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[AGENCY 46]

SENATOR STINNER: Any additional proponents? Seeing none, any opponents? Seeing none, anybody in the neutral capacity? Seeing none, that concludes our hearings on Agency 15, Board of Parole...Pardons and Parole. We will now start the hearing on Agency 46, Department of Correctional Services. Good afternoon. [AGENCY 15 AGENCY 46]

SCOTT FRAKES: (Exhibits 1 and 2) Good afternoon. I'll start with the caveat that, as you know, it's warm in here and... [AGENCY 46]

SENATOR STINNER: We've got the air conditioner on full blast. [AGENCY 46]

SCOTT FRAKES: ...and on top of that, I am running a little empty. So I'm going to do my best to be able to be responsive. Good afternoon, Chairperson Stinner, members of the Appropriations Committee. My name is Scott Frakes, F-r-a-k-e-s. I'm the director of the Nebraska Department of Correctional Services, NDCS. This is my first opportunity to appear before the Legislature since last week's incident, so I will take just a few minutes to update you on the issue...on that issue prior to going into the budget items. The events at TSCI were serious and horrific and I will not, do not minimize the incident. A group of inmates in one half of a housing unit refused to follow the lawful orders of staff and then threatened those staff with violence. Staff pulled back to a position of safety and isolated and contained the incident. Some part of the group took this opportunity to murder two people. Their despicable actions are not a reflection of the majority of people housed in our prisons. The Nebraska State Patrol has initiated the criminal investigation, and at my request the National Institute of Corrections will also provide resources for a full critical incident review. We expect NIC to complete the critical incident review before May 31, 2017, and I will provide updates on the criminal investigation as they become available. I will now address the committee's preliminary budget recommendation. Both the recommendations by the committee and the Governor serve the taxpayers of Nebraska well by funding staffing, security, and programming initiatives that directly contribute to NDCS's ability to implement criminal justice reforms and better provide for public safety. Because the committee's preliminary recommendations align with the Governor's budget request, I have not prepared a lengthy testimony. Thank you for your support as we continue our efforts to improve Nebraska's

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correctional system. Our mission is "Keep people safe." NDCS's ability to ensure appropriate staffing, programming, and facilities are critical to our ability to carry out that mission. Fully funding our request demonstrates the commitment that you have to safe prisons, transformed lives, and safe communities. I have one other item that I need to inform the committee of today. An extremely generous gift has been offered to the department by the York Community Foundation. The foundation has proposed to donate \$585,000 to our Parenting Program at NCCW, at the Nebraska Correctional Center for Women, for the construction of a building to provide expanding...expanded programming options. We're humbled by this amazing show of support from the York Community Foundation and I'm submitting the paperwork to the committee today so that the Legislature can formally approve this donation. And with that, I would answer any questions. [AGENCY 46]

SENATOR STINNER: Any questions? Senator Bolz. [AGENCY 46]

SENATOR BOLZ: I have a few. I want to be respectful as possible because I understand that you've faced some difficult circumstances, so doing my best to be thoughtful about how to phrase the questions. But I do want to ask a question about what we understand about the motivation for the incidents at Tecumseh. And part of my reason is that, serving on the LR34 committee, there was an intersection between access to programming and their motivation for their actions. And so I just want to see if I can get to the heart of that matter. [AGENCY 46]

SCOTT FRAKES: At this point, it would be conjecture for me to try to draw a conclusion about the motivation. If there was an opportunity to meet in Executive Session and have some conversation, I would be glad to do that, but I don't want to put information out that then becomes perceived as fact when it's just my opinion or my guess at what could have happened. We know that we've improved quality of life, in my mind, significantly at TSCI in the last two years, last 20 months. But it's been a work in progress so there's certainly more work to do. There's a couple of clubs that have finally got going, expanded religious programs. We've got expanded violence reduction programming that's off the ground now, substance abuse in our Protective Management Unit. So we've made some good headway but we've got a ways to go. [AGENCY 46]

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SENATOR BOLZ: Okay. Another question I have for you is I'd appreciate an update related to recruitment and retention initiatives. You know, of course, that the committee funded requests for additional staffers. There has been some question in this committee about the ability to hire those folks on board and your strategies for doing so. So a little update would be appreciated.

[AGENCY 46]

SCOTT FRAKES: Okay. Do you want something more detailed or just what I can off the top of my head? [AGENCY 46]

SENATOR BOLZ: If you want to fill us in, we can always follow up for additional details.

[AGENCY 46]

SCOTT FRAKES: Okay. All right. I'm pleased that trends over the last four months have been significantly more positive than the previous year. I'd like to believe that that's a combination of the retention and recruitment incentives that we were able to do with the funding we received last year and certainly the salary increases that went into effect at the end of November. So looking at the last four months, our turnover has come down from 32.44 percent to about 26 percent. That's still not close to good enough, but in four months to see a fairly significant turnaround and if we can maintain and build on that, that's going to do a lot to help us make the headway that we need to make. I've set a goal to try to get below 20 percent for protective services this year, so we're going to work very hard to do that. What I know is we've got challenges still in hiring at Tecumseh. Not a new...that has unfortunately been part of the challenge of Tecumseh. But again, not only did we bring down our turnover numbers but we have had some pretty good hiring success in the last four months, so the increases in salaries have helped us attract more candidates. So I see some optimism there. Lincoln actually has been a challenge for the last few months in terms of recruiting new staff, so I'm trying to get a better sense of what that's about besides one of the lowest unemployment rates in America here in the city. So we definitely need to double-down our efforts to bring staff into the Lincoln facilities. I try to be transparent so I've asked for staffing based on the staffing audit and the staffing model that we put together. As we come into the summer, if it looks like we have better opportunities to fill some of the needs that are addressed in the staffing audit at, say, at an Omaha facility where we have much less challenges with hiring, that's one of the strategies that I would use. I'll fill positions where I

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know I can hire staff and then continue to work to fill those others. LCC still remains the number one area to address in terms of number of positions added by the staffing audit, so we would continue to focus on our efforts to address that need, needs at the penitentiary, and then from there. [AGENCY 46]

SENATOR BOLZ: Thank you. I appreciate that. And I want to talk about an issue that you and I have talked a lot about. We pulled I think \$907,000 into our deficit budget that was from basically inability to hire related to programming and behavioral health. And so I think that number makes it fair for me to say that those challenges related to hiring behavioral health staff remain. Is that fair? [AGENCY 46]

SCOTT FRAKES: Yes. [AGENCY 46]

SENATOR BOLZ: Okay. Thank you. And my last question for now is just... [AGENCY 46]

SCOTT FRAKES: Could I...can I add one thing, though, to that? [AGENCY 46]

SENATOR BOLZ: Oh, sure. Sure. Sure. Sure. [AGENCY 46]

SCOTT FRAKES: So I did review those numbers just to see where we're at. Today we have 169 positions that we identify as behavioral health, and that includes everything from the support staff that do the work that allow clinicians to do clinicians' work to our prescribing psychiatrist and ARNPs. So 169 positions in behavioral health. We have 34 vacancies today. We have had amazing success in the last five months hiring psychologists, so that's one of the bright stars in our department in terms of behavioral health. Still struggling to some degree to find a licensed mental health provider series and we're down 9 out of 53 chemical dependency counselors, so two tough areas. [AGENCY 46]

SENATOR BOLZ: Thanks, that's helpful. And then my last question--I'll let the other committee members ask questions--is related to the facilities request. And it's just such a large request that I think it's important that we talk about it in the hearing for just a little bit. And specifically the initial recommendation was that we fully funded the request. I think that's the committee's

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commitment to the facilities project. But your agency request was not for the full amount in this biennium, and so if you could talk a little bit about the facilities request. And then talk a little bit about how you are able to make the facilities project roll under your agency request versus the Governor's request, that would be helpful to me. [AGENCY 46]

SCOTT FRAKES: Okay. I'm not sure I understand your question. [AGENCY 46]

SENATOR BOLZ: Sorry, let me give it to you one question at a time. The first question is I think it's important that we put on the record your vision needs and demands for the significant facilities request that is a part of our preliminary budget. [AGENCY 46]

SCOTT FRAKES: Okay. That would be the \$75 million request for the Reception and Treatment Center. I took a very, very, very hard look at the ten-year master plan. I looked at facilities across our agency in terms of needs and trying to prioritize. And much like the conversation that I had last year with Appropriations around our agency's capacity to move forward and to take on projects, so...and then recognizing that this is a challenging time in terms of budget, so all those factors. But probably the two top priorities would be what are the greatest needs for the agency and what's my agency's ability to handle and bring to life significant capital projects. It's one thing if you're building a brand new facility somewhere, all by itself. You don't have to worry about perimeter security. You have to worry a little bit about construction security because people will steal things, but you don't have to worry about the people that are housed where you're doing the work. We need to invest in our existing facilities. All of them need something to some degree. Well, so it's important to make sure that we don't have too many things in motion at one time because, again, our ability to create space within our system is limited and part of how you manage new construction in an existing facility is your ability sometimes to...or there's the need in our ability to shift inmates around to create space to be able to still continue operations while you're doing a major project, and this is certainly a major project, both in terms of the fiscal cost and what it does for the...what are now two facilities--the Diagnostic and Evaluation Center, DEC, and the Lincoln Correction Center...Correctional Center, which sit side by side but operate...have traditionally operated as two facilities. And this project brings those two facilities together as one, gives that new complex two very specific missions: the diagnostic and intake function which is currently done there, and then expands the mental health and behavioral health

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role that LCC has taken on for our agency, and really gives us the opportunity to provide a continuum of care for our...from our most challenging, most disturbed and dangerous behavioral health and mental health cases to the people that are transitional and could...may not be able to function well in an open general population but can function in what is a general population if there's residential beds and all the services right there that they can literally walk in, with our permission, and access them. So this project adds high-end, high-security, behavioral health beds, 32. It also replaces the existing skilled nursing units both at the one that is at D&E or DEC. It was opened in 1979. It's been well maintained but it is well past its life span. Imagine how often hospitals renew their physical plants. And we talk in corrections usually that they...our prison hospitals, as we call them but really it's a skilled nursing unit, should have a life span of about 25 years and we normally run them for about 35 and then we fund so that by the 40th year we've done the necessary replacement or a significant remodel, if you can do that. So this project replaces beds that were open in '79 for skilled nursing and beds at the Nebraska State Penitentiary that were opened in 1982 for skilled nursing. Creates a new, consolidated, 32-bed skilled nursing unit for the agency. We'll continue to run the beds at Tecumseh because of the logistics and the distance, so we'll have the nine skilled nursing beds there. But with those beds and then this new healthcare complex, we should be able to meet the needs of the agency in terms of higher level, inpatient--not supposed to use that word--again, it's skilled nursing, it's not a hospital, but the level of beds needed for someone that's postop or preop prep or observation or the other things that would occur in those beds. It will give us the ability to address those needs, I would say, well into the 2030s, maybe even longer, so looking way down the road. And again, the existing spaces are way...are at or well past their life span in terms of our skilled nursing units but they are still in good shape and can be used for geriatric space or for other purposes. So we'll still make good use of those existing beds, potentially even adding some capacity through that. But we need to kind of take this one step at a time. So, consolidates the two facilities into one. It creates beds that we need for our most difficult and dangerous population that we're now managing in the secure mental health unit, but you've been there and you know, those of you that have been there, it's not what we need. It was not designed to be a residential mental health treatment unit for high-end, very sick individuals. So we need to create the right space to be able to manage that population. It adds office space, clinical space, addresses just a variety of needs. It builds a new kitchen and dining hall that will feed the entire facility. Currently, the dining, I'll call it, complex--that's not right though--the small kitchen prep area and small dining halls at

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LCC provide all of the food for the entire place. So all the food for D&E is trucked over in hot carts and served. It works but it doesn't work well. It was built to feed a much smaller population. So we designed a kitchen and dining halls that can feed that entire population. That's the one area--transparency again--where I did ask to go a little bit bigger. There is footprint on the side of LCC and DEC that at the point that the system believes it needs more living units, potentially higher security living units would be a good example, and that day may come, the kitchen and food prep area will be properly sized to meet that expansion. The rest of it is just being built to meet existing needs. So I went on for quite a while but that's the gist of that project. And then one last piece of it, because it is critical, it addresses then very old security systems, control systems, and provides updates throughout the facility for the door controls and those pieces as well. [AGENCY 46]

SENATOR BOLZ: I appreciate that you added that piece. I think that security piece is pretty important. And I appreciate your willingness to walk through it on the microphone. For the record, I think putting that intention and vision out there is helpful and important. And then the other piece I was trying to ask was just getting your assurance that the way that your agency requested the facilities funds was roughly \$38 million in this biennium and \$34 (million) in the next biennium. And you think that you can successfully achieve the project doing it in that manner. [AGENCY 46]

SCOTT FRAKES: Based on the processes and how we do large construction projects in Nebraska, that is exactly the time frames. So first-year funding is smaller, focused primarily on design; second year would be ground breaking and initial construction; third year would be significant completion; and then there's a little bit that comes in the fourth year that would be the wrap-up of the project. [AGENCY 46]

SENATOR BOLZ: Thank you. [AGENCY 46]

SENATOR STINNER: Additional? Senator Kuehn. [AGENCY 46]

SENATOR KUEHN: Thank you, Mr. Chairman. Thank you, Director Frakes. I just want to follow up regarding some of the conversation you had with Senator Bolz on the capital

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construction project and the \$75 million. Obviously, there's a lot of discussion about capacity and you're consolidating 32 beds, but there's a lot of numbers that are tossed around at us. And I think for the education of the new members of the committee, as well as those of us returning, there's the number of design capacity. And as you discussed, there was a lot of our facilities that were designed at a point in time where how we used those spaces was very different. And now that we have the emphasis that you've put on in the department with programming, with all those activity type of utilization of our facility, could you talk to us about the difference between design capacity and operational capacity and where we are in that operational capacity number in our current overcrowding situation? [AGENCY 46]

SCOTT FRAKES: Okay. I'll take a good run at it. So conceptually, actually I think probably by definition, design is the number that, when we talk specifically about beds, that design number is what we say we want to build, what the Legislature and everyone else involved in says they'll fund, and then what the architects put together and, you know, create the design. So that's your design number. If something was designed today under the way we build prisons, it's less likely that there would be much difference between design capacity and operating capacity. And Tecumseh is a good example. Tecumseh is still a good example of modern design. It's got a few things that it could use some help with in terms of programming space. But overall, the living units are an excellent example still of modern prison construction. They're double-bunked, 256-bed units, set up in quadrants, so a nice layout, nice management. And in terms of the cell size, basically the same size of cells in our other facilities that were originally designed to house one and then we added a second bunk at somewhere in the history and they become two-person cells. So both meet ACA standards. In those cases where they were built prior to, there's sometimes an exception. But for the most part, as I've said more than once, it's not about the cell size in our system. For the most part it's about what happens when you come out of the cell. It's the day rooms that are too small. Certainly not a problem at Tecumseh--very nice, large day rooms. It's what's outside of the housing unit. Is there programming space? Was the dining hall actually built to feed the 750 that are housed at the Nebraska State Penitentiary? No, it was housed to feed about 400, so that's problematic. So it takes longer to feed. So part of how this RTC project I see as a good example of how we address some of those core infrastructure issues and allow the facility to support the number of people that we house there. We can't ever let go of design. It is a number. It is...it's tied to funding, it's tied to build, and statutorily of course when we have that

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number at 140 percent then we have to start talking about it and at 2020 we have to do more than talk. But I think that alone suggests that there's a recognition that being over design capacity to some degree is still manageable, especially if you have the right infrastructure to support it. So the RTC project does that very well for that facility and we will then be looking at where should we go next in terms of, you know, the next project to bring off the ground. They have needs at NSP, we have at Nebraska State Penitentiary, a little bit of needs at Omaha, so we'll be having lots of conversations in trying to figure out for sure where should we make our request to make our next investment. The 100 beds that were funded last year and described as temporary beds but that we're building in a way that they'll be temporary until we really don't need to use them because we're building a permanent type structure that then gives us the flexibility to turn it into programming space when we really don't need them as bed space. So those 100 beds and then the additional 160 beds that are just about to go out for bid, I believe, that adds 260 beds to our design capacity. So that's going to raise our statutory number as well, which will be very helpful. The 32 behavioral health beds, small number but those are design beds that will raise...so that will change the math around what is 140 percent of design, so that will be helpful. And I'm not going to try and pull an operating number off the top of my head because I haven't looked at it in a while. [AGENCY 46]

SENATOR KUEHN: So even though we're not talking about significant numbers of beds, as we look at addressing the overall series of issues that have been highlighted over the past several years, projects such as this which emphasize that core infrastructure support is equally as important in moving us towards our goal as simply raw numbers of beds. [AGENCY 46]

SCOTT FRAKES: I believe that without doing the work such as the RTC project and we were simply to just add more high-security beds would make the problem worse. We need to address all of the other issues and be able to provide people with meaningful activities and address their needs and acknowledge that the time that...and get them out of that cell as much as possible, and acknowledge the time they're in their cell it's adequately sized. [AGENCY 46]

SENATOR KUEHN: Thank you. [AGENCY 46]

SENATOR STINNER: Senator Wishart. [AGENCY 46]

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SENATOR WISHART: What are the numbers for how much it costs to house an inmate with work release versus an inmate who's incarcerated, not on work release? [AGENCY 46]

SCOTT FRAKES: I would rather come back to you with a set of numbers. I can give you a breakdown by facility, while acknowledging that you have to also take into account all of the costs that represent the agency in total. So certainly the less restrictive a bed is, the lower custody a bed is, the general lower cost that it is. Across our agency right now for all of our beds, in total, including all the costs associated with the agency, around \$36,000, so. [AGENCY 46]

SENATOR WISHART: Okay. [AGENCY 46]

SCOTT FRAKES: But I would be glad to follow up and we should... [AGENCY 46]

SENATOR WISHART: Yeah. [AGENCY 46]

SCOTT FRAKES: ...be able to give you a better answer to your question. [AGENCY 46]

SENATOR WISHART: The number I've heard is around \$11,000 for somebody on work release, and I'd love to get those numbers. [AGENCY 46]

SCOTT FRAKES: Okay. [AGENCY 46]

SENATOR WISHART: When somebody is on work release, do they pay a part of their stay at the corrections facility? And also, do they pay part of their health insurance? And if they have, for example, child support, do they pay that as well from the salary of the job that they're working in? [AGENCY 46]

SCOTT FRAKES: Anyone that has a source of income and has a child support obligation may be expected to pay no matter where they are in the system. [AGENCY 46]

SENATOR WISHART: Okay. [AGENCY 46]

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SCOTT FRAKES: But certainly once they go on to work release where they're earning at least minimum wage or above, then all of the same rules apply to them as to us... [AGENCY 46]

SENATOR WISHART: Okay. [AGENCY 46]

SCOTT FRAKES: ...for taxes and any financial obligations. I believe the cost per day for work release is \$11. I want to verify that with you too. So they do pay a daily rate though for that work release bed. [AGENCY 46]

SENATOR WISHART: Okay. [AGENCY 46]

SCOTT FRAKES: And that's actually reflected in my budget in a request to move \$1 million out of cash fund into the right place that we can use it to help balance our budget, because it's directly the money that comes back from people that are on work release covering that cost. [AGENCY 46]

SENATOR WISHART: Okay. And then if...with somebody on work release, anything additional that they make, does it go into a savings account for when they get out? [AGENCY 46]

SCOTT FRAKES: We have mandatory savings, which I do believe applies even at work release, but I want to verify that. But I believe that the same mandatory savings rules apply and I, taking numbers off the top of my head, I think it's a 5 percent account. [AGENCY 46]

SENATOR WISHART: Okay. Because when I think about it, just as a member of the public, and I'm thinking about somebody who's committed a crime and is now serving their time, it makes sense to me that as many people as possible would have a job while they're serving their time, would be paying their child support, would be paying part of their stay, would be trying to pay part of their health insurance, and the rest of the dollars they would be saving for when they get out. So following up with that, do we have more individuals who should be on work release who are not on work release right now? [AGENCY 46]

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SCOTT FRAKES: I believe so. We have rolled out our newly validated classification tool. We're still doing some work to make sure that...we want to do a little beta testing to make sure it's accurately reflecting what we want. But I had predicted all along that we were overclassifying our population,... [AGENCY 46]

SENATOR WISHART: Okay. [AGENCY 46]

SCOTT FRAKES: ...too many people at high-security level. So I fully expect to see some pretty significant improvement in the number of people that qualify for community...minimum custody, community custody, and work release. Kind of one in the same, community custody. We have 260 beds, you know, 100 beds that will come on-line no later than September and then another 160 beds that come on around January of 2019. So 260 beds over the existing roughly 600...sorry, adding in my head, little bit less, 580 beds that we have committed is almost a 50 percent increase. Before I say that we need more community beds, I want to make sure that...and our tool shows us that we can fill them. Because the last thing we want to do is commit to even more beds and then not have people that we can put in them. [AGENCY 46]

SENATOR WISHART: Yeah. You know, I know the original...I've heard--I don't know this--but I've heard that the original vision for the McCook facility was to be sort of a work force, a work release kind of facility. And I know that, in speaking with the dean of Curtis College of Technical Agriculture, that at any given moment he's got so much pressure to fill jobs in irrigation, in welding. Is there any...and meat packing. Is there any vision for turning that facility back into what its original vision was and getting people trained up to be able to work in some of the jobs that are available in rural Nebraska? [AGENCY 46]

SCOTT FRAKES: The way I under it, actually it was open for probation,... [AGENCY 46]

SENATOR WISHART: Okay. [AGENCY 46]

SCOTT FRAKES: ...some kind of a probation facility. [AGENCY 46]

SENATOR WISHART: Okay. [AGENCY 46]

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SCOTT FRAKES: And then we took...shared it jointly and there is actually still the ability for someone to be sent there by the courts under some part of the probation world; has not happened in quite a while. But the answer to your real question is my vision for that facility when we can figure out some other pieces that we need to address, one of the challenges, even more so than Tecumseh, is how remote it is. So we're not able to send people out there that have fought health issues of any significance. Just don't have the resources. Cannot afford to run a clinic within our...within that small facility. Again, the classification tool, I believe it's going to open up and identify more people that could qualify for minimum beds, so that should help us, because we...it's like it's just at that custody level they're close to release and so it's kind of a--I don't want to say revolving door, that's the wrong word to use--but they're close to release. So we get them out to McCook and then within a relatively short amount of time they either go to community custody or release out to the community. So we're always struggling to keep those beds filled. So I want to believe we're going to have more people to pick from that are qualified to go there and then the next piece is figuring out what should be the mission. They do good work with substance abuse so I think there's value in that. And I even think about the DUI population that we have and do we have something that we could do different with that population. Another facility, though, that we have to figure out the right time to do some programming, build some programming space. Honestly, the only reason I didn't push on that this time is because I just don't have the resources to supervise the building of anything four hours away from here right now. [AGENCY 46]

SENATOR WISHART: Okay. [AGENCY 46]

SCOTT FRAKES: By the time...what we are...the capacity that we're gaining from the two projects that are underway and then the much greater capacity we'll gain from the RTC project is going to allow us to get back into the business of building. Our agency hasn't built anything in a long, long time. So our engineering and capital projects department shrank down to a very small size. So we're now fairly quickly gaining that capacity it takes to be able to supervise and manage and do these kind of projects. [AGENCY 46]

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

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SENATOR STINNER: Senator Hilkemann. [AGENCY 46]

SENATOR HILKEMANN: Thank you, Director, for being here today. The situation of staffing always comes up at the Tecumseh prison. And I think you said, I think in your testimony you said you've gone down to 32 percent and then we've gone down to 26 (percent) or something? [AGENCY 46]

SCOTT FRAKES: That's where for the last four months we're averaging 26 percent across the agency for uniformed staff. Actually, Tecumseh was below 24 percent for the last four months, still too high but a big improvement over where it was. [AGENCY 46]

SENATOR HILKEMANN: Okay. You said your goal is to get it under 20 percent. [AGENCY 46]

SCOTT FRAKES: Yeah, and then set a new goal. [AGENCY 46]

SENATOR HILKEMANN: On a national basis in prison facilities like this, what's...what can be the expected turnover rate in those? I mean it's partly the job itself. Am I correct? [AGENCY 46]

SCOTT FRAKES: It is very much so and it's a job that not everybody is suited for so...and it's difficult to know that until you come and try it. It's a job that gives you a lot of skill sets that can make you employable in all kinds of state government jobs, so we see people move for those reasons. And it's high stress and it's got a burnout rate, so all those factors. I think 10 percent for uniformed staff or protective services is very healthy and very manageable, so a 10 percent annual turnover. And have worked at 15 percent and it's okay, it's manageable. You get up above 15 percent and then you start to see the impacts on overtime and the inability to staff different activities so that you can have more volunteer programs and more of the "prosocial" activities and those things, so. [AGENCY 46]

SENATOR HILKEMANN: Thank you. You've also mentioned that the programming has always been a problem at Tecumseh. I know you started the new program this year, the Defy Ventures.

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Can you kind of tell me what the preliminary report would be on the Defy Ventures? [AGENCY 46]

SCOTT FRAKES: Well, it's way early to draw any more conclusions than those that went through the process to get into the program and made the commitment to do the work it takes, because it's a pretty heavy commitment, have bought in and I don't think there's been much turnover since that initial group that, in one case, I think there was 50 or 60 that came to the launch event and in the end about 26 said, okay, I'm willing to do everything it takes to be part of this program. That core group both at NSP and at Omaha Corrections Center are going well. We're looking for the next phase. I should say we would be the royal we because mostly I just benefit from all of this. The group that runs this Defy Ventures is actively looking for those community volunteers that can come in and provide that entrepreneurial experience and oversight. They've had some excellent success so far. The best thing that I'd say today about Defy Ventures is we've been talking. I'm in regular contact with the leadership of the program and talking about where next. We're kind of going back and forth: Should we go to the women's prison? Should we go up to Tecumseh? Back and...and so it's been about two months we've been going back and forth. Friday morning I had an e-mail from them that said, you know, so sorry for what happened, our thoughts are with you, let's go to Tecumseh. So we start the conversation. [AGENCY 46]

SENATOR HILKEMANN: So the Defy Ventures program has not started at Tecumseh yet at this point. [AGENCY 46]

SCOTT FRAKES: Not yet but the decision is made. So I had a short conversation with the warden and he says let's do it, so. [AGENCY 46]

SENATOR HILKEMANN: Okay. That answered one of my other questions. If you determined whether any other people that were part of that program were part of the... [AGENCY 46]

SCOTT FRAKES: No, not at this point because, no, we had not brought it there yet. [AGENCY 46]

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SENATOR HILKEMANN: Okay. You know, the location, the difficulty that we have for getting people to work placements and so forth, particularly when we mention Tecumseh, do...I hate to use this term but is there a way that that could be repurposed and we can put a facility that's more location friendly for the department? [AGENCY 46]

SCOTT FRAKES: I can't think of any practical use for that campus. While you can repurpose mental health hospitals or sometimes low-security college campuses and things, you can repurpose them to house people, this is a higher security prison and it just doesn't lend itself well to anything else. [AGENCY 46]

SENATOR HILKEMANN: Okay. [AGENCY 46]

SCOTT FRAKES: So, no, I would say what we can do though is continue to identify the really small, at this point I feel fairly small, subset of this population that's driving the violence there. The extortion and threatening that's driving people under protective custody, there are acts of violence that have to come down. But they're still there and so we have to pay very, very close attention. And then you have the worst outlier of all and that's two murders. And so we know that there's always that capability for incredible violence in these settings. More programming, continue to pull the people out that are the highest risk and get them into the right kind of beds and find the right programs for them that will address that behavior, acknowledge that there's a small subset that until the day comes that they want to think differently, and that could be a long, long time, there's not much we can do except make sure that they're securely housed. So I think one of the longer term solutions for Tecumseh--not think--I believe one of the longer term solutions for Tecumseh is our ability to try to get that down to a medium-security population. But we have to have a place to house and right now there's probably 250 people there that have max custody, so we've got to have the right beds and the right place to put them. [AGENCY 46]

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

SENATOR STINNER: I do want to thank you for coming. I know you're probably sleep-deprived at this point. [AGENCY 46]

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SCOTT FRAKES: Once I sat down I felt a whole lot better though. (Laughter) [AGENCY 46]

SENATOR STINNER: Is that right? [AGENCY 46]

\_\_\_\_\_ : Thank you. [AGENCY 46]

SENATOR STINNER: I have a couple questions and one of them is that we have special pay adjustments for key NDCS employee classifications. You want to elaborate on what those key classifications are? [AGENCY 46]

SCOTT FRAKES: You would pull out the one that doesn't even...is there any... [AGENCY 46]

SENATOR STINNER: Well, there's \$3.1 million or almost \$3.2 million committed to, and it looks like, one-time kind of a bonus type of situation. Is that what it's meant to be or is this actual increases in pay scales or how's that work? [AGENCY 46]

SCOTT FRAKES: I believe that would be 4G in this document I suspect, special pay adjustments for key NDCS employees. That is the protective services pay increases that were negotiated, went into effect November 28. [AGENCY 46]

SENATOR STINNER: Okay. [AGENCY 46]

SCOTT FRAKES: So that's an ongoing pay increase. [AGENCY 46]

SENATOR STINNER: And when you negotiated those, are we now equitable with other competing forces out there, like Lancaster County and Omaha and Douglas County? [AGENCY 46]

SCOTT FRAKES: No, we are compatible and equitable and even ahead of a number of similar states. So there's a group of states, I believe it's eight, that we're compared to for state corrections wages. That is pretty typical practice across the country. Jails and prisons are different. There's certainly some similarities, but they are different operations. And when it comes to funding, of

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course, there's huge differences because it's a county-based budget and in large counties, and especially large counties that have a good large urban area, they can be more robust. They have to be competitive against a wide variety of other employers, just like we do. If we were to look at correctional officer wages in jails across all of Nebraska, we would find a very wide spectrum. So there's parts where we're definitely competitive, but when it comes to Lancaster, Sarpy, Douglas County, I don't see that we probably would ever catch up with them. [AGENCY 46]

SENATOR STINNER: I noticed that your turnover rate does have some positive trends, but what is your vacancy rate right now? [AGENCY 46]

SCOTT FRAKES: Protective services this morning of about 135 positions across the agency, and always a moving target but it has...each time we feel like we're making some headway then, you know, we got a bump. But with four months of reduced turnover, we should, if we can maintain that or improve on it, then we definitely should start to see that vacancy number come down. [AGENCY 46]

SENATOR STINNER: And is it your contention that the turnover rate improvement is due predominantly to hiring...or to these increases in salary? [AGENCY 46]

SCOTT FRAKES: I got to think that it is a combination of all of the different issues. The salary would be one of the bigger ones. That was probably (inaudible) that's an ongoing amount of money and so people see that repeatedly. But the one-time bonuses, the commuting money that we have used for Tecumseh, the training and educational opportunities that we've provided to staff, once we found the right amount of money a lot of people suddenly decided to take advantage of them. And we've also spent some of the recruitment and retention funds to bring in the Desert Waters, whether that's the right name of it, resiliency training though. So a nationally recognized organization that came in, delivered that training to close to 600 staff, over 500 I know, and trained a cadre of trainers. So we now have our own in-house trainer so that we can provide that for the agency and give it to new staff as they come in. We just did a preview of the Blue Courage program, which started in law enforcement but has now branched out into corrections as well. So my exec team and some other leaders of the agency went through that about three weeks ago, two weeks ago, very impressed. So now we're going to fund bringing in

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the resources so we can build trainers for that as well because that's always the best way, build the training capacity rather than just contract to deliver training. Those are the things that give people tools to survive this work and we know that's a big part of it. And then the last thing that we've done that is really, I feel, starting to gain momentum and that's our Leadership Academy. So we've done two. We'll have another one coming up here in a few weeks and two more before the end of this fiscal year. Goal before the end of the year is to get all of our supervisory staff through the Leadership Academy. Should have been part of our organization but for whatever reason it wasn't and way overdue. We know that one of the issues we saw in the culture survey and some of the other work that was done was staff engagement and a big part of that is, do you like your boss? So we're trying to give bosses the tools they need so that they can be effective and increase that engagement. So I guess it's all of those things, not any one of them, although typically wage increases will have a fairly strong effect to begin with. And then we also know that money is only good for 30 to 60, maybe 90 days. Then people kind of forget and get used to whatever their new wage is, so. [AGENCY 46]

SENATOR STINNER: So what's the status of your mandatory overtime? Do you still have mandatory overtime? [AGENCY 46]

SCOTT FRAKES: We do and it still continues to be high at NSP, LCC, and DEC, the three Lincoln facilities, the three big Lincoln facilities. I want to try to pull numbers off the top of my head. The majority, the vast majority of our overtime is voluntary but I'll acknowledge that a fair amount of what we call voluntary is people saying I'll work today, then that way I know that I won't be "mandatoried" tomorrow, because it moves you up around the rotation. So people control their overtime. If given a choice, they might not do either. [AGENCY 46]

SENATOR STINNER: I thought there was a bill out there that either eliminates mandatory overtime or reduces it. [AGENCY 46]

SCOTT FRAKES: Caps it. [AGENCY 46]

SENATOR STINNER: How would you manage in that situation? [AGENCY 46]

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SCOTT FRAKES: Well, it would be, in the current situation, it would be very, very difficult to manage. You know, in a healthy organization, it would be a different story in terms of we shouldn't have nearly the level of overtime that we have, mandatory or voluntary. We have some facilities where we brought overtime down low enough that the thing that I predicted would occur occurred, where people said I need overtime; I depend on a certain amount of that overtime for, you know, as part of my base income. So you want people...I don't want this...I don't think this sounds bad. There's always overtime in corrections. There are unpredictable activities, trips that need to be taken, posts that need to be filled, etcetera. So there's always a certain amount of overtime and that's just part of your budget. If you are in the right balance, you should have people somewhat fighting for that overtime. And then there's, with their collective bargaining agreement, there's rules that say how that's accessed. It's by seniority, so. But today we're on the...we're still on the wrong end at several facilities. [AGENCY 46]

SENATOR STINNER: What's the status of your overcrowding situation right now? [AGENCY 46]

SCOTT FRAKES: Well, there is...we go all the way from Tecumseh that sits at 105 percent of design, and truly isn't overcrowded because there's even still with that there's empty beds in our secured housing, restrictive housing, which is not where I want to put people. But in terms of the ability to let someone have a bed, Tecumseh is kind of where it should be, to facilities like NSP that runs at about 180 percent of capacity, of design capacity. Both of our community correction centers are about double design capacity. Going back to the story, though, of it's not where they sleep, it's the spaces outside of that works a lot better in community custody, where the majority of them are going somewhere every day for work and so less challenges. But at NSP, definitely. [AGENCY 46]

SENATOR STINNER: So overall we're at 150-or-so percent? [AGENCY 46]

SCOTT FRAKES: This morning we were 156-157 (percent) of design. [AGENCY 46]

SENATOR STINNER: Okay. It's been my contention that in order to hire the right kind of people, and maybe I should ask about that pool of people that you now...that work force that

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you're pulling from, it not only takes wages but it takes working conditions. And mandatory overtime is part of that working condition problem that you have. So you have to fill the 135 to get yourself fully staffed. Has anybody done a study to say here's what you have to do and connect the dots for you that says the pay scale has to be competitive; hiring people, this pool of people, this is what those folks should look like coming in for those types of jobs? And I know you're doing a lot of internal improvements which should help things, but I know...and it all ties into your request for all these additional people. I'm saying how does that work when you can't fill what you have? And I guess that's my big question right now. [AGENCY 46]

SCOTT FRAKES: Well, the bargaining process includes wage and salary benefits, comparisons again of I think it's eight states that we compare with. So there is a process that DAS follows, Department of Administrative Services follows, to determine comps. But one of the questions that at some point would be worth asking is what are the issues specific to Nebraska in terms of employment or that we maybe aren't taking into account. So...because this is definitely a great place to be looking for a job. There's no shortage of opportunities, at least in Lincoln and Omaha and I would imagine in many of the other larger communities. So it's a valid question. [AGENCY 46]

SENATOR STINNER: It's one that I got to get the answer because we're going to have to square up and budget that's short another \$150 million, so. Thank you. Additional questions? Senator Bolz. [AGENCY 46]

SENATOR BOLZ: Just before you leave and I do want to do my best to be respectful here, but I would be remiss if I didn't take the opportunity to have a little bit of a hard discussion here because this is the first time that you've been in front of a legislative committee since the incident on Thursday. And you have never hesitated in the past to articulate that these kinds of circumstances that, let's use the words that murders that occurred at Tecumseh are unacceptable and your agency considers itself accountable for those circumstances and the concerns about safety. And I just want to make sure that we address that directly for a moment. Do you have any further comment on that discussion? [AGENCY 46]

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SCOTT FRAKES: I agree with everything you said. I, while we will have independent reviews, the Inspector General will conduct a review, there may be another review perhaps from the Ombudsman's Office, perhaps there will another review. I know that the National Institute of Corrections' review is independent but I can understand why people might say, well...but all I did was call them up. (Laugh) It's theirs now. They take it from here. And in terms of corrections experts, they are the National Institute of Corrections. So...and at the same time, we can't wait for any one of those reviews to be completed and just...so we are certainly assessing, gathering information, working with the State Patrol on the criminal investigation to see if there's any immediate issues that need to be addressed. Conversations at this point though, that definitely have to have an executive session meeting. What I said on Friday morning to some of my staff, I believe to the warden, was we're going to find out what happened, find out what the causal factors were, to the best of our ability. If there are things that we need to do different specific to the incident, we'll make those changes. But we're not going to stop where we were headed. We have invested a huge amount of time and energy and effort into both addressing security needs for the facility and figuring out how to increase opportunities for programming and work and movement and those things. It hasn't gone nearly as quick and I wanted or hoped. At the same time, it's been a facility that's been bumpy since the May 10 disturbance, May 10, 2015, disturbance, so much like NSP. Warden Cruickshank believed he would be so much further along, and I did too, but because of just ongoing incidents of violence and the challenges, it's just made it more difficult to move forward. And then, of course, the staffing piece doesn't help us either, so. But we're not going to stop. We're not going to let up. We've got the ability to greatly expand our cognitive behavioral intervention work at Tecumseh. We had thought we were going to be able to get a group of staff trained through the National Institute of Corrections. Doesn't look like that could happen before the end of the year. Still may use that resource but I want to wait. So Mike Rothwell, unfortunately, tore his shoulder up and had to go out for some emergency surgery. I shouldn't say that here. Well, anyway, Mike will be back shortly and on the top of his list is let's get a contractor in so we can get "Thinking for a Change" going much broader across the agency, continue to expand MRT. We talked about the violence reduction program. That's the first focus was Tecumseh where we started a group in January, another group starts next month, and then we'll be bringing a third group into NSP as well. So our capacity for clinical violence reduction is going to go from about 10 graduates a year to we hopefully will hit 35 or 40 this year and take it to 50 or above in 2018. So we're headed the right way. Risk needs

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assessment going well. Yes, it took longer than we wanted it to but it's finally up and running and the parole guidelines piece I think is going very...I know is going very well actually. The pilot project went well so we'll go agencywide with that April 1. I see Tecumseh as a facility that has the potential, despite the challenges, to be a really good facility. It's still modern. It's starting to show a little bit of age but they've done a great job of maintaining it. But in terms of design, we could use a little more programming space but everybody says that, good housing units, good layout, nice wide-open campus with room for recreation and other activities. We'll probably always struggle to get the level of volunteer engagement that we could if, you know, with the Lincoln facilities. [AGENCY 46]

SENATOR BOLZ: Sure. [AGENCY 46]

SCOTT FRAKES: There's people out there. The faith-based community, of course, always willing, ready, so. [AGENCY 46]

SENATOR BOLZ: Sure. Well, I've always appreciated your sense of responsibility to the system. And it seems to me that every request that you've made to this committee has been a necessary request for both the institutional, the employee, and the public safety. Could you say yes rather than nodding for me for the record? If that's a...you seem to be nodding your head yes. Could you say yes if you're responding in the affirmative, for the public record, please? [AGENCY 46]

SCOTT FRAKES: Absolutely. What I have requested was funding that will allow us to move this agency forward significantly in the next biennium and at the same time, as I said six months ago, I want to be able to utilize everything I asked for because there is a balance...a budget to balance. There are other agencies that have high needs. The last thing I want to do is tie up funds that I can't make use of. [AGENCY 46]

SENATOR BOLZ: Sure. So my last question here is, given the events of last week, are any of the requests that you've made or any new requests come to your attention that have a sense of urgency that this committee or the Legislature needs to respond to? [AGENCY 46]

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SCOTT FRAKES: I did think about that and thank you for asking that question. There are a number of the different requests in our budget that will help us, both in terms of being able to expand programming and have a much more robust and valid grievance system, which today many of the inmates don't believe our grievance system is of any value. We're going to change that. Just in terms of having better structure and oversight by having some program managers that are making sure that wait lists are filled, the people are getting into the classes when the opportunities are available, that we've got the people at the right location to take advantage of the programming that we have to offer. So all of those pieces feed into it. If out of this we determine that there's a need for some specific security upgrade that we hadn't thought about before, I'm really comfortable that we would be able to, if we can't pull it off within operations, then we'd be having a conversation and a deficit request. But at this point I'm not envisioning any unusually high needs in terms of money. I think we can address whatever they might bring forward and utilize these resources. Now one thing that may be slightly different is I may have had a vision of where I was going to put a specific resource and I might, you know, move a program manager to Tecumseh instead just because I think it's better served increasing. [AGENCY 46]

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

SENATOR STINNER: Additional questions? Seeing none, thank you. [AGENCY 46]

SCOTT FRAKES: Thank you. Appreciate it. [AGENCY 46]

SENATOR STINNER: Is there any additional proponents? Good afternoon. [AGENCY 46]

MIKE MARVIN: (Exhibit 3) Good afternoon, Senator Stinner, members of the committee. My name is Mike Marvin, that's M-i-k-e M-a-r-v-i-n. I'm executive director of the Nebraska Association of Public Employees, the union representing the majority of state employees. I am here today in short to thank you for completely funding the contract we just negotiated in our health insurance. But I'm also here because I reached out to the Governor once again last week after the incident with a proposal to him to negotiate one more time--which we always do, we're always willing to negotiate--that may add to this...the cost of Corrections if the Governor is willing to sit down and meet. I hope that he is. This is a proposal that deals with the protective

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services bargaining unit, people employed at the Department of Corrections which are the caseworkers, the housing people, officers, corporals, and sergeants, about 1,200 state employees. Again, you have funded our contract fully at this point in time, but if the Governor is willing to sit down and work on this, there may be additional funding that is needed. With that, I really don't have much more to say but I did pick up on a couple things that I may be able to add to here. Senator Stinner asked about whether we were comparable. Comparability is defined in several different ways. The State Employees Collective Bargaining Act defines it as states that have half as many to twice as many state employees. And, yes, we are comparable; in fact, we are ahead of comparability by that comparable measurement. By a comparable measurement of can we hire people in the state of Nebraska, we don't compete with Louisiana, we don't compete with Arkansas, we don't compete with Kansas for the most part, maybe some at Tecumseh. It looks like we are now going to be competitive with Iowa after their law changes but for corrective...corrections officers and corrections employees. So the people we do compete with are the railroads, the county corrections, and other employers in the area, and we are not comparable with them. And the Governor has in his...been unwilling, previous Governor and this Governor during this last negotiations were unwilling to address the issues that we believe would make us comparable to compete for those employees. You raised the issue of the wages that we negotiated in November as having a positive effect. And Director Frakes correctly said that it does have an initial effect and it does and it fades. We need to address the reason that it fades and we're not doing that, and that is the inability to progress through a pay line from the starting wage to the top wage. That is not comparable in our CIR array so we have never been able to force that. But it is comparable within the county corrections. Raised the issue of Senator Bolz's bill on overtime. After speaking with our legal counsel, we testified neutral on that bill, basically because we have language in our contract that talks about overtime and our people were split on it. Some didn't want it, some did. But according to what we get from our legal counsel is that even if you pass that bill, that language would have to be negotiated into the contract. So overcrowding, yeah, it's clearly an issue. It is clearly an issue. So that needs to be dealt with. And until you figure out a way to get the inmate population down, and I think Senator McCollister has got a bill coming up that might deal with part of that, we're always going to face that problem, unless you're ready to build a new facility, but I don't know how we're going to staff a new facility because we can't staff the facilities that we have now. The issue that...of hiring people, Department of Corrections has always shown an ability to hire people. Our problem is

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inability to retain people. That's where it falls in at and that's where a means to move through the pay line would come through. Now I've provided you with the proposal that I submitted to the Governor. I have been unable to cost that proposal out. It's a complex issue to cost out. It would probably take me to the end of the week to really get that costed out because I don't have a lot of staff. It's me and a couple others. So I can't give you a number on that today. But I also gave you the published turnover on the almanac, the "State Personnel Almanac" for the last several years. And with that, I would be happy to answer any questions you have. [AGENCY 46]

SENATOR STINNER: Any questions? Senator McDonnell. [AGENCY 46]

SENATOR MCDONNELL: Thank you for being here. How many years have you represented the Corrections employees? [AGENCY 46]

MIKE MARVIN: At Nebraska, eight years. [AGENCY 46]

SENATOR MCDONNELL: Looking at the preliminary budget, do you believe it will take steps forward to improve public safety? [AGENCY 46]

MIKE MARVIN: No, I don't. I believe the preliminary budget that you guys passed will fund the existing positions but it takes the Governor also to be willing to move the employees through the pay line and this budget will not do that and the Governor has been unwilling to do that so far. [AGENCY 46]

SENATOR MCDONNELL: Where do you think the current proposed budget could be improved in to improve public safety? [AGENCY 46]

MIKE MARVIN: (Laugh) Well, we need a higher PSL to cover the cost of putting in a means to move through the pay line, to hire enough correctional employees and retain enough correctional employees. Otherwise, we're going to continue to see a lot of issues through the Corrections. The other parts of the budget, in all honesty, I've not gone through it in detail. My concern are, when I go through it, is, is my contract funded, are my health insurance benefits funded? [AGENCY 46]

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SENATOR MCDONNELL: Thank you. [AGENCY 46]

SENATOR STINNER: Senator Hilkemann. [AGENCY 46]

SENATOR HILKEMANN: Thank you, Mr. Chairman. Mr. Marvin, in your contract, do we have a site and location adjustment that...for more difficult to fill positions that, because of that, that we could adjust for that? [AGENCY 46]

MIKE MARVIN: Senator Hilkemann, first, this is the first time I've talked to you in awhile. Let me offer my condolences on the passing of your mother. [AGENCY 46]

SENATOR HILKEMANN: Thank you. [AGENCY 46]

MIKE MARVIN: No, we do not. And as Director Frakes spoke, I hope you heard what he said. We are having just as many problems hiring at NSP, LCC, as we are at Tecumseh. There are more vacant positions. There are, what, 137 vacant positions at point in time and the problems do not just exist at Tecumseh. They exist throughout the system. [AGENCY 46]

SENATOR HILKEMANN: Thank you. [AGENCY 46]

SENATOR STINNER: Additional questions? Seeing none, thank you. [AGENCY 46]

MIKE MARVIN: Thank you for your time. [AGENCY 46]

SENATOR STINNER: Yes, sir. Good afternoon and welcome. [AGENCY 46]

DOUG KOEBERNICK: (Exhibit 4) Thank you. Thank you, Senator Stinner and members of the Appropriations Committee. My name is Doug Koebernick, spelled K-o-e-b-e-r-n-i-c-k. I am the Inspector General for Corrections and I work for the Nebraska Legislature. I'm here to testify on the budget request of the Nebraska Department of Correctional Services. As was shown in the staffing analysis by the department last year, there are numerous protective services staff needed at all facilities. I'm encouraged by the department's request to begin to add these staff to the

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facilities over the next three years. I'm also encouraged by other components of the budget request and I would like to applaud Director Frakes for making this request. It's been a long time since a director was enabled or allowed to ask for such funding. With that said, I do think it is also important to note that the budget request is not a silver bullet. As I told Director Frakes last fall, the Legislature can fund 1,000 new positions for you, but if you can't recruit and retain them, then you've not addressed the problem. The hearings by the LR34 Committee last year showed that in many cases recruitment, and as Director Frakes and Mike Marvin both mentioned, recruitment isn't the main problem as far as staffing but, instead, it is retention. In their budget document the department described ways that they are addressing staff retention. My communication with employees leads me to believe that despite their intentions, retention will likely continue to be a significant issue, especially since nothing substantial has been done regarding longevity pay or establishing a tiered pay system. My annual report made many recommendations last fall regarding staffing and I have provided copies of those recommendations to you and placed asterisks by ones that I feel impact staff retention, so there's many marked up there. They include such things as: completing a staffing analysis for all positions at all the facilities in the department, not just the protective services positions; establishing a tiered pay system; reclassifying nursing positions, like was done at the Lincoln Regional Center; reviewing efforts by other systems to bring in new blood; using peer mentors; improving communication between staff and between staff and inmates; establishing positions such as medical assistants to free up the time of other health workers; reinstating physical standards for correctional officers; and creating new positions such as a wellness nurse or employee advocate. Many of these ideas were brought to me by employees or even inmates within the department. Other concerns that I have recognized since that report is the need to adjust the pay of mental health practitioners, and Director Frakes talked a little bit about the staffing challenges as far as that and chemical dependency staff and the possible need to increase the number of reentry staff. Right now there's a certain number of reentry staff that help return and assist people as they return into the community. And as more people, thanks to the work of the Board of Parole and the department, more people are eligible to get out and get moving and everything, but as a result the current reentry staff are getting rather overburdened. Finally, it is also important that we recognize there are needs of the prison system other than just staffing. When asked about overcrowding, the following was attributed to Director Frakes, and he kind of touched on this earlier today. "There's no question that we're crowded," he said. However, he

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adds, overcrowding's biggest impact on prisoners is 'not about the size of their cell--the place where they sleep. It's about all of the surrounding amenities and supporting structures that provide for a quality of life within our prison system. So it's that dining hall that's too small,'" such as at LCC, "'that visiting room that's too small, the lack of adequate recreation space,'" and "'the lack of adequate programming space.'" All of these things--these are my words now--all of these things impact the quality of life of the inmates. For example, the Nebraska State Penitentiary has almost 1,400 inmates. They have one small gym that serves all of those men and they have a maximum side and a minimum side of that facility. So when the minimum side needs to go there, they have to go through the maximum side to get to that. It's a pretty small gym. I was just out there playing a little volleyball with the staff and inmates a few weekends ago and it's not that big and you think about the possibility of having a larger gym or more gyms. But inmate welfare funds, not General Funds, were going to be used last fall to build a second gym for the minimum side of the facility but now that has been sidetracked. By all accounts, administrators, staff, and inmates all saw the positives of the addition of this gym and now it's not being built. A correctional system that has been underfunded for 20 years and is understaffed and overcrowded is going to take some time to turn around. With that said, I think it is important for policymakers to understand that the system needs a significant overhaul and today's proposal is just a first step in that process. I would encourage everybody to go out and visit the facilities, talk to staff, talk to inmates. You'd learn a lot more than talking to me or talking to Director Frakes or Mike Marvin or anybody like us. Get out there and actually talk to the people who work there and live there and you're going to learn a lot more. Before I end I would like to just touch briefly on overtime. That was a question for Director Frakes earlier. And this is a very small chart, but this top one here, that's overtime for all of the facilities over the last three years and it's doubled. It went from about 19,000 hours of overtime in one month to about 38,000 hours of overtime. Tecumseh State Correctional Institution went from about 4,600 hours, right around 5,000 hours, sorry, to about 9,000, the State Pen went from 6,000 to 14,000, and the Lincoln Correctional Center went from about 1,800 to over 6,000 hours, so just to give you a little more data on overtime. And I have other data on turnover and vacancies and whatever you want. So with that, I thank you for your support of the Department of Correctional Services budget. [AGENCY 46]

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SENATOR STINNER: I sure would like to have a copy of all of your stuff right there. Thank you. [AGENCY 46]

DOUG KOEBERNICK: Okay, I can get everything to everybody. [AGENCY 46]

SENATOR STINNER: Any questions? Senator Wishart. [AGENCY 46]

SENATOR WISHART: Thank you so much, Doug, for being here today. I want to turn to the sheet where you're talking about possible innovative ideas to consider. I know that you've been looking across the country at innovations in different correctional facilities. A lot of times, when we're talking about programming, it comes with a lot of dollars. But I would love for you to talk to us about one program that doesn't cost a lot of dollars that I've been hearing about has been pretty successful and that was the prison, the yoga program at York. Would you mind telling us a little bit about that? [AGENCY 46]

DOUG KOEBERNICK: Yeah, at the Nebraska Correctional Center for Women in York, they did some really innovative programming the last, oh, couple years or so. One of the things that they did was start a yoga program for the women out there and that has been very successful. It doesn't really cost anything. They've actually trained the women to lead the yoga classes and everything and so they're going to have that continuing on. And that really helps, from talking to the women. And I was just out there two days ago and I'll be out there next week as well. They really appreciate that. It's kind of a stress reliever for them. It's a way for them to get out from their normal routine. And anything you can do to get away from that idle time or...I talked to a person who just left that facility a couple weeks ago and had been out there for quite awhile. And he talked about they have really good opportunities for the women out there. And I was at an inmate council meeting where the women talked about that too. They're really encouraged by all the programming and all the opportunities out there. But at the end of the day then they, you know, they'll do that something for an hour and a half, then they go back to the same little drama in their hall and everything. So anytime you can do something like that, it really helps them out mentally, physically. And they also have what I listed in there was the "Blue Room," which is kind of a calming room. It's all painted blue. It's a very interesting room that has sight and sound and different...there's video and everything. And they've been able to use that successfully and

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they're working with a couple different I believe universities to study the impact of that. And so far they've seen great results as far as if somebody is having some problems they can go into that room and that may keep them from going into restrictive housing setting later and everything and then get back into their normal life in a different...in their regular dorm, so. [AGENCY 46]

SENATOR WISHART: And again, this is a very low-cost program that has seen successes not just in Nebraska but there are other correctional facilities across the country. Is there, from the research that you're doing into our corrections system, do you see an expansion of that program into some of the facilities, including Tecumseh? [AGENCY 46]

DOUG KOEBERNICK: I know as far as like the Blue Room, that's something that they're looking at in different facilities. And yoga, I know they're talking about it. There's so many things going on right now within the department that it's...they can only take on so much at one time. I think Director Frakes will...would definitely say that. But I know that there are at least conversations. And if you go back probably two or three years, I don't think those conversations were really taking place. So there are talks about that and I think you are starting to see some of those changes likes that where you can do something for relatively no cost. I mean there's a lot of community folks that want to come into the facilities and help out, like Director Frakes talked about with York College and everything. They just had a class of...they started their first class of women about a year ago and now they want to start a second class where they're going to go through and get their associate's degree. And York is picking up I think all that cost, so, York College. [AGENCY 46]

SENATOR STINNER: Thank you. Additional questions? Senator Hilkemann. [AGENCY 46]

SENATOR HILKEMANN: Thank you, Mr. Chairman. You mentioned that you have this list of suggestions or that you picked up from talking to employees. Are there some of those that haven't been suggested here today as far as the employee morale and so forth at the institutions that you'd want to share? [AGENCY 46]

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DOUG KOEBERNICK: No, I think pretty much everything I heard I...over the last year. I did my report in September. I can't think of anything offhand that I've learned since September.  
[AGENCY 46]

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

SENATOR STINNER: Thank you. Additional questions? Senator Clements. [AGENCY 46]

SENATOR CLEMENTS: Thank you. The 30 items that you have of recommendations, are they in a particular order of priority? [AGENCY 46]

DOUG KOEBERNICK: No. [AGENCY 46]

SENATOR CLEMENTS: All right. The asterisk ones though are...you did (inaudible).  
[AGENCY 46]

DOUG KOEBERNICK: I think those kind of impact staff retention more than the other ones.  
[AGENCY 46]

SENATOR CLEMENTS: All right. Thank you. [AGENCY 46]

SENATOR STINNER: Thank you. Thank you very much for your testimony. Any additional proponents? Seeing none, any opponents? Any opponents? Anybody in the neutral capacity? Good afternoon. [AGENCY 46]

RICHARD HALVORSEN: Good afternoon, Senators. My name is Richard Halvorsen, R-i-c-h-a-r-d H-a-l-v-o-r-s-e-n, and actually I'm kind of leaning against the new RDC reception center. But for my proposal, what somebody once said, there's nothing new under the sun. I should have looked that up. I was sitting back there. Who said that? In 1974, if you worked at the State Penitentiary, you could count on the end of your work week, your, quote, Friday, somewhere, well, second shift before 10:00 p.m., you would get a call from your lieutenant saying, do you want to work your day off? You got them like clockwork somewhere between 9:30 and quarter to

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10:00. And we didn't get overtime. We didn't get overtime. Occasionally on second shift you'd also get calls to work third shift, again, no overtime. Actually we had to be there, they'd recommend there being there a half-hour early for a shift but you had to be there 15 minutes early and we didn't get paid for that either. So like I say, it's the overtime is not new for Corrections. I think the only thing is maybe the scale, of course, because you've gotten a lot larger than you were in 1974. There are more slots to fill so, therefore, it's...I think that's probably more slots to fill so, therefore, like I say, you got to fill them somehow. If you don't get enough volunteers, then you go into mandatory. We really...it wasn't really mandatory, just kind of you were expected to do it. So they didn't have to, quote, resort to mandatory back then. And the Reception Diagnostic Center, which I can't remember the exact figures, they want it new, at that time, the Reception Diagnostic Center as you drive out there past the Pen, you see that tall tower on the northeast corner. That's tower eight. The Reception Diagnostic Center is right underneath there. If it's tacked on to the end of the east cell house and...well, it ran east and west there and it was two stories. On the first story there was as day room for first offenders on one side and classrooms and offices on the other side. On the second floor there was a day room for second offenders and then, on the other side, classrooms and meeting rooms. On the third floor there were two dorms: one dorm for first offenders; one dorm for second offenders. On the down...when they're downstairs, they would pass that laundry and downstairs and the first offenders' day room. There's a bunch of Raggedy Ann. For some reason they've got raggedy laundry. There's the old fitting and raggedy. Upstairs there's multiple offenders. They had a TV. The first offenders had nothing. There might have been some books there somewhere but there wasn't anything, a library or that. It was just, here, here's your bunk, amuse yourself. So I say, my point is, I guess, that we got the job done. I would not, you know, not expect anybody to go back to that. There's no...in fact, there's no way we'd go back. But the fact is with it, I don't know if a new reception center could get the job done any better than the one they have now. Again, we didn't have...actually haven't...I'm thinking of the new reception center at one, so really can't recall what it is. But we didn't have single, we didn't have cells. Well, there was...okay, there was showers, okay, there was showers up there on the second floor. But again, we didn't have cells, didn't have TVs, they didn't have library privileges, they didn't have chaplains. The counselors went home at 5:00 and they were gone and somehow the job got done. Again, the same, maybe take a close look and see if...I think that one of the things that they want for the new RDC would maybe be used in Health and Human Services, maybe protect some of these young people from

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ending up there. Again, I'd say that's the (inaudible) freedom, eh? And then you mention like competing. Well, you're not going to compete with the railroad on pay, I can tell you that right now. There's no way that state for a correctional officer can compete with the railroad on pay. Counties, well, yeah, but then again the counties only hire so many people. I mean you're kind of competing with them but you're not. Everybody at the Penitentiary or Tecumseh can go to work at Lancaster or...in fact, I think Lancaster County is pretty much full up. So pay is kind of...again, like I say, we didn't get...now they get overtime. We didn't get overtime. Pay was, oh, man, I hate to think what pay was. Pay was less than \$10 an hour. When I first started, you didn't make over \$10,000 a year. Holiday pay, again, if you worked, you got straight paid hours, nothing extra. So again, like I say, it's...oh, as far as retention, first day of training going on, we walked over there. One guy got in his car at the training center, drove off. You know, they didn't even...well, your third week of training, excuse me, is--I ran over--is it was on-the-job training with Rick (phonetic). And one guy, he got in the car and just drove off and they didn't realize it until the end of the day when they started to try call around, see where he was. So again, the turnover is not new and neither is overtime. So thank you for your time. [AGENCY 46]

SENATOR STINNER: Thank you. Any questions? Thank you for coming. [AGENCY 46]

RICHARD HALVERSON: All right. [AGENCY 46]

SENATOR STINNER: Anyone else in the neutral capacity? Seeing none, that concludes our hearing on Agency 46, Department of Correctional Services. We'll now open the hearing on LB378, Senator McCollister. [AGENCY 46]