usually by a population basis. So we would view that-- that that is counterproductive to simply keep \$5 million in this cash fund-- I'm sorry, I-- I'll wrap up here. When considering the preliminary recommendations of the committee for our agency, which the Attorney General will speak about in the-- following this bill, we have concern that there is at least a possibility in the future where we would ironically be coming to this committee and asking for additional funds if we did not have monies that were sufficient to sustain our current expenditure rate. And so, therefore, the Attorney General respectfully requests that LB341 not be advanced to General File. However, should the committee choose to do so, we would be willing to further engage in any discussion about an amendment. And at the very least, we would ask that the language in-- the new language on page 2, line 21, that says that each year thereafter it is automatically transferred to the General Fund for any monies in excess of \$5 million dollars, that that be struck and that the committee do as it normally would, which is to assess whether that need exists each biennial Legislature. So with that, I'll be happy to answer any questions you may have and thank you for your time.

WISHART: Thank you, Josh. And I couldn't hear. I wasn't sure whether you stated your name and spelled it for the record. Did you do that?

JOSHUA SHASSERRE: I did, yes, um-hum.

WISHART: OK, thank you. Any questions from the committee? Senator Erdman--

ERDMAN: Thank--

WISHART: --and then Senator Dorn.

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ERDMAN: Thank you, Senator Wishart. Thank you, Josh, for coming today. So I'm concluding from your comments that the appropriate use of these funds would be what? Explain to me an example of how these funds should be used, according to your opinion.

JOSHUA SHASSERRE: Thank you, Senator. And again, the settlement terms define what those are. They can vary and they can also say, you know-- they also do say however the statute may require. OK? So that's why I'm not suggesting-- I want to be clear that I'm not suggesting that this is legally impossible for the committee to do. I'm simply suggesting that it is not in keeping with what the purpose of this cash fund was originally and how we have constrained ourselves in utilize-- utilizing it thus far. And so I would simply say that those are anything related to the acts that we were required to implement. So that's consumer protection outreach, which we do across the state. We took, for example, over 9,000 calls into our consumer protection center that we house in our office that's funded by this program-- these funds. It funds all of our attorneys that work in this area on-- on consumer protection and antitrust cases. We have no other intent to expand upon that. But those are the-- those are the monies for which it may be used, in our opinion.

ERDMAN: OK, so let me give you-- let me give you an example that came to my mind when I seen this. Tell me whether this applies. And so, you know, Will Rogers once said whiskey's for drinking and water's for fighting over.

JOSHUA SHASSERRE: Um-hum.

ERDMAN: And so we will continue to have those issues about water with Kansas, Colorado, and-- and those states.

JOSHUA SHASSERRE: Um-hum.

ERDMAN: So if we had some litigation on a water issue, would these funds be available to be used for that?

JOSHUA SHASSERRE: Historically, they have not been. Now that, again-- again, that ties into one of our budget request items that we'll talk about next, which we would view as highly necessary. And so, again, as we have done in the past in other budget cycles, there have been some exchanges with this committee in terms of reducing the General Fund

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cut that we have been subjected to by an exchange for cash funds of
one form or another. And so, again, that has been a prior practice.
And if that were the direction that the committee would intend to go,
I-- I presume that we'd be comfortable with doing that.

ERDMAN: OK. Thank you.

WISHART: Senator Dorn.

DORN: Thank-- thank you, Senator Wishart. Thank you for being here. I
get-- this handout when you handed this, it looks like in the last ten
years, you collected a little over \$28 million.

JOSHUA SHASSERRE: In total, sir, yes, without taking into account the
expenditure out of it, yes.

DORN: Some years are better than other years.

JOSHUA SHASSERRE: Yes, indeed.

DORN: But if-- when Chairman Stinner was here and made the comment,
this fund currently has more than half of that in there, in that cash
fund with all of \$14 million, when we look at-- I guess when we look
at other budgets--

JOSHUA SHASSERRE: Right.

DORN: --and we look at the amount collected and the amount still in
there, this is a very high amount.

JOSHUA SHASSERRE: Correct. And I would just suggest, Senator, that,
one, again, these are not-- what I wanted to make sure is-- it's clear
is that it's not a function of the number of people that we have doing
this work. It's not a function of their efforts, necessarily. It is
more so a function of what bad acts occur that are undertaken by any
national or global company in any given year that determine primarily
how much money comes in, in any given year. So there you could-- I
mean, from that chart you can see the fluctuation there. And again,
the reason why there's so much built up in there is that in the past
several years, there's been a substantial amount of settlement dollars
that come in. But on the other hand of that is that once Attorney
General Peterson took office, we pledged to the former Chair of this
committee, Senator Mello, that we would only expend those monies for

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related purposes for the fund, which are all those consumer protection-related personnel costs, etcetera, that I had mentioned before, and thus that's why our request for expenditure has never really been anything recently more than approximately \$1.7 million on an annual basis, which is why at this point there's so much excess cash. So we would suggest that if the committee intends to go this route that, again, either it be done as it normally would occur, without this perpetual cap, because of the possibility that there would not be sufficient funding coming in on an annual basis in terms of new deposits, because, again, it's not a function of how well we do our job, or at the very least, that because of that same reason, that this cap, if it was insisted that it be perpetual, that it would be increased such that it not be simply less than three years of the current expenditure rate.

DORN: Part of-- and maybe I missed part of the discussion. Part of what you-- you-- you said your concern was that at some point in time this \$5 million may not be enough to cover, I call it, expenditures or allocations or whatever.

JOSHUA SHASSERRE: No, I'm sorry, sir. I-- what I mean to say is that it's possible that our deposits on an annual basis may-- after this cut and cap is put in place, it's possible that they may not keep up with the current expenditure rate, and thus we would at some point in time perhaps not have \$1.7 million in there, and thus it would be an odd situation for someone from our office to then come and make a request to continue to carry out statutory function without there then being a cash fund that's readily available to fund that that's logical.

DORN: Could you possibly, and maybe you can't, show us where some of the-- a listing of like this for ten years for expenditures too?

JOSHUA SHASSERRE: Yes, I actually think the-- we have another handout we might give you in the agency budget hearing, but that'll show the Program 290 expenditures and what we've requested over at least the last six years. And that-- that was a time where we had made a substantial request, when Attorney General Peterson took office initially, to expand our efforts in this consumer protection realm, because it was a priority of his. And so-- but since then, it has been approximately \$1.5-1.7 million.

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DORN: OK.

WISHART: Senator Hilkemann.

HILKEMANN: On the-- when-- in reading this bill, and we go to-- to
line 21 of the first page, which is-- this is \$5 million on June 30 of
2021, and then each June 30 thereafter.

JOSHUA SHASSERRE: Uh-huh.

HILKEMANN: If that line were not there, would this be more palatable
to you?

JOSHUA SHASSERRE: Frankly, yes, Senator, it would.

HILKEMANN: You said yes?

JOSHUA SHASSERRE: Yes.

HILKEMANN: OK.

JOSHUA SHASSERRE: I mean, although, obviously, we would object to it,
because I don't think it's in keeping with the purpose of the-- the
statute or the fund itself. However, again, I-- I think that would be
more in line with how this committee operates normally because it
would then assess whether deposits, you know, at that point in time
were sufficient to continue to sustain it. And it could-- you know, it
could, for lack of a better term, sweep that money to the degree it
thought appropriate. So, yes, I think this perpetual cap is perhaps
the even more concerning part of it.

HILKEMANN: OK. Thank you.

WISHART: Any other questions from the committee? OK, I have just a
couple. And you and I spoke yesterday about this as well.

JOSHUA SHASSERRE: Yes.

WISHART: So just to be clear, you spend on average every year about
\$1.2-1.7 million.

JOSHUA SHASSERRE: Yes, the last couple of fiscal years is about 1.7,
give or take.

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WISHART: OK, and your concern, what I'm hearing is that if you have perpetual years of like FY '11 and FY '13, where you're only inputting into the fund \$40,000, that if those accrue over a series of years, then that \$5 million cap may not replenish that fund enough for you to continue at the pace with which you are funding your staff to go after these dollars.

JOSHUA SHASSERRE: Yes, um-hum.

WISHART: OK.

JOSHUA SHASSERRE: I think so. That's what I'm trying to say.

WISHART: So do you anticipate growing any more than 1.7, your maximum amount per year, other than just inflation?

JOSHUA SHASSERRE: At this time I would say no, with a caveat there to say I think when we submitted our budget to the committee-- again, this is a little bit going into our agency hearing. But aside from the additional water litigation funds, we-- we remain flat, as we did even the prior biennium. That is, I think-- and I appreciate Senator Stinner mentioning this, that we-- we have never been in a position where we have overcome the amount of appropriation provided to us by the committee and by the Legislature. So we've been good stewards of our funds. So although I think I could suggest that perhaps even with our current initial litigation against big tech firms, for example, on antitrust cases, that we may have a future need for additional attorneys in that area, amongst others, so-- but at this point in time, we thought it was most prudent to simply maintain personnel as they are. And thus, I-- all I guess I'm trying to get across is that we-- we could expand that somewhat. But at the moment, yes, the presumption is 1.7 with, you know, typical COLA and benefit increases built in.

WISHART: OK. When-- when we spoke, there was a potential compromise, potentially, that the \$5 million is maybe too narrow to project for future issues, but if we were to go at around \$8 million, capping that fund at \$8 million and then pulling the other dollars into the General Fund, that that would give a longer runway, if there were issues, then that we could come back and address.

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JOSHUA SHASSERRE: Yes. Thank you for that. Again, I think two potential options that I would see or suggest is either that or, again, just simply removing that phrase that says each June 30 thereafter. So removing the perpetual cap entirely would be highly preferable. If the cap is intended to stay, then something for which, at least at the current rate, two biennial cycles, would be also preferable.

WISHART: OK, and then the last thing is we have in recent history swept these dollars.

JOSHUA SHASSERRE: Yes, not to this extent.

WISHART: Right. But we have-- we have done it before.

JOSHUA SHASSERRE: Yes.

WISHART: Yes. OK, thank you. Thanks, Josh.

JOSHUA SHASSERRE: Thank you very much.

WISHART: Any other follow-up questions? Seeing none, thank you.

JOSHUA SHASSERRE: Thank you very much.

WISHART: Do we have anybody else in opposition to LB341? Seeing none, anybody in the neutral position? Seeing none, Chairman.

STINNER: Thank you. I-- I think there needs to be some clarification about what this fund's about. This is consumer protection, and associated with that is a lot of activity within the AG's Office. And it takes \$1.75 million for personnel and cost associated with Consumer Protection Act. And there are times where we collect money from lawsuits, either-- lots of states join in on a lawsuit. Dollars come in, in settlement. It goes into this fund. Now how much dollars do you want to keep in there? How many years of operating funds, given traditionally what you've seen as funds flow, to be maintained in this fund so that if we don't settle and we don't receive funds, you know, 2.8 years, that's 1.75, 1.75, and a little bit more. Now Josh was talking about maybe three years. OK, I can go with three years. That means you got zero revenue coming in. Historically, how-- how-- how is that? Unless we change all the consumer protection laws, it's pretty much not going to be the case. Now the other thing is, is make sure

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that you understand unobligated and unencumbered. Many times you'll get a lawsuit and it has to be paid out in a certain fashion to consumers or whatever. That would be an encumbrance. So you'd subtract that money out. That would have to be set aside. If you have specific water legislation or-- or litigation that you're having, similar to what they're asking us to do in the budget, which we did not put in our preliminary budget because we wanted to hear from the Attorney General's Office, what specifically do-- do you have in mind on water legislation-- or litigation, excuse me. And that's the feedback we got, so I've got a pretty good answer for it. I think the Attorney General will talk in general terms about it. That fund is set up. If we deplete this fund and we have \$1.75 million, guess what? We do General Funds. We have to help them. But this is just a little bit of a discipline that makes it automatic. I appreciate his comments and concerns. I think we put some safeguards in here, but I want everybody to understand it's unencumbered funds, unobligated funds, come specifically from a source. And we do-- we do allocate money, just like we do all the time in Appropriations, to running those funds, and they have not exceeded the appropriations. That's a-- that is a true story over as long as I've been here. So we've adequately provided appropriations and adequate funding for the-- for the AG's Office in the past. With that, I'll take questions.

WISHART: Seeing none, thank you.

ERDMAN: Thank you.

WISHART: And Brittany, I have down here a letter of support, but I think it was for LB304. It was from the Nebraska chapter of the National Association of Social Workers, so I'm going to make the assumption that that was a letter of support for LB304, Senator Hansen's bill.

STINNER: Yes, it is.

WISHART: OK, well, with that, that closes our hearing.

STINNER: Thank you, Senator Wishart.

[AGENCY HEARINGS]

STINNER: [RECORDER MALFUNCTION] to the Appropriations Committee hearing. My name is John Stinner. I'm from Gering and I represent the

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48th Legislative District. I serve as Chairman of the committee. I like to start off by having members do self-introductions, starting with Senator Erdman.

ERDMAN: Steve Erdman. I represent District 47. It's ten counties in the Panhandle.

CLEMENTS: Rob Clements, from District 2, 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.

KOLTERMAN: Mark Kolterman, District 24, Seward, York, and Polk Counties.

DORN: Myron Dorn, District 13, which is Gage County and the southeast fourth of Lancaster.

STINNER: We do have two members presenting bills this-- they'll-- they'll be back after the presentation. Assisting the committee today, Brittany Sturek, our committee-- our comm-- our committee clerk. And to my left is the esteemed fiscal analyst, Doug Nichols. For the safety of our committee members, staffs, pages, and public, we ask those attending our hearing to abide by the following. Submission of written testimony can only be accepted between 8:30 and 9:30 in the respective hearing room where the bill will be heard later that day. Individuals must present their written testimony in person during the time framework and sign the submitted written testimony record at the time of submission on the day of the hearing on the bill. If the individual is covered under the American Disability Act, they can have someone else signing in for them on the written testimony. Due to social distancing requirements, seating in the hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend the bill hearing in progress. The bills will be taken up in order posted outside the hearing room. The list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill and allow time for the public to move in and out of the hearing room. We request that every-- we request that everyone utilize the identified entrance and

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exit doors to the hearing room. We request that you wear a face covering while you are in the hearing room. Testifiers must-- may remove their face covering during testimony to assist committee members and transcribers to clear-- clearly hearing and understanding of the testimony. Pages will sanitize the front table and chairs between testifiers. Public hearings for which attendance reaches seating capacity or near capacity, the entrance door will be monitored by the Sergeant-at-Arms who will allow people to enter the hearing room based upon seating availability. Persons waiting to enter the hearing room are asked to observe social distancing, wear a face covering while waiting in the hallway or outside the building. To better facilitate the day's proceedings, I ask that you abide by the following. Please silence or turn off your cell phones. Move to the front row when you are ready to testify. Order of testimony is introducer, proponents, opponents, neutral, closing. Testifiers, sign in. Hand your green sign-in sheet to the committee clerk when you come up to testify. We ask that you please spell your name for the record before you testify. Be concise. It is my request that you limit your testimony to five minutes. That may be modified depending on numbers and time of day. If you will not be testifying at the microphone, but want to go on the record as having a position on a bill being heard today, there are white sheets in the 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. We ask that you please limit or eliminate handouts. Written materials may be distributed to the committee members as exhibits only while the testimony is being offered. Hand them to the page for distribution to the committee and staff when you come up to testify. We need 12 copies. If you have written testimony but do not have 12 copies, please raise your hand now so the page can make copies for you. With that, we will begin today's hearings with Agency 5, Supreme Court. Welcome, Chief Justice. It's always great to see you.

[AGENCY HEARINGS]

STINNER: We'll now open with LB353, Senator Lathrop. Afternoon.

LATHROP: Good afternoon, Mr. Chair and members of the Appropriations Committee. It is a pleasure to be here. This is like my one and only time here. I try to avoid this place, but today I'm here to talk about community corrections beds. My bill proposes to build and finance or have an appropriation for 300 community corrections beds in Omaha, and

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I'd like to tell you a little bit of my rationale for bringing this bill back to you this year. We are obviously, and have been since July, in an overcrowding emergency. We have a problem with too many people inside our facilities. We have a proposal to build 230 beds. They are of a higher security level. And I'm not here to comment on that or to-- to pass judgment on the-- on a matter that you'll take up later on. But I have to tell you that I've been involved in corrections issues since 2007, having chaired-- or, pardon me, served on the Judiciary Committee for eight years before being term limited, and now I'm back there on my second year since my return. I've chaired a committee that did a special investigation into Nikko Jenkins, the miscalculation of sentences. I think I understand this topic and what I can tell you about the numbers, this last year we did a new assessment on our population projections. We're going to go up by about 250 men a year in our-- in our average daily population. The solution to our overcrowding is not going to take place because we build our way out of it. Politicians for a generation promised to make streets safe by increasing penalties, and we've done that. We did the war on drugs and we increased penalties. We did mandatory minimums, increased the length of time people spend in-- in prison. And we did habitual criminal statutes where people spent more time in prison if they were convicted of three felonies. All of those things that we have done in the name of public safety have increased the number of people who are incarcerated and the length of time they spend there. And Director Frakes will be the first one to tell you that is something he has no control over, none. He just incarcerates the people we send down there and keeps them as long as we tell them they need to be kept. Community corrections is part of a movement that Legislatures across the country are engaged in. It's called Right on Crime. You can be tough on crime, and that worked for a generation. But now that we are at the point in time, and the state of Nebraska is where we got to figure out, do we want to spend all of our money building facilities that in our case we have difficulty staffing or do we want to take a look at a different approach? Other states are doing this. It generally falls under the banner of criminal justice reform or being right on crime. And the idea is that 93 percent of the population that's incarcerated is coming back into the community. Those 93 percent won't do better to have another year tacked on to their sentence. The important thing is, is that they get rehabilitation while they are incarcerated, so that can take the form programming; it can take the form of vocational rehabilitation. But

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it's also important for them to have-- be paroled where someone can supervise them and have some supports around them, might be transitional housing, those kinds of things. In between those two points in time is community corrections. That's where we take inmates who have completed their clinical programming and give them an opportunity to go back into the community in a very structured way. They typically start out with doing jobs around the community corrections center. They may be the guy that does the laundry or the guy that cleans the bathroom. But eventually they get work release. And why is that important? If you are getting work release, you can go to an apprenticeship program, for example. You can go to the community college and get more education or-- which is more likely the case-- you can get a job. And why is that important? If I am an inmate within a year of my release and I have an opportunity to go into the community during the day and work a job at construction or manufacturing, whatever it might be, I am banking money. I'm being paid whatever the prevailing wage is. I give some money to the Department of Corrections for my keep, for-- I think they take money out for two different things. But I'm banking money. So when I leave-- when I leave the community corrections center and I'm discharged, a couple things are true. I have a job. I have some stability. I've banked some money so I can get a-- get an apartment, get a car, get a cell phone, be able to function after I get out, and I don't just get the \$100 gate check, right, and-- and wish me good luck. Community corrections is really an important piece, and right now our community corrections, in my estimation, and I think I understand this and I suspect the director may disagree with me, it's underutilized. Our facilities, I think, are-- and I haven't looked recently, but they were somewhere around 200 percent and 170 percent, so they're over capacity, like the-- much of the entire system. My understanding is we have 191 people who are waiting to get in there. There are also people that could get in there if they had completed their programming sooner. So the last report that I read, the quarterly report from the Department of Corrections, said they're trying to get people in programming before their parole eligibility date, on or before their parole eligibility date. Really, what needs to happen in the system when it functions well is complete your programming a year before and have an opportunity to do that community corrections. If we get to that model, we will need more community corrections beds. Another thing we can do with community corrections beds, and Senator McDonnell and I went over to Iowa and watched-- or toured a program they have

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where they bring people back into that structured settlement or structured circumstance when they're on parole but they have a slip-up. Maybe they have a bad drug test, and instead of putting them back in the Department of Corrections and putting them in a jail cell, you-- you put him in a place that's structured where you say, you know what, maybe it's not good that you're out at night, let's have you spend a little time back at community corrections in some kind of a more structured setting, and give them some supports to-- to be successful. At the end of the day, these things are how we ought to score whether we're doing well keeping people safe, and that is, what is our recidivism rate? Are we reducing the number of people that reoffend? And we know the science is there. If you give them the rehabilitation, the programming, some vocational training and an opportunity at community corrections and work release, they will have better opportunities and less likelihood to reoffend. That's the logic and, in my estimation, the imperative of LB353. And with that, I'd be happy to answer any questions you may have.

STINNER: Very good. Questions? Senator Dorn.

DORN: Thank you, Chairman Stinner. Thank you for being here, Senator Lathrop. How long a stay does a-- how long is the average stay for someone in community corrections?

LATHROP: I think it's somewhere between-- Director Frakes, if he's testifying, can answer that specifically, but it's somewhere, I think, between a year and six months, somewhere in that. I understand that if you start it too soon, then some of those guys slip away from you and decide they want a little more freedom, and so there is a window there that's sort of the sweet spot.

DORN: Is the amount of time they stay there based on how they're progressing through the-- I call it the community, or is it based on their-- their length of sentencing?

LATHROP: I think right now it's-- it's not based on their sentencing, to my knowledge. I think it's based upon availability. So we have a bunch of people waiting to get in there. And maybe I can make one more point, which is the idea that we turn the Work Ethic center into a community corrections center, I-- I-- I'm just going to comment because I won't be here for the rest of the presentation. I don't think that works because there aren't jobs there, like people-- the

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best-- the best circumstance is being in community corrections in a community you're going to return to, right, because you start working here and then that job is still there in the place you're going to live. If you're out in McCook, you might be able to get somebody a little community college. I think we had a deal with Valmont when it originally opened to teach people to weld, but that fell through. It's best done where the-- where the prisoners-- or where the inmates are going to return to, and that's predominantly Omaha and Lincoln.

STINNER: Any additional questions? I have a couple of them. And-- and you are the longest term senator we have, probably the most knowledgeable senator-- senator we have in this body about Corrections and what's happened to Corrections. Dewberry study was commissioned and finished in 2014. When did they commission that? How long did it take them to do that study? I mean--

LATHROP: I'm not sure how long it took. I know--

STINNER: --maybe you also want to talk about what the findings are.

LATHROP: I know-- yeah. So it was at the-- it was in the last year of the Heineman administration and we were involved, and that was more Senator Mello and maybe Ashford, with CSG at the time. I did not get involved in the special investigative committee until that was a resolution in 2014. And that Dewberry report came out, I think, in the latter part of 2014, which would have been just before I was term limited.

STINNER: And do you-- do you have a-- what were the conclusions in-- that-- that you see?

LATHROP: So the Dewberry report went through and did a-- and I have a copy of it here. The Dewberry report went through and the first thing it does, and any-- any one of these facilities study necessarily has to, it does an estimation of what your population is going to be. We've had one done in 2006, maybe '10, certainly had one done in '14 in connection with the Dewberry report, and one just last year. Those reports and those projections have been spot on. There's a science to that and we had one done by JFA. Once you know what your population is going to be or how it's going to grow, they break it down by classifications: Are they going to be the most serious, dangerous people; are they going to be lower level? And then they determine what

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your bed needs are. Right? Dewberry made, as I recall, the observation that we want to be more rehabilitation and less storing people. Certainly that-- the director's said that too. We want to be more about rehabilitating people and getting them prepared, so they went through and said, we're going to lay out what-- what Nebraska should do in phases. Building the community corrections beds was something in phase one. They also had other phases and then at the end they said, ten years out, we're not really sure what you're going to need, but you may want to build some more beds. But that included that center that we-- that you funded. It has a name. It's like the RTC or something. It's between Diagnostic and Evaluation Center and LCC. It kind of has the laundry and the cafeteria and those kind of things, but it also has some beds in there for the mentally ill and I think some of the, you know, like prison hospital beds, if you will. That-- that proposal in the Dewberry report was to build maybe 120 mental health beds, and I think we actually funded 32. Mental health is a big, big-- we have a lot of people that are sitting in jail cells at LCC, I think, is where the mental health facility is, and it's really-- I think we would have done well to fund those beds, but--

STINNER: Yeah, and you-- you said that classification drives the numbers and--

LATHROP: It did. So--

STINNER: --the cost associated with it. Do you want to give us--

LATHROP: I got off track.

STINNER: Yeah.

LATHROP: So the Dewberry report went through and-- and made projections about how many beds we would need in each classification over the next 10 years and then broke down how we should do our construction in I think three or four phases and when they should be done; when you get done with this, then you move on to this, then you move on to this. And that's-- that's the second facilities study that was done in my time. I think one was done in the early Heineman years, maybe 2006. That was stuck in a drawer and none of those beds were ever built, to my knowledge. Then, on his way out, Heineman-- Governor Heineman had another one done and we've sort of picked and chose what we want to out of there. We haven't done it in the order Dewberry

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proposed. While we did build some women community corrections beds
down in Lincoln, we haven't built the Omaha beds that were proposed.

STINNER: In the Dewberry study. Does it percentage wise breakdown what
they project the maximum security to be, the minimum, and community
corrections?

LATHROP: It probably does. And I got to tell you, I've read that
report three or four times, but-- but I haven't read it in the last
month.

STINNER: And the only reason I ask, we're building 384 maximum
security beds right now, and that's 7 percent or so of the population.
And so I-- I'd really kind of like to find out what, percentagewise,
maximum and medium, because that really does drive costs and what we
have to do.

LATHROP: Part of the challenge there, Chairman, is that we have a-- we
have a system for assessing risk. I think it's called the STRONG-R. We
can do an assessment of the risk, but it's often overridden. So you
may show up as a, you know, maximum security, but they lower it. I
think that's done a lot of times related to beds. Or they can increase
that if they don't have a lower-level bed, and there you find yourself
somebody that's not trouble and sitting in Tecumseh.

STINNER: So you're saying availability of beds really dictates po--
your possibility of classification?

LATHROP: I think it does. I suspect the director's going to disagree.
I can't really see him over my shoulder, but he's probably shaking his
head no, That's-- that's a concern that I have in-- in my experience
with the Department of Corrections. I saw a list of people who were on
the-- 191 people on the waiting list to get into community
corrections, and there are people at virtually every security
classification cleared to go there, just waiting for an opportunity.

STINNER: And to get to your model that you were talking about, getting
programming-- finishing programming a year before probation, then
maybe doing a community custody at that-- how do we get to that and
what's our-- what's our hurdle? Is it facilities? Is it programming?
Is it programmers?

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LATHROP: It's probably all of that. That-- by the way, that model
isn't something that Steve Lathrop made up. CSG shared that with us--

STINNER: Right.

LATHROP: --when they did their work in 2014. You have people in the
Department of Corrections for a shorter period of time if their
programming is done a year before, and then they have the opportunity
for community corrections. What's it take? Right now, I think we have
so many people inside the Department of Corrections, so little room to
move around, and so few staff to get people to cover taking people
from one place to the next, that it's hard to get all the programming
in. I don't think anybody is trying to get it done a year before. Some
people may get it done a year before, but there's an awful lot of it
that-- that doesn't start until people are at their parole eligibility
date and at that point, Parole's just saying, well, complete your
programming and we'll-- we'll cut you loose.

STINNER: So we mentioned Dewberry. We mentioned CSG. These are
considered to be experts. Is there are other experts out there that we
can go to, to get some ideas of which way forward?

LATHROP: Yes, there are people that do that kind of work. CSG came in
and did a deep dive into our data, and that was what was done in 2014.
There are other groups and I'm probably not going to go into that
here, at least today; maybe I will on Monday. But there are groups
that come in and do a deep dive and can then say, we've looked at
other states, this seems to be where you have the bottleneck, if you
made these kind of changes-- they don't dictate-- when they come in,
they don't tell you what to do. They just tell you where your problems
are and what possible remedies you may have and then it is a matter
of-- of whether you're politically able to move that kind of
legislation through the body.

STINNER: Well, isn't it prudent-- a prudent business decision, whether
we're building a prison or not, doing long-term projects, isn't it
prudent, with the money that we're trying to spend, prudent to bring
in the best and brightest to help us understand what our problem is
and how best to go forward?

LATHROP: Yes.

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STINNER: Thank you. Just wanted to get that on the record. Any additional questions? Seeing none, thank you.

LATHROP: All right. Thank you.

STINNER: Is there any proponents? Seeing none, are there opponents?
Director. Afternoon.

SCOTT FRAKES: Good afternoon, Chairman Stinner, members of the Appropriations Committee. My name is Scott Frakes, F-r-a-k-e-s. I'm the director of the Nebraska Department of Correctional Services. I'm here today to provide testimony in opposition to LB353. Community custody is the lowest-custody setting in NDCS. Combined, the centers in Omaha and Lincoln have space for 840 people. NDCS has the right number of community corrections beds for the individuals who qualify. In fiscal year 2020, 1,428 individuals were deemed appropriate for community custody through our classification system. Of those, 1,371, or 96 percent, transitioned through a community corrections center prior to release. The people that can be safely housed in a community corrections setting are receiving the opportunity to do so. Increasing the number of community corrections beds will not increase the number of people classified for community custody. In fact, pushing people into community corrections before they're prepared to manage all that comes with it-- all that comes with it can lead to setbacks and sometimes unfortunate outcomes. Getting someone ready for community corrections is a multilayered, multipronged approach which includes our classification process, getting the person to engage in and complete clinical treatment, having them work on a reentry plan, helping them identify education or work goals, getting them to participate in the vocational/life skills program and other opportunities. We look at a myriad of factors to determine if someone is ready to make the transition to a community correctional center with enough time there to benefit all-- to benefit from all it has to offer. It's always our goal to house people in the least restrictive setting possible, but it's not good public safety policy to put individuals in community beds just because there may be an abundance of those beds available. The proposal to build a 1,512-bed, multi-custody level facility does some key things that LB353 does not do on its own. First, it proposes making better use of the State Penitentiary as a minimum custody facility. While NSP would still operate behind a secure perimeter, it will be-- it will open up programming space that will allow us to do more for that population

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than we can currently do in a facility that also houses maximum- and medium-security inmates. Second, by changing NSP to a minimum custody, we can create staffing and operation-- operating efficiencies while making the facility a safer and more attractive place for our team members to work. Third, building a new facility allows us to create modern, maximum- and medium-security housing that'll best meet the needs of our highest-risk populations. Individuals who pose the highest risk will live in an environment where we can provide opportunities for change by using modern corrections security design and technology. This will improve inmate, staff, and public safety. Since 2015, this Legislature has approved funding for more than 800 beds, which includes 260 community custody beds. The funding request that I'm seeking is one that addresses multiple needs across the entire correctional system. To ensure the continued effectiveness, safety, and security of NDCS, we must take a global perspective to our immediate and long-term needs. Spending money to build beds that we cannot safely fill will do nothing to address crowding or aging infrastructure. Nebraska does need to invest in our prison system, but LB353 is not the right investment at this time. And I'd be happy to try and answer questions. Thank you.

STINNER: Senator Hilkemann.

HILKEMANN: Director Frakes, thanks for being here. Now, if I-- I want to get this right in my mind. You're saying-- first you said we had-- we had enough beds right now for the classification for-- for the minimum security. Is that correct?

SCOTT FRAKES: Yes, it is, for community custody.

HILKEMANN: For community custody. I'm sorry, yeah, I have to use the right term. OK. But then you go on, you say that if we change NSP, then we'll have enough for the community custody, or is that--

SCOTT FRAKES: Minimum.

HILKEMANN: Am I not catching that right?

SCOTT FRAKES: Yeah, two different-- so maximum cus-- custody, level one; medium custody, level two; minimum custody, level three; community custody, level four. Community custody has no secure perimeter. People leave and go in the community without escort. At

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minimum custody, they're kept behind a security fence. It's not a
secure perimeter, but a security fence. If they go outside, they go
under escort, not in restraints, but so that medium custody and max
custody, if you leave the secured perimeter, you're in restraints
under direct escort of staff.

HILKEMANN: So then community custody is at the-- at the fourth level.

SCOTT FRAKES: Yeah, normally called work release, and that's a typical
generic term.

HILKEMANN: And-- and-- and so you're saying right now, at the fourth
level, we have all of the beds that we need to have and all the
facilities that we need to have for--

SCOTT FRAKES: We have--

HILKEMANN: --to meet the needs of the fourth level.

SCOTT FRAKES: We have a robust work release system.

HILKEMANN: And then if we do the plan we're going to be talking about
a little later and we-- and we remodel NSP, then does that take care
of-- of level three then?

SCOTT FRAKES: It does, one, two, and three, and then, as Senator
Lathrop mentioned, I've opened a door if there's interest in
conversation about the Work Ethic Camp becoming level four, work
release, and that would address the need-- by then, there will be a
need for additional work release beds, by 2025, 2026, and one option
would be to convert the Work Ethic Camp to community custody. Other
options would be to pursue new beds in another location. There's the
proposal to do small contracted work releases in communities, so those
are all options that could be looked at. The Work Eth-- Work Ethic
Camp conversion actually saves money for the agency and could still
lead to really good outcomes.

HILKEMANN: So if we look at our overcrowding situation, the
overcrowding is really occurring with the first three levels of-- of--

SCOTT FRAKES: Our greatest tension today is maximum custody because--

HILKEMANN: The level ones?

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SCOTT FRAKES: The level ones. Most of what we have, where we house
level ones today, is really level two construction.

HILKEMANN: Thank you.

STINNER: Additional questions? I have a couple questions. You were
talking tier one, tier two, tier three, tier four. Maximum,
percentagewise, can you give me-- is that percentage, I presume,
pretty static-- static, is it not--

SCOTT FRAKES: It is. It was--

STINNER: --within a range?

SCOTT FRAKES: You know, that information was in that handout that I
provided when we met a couple weeks ago. I didn't bring it today. I
want to say, off the top of my head-- please stay with that-- that
right now we're sitting at about 20 percent max, 30 percent medium,
30-- maybe 32 percent medium, somewhere in there, a little over 30
percent minimum, and 17 percent community custody. That number is
stuck in my head.

STINNER: OK, tell me why you think McCook's a good idea to take it to
community custody. I-- and the only reason is I know McCook pretty
well.

SCOTT FRAKES: Yeah.

STINNER: I live somewhat close to it.

SCOTT FRAKES: Right.

STINNER: Still a long drive, but I don't see the jobs out there and
the absorption that--

SCOTT FRAKES: If it was-- if it was just a traditional work release
and we were trying to turn-- most of our-- you know, at any given
time, maybe half of our community custody population is actually in a
job. They come in. They get established. They do what-- what I call
prerelease from my previous experiences. They get prepared for, they
get vetted for, they go out there, find their job. So if I have 200
beds, then I need 100 jobs if it's just a true traditional work
release. But really, what I envision for LCC is more of a prerelease,

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and also this opportunity now with Pell Grants, second-chance Pell Grant, to start to build a program around educational release, as opposed to work release. So we provide the safe place for people to live and the medical care and the food and Pell pays for the education, and we could tap into that. So the-- I think there's-- I definitely think there's 50 jobs in the Mc-- McCook community that could be identified and that would-- it'd be a welcome labor force. And then it would at least put that part of the population that comes from the west side of Nebraska, back in the west side of Nebraska. I mean, there's-- there's no great location. We could go to Scottsbluff, but even there, the problem being, of course, that we have geographically 70 percent of the state that is widespread, doesn't put a lot of people in the system, so there's no good answers for getting them closer to home, truly closer to home.

STINNER: The other question I have is, when you talk about 260 community custody beds, I think inside of that is the 160 women's dormitory that we built. I think the first year I was here, we approved it. What's the occupancy--

SCOTT FRAKES: Second, third--

STINNER: --rate of that?

SCOTT FRAKES: Well, it's not very good today because of COVID, unfortunately. We've got 91 women in there today and we've got 26 sitting at NCCW that would be there if it was not for the COVID outbreak. First, we had an outbreak at the women's work release, then we had an outbreak in the women's secure facility. That one's just about done, so hopefully here, any day now, we'll be able to move those people and then, you know, things will gear up again. COVID has not done anything to help us in terms of being able to move people fluidly through our system, so.

STINNER: From my understanding, that facility has never been fully occupied.

SCOTT FRAKES: No, we hit 135 or 140, but--

STINNER: OK.

SCOTT FRAKES: --that's not a bad thing.

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STINNER: Well, for the record, I voted against. I thought we could
have spent money somewhere else--

SCOTT FRAKES: Well--

STINNER: --to help our overcrowding. But that's-- I don't want to get
into that right now.

SCOTT FRAKES: OK. What it did do is bring NCC-- NCCW down to where it
needs to be in terms of the right number of people for the size of the
facility. And it's-- to me, it's not a bad thing that right now we
have a little bit of space on the women's side of corrections because
it's also projected to grow, fortunately not at the same rate, but,
you know, so we shouldn't have to worry about addressing issues with
bed space for women in Nebraska maybe through the '20s.

STINNER: Tell me-- you say space for 840 people in community custody
beds. Define-- define that. Is that 125 percent of design capacity, is
it 150, or is it 200?

SCOTT FRAKES: For-- yeah, for CCCO, it's 200 percent, I think. I
believe the facility was-- it's either 2-- it's either 180 or 200
percent. It's 180 beds and the facility was designed for 90 or 100
people. And here in Lincoln, we're now at a place where the design
capacity is 200-- 300-- 460 and we have 660 good, occupiable beds, so
whatever the math is for that. I don't remember.

STINNER: So if we did build more community custody beds, we would
lower from 200 to some other number?

SCOTT FRAKES: Yes, but in a location that is least impacted by the
number of people that are housed in the space, because these are
people-- unlike a prison--

STINNER: I'm trying to figure out--

SCOTT FRAKES: OK.

STINNER: I mean, he's talking Omaha--

SCOTT FRAKES: Yeah.

STINNER: Omaha is our biggest population so I--

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SCOTT FRAKES: But I-- what I'm saying is, if you go to CCCO, the fact that there is 180 inmates in that space and it was originally designed for 90 or 100, let's say it was 90, so it's got twice as many inmates as the original build, so instead of two people in the room, there's four people in the room. They have-- they go to jobs. They have community access. They are moving in and out of the facility. They are in transition to returning to society. They see the hope and the light at the end of the tunnel and it's fine. Take that same kind of condition and put it maximum custody, and now you start to see the bad tension that comes around crowding, because there is not the freedom to leave the living unit, let alone to leave the facility, and so big difference.

STINNER: But isn't it true that-- I think Senator Lathrop said 191 are waiting to get into community custody beds because you're--

SCOTT FRAKES: I've heard this number a couple of times, but I don't know that-- I don't think that list came from my agency. I would-- you're shaking your head yes. OK, can you tell me-- can somebody let me know who provided it, because that is not consistent with the information that I have.

STINNER: I'll-- I'll turn-- I'll turn it over to Senator Wishart.

SCOTT FRAKES: Yeah. I would est--

STINNER: But isn't the--

SCOTT FRAKES: My estimate is there's about 100 people right now that could be in community custody if we didn't have COVID getting in the way.

STINNER: Isn't what we're trying to do, though, is to try to get more programming up-front, get more people into the community custody model faster, or at least the model that-- that Senator Lathrop talked about, getting people programmed, community custody, probation? Isn't--

SCOTT FRAKES: And we're much farther along than I seem to have been able to convince people.

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STINNER: But we're not there. But, see, we're going to do something that's going to last 50 years, so don't we have to prospectively plan and look to do that? That's one of my points, is--

SCOTT FRAKES: We do, but we also have to make decisions about where are we going to spend the limited funds that we have.

STINNER: Well, I-- I--

SCOTT FRAKES: So--

STINNER: --I appreciate that.

SCOTT FRAKES: So to speak to this issue, there is one thing that gets in the way of people not being granted parole related to the generic umbrella called programming. It's actually clinical treatment and it's actually residential clinical treatment or the violence reduction program. Failure to engage in that and successfully complete that, the board's pretty unlikely to grant someone parole. They can get resi-- they can get outpatient substance abuse in the community and we do outpatient substance abuse at community custody, so that doesn't-- that's not a parole stopper. We now are getting people in substance-- residential substance abuse treatment three years from their parole eligibility date, not on their date, not a year from their date, three years from their date, which actually pushes against the science that says you really want to try and get that treatment done in relation to transition to the community. Two years is kind of the favorite model. But what we decided was that we'll get people engaged and they complete it, then we'll get them to work release, as long as their other behavior supports it. As Senator Lathrop mentioned, there's not as much science as some, you know, operational knowledge. Six months of work release? Probably not enough. Unfortunately, there's a lot of systems around the country where you're lucky if you get that and some systems don't have work release. Twelve months of work release, that seems to be a sweet spot. Eighteen months, for most people, that's starting to push the boundaries. When you put people in work release, community centers for two or more years, unless they have a really good program and a lot of other things going for them, it's very difficult to live in that setting, to follow all the rules under that level of supervision when half of your brain feels like you're living outside and half of it says, no, I'm still in prison, much-- there's a very similar dynamic with community supervision. There's a sweet spot

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for how long people should be on parole, there's a sweet spot for how long probation should last, and certainly some good science that shows overuse in length of parole leads to the wrong outcomes, so.

STINNER: OK. Senator Wishart.

WISHART: Thank you, Chairman Stinner. You actually asked one of the questions I had. But just to follow up, first of all, Director, thank you for being here. So I-- what I'm hearing is that Senator Lathrop did announce that there were 191 men waiting, and that is a number that I have gotten several times from our Inspector General, and it is a number from Corrections in terms of how they are-- are listed, but they are waiting right now to go into community corrections. They are-- all the boxes are checked for them to be in there.

SCOTT FRAKES: OK. All right. I'll-- I will look into it. It's not consistent with the information that I've been given, but I'll look into it. Thank you.

WISHART: OK. You-- you spoke a little bit, and-- and some of this, I try to-- I'm trying to stick as much to the-- the budget and our-- our money decisions behind these things as opposed to the conversations you have in Judiciary. But sometimes they do overlap because in terms of a community correction bed as opposed to a more higher security bed, there is just a cost savings.

SCOTT FRAKES: Absolutely.

WISHART: Yes. So philosophically, what-- what I'm hearing you say is that some of the science that you are following is that you should wait for someone to get their programming until closer to their parole date.

SCOTT FRAKES: The science on clinical treatment, big diff-- so big difference. We have clinical treatment for an identified mental health issue and then we have all the other programming we do, none of which will stop somebody from being granted parole. Clinical treatment, residential, the one thing that the parole board says, if you have a recommendation for clinical treatment, residential or violence reduction program, then we expect you to complete it. The science would say about no more than two years from release is kind of the sweet spot. A year from release is even better. Twenty years ago, we

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were very much into getting people into residential substance abuse
one year from release, maybe four months of work release, and then out
the door, out-- the sooner you can finish that clinical treatment and
transition into the community and then get aftercare, the greater the
likelihood of success. Recognizing that clinical treatment is not a
panacea, you don't cure people, basically--

WISHART: Yep.

SCOTT FRAKES: --we give people tools, you know, to help them with
recovery and, you know--

WISHART: And--

SCOTT FRAKES: --it's--

WISHART: --what I'm trying to get at is that the goal, and from
reading your 2019 strategic plan, is to immediately, when somebody
enters the corrections system, for them to be working towards a
healthy release. And from my mind then-- I'm thinking from a budgetary
perspective, too-- it would make the most sense, and I'd be interested
in your perspective and I think this is what senator is working on,
for-- to get the programming as quickly as possible to people in the
sense that they can move in a stair-stepped way to community and then
into the community, because that gives someone a much more graduated
approach before release instead of someone jamming out.

SCOTT FRAKES: That's exactly what we're doing and that's what I'm
trying to describe to you. There's a lot of pieces to this, so one
question leads us one way and another leads us another way. We do
assessments of everyone coming into the system, in total, with almost
everyone in less than 90 days. That includes their education level,
their healthcare needs, their mental health needs, their clinical
treatment needs, and if there are other programming needs. We've now
moved cognitive behavioral training, cognitive behavioral
interventions-- that was the word I was looking for-- to the front
end. So we're getting people into CBIs fairly quickly because there's
a recognition now as the science and the learning, the knowledge
grows, that it is what I thought it was 20 years ago: It's really good
engagement work. It gets people to open their minds and think about
maybe I could finish my GED, maybe I should do that clinical
treatment. So we're doing CBI on the front end, as close as possible.

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If there's education needs and they're interested in pursuing those, we're getting people into those. If they have a clinical treatment recommendation that's not resident-- not residential, there's potential they might get in-- into it a little earlier, but probably, again, not-- not more than three years from PED, because the science would say that if you do that, if you do it when they're four years from potentially walking out of a secured facility, you probably need to do it again. And we-- we're not in a place to get to that level. It's--

WISHART: Well, my-- I would like to--

SCOTT FRAKES: So I got a little bit more-- I've got a little bit more just to-- I want to finish this. So we are figuring out what people need. We're providing the opportunities in the right staged degree. Certainly, part of the challenge is engagement. Not everybody is excited about taking what we have to offer. Part of that is a reflection of the environments that we have people housed in. Some of those environments make it challenging for people who want to get engaged in what it is we have to offer. Sometimes it makes it challenging for us at times to deliver because of the conflict, and the penitentiary is a good example of that. But this idea that-- when I arrived, this agency had the goal of providing sex offender treatment assessment by PED. That was the goal of the agency. That was the practice of the agency. Today, that happens less than 90 days from arrival and we're queueing people into sex offender treatment about two years out, depending. The last piece of all this is, if everyone had a nice, clean, you know, 7- to 15-year sentence and we could just check the box and identify the marks, but we're getting people that have 6 months with us, 9 months with us, 18 months with us, 20 years with us, 50 years with us. So you have this incredible spectrum and it is always in churn, about 2,700 people a year coming in and going out of the system, so a heck of a lot of movement. If you think about all the moving pieces that have to be figured out, addressed, queued up, lined up, we-- from 2015 to where we're at today, we've made incredible headway.

WISHART: Well, I would like to see the science behind that, because my concern is that we have a system where we are moving as many people towards community corrections who are capable of doing that before they graduate into the community.

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SCOTT FRAKES: Fourteen-hundred people--

WISHART: Yeah.

SCOTT FRAKES: --out of 2,700 is pretty amazing.

WISHART: But if that is the goal and if the goal is to move more people towards community corrections and have a stair-stepped approach instead of jamming out, so that people are waking up in the morning and going to a job and paying their child support, doing all the things the rest of us have to do instead of just sitting in a cell, if-- if we-- if that is the goal, then why wouldn't we be looking years from now at building more community corrections, recognizing that the goal is that's what we're all working towards?

SCOTT FRAKES: So I offered a different proposal that will create more community corrections beds without an investment of capital, as well as using our limited, extremely valuable dollars to address the greatest needs, that will have the best overall impact across the system. If we make it safer at higher security, we will give more people more opportunities to engage in what we have to offer. No, there's no question that a part of the reason that we struggle with our higher security level, level one, level two, max-, medium-custody inmates, is because we don't have good settings to house them. We have a mixed population in-- when Senator Lathrop was up here and talking about-- and I think, Senator Stinner question, a question you asked, you know, does classification drive beds or do beds drive classification? In a healthy system, classification determines where people are housed. Again, if you're going to have tension in the system, i.e., the sh-- the smallest number of beds, you want it at the highest level-- sorry, lowest level custody. If you have the right number of beds for your max population, the right number of beds for your medium population, then it's-- it works better if there's people queued up and waiting to get to that least-restrictive piece. Connected to that is we absolutely were in a place when I got here where beds drove classification, and that led to some really bad practices. And that's why we have mixed medium and maximum populations at Tecumseh and at NSP and, to some degree, even LCC. We-- we've done a pretty good job there. But the beds that I got funded, the 384 high-security beds, were a phase of moving us to where we need to be, and then the project that I'll talk more about later is the next phase of it. That's the-- that's the best investment. It's going to make

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this system healthy so that we can do all the things that you want us to do and you want us to do and I want us to do. But without that, a bunch of community custody beds and people that I-- you know, if I can't prepare more people to fill those beds, one of two things will happen. They'll sit empty, which means those facilities are less crowded. That's not a bad thing. But I already hear concern, the fact that the women's side is not crowded, that we built 160 beds and they're not full. OK? The other piece of it is crowding at low security and crowding at high security produced very, very different results. You go through CCCL, tour the place, you're not going to feel that that's a crowded facility. Maybe on a Sunday afternoon, since right now we don't have furloughs, it may feel a little bit packed, but once we get back out of COVID, no. You go to the penitentiary, go to the high-security units pretty much any day of the week, you'll feel what it's like when a facility is crowded.

STINNER: OK. Any additional questions? Senator Clements.

CLEMENTS: Thank you, Mr. Chairman. Thank you, Director Frakes. This discussion about your proposal, the 1,500-bed facility, does that add community corrections beds or would that have to be done as another step after that?

SCOTT FRAKES: What I put on the table is the proposal that, one, we would repurpose the state penitentiary as a full minimum-security or level three facility, and we can do that without capital investment, which I'll talk more about when I do appropriations-- my appropriations. And then I've opened a door to conversation about converting the Work Ethic Camp in McCook to a level-four community custody facility--

CLEMENTS: Oh, that--

SCOTT FRAKES: --and that would be 200 beds.

CLEMENTS: All right. Thank you.

SCOTT FRAKES: And-- and we could do that, again, without capital investment and we could drop the operating cost, I think, a couple of million a year, because it takes a lot less staff to operate community custody.

CLEMENTS: All right. That's fine.

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STINNER: Thank you. Additional questions? Senator Hilkemann.

HILKEMANN: I have a question for you on-- regarding LB353. If I'm hearing what you're saying is if we were to move LB353, it would be a waste of state dollars and it would not help the overcrowding situation.

SCOTT FRAKES: I'm going to reframe it a little bit. It would not be the best investment of state dollars at this point in our evolution in terms of the corrections system, and it would not produce the kind of benefits to crowding that we would all want to see.

HILKEMANN: OK, thank you.

STINNER: Additional questions? Seeing none, thank you.

SCOTT FRAKES: Thank you.

STINNER: Any additional opponents for LB353? Opponents for LB353?

DORN: Thank you.

DANIELLE CONRAD: Spike was distracting me. Hello, good afternoon. Hi, my name is Danielle Conrad; it's D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d, here today on behalf of the ACLU of Nebraska. I'll keep it brief. I-- I hope to have a broader dialog with you all later on the Department of Corrections' budget. But just for consistency purposes, we are opposed to this measure, as we were the last time Senator Lathrop brought it forward. We deeply appreciate his leadership in bringing forward solutions and working, of course, to address sentencing and reentry and diversion and alternatives through his work on the Judiciary Committee as well. I know you have a lot of difficult decisions before you, but we-- we strongly believe that common sense and the record are crystal clear. If Nebraska attempts to build its way out of this problem, it will bankrupt the state fiscally and morally. Look no further than the data you have before this committee. You have invested millions and millions of dollars to building hundreds and hundreds of beds just in the last years, not to mention the past decade, and it hasn't solved the problem. There is an emergency overcrowding crisis. There's a staffing crisis. We have higher recidivism rates. County jails are-- are being utilized to take care of state obligations. We have to find a better way and we don't have to come up with it ourselves. We can look at our sister states

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that have similar demographics, that have similar political landscapes. We can look at the federal government that literally just took important steps forward to reduce their prison population. It saves taxpayer dollars. It has better outcomes. And from a fiscal perspective, I know how carefully you look at each dollar and each line item before you because it's precious taxpayer dollars and you take your duty seriously. To see Corrections outpace education, human services, tax relief and the overall budget, is all you need to know about this conversation. It's time to chart a different course. We can do that together if we have the political will, and we have the blueprint to do it from our sister states and national experts. Thank you so much.

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

DANIELLE CONRAD: OK, thank you so much.

***JULIE ERICKSON:** Thank you, Chairperson Stinner and members of the Appropriations Committee. My name is Julie Erickson and I am here today on behalf of Voices for Children in Nebraska in opposition of LB353. After decades of punitive policies, the unsustainably high cost of mass incarceration has come to a head in recent years across the country and states have begun to undertake criminal justice reforms. Voices for Children in Nebraska opposes LB353 as we don't believe construction of a new corrections facility is best for families and communities in Nebraska. It's clear that the impact of mass incarceration is much more widespread than the confines of jails and prisons-there are tremendous burdens, oftentimes unseen, that children and families experience when a loved one is incarcerated. Our collective goal should be to keep people out of prisons, so building another one should not be the solution. There have been many senators in this legislative body introducing bills that would support alternatives to new prisons to help alleviate overcrowding, understaffing, and other issues within the Nebraska Department of Correctional Services (NDCS). We know that appropriating tax dollars to build a new prison is not a solution to meet that goal. We also run into the issue that the building of a new facility or expansion of the current ones will not be completed for a few years. We are already operating in crisis mode and need to look at other options that can immediately attend to the problem at hand. There are many things that funding can be allotted for outside the building of a new facility or expansion of a current one. We continue to advocate for the expansion

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of community supervision and funding for mental and behavioral health services. Further, construction of a new corrections facility can have detrimental effects on children and communities, particularly communities of color. Extensive research on child development suggests that children unequivocally pay the price for decades of punitive policies in our criminal justice system. The loss of a parent to incarceration sets off a domino effect of instability and trauma, which can manifest in antisocial behavior, poor educational performance, and decreased physical and mental health. The cumulative effect of such stress and burden on children oftentimes leads to maladaptive behaviors and coping mechanisms that can bring children to their own interactions with the justice system. If we are truly about decreasing our incarcerated population and lowering recidivism, appropriating more funds towards mental health and substance use services, job programs, diversion courts, housing and other pre-incarceration and post-incarceration needs would provide longer term solutions to the problem instead of new prison band aids. We ask that LB353 not be voted out of committee, but for legislators to look at other alternatives to decreasing the population of Nebraska state prisons through other methods. Thank you.

***ELLA DURHAM:** Chairman Stinner, and members of the Appropriations Committee, My name is Ella Durham. I'm a constituent in the 46th legislative district represented by Senator Adam Morfeld. I am here representing myself in opposition to any new or expanded prisons or community corrections facilities-such as those proposed in LB383 and LB353. Mass criminalization, incarceration, and detention have devastating, generational impacts on individuals, families, and communities and the United States imprisons [SIC] more people than any other country in the world. Even though crime has fallen in Nebraska over the last 20 years, our prison population has spiked. The answer to our overcrowding emergency is not to continually overfund corrections and frivolously pour money into expansion projects. The answer is to stop mass incarceration. It would best serve all of us if the funds being proposed for these wasteful projects were used in ways that reduce jail and prison populations with dignity and combat racial disparities in the criminal justice system. Not only would there be a better return on investing in our communities, but it would be less expensive overall. The Nebraska Department of Corrections and others recognize there are other solutions outside of expansion. It is your responsibility and obligation to say no to building new prisons and to

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look to proven alternatives that divert and reduce incarceration instead. Additionally, I am strong opposition to funds being vaguely or concretely earmarked for possible future construction or corrections expansion in any form. The public is safe when people and families have access to safe and affordable housing, reliable food sources, medical care, mental health services, substance abuse programs, and social supports. Consequently, all of which are proven to reduce incarceration. Money should not be held back when it's highly needed for economic relief and community support. Thank you.

STINNER: Any additional opponents on LB353? Seeing none, is there anyone in the neutral capacity? Afternoon.

DOUG KOEBERNICK: Good afternoon, Senator Stinner and members of the Appropriations Committee. My name is Doug Koebornick, spelled K-o-e-b-e-r-n-i-c-k, and I am the Inspector General of Corrections for the Nebraska Legislature. I'm here in a neutral capacity to provide you information because I thought that what I shared might come up as an issue, and that would be the-- the people that are on the transfer list that Senator Lathrop mentioned. In my annual report, back in September-- I just was looking it up back there-- on page 13, it lays out what I'm talking about. And I'll make a copy of that and get it to everybody, but I also have a little handout here too. On January 25 of this year, I went and looked at the department's information system and in-- within that, there's so much information. But there's an active inmate transfer list, and these are all people who have been approved and recommended for transfer to other facilities or different custody levels, things like that. And if-- to just cut to the chase on that list, on that date, there are 191 men who are approved and recommended to go to community corrections. There are also a number of women on that list. When Director Frakes talked about the 26 women that are approved right now to go to community corrections, I would guess that if I went on that list today, there would be-- that's the list we're talking about. So I've checked with people in the department when I was writing my annual report to make sure that that was accurate. I was told that it was. And I think that is about all I have. I just wanted to share with you the source of that-- of that piece of data.

STINNER: Thank you. You're going to stay around, as well, for the records?

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DOUG KOEBERNICK: Yeah, if you-- if you have any questions, I can come
up.

STINNER: We may-- I mean, we may have to bring you up again, more for
information.

DOUG KOEBERNICK: OK.

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

DOUG KOEBERNICK: Thank you.

STINNER: Any additional testifiers in the neutral? And I see that
Steve Lathrop-- Senator Lathrop is not here, so I presume he's waiving
closing. We do have a support letter from Nebraska County Attorneys
Association. We have opposition from Allisyn Mills, Bethany Brunsman,
Gerise Herndon-- Herndon, Guadalupe Estrada, RISE, Amy Wenzl, Wendy
Smith. And that concludes our hearing on LB353.

[AGENCY HEARINGS]