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Appropriations Committee
February 26, 2007

[AGENCY 5]

The Committee on Appropriations met at 1:30 p.m. on Monday February 26, 2007, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on the budgets of Agency 5, Agency 11, Agency 15, and Agency 94. Senators present: Lavon Heidemann, Chairperson; Lowen Kruse, Vice Chairperson; L. Pat Engel; Tony Fulton; John Harms; Danielle Nantkes; John Nelson; John Synowiecki. Senators absent: John Wightman. []

SENATOR HEIDEMANN: I think we can get started. We have enough for a...to get started, anyway. I thank you for coming today. Welcome to the Appropriations Committee. We'll start by introducing people. We don't have everybody here yet. We have quite a few people that are introducing bills today and one senator actually had to go back home at noon, so will not be with us. When everybody does show up, though, we'll just and tell you where they are sitting. Senator Danielle Nantkes from Lincoln, District 46, be next to the committee clerk, who is Kendra Papenhausen. Sitting to her left would be Senator John Synowiecki from Omaha, District 7. Sitting next to his left is Senator Lowen Kruse from Omaha, District 13, who is also the Vice Chair of this committee. My name is Senator Lavon Heidemann. I'm from District 1, southeast Nebraska. Sitting next to my left is Senator...well, Senator Pat Engel from South Sioux City, District 17. To his left is Senator Tony Fulton from Lincoln, District 29. Sitting next to his left is Senator John Nelson from Omaha, District 6. And sitting next to him is Senator John Harms from Scottsbluff, District 48. At this time I would like to remind you to please shut off all your cell phones if you do have one. Testifier sheets are on the table or near the back doors; fill out completely and put in the box when you testify. Please do not fill out this form if you aren't publicly testifying. At the beginning of the testimony please state and spell your name for the record and for the transcribers that will follow. Nontestifier sheets near the back doors, if you do not want to testify but would like to record your support or opposition; only fill out if you will not be publicly testifying. If you have printed materials to distribute, give them to the page at the

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beginning of the testimony. We also ask that you keep your testimony concise and on topic; under five minutes would be appreciated. At this time we're going to open up the public hearing on Agency 5, the Supreme Court. [AGENCY 5]

AGENCY 5--SUPREME COURT: []

SENATOR ASHFORD: My gracious. Good afternoon, Mr. Chairman and members. My name is Brad Ashford. I represent Legislative District 20 and I'm here today to talk about the, very briefly, the budget of the Supreme Court. I was going to go on and talk about a lot of things and kind of in a freewheeling way, but I see Speaker Brashear is here so I have to...I'm going to have to be truthful in my testimony. [AGENCY 5]

SENATOR KRUSE: (Laugh) That's why. [AGENCY 5]

SENATOR ASHFORD: But I...this is obviously a very serious matter and in my years on the Appropriations Committee we dealt with, as you are, extremely tough challenges in putting together a budget, and I admire the work you're doing. It is very, very tedious, very difficult and demanding. So I admire it. The only...what I would like to add and I appreciate the opportunity to speak first, I have another bill to introduce, but in my capacity as Chair of the Judiciary Committee, not on behalf of the Judiciary Committee but in my capacity as Chair, I would remind you of what you already know and that is that the Judiciary Committee has and is entertaining 175-180 bills this session, as it does most sessions, and many of those bills deal with increasing penalties for crimes, for increasing liability, other issues such as that. And the one thing that is clear is that every one of those bills and those bills that go out of the committee, onto the floor, and I believe there are 28 of them so far this session are actually out on General File, carry with it, for the most part, a challenge to the court system. They add...most all of these bills will add to the job of the court system on a daily basis dealing with citizens of the state of Nebraska as they access the court system. Years ago when I was in the Legislature, the last year when I was in the Legislature we...the crime and punishment

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issue was a significant issue and I remember very well we sat at that time with Governor Nelson and put together a crime package of bills to address some of the issues that were before the state at that time, and we...and part of the result of that were increased penalties, and in many...and the construction ultimately of a new prison. Those are all very, very expensive issues that the court system deals with every day. Also, I know Senator Brashear is here and I believe to talk about community corrections. Senator Brashear has been the...has done all the heavy lifting on that issue. I remember Senator McFarland, I believe, introduced the first community corrections bill in the early nineties, and those bills as well, community corrections and the diversion of prisoners back into the community, are challenges, not only for the Corrections Department but also for the court system. So in summary, as you evaluate this request, I would ask you, as I know you will, to consider what is real, and that is that the court system every day is facing probably as much as or more than any other agency of state government the difficult issues that the state has to deal with. And I would ask you to be...consider those things as you go through your deliberations. I appreciate your willingness to listen to me. Thank you, Mr. Chairman and members. [AGENCY 5]

SENATOR HEIDEMANN: Thank you very much for your testimony. Is there any questions for Senator Ashford? [AGENCY 5]

SENATOR ASHFORD: Thank you. No questions. [AGENCY 5]

SENATOR ENGEL: No, no questions. I got to...excuse me, I have to leave. I'm sorry, but I'll be back. [AGENCY 5]

SENATOR HEIDEMANN: Is there any other testimony for this agency budget?
[AGENCY 5]

MIKE HEAVICAN: (Exhibits 1, 2, 3) Yes, indeed. I am Mike Heavican. I'm the Chief Justice of the Nebraska Supreme Court. Heavican is spelled H-e-a-v-i-c-a-n. Mr.

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Chairman, members of the committee, I appreciate your time. First of all, I want to thank Senator Ashford for coming down here today and expressing the kind of special bond that the judiciary has with the Judiciary Committee. We've got a little slide show for you. I'm going to take about 10 or 15 minutes of your time, and then we will have five or six other people hopefully speaking on our behalf, and they will be short also. First of all, kicking off here, our current budget is about \$62 million, and our request to you would have a \$72,700,000 budget for the first year of the biennium, followed by a \$73,600,000 budget for the second year of the biennium. And you should be aware that we are a people...have a people intense part of state government. We are the fourth largest work force in state government, but we comprise only about 2 percent of the General Fund budget. Our budget is 96 percent personnel, and only 4 percent operations, so of course that makes it tough for us to really to cut anything. And when we're talking about personnel here, at least with the General Fund appropriations that we're talking about here today, we're not talking about judges' salaries but we are talking about the salaries of the support personnel. Those are primarily employees in the county clerk's offices around the state of Nebraska, in all of the various courthouses, and also of the probation employees here in the state of Nebraska. Already went over the fact that we're the fourth largest work force. We, you should know, we collect almost \$52 million in fines, that's what we collected last year, and we put that money back into various parts of governments around the state, and about \$11 million dollars of that comes back into the state General Fund. So we generate some of the money that we ultimately end up spending, and of course we give a lot of money to schools, counties and cities also. These are our priorities: First of all, we want a decent salary increase for all Supreme Court employees. That is our number one priority. So if you can't do anything else, please do that for us, and we're talking about both the...both court side of the budget and the probation side. Right now you've given some pretty good consideration to the court side, and we want you to take into consideration adequate raises for the probation employees also. And then you can see our other priorities. On the court side of the office or on the court side of the budget we've got, secondly or second, interpreter payments; third, digital electronic recording equipment; fourth, additional county court

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staff positions. And then on probation, reclassification of intensive supervision probation employees, training funds, and pay for pager duty. Before we talk about our number one priority, however, there's something you need to realize about our budget and that is interpreter payments, and this is something that has gone up, as you can see, 41 percent in the last five years. It is going up approximately 10 percent each year. It is like Pac-Man, increasingly eating up the rest of our budget. By Statute 25-2406, which was passed in 1999, it is the responsibility of the court's budget to take care of all of those interpreter costs in the court system. The committee's preliminary recommendation, this is your preliminary recommendation for this year, is it will not cover \$200,000 of the anticipated increase. So we need from you about \$129,000 more dollars just for the interpreter increases for '08, and \$135,000 for '09. And again I want to emphasize this because it is such a big item for us and it is increasing so much for us. We had to renegotiate our contracts with our interpreters, so we've had to give out more generous payments beginning July 1. But we need to have you pay especially close attention to that, if you would. Then we'll go back to salary increases. We've got three figures for you here. The first one is the request that we initially made to you--let's go to the next slide--and that request would cost over \$4 million the first year and, again, over \$4 million the second year. And you may ask, how did we come up with that seemingly large increase. Basically, it calls for a 10 percent increase the first year, plus a 2.5 percent step increase, and just a 2.5 percent step increase the second year. The reason we did that 10 percent is, as you know, we have gone through hard times. Back in the...in about 2000 all of our employees were put on a step system to be in sync with the rest of the employees of state government. Then hard times came along and for at least the last four years our employees have not received those 2.5 percent step increases. So that request would make up for all of those lost years. That's how we came up with that amount. Now the second figure there that you see is what we calculated would be the increases if we got what the special master has recommended for other employees, so the cost for that the first year would be \$2,285,000 approximately, and for the second year \$5,226,000, actually close to \$5,227,000. In the past our employees have gotten the same percentage increase as the other state

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employees, so we thought that that was a significant figure for you to look at. And then finally the third figure there is approximately what you have recommended for us so far for salary increases for the employees. A first year cost would be 2 million, 185-some thousand; second year, \$3,233,000, almost \$3,234,000. But you should know that that figure does include a percentage increase for the probation officers also, which at the moment you have not funded. We have done comparison studies. We had the National Center for State Courts do a comparison study of our employees as to how they compare with neighboring states for both the probation side of the branch and for the court side of the branch. Those studies basically show that we are 13 percent below comparability for the court side of the branch, and a whopping 31 percent below comparability for the probation side of the branch. You should also note, while we're talking about those comparisons, on the court side of the branch we have to compete in the various courthouses around the state of Nebraska for our employees, and we simply do not pay as high a pay rate for county employees or city employees, so we often train people in our county court clerk's offices and then see them snatched away by other branches of government. And likewise on the probation side, our employees are being snatched away by Iowa and neighboring states and the federal system. The second priority for us then on the probation side of the office is in regard to our intensive...our intensive supervision probation employees, and they are paid especially significantly lower than their counterparts in neighboring states--55 percent lower as we calculated or as the study showed from the National Center for Courts. They are the people who supervise the highest risk defendants out in the community or persons who have been convicted. We have a great inability to maintain those people. We an 89 percent turnover rate in our...in our urban counties, so you can see we have to do something better for them and able to compete, and that is especially relevant if we're to have a viable community corrections system here in Nebraska, and it is especially relevant if we are going to be able to get district court judges to use that community corrections system that you've all been talking about and that Senator Brashear will talk to you about in a little more detail in a minute. Next priority then on the court side of the budget is digital electronic recording equipment. Right now the equipment that we use is

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analog. As you can imagine, it is outdated and soon will not be manufactured or serviced by the people who make that system right now. That cost per year is about \$100,000 the first year and about \$100,000 the second year. What you've done with that so far is recognize the need, but you've taken it and moved it to one of our cash funds, and that is the fund out of which we have to this point used solely to finance the computer system that the courts are using. We have never paid for this part of the basic functioning of the courts out of that computer system, so we would ask you to keep that \$100,000 in each year in the General Fund budget. And again, the system is going out of date. We can't maintain it as it currently is. Next priority, jumping back to probation, is the probation training budget. We have not taken to this point, we have not had any significant training budget in probation, we've not used General Fund monies for that except we've just squeezed it out of the General Fund in the past. We need to make sure that our probation officers are adequately trained, again, especially if we're going to utilize them for community corrections. So you've got a budget item there that would cost about \$187,000 the first year and about the same amount the second year. Finally, our fourth priority on the court side of the office is additional county court staff positions. We have inadequate staffing in at last 19 of our county courts around the state of Nebraska. Obviously, the new positions would go to counties of greatest need. It would be no surprise that those are Douglas, Sarpy, and Lancaster Counties, and Lancaster County is particularly down on employees right now. We have fewer employees there, I believe, than we did 15 years ago. So we would like some extra employees, but again don't confuse this. Our first priority, remember, is to pay more adequately the employees that we already have. That's why this is our fourth priority. Jumping to probation, fourth priority there is pay for probation pager duty. Our probation officers are out supervising, again, convicted individuals and some pending cases, and so they're on 24/7 coverage. That means they've got to have the pager with them to respond to emergencies on weekends and at night and so forth, and we can't pay them now so we have to give them compensatory time and that then subtracts from their ability to spend time at the job otherwise. Approximately 230 hours of supervision time is lost each week as a result of giving out comp time rather than being able to pay for that pager time. So

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that dollar amount is \$269,000 the first year, \$276,000 the second year. Then we want to talk about community corrections expansion and, as I told you, Senator Brashear is here and he's going to talk to you about that in more detail. But what we've asked for here is expansion of the specialized substance abuse supervision program. That, again, deals very directly with all of these folks who use and deal drugs, but who are nonviolent, that you all think and we all think have the possibility to be out in the community rather than going to prison. As you know, it takes about \$30,000 a year to incarcerate somebody and we think we can do it through probation for about \$3,000 a year, so these are really money savers for you. We would have four officers in year one, and an additional two officers in year two for those specialized substance abuse supervision officers. A second item there, increase the number of day and evening reporting center sites, 18 staff the first year, and an additional 6 in the second year. You'll hear some more detail about that from other folks, but again the whole idea behind this is to have programs in the community so that you don't have to spend a lot of money sending people to prison to be incarcerated. Next item, intensive supervision program caseloads exceed the legislative intentions. We have 17 of those intensive supervision officers to add in order to get those caseloads down to where they ought to be, as well as 27 more vehicles. That comes up, the cost of that is \$2,600,000, almost \$2,700,000 the first year, and the cost the second year is \$3,100,000. I know that that seems like a lot of money but, again, to be redundant, you cannot run a community corrections system unless you fund it. Nobody will use it unless it is adequately funded, so that's what we're talking about there. And finally, last but not least, we have this embarrassing problem. We need some deficit funding for the current fiscal year. We cannot make it to July 1 unless we have about \$115,000. And there's a lady in the back that we call Kathy Moore. Kathy, stand up. (Laughter) She calculated that \$115,000 and I told her she better be adequate about it and not miss on that, so I think it's down to the dollars and cents there. But if we do not get that money we will have to close the courts and furlough all of our employees for at least two days some time between now and the 1st of July. I don't think that we want that to happen for any of us, so please take special note of that. So the final thing that I have to say is that the courts in Nebraska are really

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a bargain for all of us. I think that we take for granted that our judges in the whole court system are impartial and incorruptible. In my former duties as United States Attorney for Nebraska, I could look around the country and see that a great number of my counterparts spent a whole lot of their time prosecuting public corruption cases, including many cases involving judges. That simply does not happen in Nebraska. We have a great court system and we need to continue to invest in adequate funding for it. So thank you very much. Questions? [AGENCY 5]

SENATOR HEIDEMANN: Thank you. Would you be willing to take some questions? [AGENCY 5]

MIKE HEAVICAN: Absolutely. Senator Harms. [AGENCY 5]

SENATOR HEIDEMANN: Senator Harms. [AGENCY 5]

SENATOR HARMS: You talk about interpreters. [AGENCY 5]

MIKE HEAVICAN: Uh-huh. [AGENCY 5]

SENATOR HARMS: What language? [AGENCY 5]

MIKE HEAVICAN: Primarily, primary language, of course, is Spanish, but we have, as you know, we have folks from all over now that we have to have interpreters for, particularly in Lancaster and Douglas Counties. And how many different languages do we guess here? At least 29 or 30 different languages. [AGENCY 5]

SENATOR HARMS: Are the majority of them, of Spanish, are they undocumented workers? [AGENCY 5]

MIKE HEAVICAN: Well, that's very hard to tell. Of course, I would assume that some of

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them are undocumented workers, but, you know, I would assume that also a bunch of them are here legally. But under the law, we can't discriminate. We've got to pay for all of them. [AGENCY 5]

SENATOR HARMS: You talk about collective bargaining. You talk about states that you've compared. What states have you compared your salaries on? [AGENCY 5]

MIKE HEAVICAN: I believe those states are South Dakota, Iowa, Missouri, Kansas, Wyoming, and Colorado, but correct me. Wyoming wasn't in it. [AGENCY 5]

(WOMAN FROM AUDIENCE): They're the same states that personnel used in their (inaudible). [AGENCY 5]

MIKE HEAVICAN: Okay, same states exactly that personnel used in the array for the other state employees. [AGENCY 5]

SENATOR HARMS: You talk about probation officers. You talked about training. What kind of training are you referring to and what kind of qualifications do the trainers have to have to provide this for you, and who are you working with or wanting to work with? [AGENCY 5]

MIKE HEAVICAN: That, I believe, is all in-house training that our folks do, just training the people that we have here, and we've got Ellen Brokofsky here and if I misstated that let me know, Ellen. [AGENCY 5]

ELLEN BROKOFSKY: That's correct. [AGENCY 5]

SENATOR HARMS: According to what we've observed here and what we've read that you're needing to add personnel, are you backlogged in the courts? And if you are, how many cases are you backlogged and how far back are you? [AGENCY 5]

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MIKE HEAVICAN: Well, I don't want to say that we're backlogged, but this varies from court to court so it's very hard to pin down. I can tell you on the appellate court level that for a run-of-the-mill civil case you would now have to wait 15 months from the time it is filed. Normally, these are handled by the Court of Appeals. Some of them come to the Supreme Court. But it will be 15 months before it is disposed of. [AGENCY 5]

SENATOR HARMS: Thank you. [AGENCY 5]

SENATOR HEIDEMANN: Are there any other questions? [AGENCY 5]

MIKE HEAVICAN: Happy to answer any. [AGENCY 5]

SENATOR HEIDEMANN: Senator Nantkes. [AGENCY 5]

SENATOR NANTKES: Mr. Chief Justice,... [AGENCY 5]

MIKE HEAVICAN: Uh-huh. [AGENCY 5]

SENATOR NANTKES: ...thanks so much for joining us here this afternoon and...
[AGENCY 5]

MIKE HEAVICAN: Thank you for having me. [AGENCY 5]

SENATOR NANTKES: Absolutely, and it's such a unique opportunity, as a member of the bar, to be able to ask the Chief Justice a question for a change. (Laughter) So I have to... [AGENCY 5]

MIKE HEAVICAN: Careful. [AGENCY 5]

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SENATOR NANTKES: (Laughter) Thank you. But I was wondering, just to follow up on Senator Harms' comments, if you could talk a little bit about the increased need for having qualified interpreters in our courts and how that impacts access issues and other constitutional constraints that we have to deal with. [AGENCY 5]

MIKE HEAVICAN: Well, we can't just have interpreters in the courts. We have to have them certified. So we have a program in-house to do that certification. It is very rigorous, but it is very difficult for people to pass those exams. So there are some kinds of situations, for example, in probation, where we may not need a certified interpreter. We can just use somebody who can interpret, you know, adequately. But to get them certified is very difficult. They have to go through a test, and we just did some tests and how many people passed? [AGENCY 5]

(WOMAN FROM AUDIENCE): I think two this last time. [AGENCY 5]

MIKE HEAVICAN: We had two people pass. And how many started taking the test? [AGENCY 5]

(WOMAN FROM AUDIENCE): I don't know, but probably 30 or 40. [AGENCY 5]

MIKE HEAVICAN: Thirty or forty people started off. So you can see it's a specialized kind of thing. At the same time, you need to understand that to get some of these languages that are...that we don't normally see around here when we're talking about 29 or 30 languages, you can imagine there are some that we have to...we have to get outside personnel. And there are interpreter services around the country that you can call into and so forth, and we use those for the particularly arcane languages. We had a big problem with our interpreters because we simply were not paying them enough, and particularly the sign language interpreters would not work with us any longer. So we had to renegotiate all of our contracts and those contracts will come into play beginning July 1 of this year. [AGENCY 5]

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SENATOR HEIDEMANN: Senator Engel. [AGENCY 5]

SENATOR ENGEL: Glad you're here, too, and I've never (inaudible). [AGENCY 5]

MIKE HEAVICAN: Well, thank you. I'm glad you're here. [AGENCY 5]

SENATOR ENGEL: But anyhow, in South Sioux City we have the parole and the probation offices working together up there. [AGENCY 5]

MIKE HEAVICAN: Uh-huh. [AGENCY 5]

SENATOR ENGEL: And there it's...I visited there last week or two weeks ago, has been working very, very well. [AGENCY 5]

MIKE HEAVICAN: Uh-huh. [AGENCY 5]

SENATOR ENGEL: And I was wondering about if you'd comment a little bit more on that particular program, how you think it's working. [AGENCY 5]

MIKE HEAVICAN: Well, we think it's working well, and Senator Synowiecki is here and we've talked about actually combining parole and probation and when it comes to that issue we're happen to combine parole into probation. As you know, there are only about 25 parole officers around the state of Nebraska and there are over 500 probation officers. But I think we try to go the extra mile to work together with them, no matter, you know, what branch of government we're all in, which I think is very important. But if you would combine parole into probation, that would be something like the way the federal model now works, and I think would allow us to perhaps experiment with some kinds of things, like reentry courts, which might be very effective, again, working with this community corrections concept. [AGENCY 5]

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SENATOR ENGEL: Thank you. [AGENCY 5]

SENATOR HEIDEMANN: Any other questions? Seeing none, thank you so much for coming in today. [AGENCY 5]

MIKE HEAVICAN: Thank you very much. [AGENCY 5]

SENATOR HEIDEMANN: Any other testifiers on this agency? Thank you for coming today. [AGENCY 5]

KERMIT BRASHEAR: My pleasure, Mr. Chairman. Mr. Chairman, members of the Appropriations Committee, my name is Kermit Brashear, that's K-e-r-m-i-t B-r-a-s-h-e-a-r. I am appearing at the request of the Chief Justice in support of the portions of the budget that relate to community corrections and I will explain that I am a member of the Community Corrections Council, in transition from being an appointee with Senator Synowiecki from the legislative body to the council, and now Governor Heineman has appointed me as a lay member of the Community Corrections Council. Thank you for this opportunity. Mindful of the fact that I will be appearing before you and taking your time on Wednesday in support of the Community Corrections Council itself and its budget, I have tailored these remarks to reflect something different from what I will speak to you about then, in order that I'm not redundant or repetitive. In 2001 Governor Johanns convened a community corrections working group. Prior to that time, as Senator Ashford alluded, there have been multiple efforts at launching community corrections in Nebraska, but as I have always been fond of saying, there was absolutely no money appropriated, not a dime, in order to support those efforts and, therefore, they came to naught. At the time that the working group was convened, prison population in 2001, prison population in Nebraska was at 133 percent of design capacity, despite the fact that we had just completed the Tecumseh incarceration facility at a cost of \$75 million and 415 more state employees at an annual cost, payroll cost, of \$30 million per

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year. The Department of Correctional Services' budget at the time the community corrections working group was working had doubled in more than...in less than ten years and was anticipated to double again in less time. We had declining state revenues at that time and it made it imperative that less expensive solutions be found. The legislation which was proposed by the community corrections working group, LB46, was adopted in 2003. The Community Corrections Council was created. Probation and parole fees, and this is an idea I never tire and try to always acknowledge was Senator Synowiecki's, probation and parole fees were authorized for the first time ever in the state of Nebraska to be collected to enable new programming, and for the first time all aspects of the criminal justice system were brought together to develop alternatives to prison and, significantly, means for data collection and analysis were built. And what I am saying there is that today we have, before the community corrections report and on Wednesday meetings, and on Wednesday we will distribute, we now have complete data so that we can report to you what we are accomplishing and how we are accomplishing it, and that was not possible in 2003. While each individual agency had its own data as required by the federal government, it was not amalgamated and analyzed in such a way that we could analyze it. Since its inception, the council has worked to bring community corrections on-line in Nebraska with tremendous support. This has been about lots and lots of people. It has been about the Legislature. It has been about people like Senator Synowiecki, Senator Dwite Pedersen, Senator Chambers. It has been about both Governor Johanns and Governor Heineman and the judicial branch under Chief Justice...former Chief Justice Hendry and Chief Justice Heavican now continuing. The council...at the present time the council has coordinated a three-part plan to implement community corrections by targeting felony drug offenders. The first aspect of that program is enhanced supervision in the community, which has been referenced by the Chief Justice, that ensures public safety. This includes probation, parole, and drug courts. The second part is appropriate treatment in the community, efficient use of resources. All kinds of empirical data will demonstrate that every dollar invested in addiction treatment yields a return of four to seven dollars in savings with regard to drug-related crimes. The fee for service voucher program

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administered by probation offers offenders vouchers for substance abuse evaluation and treatment on a sliding scale. This voucher program was initiated in March 2006. It did not exist before. It has now been built from the ground up. Eight hundred and twenty-eight felony drug offenders, who would not otherwise have been able to access treatment services, were served between March and December, you can count, nine months, of 2006. And the third aspect is sentencing guidelines are appropriate offender placement in the community. Our data now indicates and demonstrates that over 400 felony drug offenders per year are sentenced to the Department of Correctional Services for terms of less than three years. If those offenders can be supervised in the community it would solve almost the entire prison overcrowding population and save, literally, millions of dollars. The judicial branch, the Office of Probation Administration, the Community Corrections Council, all of these have taken a lead in trying to change the entire system of community...of justice administration in the state of Nebraska in order to bring about these changes. We're using a new way of doing business. Probation in coordination with parole has developed and launched SSAS, Specialized Substance Abuse Supervision, beginning in March of 2006 in seven counties throughout the state. Parallel to that, the SSAS program, are the day and evening reporting centers that are now up and functioning in six locations, and we can demonstrate for you that there has been a 15.25 percent drop in total felony drug offenders admitted to the Department of Correctional Services from 2005 to 2006, the year the SSAS and day and evening reporting centers and the voucher program were all launched. That 15.25 percent figure, by the way, constitutes 102 people. SSAS officers work with the highest risk, highest need felony drug offenders. Those officers feel that these initial months of...in these initial months of program the offenders have been positively impacted in a very short period of time. I'd like to tell you one story on...which is before on very good authority. Here in Lincoln, a 62-year-old heroin and methamphetamine addict sentenced in May has reached ten months of sobriety and has gone from a recidivism score of 30, which is very high, high risk, to a score of 16, which is medium risk, in only ten months. And there are...the stories are legion of that kind and quality. Evidence-based studies show that a reduction in recidivism can be

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realized by drug courts--10.7 percent reduction in recidivism. And please, I'm not implying there's anything wrong. A 10.7 percent reduction is very, very important, particularly for the people involved. A 12.4 percent reduction in recidivism can be achieved through substance abuse treatment in the community. But for a really exciting number in terms of what it means for the people involved and for the taxpayers, a 21.9 percent reduction in recidivism can be achieved through programs such as SSAS and day and evening reporting centers. You know the average costs per offender. They're very significant. Let the record reflect traditional probation's annual cost per offender is \$767 per offender per year; intensive supervision cost is \$2,519 per offender per year; parole supervision annual cost is \$2,846 per offender per year; Special Substance Abuse Supervision program, SSAS, annual cost is \$3,035 per offender per year, clearly a significant increase. But then we compare it to the...and you can get varying figures, but the costs which are generally agreed upon for the Department of Correctional Services incarceration of approximately \$29,000 per year, we're talking about, even with the increased costs of SSAS, doing something that is approximately 10 percent of the alternative. The next steps which your Community Corrections Council will take is to continue a very steady, strategic, well-planned approach to developing community corrections services, just as we have them in the seven and the six counties now out across the state. All of you know and understand, with 93 counties, it takes a great deal of recruitment, hiring, training, and then spreading of these services in order that the judiciary can have confidence that alternatives to maximum security incarceration are available. Through the original plan, the original plan was to have had full statewide implementation within four years. As a matter of economics and reality, we simply aren't going to achieve that. Today we're proposing a plan to continue with the progress and, in implementing phase two for fiscal year '07-08, we'd add Madison and Platte Counties, and then phase three in fiscal year '08-09 we'd establish SSAS and reporting centers in one of three areas, either Scottsbluff, Grand Island, or North Platte, depending upon the analysis of the data. Implementing enhanced community corrections throughout the state ensures that needed services are universally available, and that public safety is uniformly guaranteed. Community options must be expanded so that low-risk, carefully

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identified offenders can be held accountable and monitored safely and effectively outside prison walls. Nebraska has received national attention for its community corrections effort that were...some of them were announced by the Governor of February 12 of this year. The Pew Charitable Trusts have agreed to partner with the Vera Institute of Justice in providing additional support and expertise to Nebraska for three years. This will be intensive technical assistance for community corrections, and I can tell you that...and this reflects upon all of the people that I have cited in this testimony who have been a part of the community corrections effort, that Nebraska was one of eight states chosen by Pew. Nebraska was chosen instead of states such as Pennsylvania, California, Oregon, and New Mexico, and our efforts were cited as being thoughtful, measured, focused on cost benefit, and guided by strong collective leadership of all those who have been participating. If we can continue this effort, it is my personal belief, and I think the record demonstrates, that in the future the need for prison beds will be reduced, taxpayer money will be saved, and crime rates will be lowered, particularly if we focus upon the successful accomplishments with regard to recidivism. I urge your consideration of the budget as submitted. Thank you. [AGENCY 5]

SENATOR HEIDEMANN: Thank you for coming in today. Senator Engel. [AGENCY 5]

SENATOR ENGEL: Thank you very much for coming in today, Senator Brashear. It's nice seeing you. [AGENCY 5]

KERMIT BRASHEAR: It was my pleasure, believe me. [AGENCY 5]

SENATOR ENGEL: I know it would be. [AGENCY 5]

KERMIT BRASHEAR: Enjoy it while you're here. [AGENCY 5]

SENATOR ENGEL: You know, I've enjoyed it for many years. The thing that, you know,

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you talk about, you know, the \$29,000 to keep someone in prison and the savings over having community corrections (inaudible), but the thing is I think the bigger saving than that, I'd be very interested if anybody knew what the figure would be, how much more we're saving because those people are out working in their communities, they're supporting their families, and we are not supporting them. So there's...when you add that all together, I think it would be a lot more than that differential there. So thank you. [AGENCY 5]

KERMIT BRASHEAR: I agree with you. Thank you. [AGENCY 5]

SENATOR HEIDEMANN: Any other questions? Senator Harms. [AGENCY 5]

SENATOR HARMS: I guess the...well, first of all, thank you for coming. [AGENCY 5]

KERMIT BRASHEAR: My pleasure. [AGENCY 5]

KERMIT BRASHEAR: I guess I get a little frustrated when I...we're talking about the back end of all these issues, you know, the people that are in trouble, the people that have decided to commit a crime, do the drugs, the whole thing. Is there any relief at all to getting to the front of this issue? Is there anything that we can do as a state or as a government to begin to penetrate that at the front end rather than the back end? Because the costs are so expensive and it just looks like to me that the numbers are going to continue to grow. When you go out into where I live and you talk to youth and see what's happening, it's a tragedy. And the point is how do we get ahead of this, or can we get ahead of this, and how do we stop that so at the back end it's not so expensive? I mean I know that there are a lot of parents that go through this same, you know, question--where are we failing, what can we do as a state. [AGENCY 5]

KERMIT BRASHEAR: Senator Harms, I share your concern. I can feel your focus and the challenge. I'm afraid that if I attempted to respond to your question I'd go on beyond

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the point that the Chair would endure. I think these are the issues that we are dealing with that pour over in our community. They deal with family, they deal with education, they deal with early childhood. And clearly, when you see that we can affect recidivism the way we are and the way the data says it can be done, we need sometimes to be nearer first to the party instead of last. Community corrections is not a new concept; it's just new in Nebraska. It's been done for a long time elsewhere. [AGENCY 5]

SENATOR HEIDEMANN: Any other questions? We were kind to you today, I guess. Thank you for coming. [AGENCY 5]

KERMIT BRASHEAR: Thank you. [AGENCY 5]

SENATOR HEIDEMANN: Is there any other testimony on this agency budget?
[AGENCY 5]

WAYNE MARK: My name is Wayne Mark, W-a-y-n-e M-a-r-k. I'm here today on behalf of the Nebraska State Bar Association. I am the president-elect of that association and will be president as of October. I'd like to speak to you today about some issues that are dear to the hearts of Nebraska lawyers because we represent clients who every day come in contact with the county courts, and those people are also your constituents. What you do in connection with this budget will affect the courts of...the county courts, the district courts, the juvenile courts, the Court of Appeals, and the Nebraska Supreme Court. Your actions will affect the employees who work in those courts and those who come before the courts for matters, such as family matters, divorce, child custody, adoption, guardianships, conservatorships, wills, trusts, criminal prosecutions, and civil disputes. Today I want to talk to you just about four or five issues that I think are of importance to the Nebraska lawyers. Want to talk to you for a moment about access to the courts, and I want to talk to you about adequate compensation for court employees, including probation officers, and I want to talk to you a little bit about the costs of interpreters and providing adequate funding in the budget to cover that ever-increasing

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cost. I want to talk to you very briefly about child support referees, and I want to talk to you finally about the Minority and Justice Committee work. First of all, with respect to access of the court, I'm fortunate, I live and practice in Omaha and my office is across the street from the county courthouse. I can walk across the street and find someone in the county court clerk's office any time during their business hours. I grew up in Platte County on a farm and I can remember that when my dad needed to get letters for the conservatorship of my grandfather that he didn't have to be concerned about whether or not the county court would have someone manning its offices when we've gone on a rainy day and could find time to go to Columbus to get those. That's not true everywhere in this state. We have 30 counties that have one or fewer employees. We have courts that are not open every day. It's not always possible for a person to travel the 30 or 40 miles and get what he needs from the county court. You know, if you do that and you get there and your window of view of what the judicial system is like and you find that the courts are closed, you come away with a pretty disappointed view of the system. And I think it's important that we do what we can as legislators and as citizens to make sure that the citizens get what they expect, and that is courts that are open and accessible to the citizenry. It's my understanding, and I saw the Chief's presentation today about the fact that we are...that the judicial system, the third branch of government, is going to operate at a deficit and may have to shut down if additional monies are not allocated for this year. I think that would be a horribly embarrassing situation for all of us in this state if we had to shut down our judicial system because we were unable to fund it adequately. I'd like to talk, as I said, for a moment about the payment of court employees and probation officers. These people, who are the first contact of many people with the county courts or the judicial system, need to be adequately paid so that we can staff them with people who are able to be responsive to the needs of the citizens. When any of you who have ever run a business or had employees know the enormous cost of training someone, only to have them walk away to another position that pays more. It adversely affects the efficiency of that entity and certainly the efficiency of our county courts are being affected by the fact that our employees are able to go elsewhere and better care for their family's needs through a

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higher income. We need to make those salaries competitive. Much has been said already about the probation officers and the need to have adequate...to adequately pay them. Without question, these people are of critical importance to the safety of our community, and when we're paying them 30 percent below the market, we can't expect them, anyone who has an interest in properly caring for the welfare of their families, not to take the opportunity to go elsewhere. And again, the cost to us in having people trained within our system and then walk away is enormous. So I urge you to take the need for those kinds of salary increases into account as you consider this budget.

Interpreters: You know, imagine yourself walking into a courtroom in Mexico City and having everyone around you talking a language you didn't understand. Imagine the fear in your heart if that happened and wondering if you could ever possibly get justice. The need for interpreters cannot be overstated. We need to have people there to speak every language when a person comes before the court. Our constitution demands that we provide due process to all of our people whether or not they be foreigners and speak a different language. So it is critical that this budget take into account that ever-increasing cost of 10 percent per year to fund the interpreters.

Child support referee: Presently the Supreme Court employs one child support referee who works in Sarpy, Cass, Platte, Madison, Hall, Buffalo, and Adams Counties hearing child support matters. Sixty-six percent of that salary is paid by a federal grant, federal funds, so the state only pays roughly 33 percent of that cost. The referee's work in these courts allows the judges to attend to other important judicial business, not that those matters are not important, but he can attend to things that a referee could not attend to, criminal and civil matters, and being able to push along the disposition of child support cases. The court wishes to create a second referee and they can do so at a minimal cost. Again, it would only cost the state 33 percent of that referee. By adding a referee, the efficiency of our judicial system, easy for me to say, judicial system would be greatly improved at a very minor cost to the citizenry. I urge you to include consideration of an additional referee in your budget. Finally, I want to address with you one of...a project that I know the bar association and the Supreme Court is extremely proud of. It's the Nebraska Minority and Justice Implementation Committee. This is a joint effort of the

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Supreme Court and the Nebraska State Bar Association. The committee was appointed by the Supreme Court in May of 2003 in response to a task force two-year investigation regarding racial/ethnic bias and discrimination in Nebraska's justice system and, yes, they found that it was present in that system. The Minority and Justice Implementation Committee is cochaired by Supreme Court Justice John Gerrard and by the president of our association, Linda Crump. The mission of the committee is to achieve four primary aims: first, address racial disparities in both juvenile and adult justice systems; two, ensure equal justice...equal access to justice; three, increase the diversity of the Nebraska judicial work force; and four, increase the diversity of the Nebraska's legal profession. Certainly diversity in the legal profession is important to our diverse citizenry. A black person is often more comfortable with a black lawyer, and a Hispanic person more comfortable with a Hispanic lawyer. Initiatives from the committee have included the establishment of a uniform juror qualification questionnaire used to collect information for research purposes, and a bilingual bail and bond advisement of rights initiative intended to provide information on defendants' rights, while in custody, in the procedures for posting bond. And let me tell you that didn't come without cost. We had to develop cards in multiple languages so these people who were incarcerated could come to learn that they had rights by reading a card in their own language. The committee has also begun working with the Supreme Court Commission on Children and the Courts to establish standards for the representation of juveniles in abuse, neglect, and delinquency cases. To continue this work by the committee, the court has requested \$30,000 to share a portion of the committee's coordinator's salary with the Nebraska State Bar Association. To this point, the Nebraska State Bar Association has funding...been funding the cost of this committee in its entirety, and we're proud to do so, but it is beginning to take its toll on our budget as well, and we urge that you consider that additional \$30,000 in your budget. Also the court has asked for an additional \$10,000 to cover the fund...court to fund travel and meeting expenses for judges and court staff who volunteered to serve as Minority and Justice Implementation Committee members. As you can see from all that's gone before you, our court staff are underpaid and when we ask...we burden them with additional volunteer challenges like

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this, we're asking an awful lot of them. And if we could in some small way reimburse them for their mileage and time, it would be a great service to them and it would also be a great service to this committee. Currently, the Supreme Court receives no funding for the support of the committee and, therefore, we respectfully ask that you consider this as a part of your budgetary considerations. I very much thank you for the opportunity to speak to you and to speak on behalf of the lawyers of Nebraska, and if there are any questions I would be pleased to answer them. [AGENCY 5]

SENATOR HEIDEMANN: Are there any questions for Mr. Mark? Senator Nelson.
[AGENCY 5]

SENATOR NELSON: I'm just looking at our preliminary budget here and I see a figure of \$100,000 requested rather than \$30,000. Do you know where the difference is in that figure that you were... [AGENCY 5]

WAYNE MARK: I'm going to have to defer on that to either the Chief or to (inaudible).
[AGENCY 5]

MIKE HEAVICAN: There are other committees also, Senator, and I believe we asked for \$5,000 or \$6,000, maybe \$10,000 for each committee is what we did,... [AGENCY 5]

SENATOR NELSON: Okay. Thank you. [AGENCY 5]

MIKE HEAVICAN: ...particularly the Committee (sic) on Children in the Courts.
(Inaudible) big priority (inaudible) why (inaudible). [AGENCY 5]

SENATOR HEIDEMANN: Any other questions? Seeing none, thank you for your testimony. [AGENCY 5]

WAYNE MARK: Thank you for your time, Mr. Chairman. [AGENCY 5]

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SENATOR HEIDEMANN: Is there any other testimony on this agency? [AGENCY 5]

STEVE ROWOLDT: (Exhibit 4) Good afternoon. My name is Steve Rowoldt, R-o-w-o-l-d-t, and I'm the chief probation officer of state probation, District 6 here in Lancaster County. I also have the privilege of cochairing State Probation's Community Corrections Programs Committee. For the past 33 years, I have been employed by the Nebraska state probation system. I'd like to begin to quoting my brother, who was formerly employed by the Nebraska state probation system and is currently chief of U.S. probation for the district of Nebraska. He says probation work is more than a career, it's a calling. Similar to the religious concept of being called, he says probation officers are called to work with offenders to give them the opportunity to change their criminal thinking, and hopefully that change in criminal thinking will ultimately change their criminal behavior, hopefully at the front end. I guess my father, my grandfather, and five of my uncles, who were either Lutheran or Methodist ministers, you can see where my brother and I got our values with regard to commitment, dedication, loyalty, and passion. But times are changing. There are now better paying options for the next generation of would-be probation employees to find careers working with offenders without sacrificing the ability to support themselves and their families. Unfortunately, these better paying options are not with state probation and we're losing prospective applicants and quality employees at a rapid rate. As the Chief Justice indicated, statistics have shown that Nebraska lags behind surrounding states in probation staff salaries. Senior secretaries in this state are 17 percent below the midpoint of surrounding states; probation officers are 28 percent below the midpoint; intensive supervision officers, who handle the high-risk offenders, are 55 percent below the midpoint. But it doesn't stop there. In Lancaster County, a would-be probation officer could literally walk across the hall to Lancaster County Corrections and be paid approximately \$2,000 per year, plus overtime, without the college degree required of a probation officer. A would-be probation secretary also could walk across the hall to any county agency in Lancaster County and be paid approximately \$3,000 more per year.

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The statistics also show that there is a 71 percent turnover rate in Douglas, Lancaster, Sarpy Counties. The number one reason given by employees leaving is money. What particularly concerns me is that all the turnover is occurring at a time when the legislative expectations of probation service delivery are increasing. While I'm excited about what your expectations are, I am fearful about the consequence of not balancing those expectations with needed resources. So what are these expectations? In 1973 I started my career as a correctional officer for the Department of Corrections. Correctional officers in those days was an eloquent term for a cell house guard. For those of you that remember the old cell houses, there was an east cell house and a west cell house, and one entire floor or tier of the west cell house was empty. The Nebraska adult Department of Corrections was at approximately 75 to 80 percent of capacity. When I became...when I came to probation following...the following year in 1974, there was not a prison overcrowding issue. In 1988 I was the creator of a grant that developed intensive supervision probation as a pilot project in Lancaster County. The wisdom nationally then and now is to pay intensive supervision probation officers at a higher rate, since they handle the highest risk offenders. That is how we started in 1988 in Lancaster County. In 1990, when the State Legislature adopted the idea and implemented the intensive supervision program statewide for prison overcrowding, the higher pay did not become part of the plan. Therefore, today we have little interest from our most experienced officers to take these jobs. And why would they? Where is the incentive to work with a more difficult, high-risk caseload being on-call with a pager 24 hours a day, seven days per week? This brings me to the added expectation of pagers. With electronic monitoring and juvenile intake, which is another legislative expectation, probation officers are compensated with time off for carrying a pager. State probation experiences between 230 and 345 hours of lost offender supervision time per week to allow for being on call 24/7. This is basically robbing Peter to pay Paul, as the lost supervision time equates to a problem with public safety by not adequately supervising other offenders. Funding pager time would go a long way to solving this problem. While we are certainly...while there are certainly many additional legislative expectations, I will only focus on one more and that is training. As state probation, we have always had to

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be creative and dependant on the goodwill of our present employees to volunteer their time. I have seven probation officers who are trained trainers just in Lancaster County who help with state training. All are expected to do their full-time jobs in addition to their training duties. A calculation of the past few years has shown that District 6 in Lancaster County loses approximately one full-time employee per year to accommodate training. Again, this is time...a time when expectations are increasing. In conclusion, all four issues--salaries, intensive supervision probation compensation, pager compensation, and training are important to the people who carry out the task of ensuring public safety, motivating offender behavior change, and preparation of reports for the court. Without a qualified, well-trained and experienced staff, it is becoming more and more difficult to carry out your expectation as a Legislature for safer communities. To me, that's the very core of what community corrections is all about and what probation, under the leadership of the judiciary, has been attempting to carry out in communities since I started in 1974. Thank you for allowing me to speak today. Thank you for your time.
[AGENCY 5]

SENATOR HEIDEMANN: Thank you, Steve, for coming in today. Are there any questions? Senator Synowiecki. [AGENCY 5]

SENATOR SYNOWIECKI: Hi, Steve. How you doing? [AGENCY 5]

STEVE ROWOLDT: Senator. Good. [AGENCY 5]

SENATOR SYNOWIECKI: Thanks for coming in. I...the slide show that the Chief had showed, like, 89 percent turnover in Douglas and Sarpy County for intense supervision probation officers. That's... [AGENCY 5]

STEVE ROWOLDT: Correct. [AGENCY 5]

SENATOR SYNOWIECKI: ...that's almost an unbelievable turnover rate. [AGENCY 5]

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STEVE ROWOLDT: I agree with you. [AGENCY 5]

SENATOR SYNOWIECKI: Is there any...from what I understand, being somewhat connected still to the probation office, a lot of them folks leave the probation system and take less-paying jobs, that don't pay as much as an ISP officer. What has the administration done to examine what the systemic problems might be other than pay, given that...for example, another discussion here was parole, and parole does...it's a newsworthy item when there's a parole officer opening. [AGENCY 5]

STEVE ROWOLDT: Uh-huh. [AGENCY 5]

SENATOR SYNOWIECKI: It almost never happens. [AGENCY 5]

STEVE ROWOLDT: Uh-huh. I'll yield that to Ellen Brokofsky, if I can, as far as the probation administration is concerned. [AGENCY 5]

SENATOR SYNOWIECKI: Okay. [AGENCY 5]

STEVE ROWOLDT: Okay. [AGENCY 5]

SENATOR SYNOWIECKI: Thank you. [AGENCY 5]

SENATOR HEIDEMANN: Are there any other questions? Seeing none...Senator Nelson. [AGENCY 5]

SENATOR NELSON: Thank you for coming today. Could you just educate me a little bit on the average day of a probation officer, what time is spent on supervision, what time is spent on writing reports for the court system, and things of that sort, if there is a typical day? [AGENCY 5]

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STEVE ROWOLDT: I can break my office down, which would give you a typical day.
[AGENCY 5]

SENATOR NELSON: Okay. [AGENCY 5]

STEVE ROWOLDT: I have six probation officers that simply do presentence investigations for the court... [AGENCY 5]

SENATOR NELSON: That's all they do. [AGENCY 5]

STEVE ROWOLDT: ...here in Lancaster County. That's correct. [AGENCY 5]

SENATOR NELSON: Okay. [AGENCY 5]

STEVE ROWOLDT: I have nine probation officers who do traditional probation, which is not intensive supervision probation and which is not specialized supervision for the substance abuse offenders; just nine traditional probation officers that do that. And then we have four intensive supervision probation officers here in Lincoln, and we have three SSAS officers here in Lincoln and they do the high-risk probation supervision for Lancaster County. [AGENCY 5]

SENATOR NELSON: In those various categories, where is your highest percentage of turnover, if you can identify that? [AGENCY 5]

STEVE ROWOLDT: I would say the highest percentage of turnover is ISP, intensive supervision probation. Just to calculate off the top of my head, I have four probation officers here in Lincoln, besides the coordinator, and of those four probation officers I would say that the most experience any of them have is two and a half years, and some of them are more like a year, and they're all brand new probation officers. [AGENCY 5]

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SENATOR NELSON: All right. Thank you. [AGENCY 5]

SENATOR HEIDEMANN: Senator Fulton. [AGENCY 5]

SENATOR FULTON: Thank you, Mr. Rowoldt, pronounced? [AGENCY 5]

STEVE ROWOLDT: That's correct. [AGENCY 5]

SENATOR FULTON: Okay. Thank you for being here. I have a question which I'm going to leave open for some elaboration because I think it would be instructive to some of the newer members of the Appropriations Committee. Eighty-nine percent turnover, I'm hearing that there's inadequate remuneration for probation officers and the court system in general. I guess my question is how did we get here? Has this been...was this before Appropriations Committee in the past? Do you have a...I'd like to hear elaboration. Do you have a theory or a philosophy or an idea of how we got here? [AGENCY 5]

STEVE ROWOLDT: And I can only speak for myself, in Lancaster County, but sitting in Lancaster County and watching the county, the city, even in some cases some other state agencies with different job classifications, I see employees, whether it be clerical or probation officers, moving on for a number of different reasons. Give you an example of the past two years, I had two women that left simply because it was cheaper for them to be at home with their kids than it was to work. I had an individual go to work for Union Pacific because he was going to make more money. I had situations with intensive supervision probation where they actually came back and worked in traditional probation because, again, if they were going to make the same amount of money, generally speaking, why would I be on-call 24/4 when I can have generally what would be an 8:00 to 5:00 job and not have to work on weekends? So there are a number of reasons, but the fact of the matter is, is that it all kind of zeroes back into money. [AGENCY 5]

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SENATOR FULTON: Has this snuck up? Has this phenomenon snuck up on us, or is this...has it been recognized earlier? What? [AGENCY 5]

STEVE ROWOLDT: The only way that I can answer that is, is that throughout my career of 33 years I'm not sure I've ever been in this job for the money, so it's kind of a situation where I don't...really really have never looked at the fact that I was going to make a lot of money at this. I think where it has snuck up is that other states have progressed with regard to the payment of their offenders...or of the probation officers. Iowa is a good example of that. Kansas is a good example of that. And then also other local jurisdictions, such as counties and cities, have also progressed with that. So, you know, the bottom line is, is it's probably snuck up that way from the standpoint of what you're calling over the last ten years of what I could see. We were never overpaid, but over the last ten years in particular. [AGENCY 5]

SENATOR HEIDEMANN: Senator Engel. [AGENCY 5]

SENATOR ENGEL: Mr. Rowoldt, the thing is with the salaries. I know they're low and...but how long does it take to train a probation officer, and then do they go from regular probation into intensive? Is it kind of a step process or... [AGENCY 5]

STEVE ROWOLDT: We'd like to see that, but it doesn't work that way. Bottom line is it's...they have to apply for intensive because they want to be there and we don't have people apply because, again, it's a situation where it's more responsibility with a higher risk client with no pay. As far as your original question with regard to training, the first year has the training component with it. Each probation officer has been four weeks, I believe it's now been moved to five weeks...six weeks, and in that first year is technically a probation officer trainee time. But that being said, I would say most probation officers in Lancaster County hit the ground running, and we try to train them as we go, because training may be three months from now and they need to work

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today, the day they start. [AGENCY 5]

SENATOR ENGEL: But with 89 percent turnover, they really...by the time they really don't get fully trained before they leave, it sounds like. [AGENCY 5]

STEVE ROWOLDT: In Omaha with an ISP at 89 percent turnover, you're absolutely correct. [AGENCY 5]

SENATOR ENGEL: And then one more question. If we did get the salaries up, then Senator Synowiecki is talking about them leaving for other reasons. What do you propose to do within the department, so to speak, to handle that safely if we do get the pay up? [AGENCY 5]

STEVE ROWOLDT: I agree with that and there needs to be issues looked at with regard to that, if that's the case. [AGENCY 5]

SENATOR ENGEL: Have to find more dedicated people like you, I guess. [AGENCY 5]

STEVE ROWOLDT: Well, dedicated I hope. [AGENCY 5]

SENATOR ENGEL: (Laugh) Yeah. [AGENCY 5]

STEVE ROWOLDT: Thank you. [AGENCY 5]

SENATOR HEIDEMANN: Senator Synowiecki. [AGENCY 5]

SENATOR SYNOWIECKI: Well, you know, along them lines, Steve, the purpose of my question is this committee is not at all interested in sending good money after bad. I mean if we've got an 89 percent turnover rate, that means within the last two years there's no...there's essentially no one in Douglas and Sarpy County working intensive

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supervision probation that's got in excess of two years experience. [AGENCY 5]

STEVE ROWOLDT: And that's an excellent point, because bottom line is, is what you hope would be, is that experienced probation officers such as you, for example, when you were there, to be able to move into those categories with good experience, with good qualifications to be able to handle those higher risk offenders and be able to compensate that with that. [AGENCY 5]

SENATOR SYNOWIECKI: Do you have any thoughts on what the...other than put salary aside for a moment, again. From what I understand, a lot of these folks leave for lesser paid positions in the community, not all of them, but a lot of them do. Let's put salaries aside for a moment. Is there some type of systemic problems that, you know, would produce...I mean, essentially, there is no ISP program in Douglas and Sarpy County if you've got...I would assume it's a bunch of college kids that are there. Is that what we've got? [AGENCY 5]

STEVE ROWOLDT: For Douglas County, I can't speak for. I know that in my particular case, in Lancaster County, we do look for experience. They may not be probation experience. I have one ISP officer which is an ex-police officer. I have another ISP officer that worked in the county jail in Buffalo County, and I have a third officer that actually came from probation in Utah. So in our case, and I can't speak for Douglas or Sarpy Counties, but in our case they all have had experience someplace else, coming in from someplace else to do those jobs. [AGENCY 5]

SENATOR SYNOWIECKI: Thank you. [AGENCY 5]

STEVE ROWOLDT: Thank you. [AGENCY 5]

SENATOR HEIDEMANN: Thank you for your testimony today. [AGENCY 5]

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STEVE ROWOLDT: Thank you. [AGENCY 5]

SENATOR HEIDEMANN: Is there any other testimony on this agency budget?
[AGENCY 5]

PATRICK McDERMOTT: (Exhibit 5) Mr. Chairman, members of the committee, my name is Patrick McDermott. I'm a county judge in the 5th Judicial District. My chambers are located in Schuyler, Nebraska. Spelling of the last name is M-c-D-e-r-m-o-t-t. It's my pleasure to appear before you, and my main thrust will be to discuss the need for the increased salaries for the county court staff. Not to belabor the obvious, but I want you to understand that it is my level of bench that is actually served by the employees over whom you have budgetary control, so I'm sure most of you understand the clerk of the district court and her staff or her staff who serve the district court are locally elected county officials and their employees are county compensated employees. So it is my bench which is served by these state employees. Having handed out my prepared remarks, which I would ask to be included in the record of these proceedings, I just want to touch on some highlights and echo some things that others have said, because...to avoid the unnecessary repetition of the same testimony. First of all, the Chief Justice remarked that we were losing some employees to county government. Just two weeks ago a member of the staff at Colfax County Court, who had been with us for 13 years, left to go to Saunders County. She left not because she didn't like her job, but because Saunders County would pay her \$10,000 more per year than we were able to pay her, and they would provide the full cost of her health insurance, a substantial benefit to her. At the time she left, she was compensated at the rate of \$11.89 per hour. She was the lowest paid person in the Colfax County Courthouse, which housed all of the county offices. So there was certainly no blame to her for seeking better compensation and a better life. There will be others who...and who have already and who will follow me who will talk about the specific impact on employees. What I would like to do is to take a few minutes to kind of put a face on who are these people and what do they do. The county court is a court of very high volume. We deal with...most citizens who access the court

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system in the state of Nebraska do so in a county court. They come in seeking all kinds of things--small claims, probate issues, they're witnesses or participants in civil and criminal litigation. But what all these people appear with, in common, is most of them are under stress. So our people in the county courts have to have that kind of experience to be able to deal regularly with people who are upset, they're nervous. For example, you can imagine what it's like dealing with a parent whose child has just been taken into protective custody. You have to arrange to get an attorney appointed for that parent, and arrange their first hearings on the fate of their child. These are people who are very upset, oftentimes feel that they are being treated unfairly by the system, and that anger most often is directed towards our employee. That person has to be able to set that aside, deal patiently, professionally and empathetically with that citizen, and move them through the system, and that is a very difficult, time-consuming job. And I can't emphasize how valuable the experience of our present staff is to us as a system. Couple that with the fact that we are supported in the court system by two excellent data processing systems, the JUSTICE system and now the new docket system which is the courtroom management system. Both of those require extensive training and experience for someone to gain a great proficiency. If we begin to lose our employees at ever-increasing rates, the efficiency of our whole effort goes down because I've taken that training and I'm fairly well...I'm an old computer programmer analyst and it's difficult to get a proficiency because there are so many varieties and variations of the things that come up, and to know exactly how to enter this and how to enter that is enormously taxing. The people that we have are really, really excellent at that, the help they give each other. I'm in a position where I can hear it going on and it's really a good feeling to work with people who are willing to help not only the public but each other. We need to keep these people. The cost of training is enormous, both as a real economic cost and as a social cost. That experience I cannot emphasize too much. I would like to address one other thing that was not, and this will give Janice a heart attack, not generally in my topic, but there's been some discussion about interpreters. My court is one of the most densely populated Hispanic community in the state, Schuyler. Our high school is 78 percent...or 58 percent Spanish; the grade school is near 80 percent children with first

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language is Spanish. Without interpreters you may as well blindfold me and gag me because I can't deal with the people who come before me for services. Those interpreters are...have talents that are just extraordinary. Their ability to deal at fairly good pace with people from all over the world, literally, is essential to my ability to do the job that I was appointed to do, and that's to maintain a system that's accessible, that's fair, that's efficient, and that's accountable. If there are any questions from any of the members, I'd be happy to respond to those. [AGENCY 5]

SENATOR HEIDEMANN: Senator Nelson. [AGENCY 5]

PATRICK McDERMOTT: Senator. [AGENCY 5]

SENATOR NELSON: Judge, thank you very much for coming. You've got a high percentage of Hispanics there apparently. So do you have to employ a full-time interpreter as a staff person there at the desk, or how... [AGENCY 5]

PATRICK McDERMOTT: We don't do that right now, Senator. What we have been able to do is this. On the days that we actually hold court, which are Tuesdays and Thursdays, Tuesdays is the compressed day where we do arraignments and the...what I call the high-volume hearings. We have two interpreters available, one to assist the staff in the office, one in the courtroom with me at all times. On Thursdays, which is our lighter scheduled day, we can get along with one interpreter because we're doing more review and case-specific types of things, so we can get along. We have considered, and though we haven't been able to implement it yet, the thought of contracting rather than using the interpreters on the hourly rate. Some of our interpreters would be interested in doing more specific contracting because it helps them to arrange their load and schedule so...but we're just at the initial stages of inspecting it. [AGENCY 5]

SENATOR NELSON: Are your interpreters local people? The people that use it...that you use as interpreters, are they local residents? [AGENCY 5]

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PATRICK McDERMOTT: These, I am blessed, I have all court-certified interpreters. Their one gal is from Aurora, one comes down from Norfolk, and one comes over for Fremont, and all three are among those rare group that are court-certified. [AGENCY 5]

SENATOR NELSON: The person that left, staff person that left for a higher paying job at the rate of \$10,000, how long had that person been there and what were they... [AGENCY 5]

PATRICK McDERMOTT: Thirteen years. She... [AGENCY 5]

SENATOR NELSON: ...what were they doing for you? [AGENCY 5]

PATRICK McDERMOTT: She was a general...we call her a registrar. She held the title. Those are the people who do the passive filings in the probate system. But in Colfax County, we require all of our personnel to be cross-trained on every function in the office, so she did a bit of everything. She was a generalist. [AGENCY 5]

SENATOR NELSON: Thank you. [AGENCY 5]

SENATOR HEIDEMANN: Any other questions? Seeing none, thank you for coming in today. [AGENCY 5]

PATRICK McDERMOTT: Thank you. [AGENCY 5]

SENATOR HEIDEMANN: Is there any other testimony on this agency budget? [AGENCY 5]

LESLIE DOUGLAS: Mr. Chairman, senators, my name is Leslie Douglas, L-e-s-l-i-e D-o-u-g-l-a-s, and I am the Douglas County Court judicial administrator. I am the

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administrator of a staff of 75 employees representing the Douglas County Court within three different departments--the criminal traffic division, the civil division, and the probate division. There are also bailiffs who assist the 12 Douglas County Court judges in the courtroom. As the Chief said earlier, in 2001 the Legislature approved the court's salary plan and employees received step increases for the next two years. Step increases have not been given to the employees for the past four years. Supreme Court employees' salaries have not kept up with inflation. An employee hired in the Douglas County Treasurer's Office as a cashier starts at \$12.57 per hour, or an annual salary of \$26,145. A cashier in our criminal traffic division starts at \$10.22 per hour, or \$21,247 annually. The job qualification and requirements are identical, and these people work within the same building in downtown Omaha. These per hour disparities of between \$2 and \$3 are evident in every job description between Douglas County and the state court. A Douglas County employee that is single pays \$30.59 per month for health and dental insurance. Someone with a family pays \$155. A state court employee that is single pays \$99.72 per month, while someone with a family pays \$345 per month. In using the example between the cashier in the county system and a cashier within the state system, and if the employee has a family, the difference in gross pay per month is \$600. Recently, we had a position for a court transcriber open which is a technical position requiring good word processing skills and some legal or courtroom background. The starting hourly wage for this position is \$10.73 per hour. I only had two external applicants. Many telemarketing companies in Omaha start their employees at \$10.25 to \$10.50 per hour, and are offering medical benefits and paid time off to employees who only work on a part-time basis. Those positions are appealing in another aspect. Most are in central or western Omaha and parking is provided. Employees of the court who drive to work pay between \$35 and \$60 for parking downtown. In the past 18 months, we have lost two bailiffs, with a starting salary of \$10.22, to the Douglas County Corrections Department. The starting salary there is \$13.10. Again, the qualifications are the same and it's an example of losing employees to the competition right there within downtown Omaha. We have some very qualified employees within the court system who have been with the state for a number of years. Unfortunately, 40 percent

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of them have a second job just to make ends meet. Please understand that the problems of hiring and keeping competent and hardworking employees is not unique just to Douglas County Court system. In speaking with the judicial administrators and clerk magistrates from all over Nebraska, representing your districts, we are all faced with the same problem. We ask the consideration of the Legislature this session in equalizing the salaries between the courts and other local units of government and private employers. Thank you for your consideration in this matter, and I would welcome any questions you might have. [AGENCY 5]

SENATOR HEIDEMANN: Thank you for coming in today. Are there any questions?
Senator Engel. [AGENCY 5]

SENATOR ENGEL: I'd just like to make one comment. You know, you referred to health insurance. I know that's all over the board. You know, some people, I think the police department in Omaha pays 100 percent, I believe, and different thing like...and that's something is kind of breaking the bank in state. [AGENCY 5]

LESLIE DOUGLAS: Uh-huh. [AGENCY 5]

SENATOR ENGEL: So that would be awfully hard, I think, to come up with a...to be competitive in all cases there because it's, like I say, it's up to the...it's many different entities that do it. And same thing I think as far as some of these salaries. I'm not...I'm on your side here, as far as paying adequately to keep good people, but the thing is I think that in some areas of government they seem like they have a lot more latitude to do those and (inaudible), you know, far as competing with everybody, I don't think we can, so. [AGENCY 5]

SENATOR HEIDEMANN: Senator Synowiecki. [AGENCY 5]

SENATOR SYNOWIECKI: Have you...the committee, in the preliminary budget, has

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tried to be...has attempted to be responsive to, on the county court side, on the pay issues. Have you had a chance to break down what our preliminary appropriation, how that would assist your rank and file staff there in Douglas County? [AGENCY 5]

LESLIE DOUGLAS: I really haven't. I could defer to Janice on that. [AGENCY 5]

SENATOR SYNOWIECKI: Okay. Thank you. [AGENCY 5]

SENATOR HEIDEMANN: Any other questions? Seeing none, thank you for coming in today. [AGENCY 5]

LESLIE DOUGLAS: Thank you. [AGENCY 5]

SENATOR HEIDEMANN: Is there any other testimony for this agency budget? [AGENCY 5]

GARY LATIMER: Mr. Chairman, members of the committee, my name is Gary Latimer, L-a-t-i-m-e-r. I'm an official court reporter in the 1st Judicial District, headquartered in Wilber, and I appear here today as the immediate past-president of the Nebraska Official Court Reporters Association to urge you to appropriate the funds requested by the Supreme Court in their budget for official court reporter salaries. Official court reporters are appointed by the district and separate juvenile court judges of our state and have the duty of making, preserving, transcribing, and delivering a verbatim record of all of the proceedings in the court to which they are appointed. As you can see by the information provided, Nebraska's county court employees, probation officers, and official court reporters all earn significantly less than their colleagues in surrounding states. Nebraska's official court reporters earn 13 percent less than reporters in surrounding states. This has led to four instances in the past few years where official court reporters have left the district or separate juvenile courts in Omaha for employment in Iowa. Our association asked these reporters why they switched employment and each cited the

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higher salaries in Iowa as a reason for leaving Nebraska. This is very easy to understand when one sees the top Iowa salary is \$11,000 more than the top Nebraska salary, and realizes the work performed is exactly the same. Another problem caused by the low salaries in Nebraska is that when positions become vacant they remain unfilled for lengthy periods of time, and this has the potential for disrupting the flow of justice in our courts. Freelance court reporters are very reluctant to fill in, in our courts, because they are paid only \$150 per day. This is around \$50 less than they can earn by taking a one-hour deposition. We aren't asking to be paid as well as our colleagues in New York State courts, who earn \$55,000 to \$92,000 per year, nor even our Nebraska court reporters who work in the U.S. District Court for the District of Nebraska and make \$67,953 to \$74,748 and actually have fewer job duties than we state officials do. But we are respectfully requesting that you place in the Supreme Court budget enough funds to bring us closer to equal with official court reporters in the states surrounding Nebraska. Thank you for the opportunity to appear. I'd be happy to answer any questions.

[AGENCY 5]

SENATOR HEIDEMANN: Are there any questions for Gary? Senator Fulton. [AGENCY 5]

SENATOR FULTON: Thank you for partaking in the process today. I'll ask the same question of you. I'd be interested to hear your perspective. Is this something that has...the phenomenon of underpay, has that...is this something that has snuck up on us or I guess why is there a, it seems to me, more of an urgency on this at this particular time than maybe in the past. Maybe I'm wrong, but I'd like your perspective. [AGENCY 5]

GARY LATIMER: Nebraska salaries have traditionally been lower than surrounding states, but the difference is expanding since probably the 2000 year, when we had the budget problems in state government, and it gets worse and more people leave for higher paying jobs in other states. So it hasn't crept up, but it gets worse on an annual

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basis. [AGENCY 5]

SENATOR HEIDEMANN: Thank you for coming in today. [AGENCY 5]

GARY LATIMER: Thank you, Senator. [AGENCY 5]

SENATOR HEIDEMANN: Any other testimony on this agency budget? [AGENCY 5]