

STATE OF NEBRASKA

DEPARTMENT OF CORRECTIONAL SERVICES

Michael L. Kenney

Director

July 24, 2014

Doug Nichols
Legislative Fiscal Office
State Capitol, Room 1007
Via Email



Dave Heineman
Governor

Dear Doug,

This letter is in response to questions you asked on behalf of a senator regarding the cost to the department of the recently discovered sentence miscalculations. There has been much discussion out in the public on this topic, some accurate and some speculation.

I have asked my staff to take an extensive look at the impact these calculations, specifically the longer lengths of stay for inmates serving mandatory minimum sentences, will have on the department.

Our calculations reveal an estimated fiscal impact of approximately \$4 million over the next 10 years. The full impact of the recalculations aren't realized until 50 years from now (in 2064) and become more speculative. Below, you will find answers to the specific questions you provided.

"Governor Heineman cited numbers saying that the recalculation of sentences for 567 inmates would add an additional 2,000 years collectively to their prison terms. Please send me the estimated cost that you will incur for these additional years."

There were 567 inmates who have had sentence recalculations resulting in longer lengths of stay. Many of these recalculations will have no impact on the department. For example, one inmate, who was admitted in February 2013, had a previous discharge date of 2167 and his new mandatory discharge date is 2177. While this is an increase of 10 years, it will have no impact on the department given in 2167 he would have been 215 years old.

In order to determine the realistic fiscal impact to the department, we took into consideration the age of the inmate at the original discharge date and his/her age at the recalculated discharge date. Vital Statistics reports the average life span in Nebraska as 75 years. Although we know inmates tend to have greater health issues at an earlier age, we used the age of 75 as a "cut off" in regards to the impact to the department. Therefore, inmates who would be 75 at the time of their original discharge date or at the time of their recalculated discharge date were not included in the analysis below. The first year this cut off impacted projections was 2025.

Looking at a ten-year span and assuming all inmates will remain incarcerated until their mandatory discharge dates, the fiscal impact from FY 2014 through FY 2024 would be \$4.1 million, and is broken down as follows. Note that the “number of inmate years” column refers to the number of inmates who would have discharged that year or prior to that year, and because of the recalculation, remain in NDCS custody.

Fiscal Year	Number of Inmate Years	Fiscal Impact
2014	2	\$12,841
2015	32	\$205,451
2016	64	\$410,902
2017	77	\$494,367
2018	90	\$577,832
2019	81	\$520,048
2020	55	\$353,119
2021	51	\$327,438
2022	64	\$410,902
2023	71	\$455,845
2024	57	\$365,960
TEN YEAR TOTAL	644 years	\$4,134,705

Using the 75 year cut off, the average additional length of time to be served per inmate is 2.8 years, the fiscal impact of which spans a period of 50 years or through 2064. From 2024 to 2064, the fiscal impact is projected at \$5,958,964. These figures reflect the FY 2013 per diem rate of \$6,422, which is consistent with how we project costs for fiscal notes. No facility costs are included as there is no need for an additional stand-alone facility based on these changes to discharge dates. Again, these figures assume all inmates will remain incarcerated for their entire sentences or until they reach age 75. As the inmates are paroled, this projection will decrease.

“It was also stated that 20-25 people released from prison will be returned to prison. Please tell me the length of time these people will serve when returned to prison and the cost to house them.”

There are 15 inmates who have been or will be returned to prison to serve an additional 6 months to 4.5 years each. Assuming all inmates will remain incarcerated for the entirety of their sentences, the fiscal impact to NDCS will be \$159,594. When any of these inmates are paroled, these figures will decrease.

There are 13 inmates who were returned to RFP status to complete an additional 1 month to 8 months each for a fiscal impact of \$21,636.

Finally, there are four inmates who owe time and are currently incarcerated for a new crime. The additional amount of time they will need to serve has not been determined, as they do not meet the

requirements of Anderson v. Houston. If they are required to complete the full amount of time they were released early (5 years each), the fiscal impact would be \$128,495.

"Please send me an updated prison population chart that takes into account these sentence recalculations."

Please see attached chart. Note that previous projections put the population at 166 percent of capacity by 2024, and that increases slightly if no other legislative changes impact the rate of admissions to NDCS.

The parole/RFP number for 2014 is slightly different, as this number is an updated year-to-date figure (as of 6/30/2014).

The institutional population figures were increased each year by the number of corrected inmate sentence calculations.

Knowing of the broader interest of the Legislature in this issue, I have also copied members of the Appropriations and Judiciary Committees. If you have any additional questions or need further clarification, please do not hesitate to contact me.

Sincerely,



Michael L. Kenney, Director

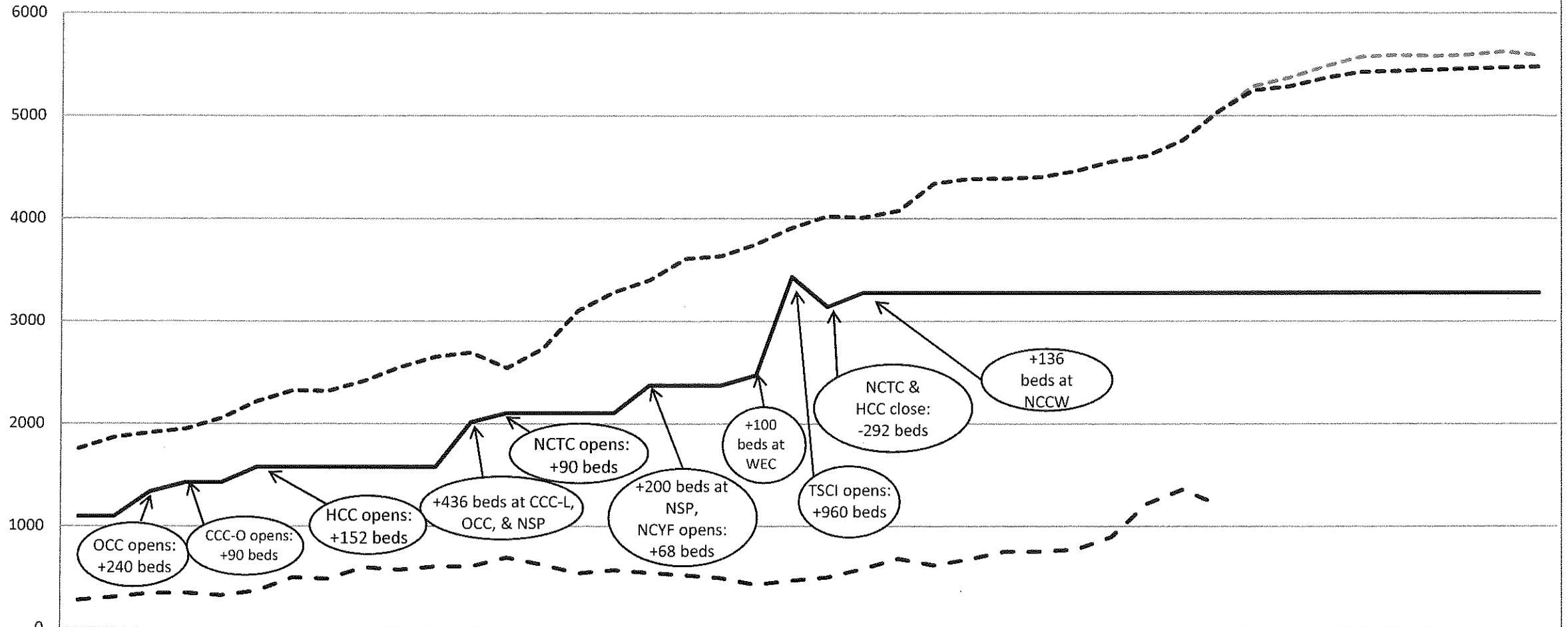
Attachment

Cc: Members of the Appropriations Committee
Members of the Judiciary Committee
Governor Dave Heineman

FOR:

NDCS Design Capacity¹ and Average Daily Population² – FY1982-FY2023

Average Daily Population
(Inmates/Parolees)



	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	
Institutional (Adjusted)	1755	1865	1911	1948	2053	2216	2322	2317	2416	2549	2651	2693	2542	2729	3103	3280	3398	3605	3633	3750	3908	4022	4008	4075	4340	4385	4387	4400	4462	4552	4609	4760	5039	5290	5370	5480	5572	5589	5581	5594	5623	5588	
Institutional (JFA)	1755	1865	1911	1948	2053	2216	2322	2317	2416	2549	2651	2693	2542	2729	3103	3280	3398	3605	3633	3750	3908	4022	4008	4075	4340	4385	4387	4400	4462	4552	4609	4760	5039	5249	5283	5364	5424	5433	5444	5459	5466	5476	
Parole/RFP	276	306	343	346	324	367	497	486	598	575	606	605	692	624	540	570	543	520	494	431	469	500	583	682	619	676	753	752	770	893	1218	1357	1209										
Design Capacity	1095	1095	1335	1425	1425	1577	1577	1577	1577	1577	2013	2103	2103	2103	2103	2371	2371	2371	2471	3431	3139	3275	3275	3275	3275	3275	3275	3275	3275	3275	3275	3275	3275	3275	3275	3275	3275	3275	3275	3275	3275	3275	
% Design Cap. (Adjusted)	160%	170%	143%	137%	144%	141%	147%	147%	153%	162%	168%	134%	121%	130%	148%	156%	143%	152%	153%	152%	114%	128%	122%	124%	133%	134%	134%	134%	134%	136%	139%	141%	145%	154%	162%	164%	167%	170%	171%	170%	171%	172%	171%
% Design Cap. (JFA)	160%	170%	143%	137%	144%	141%	147%	147%	153%	162%	168%	134%	121%	130%	148%	156%	143%	152%	153%	152%	114%	128%	122%	124%	133%	134%	134%	134%	134%	136%	139%	141%	145%	154%	160%	161%	164%	166%	166%	166%	167%	167%	167%

¹Design capacity includes 100 beds at the Work Ethic Camp in McCook, NE.

²Institutional population projections after 2014 use EOFY population estimates provided by The JFA Institute (April 2013) and estimated increases from June 2014 NDCS sentence re-calculations.