

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee October 13, 2022  
Rough Draft

**LATHROP:** Good afternoon. I, I think we'll get started. The one thing about doing interim studies and being a-- being during the interim period, I never know who's showing up for these and who has conflicts. So we may very well have other senators that show up and we'll have those that are here introduce themselves in a moment. But people have a lot of things going on and, and when I schedule these, I don't check with everybody's schedule. I just kind of look at mine and say, these are the dates. Sorry, sorry, Senator Morfeld, if that's a-- or has been a problem. But with that, we'll get started. Good afternoon and welcome to the Judiciary Committee. I'm Steve Lathrop. I represent Legislative District 12, and I have the privilege of chairing the Judiciary Committee. If you're planning on testifying today, please fill out one of the yellow testifier sheets at the back of the room and hand it to the clerk when you come up to testify. We will begin today's hearing with an opening statement by the introducer, me, and that will be brief, followed by testimony, and it's not a for-and-against, so it's sort of you can come up in turn. We'll have Interim Director Sabatka-Rine testify first. We will be not using the three-minute light system. So I did this last-- last week, we, we had an interim study. And you-- as-- if you've been in here, you know I use the light system, put you on a three-minute timer. And Justice Funke sat down, and Justice Funke went 40 minutes, and I said that's-- if I'm in the Supreme Court, I get ten. Somebody comes out with a cane and pulls me out of the-- out from in front of the court. Let's just try to keep it in the four to five minutes. And, and I suspect we will see or have senators have questions, so if you don't mind, try to keep it into that three-, four-, five-minute time line. As a matter of committee policy, I'd remind everyone the use of cell phones is not allowed during public hearings. At this time, I'd ask for everyone to check their cell phones and make sure they're off or in the silent mode, and I'd like to start out by having the committee members identify themselves, beginning with Senator DeBoer.

**DeBOER:** Good afternoon, everyone. My name is Wendy DeBoer and I represent District 10, which is in northwest Omaha.

**BRANDT:** Good afternoon. I'm Senator Tom Brandt, District 32: Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster Counties.

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**PANSING BROOKS:** Hi, I'm Patty Pansing Brooks. I'm Vice Chair of the committee and I represent Legislative District 28 right here in the heart of Lincoln.

**MORFELD:** Hello. Adam Morfeld, District 46, northeast Lincoln.

**McKINNEY:** How you all doing? Terrell McKinney, District 11, north Omaha.

**LATHROP:** I do want to say this. I hope you can appreciate three people up here are-- four are running for reelection. We're less-- we're just a few weeks out. They've started early voting. These folks are here today, even though there's a lot of things that they got on their plate and they could be doing. So I very much appreciate the fact that we have as many of you here as we do today. With that, assisting the committee today is Laurie Vollertsen, our committee clerk, and Neal Erickson, one of our two legal counsel. And Ashton Krebs, who was formerly one of our pages, is now my administrative assistant, and he's going to be helping out today since we don't have a page. And with that, we'll begin our hearing. Let me, let me just introduce the resolution, and then we'll have you testify.

**DIANE SABATKA-RINE:** Oh, I'm sorry. I didn't follow your cue very well.

**LATHROP:** That's OK.

**PANSING BROOKS:** Welcome, Senator Lathrop.

**LATHROP:** Oh, thank you, Vice Chair Pansing Brooks. A pleasure to see you. My name is Steve Lathrop, L-a-t-h-r-o-p, and I have the privilege of representing Legislative District 12 and chairing this committee. Today, we'll hear LR375. And this is one of the general resolutions that I put in, because we tried to find those topics that seem to be of importance going into the next legislative session. And I've chosen today to have a hearing on staffing as it relates to the medical and the behavioral health. The Inspector General has expressed some concern about-- not expressed some concern-- expressed concerns about the level of staffing, professional staffing in the medical and in the behavioral health aspects of our Department of Corrections. So today we will hear from the interim director. We will also hear from the Assistant Inspector General with some data. You have a report on your desk. I would encourage you to, to take a look at that. There are numbers in there, and this seems to me to be a

little bit of a familiar concern. This isn't the first time we've had concern over professional staffing. I know as long as I've been back that this, along with security staff, has been an issue. And I'll just make this observation and, and the interim director can correct me if I'm wrong. But what we noticed when this was an issue with the security staff, we tried, and Director Frakes testified, that they tried job fairs, they tried running ads, they tried TV, they tried billboards, they tried bonuses, and the whole time this committee is saying raise the pay; if you want to recruit and retain, raise the pay. And I think that that is the solution. You'll see a little bit of a survey done by the Inspector General's Office. Some of it's cultural, but cultural oftentimes is a function of, man, am I working too much, I'm doing two people's jobs, and that's reflected, I think, in some of the comments in the handout from the Inspector General's Office. And you'll have Zach Pluhacek from-- the Assistant Inspector General will testify about and answer questions with respect to that. So I'm looking forward to this. Why do I think it's worthy of our time? As we approach the next legislative session, I think people need to be prepared to make this an issue. When we talk about sending folks to the Department of Corrections, whether you think they should be there forever or, or released on parole and returned to society-- and we've had that debate-- they should be rehabilitated. And for those people who are suffering with mental illness and mental illness-type issues, behavioral health issues, as well as providing appropriate care, the goal is rehabilitation, not storing people, not simply incarcerating them. And so having adequate staff, I think, is necessary for the mission of the Department of Corrections. And furthermore, I think having adequate staff will help with the culture and kind of where those professionals are in the Department of Corrections, all committed individuals, as we've seen in our years on this committee. So with that, I'd be happy to answer any questions, but I think it's mostly going to be about those who testify.

**PANSING BROOKS:** Thank you, Senator Lathrop. Any questions for Senator Lathrop? Nope.

**LATHROP:** OK.

**PANSING BROOKS:** I don't see any. Thank you.

**LATHROP:** Thanks.

**PANSING BROOKS:** OK, first, first proponent. Welcome.

**DIANE SABATKA-RINE:** Thank you. Good afternoon, Chairman Lathrop and members of the Judiciary Committee. My name is Diane Sabatka-Rine, S-a-b-a-t-k-a, hyphen, R-i-n-e, and I am the interim director of the Nebraska Department of Correctional Services. NDCS takes the administration of medical and behavioral health services very seriously. We have a dedicated team that includes doctors, physicians' assistants, nurses, dentists, psychologists, pharmacists, specialists, and many others who recognize the unique needs presented by the incarcerated population and work diligently to meet them. COVID certainly challenged our health services staff. Commendably, they worked hard to ensure that inmates were assessed and treated, and as a result, the vast majority fully recovered. When inmates enter our system, their medical and mental health needs are quickly assessed and we ensure that appropriate and necessary care is provided throughout their sentence. Our health standards are spelled out in policy. We make sure that treatment is appropriate, uniform, and interventions happen at the correct time. We are constantly looking way-- for ways to innovate because we recognize that improvements in medical and behavioral health services will lead to better outcomes for our population and increase the odds for successful reentry. The opening of the state-of-the-art medical and behavioral health wings at the Reception and Treatment Center has been a huge asset to the agency and how we are managing emergent and chronic health issues. While our healthcare staff do a remarkable job of managing a multitude of situations around the clock, admittedly, staffing challenges are a concern. Correctional systems are caught up in the same national healthcare worker shortage that hampers hospitals, surgery centers, clinics, and others. While NDCS has onboarded nearly 700 staff members since the start of the year. We still struggle to fill vacancies in health service positions. Heavy competition for workers in the public and private sector makes recruitment challenging. In addition to broadly applicable staffing strategies utilized by the agency, we are also targeting efforts to recruit and retain health services staff. We offer hiring bonuses of up to \$5,000 for registered nurses, licensed practical nurses, and staff care technicians. We continue to offer \$1,000 bonuses to current staff for nursing referrals. In the last few months, we added two nurse practitioners and one physician through our staff's networking efforts. Last year's NAPE agreement increased compensation for covered staff, including an additional 30 percent payline adjustment for critical healthcare classifications. To date, the agency has been involved in six job fairs focused on recruiting healthcare workers. We are scheduled to participate in three more. We

continue to direct our advertising efforts at nursing and other healthcare positions. That includes posting positions on healthcare-specific websites and magazines. The most promising leads, especially for finding doctors, psychiatrists and psychologists, come through personal connections made by our medical director. He regularly attends conferences and other events where he spreads the word about openings at NDCS. Just like other health service providers in the state, NDCS utilizes contract staff to provide healthcare services. When the situation calls for it and services are beyond what we can provide, we will send an inmate to an outside facility for treatment. Additionally, we are engaged in telemedicine and are looking for ways to expand that, that technology moving forward. NDCS is also actively engaged in the development of an electronic health records system, one designed specifically to integrate with our inmate management database known as NICaMS. Despite slowdowns prompted by COVID and then staffing changes, multiple EHR modules have been launched or about to go live to support behavioral and medical health. Functionality will include an ability to house medical information in a centralized system, schedule and monitor appointments, order and track pharmaceutical prescriptions, accumulate and report on statistical data, plus more. Creation of an in-house system will allow NDCS the flexibility to ensure that all components of EHR work seamlessly with the NICaMS system and the availability to keep adding to that functionality going forward in a cost-effective way. Our health services staff have worked admirably to adapt to the challenges posed by COVID and changing staffing needs. They continue to provide robust medical assistance, clinical treatment, and a range of other services. At the same time, NDCS continues to look for ways to attract and retain talent and find ways to improve on services currently provided. I'm happy to answer any questions that you have for me at this time.

**PANSING BROOKS:** Thank you very much for being here, Interim Director. Any questions for Ms. Sabatka-Rine? Yes, Adam-- Senator Morfeld.

**MORFELD:** Thank you. Thank you for coming today. So in listening to your testimony and then looking at some of the vacancies by position, so for instance, when there's three psychiatrists that you're authorized to have and there's three vacancies, are you just contracting that out like you said earlier?

**DIANE SABATKA-RINE:** We contract it out and some psychiatrists actually come in, as well as we use telepsych.

**MORFELD:** Telepsych, OK.

**DIANE SABATKA-RINE:** Um-hum.

**MORFELD:** So I'm assuming that on average or on a whole, contracting out costs a lot more than hiring somebody in-house or is that--

**DIANE SABATKA-RINE:** I think that's probably a fair assumption.

**MORFELD:** Yeah. And so if you have a position like that where there's three vacancies, you don't-- and there's three openings and three vacancies, what's the process by which you go just increasing the salary to make it more competitive?

**DIANE SABATKA-RINE:** So psychiatrists are one of those positions that's more discretionary pay. So in that case, I mean, based on the experience of, of the interested individual, we have the discretion to make the salary offer more competitive--

**MORFELD:** OK.

**DIANE SABATKA-RINE:** --so to speak.

**MORFELD:** So you have a lot more flexibility with a position--

**DIANE SABATKA-RINE:** Um-hum. Yes, we do.

**MORFELD:** --like that. So do you think it's just general statewide shortage or do you think it's a salary issue or a work environment issue or both?

**DIANE SABATKA-RINE:** I think that it's a combination.

**MORFELD:** OK.

**DIANE SABATKA-RINE:** Again, I'm not sure that it's the salary issue because we have the discretion. I think that there are shortages throughout the state and probably throughout the country in psychiatrist. And then we have a unique working environment that might not be appealing to all.

**MORFELD:** OK. How does this compare with shortages in other departments of corrections in other states around us? Have we done a comparison? Are we outside the norm or are we--

**DIANE SABATKA-RINE:** I'm not aware of any specific comparison study. I know in working or in talking with, you know, my counterparts throughout the country at conferences, it's certainly not unique to us.

**MORFELD:** OK. OK, thank you.

**PANSING BROOKS:** Thank you, Senator Morfeld. Yes, Senator McKinney.

**McKINNEY:** Thank you, Senator Pansing Brooks. Thank you for your testimony. I have a few questions. My first is, is your medical director here today?

**DIANE SABATKA-RINE:** He is not here. He had other commitments.

**McKINNEY:** How much notice did you get for this hearing?

**DIANE SABATKA-RINE:** I think we received it mid-- late last week.

**McKINNEY:** OK. I ask that-- well, ask when, when you're hiring staff, what, what goes into that process of, of evaluating the staff to bring on to NDCS?

**DIANE SABATKA-RINE:** So I think it depends upon what classification of staff we're hiring for. So we have a specific process for correctional corporals and caseworkers, then we have a similar but a little bit different process for hiring at, at a mid-level or higher level. At a discretionary, we simply ask for letters of interest and resumes from people. So it's, it's a much more different process than what it would be for a correctional corporal.

**McKINNEY:** How much does cultural competency go into that decision-making process, and specifically competency with that type of population of individuals that you're servicing?

**DIANE SABATKA-RINE:** Well, it's a consideration among many considerations. Again, I think, as I mentioned to Senator Morfeld, our, our working environment is unique and we have a unique population. It's not unlike populations in some cities across Nebraska, but certainly it would be a factor that would be considered. I don't know that-- if they address specific questions toward the candidates. I can't answer that. I've never been involved in hiring at that level with those positions.

**McKINNEY:** Currently, with you're current staff, how much of-- what-- maybe you can't give it to me, but if you can, could you give me an estimate of how many of those individuals, prior to coming on to NDCS, had any prior experience either working inside of institutions or working with diverse populations?

**DIANE SABATKA-RINE:** I don't know the answer to that and I wouldn't even be comfortable making an educated guess, in all honesty, and I'm not sure if that information would be available. We can certainly check and see if it's something that we can pull.

**McKINNEY:** OK. And I guess my last, my last question for now, how much independence do you give your medical director to make determinations on the health of individuals that are inside?

**DIANE SABATKA-RINE:** Well, the medical director oversees all of our health services, so he's not directly responsible for patient care, but he oversees the patient care process for both medical and mental health needs.

**McKINNEY:** So if he was looking at an individual that hypothetically has a terminal illness and maybe wanted to make the consideration that this person shouldn't be inside this facility, would you or anybody above you interfere in that process?

**DIANE SABATKA-RINE:** If he was making the determination?

**McKINNEY:** That an individual who had a terminal illness probably shouldn't be inside anymore, and if he wanted to, would you guys interfere in the process of him making that determination?

**DIANE SABATKA-RINE:** I don't think we would interfere in the process. I think as the medical director he can make a clinical opinion based on, on the individual's medical condition.

**McKINNEY:** And no one would interfere?

**DIANE SABATKA-RINE:** Not with the clinical decision and recommendation that he makes, no.

**McKINNEY:** OK. Thank you.

**DIANE SABATKA-RINE:** Um-hum.

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**PANSING BROOKS:** Thank you, Senator McKinney. Any other questions? Yes, Senator Brandt.

**BRANDT:** Thank you, Chair Pansing Brooks. Thank you, new-Director Sabatka-Rine for being here today. Just as a point of clarification, what were you in charge of before you stepped up to take over the interim directorship?

**DIANE SABATKA-RINE:** Formerly, I was in the role of chief of operations for the agency, so I oversaw daily operations and directly supervised the four deputy directors in the agency.

**BRANDT:** So would that have included this health systems?

**DIANE SABATKA-RINE:** It would not.

**BRANDT:** OK, that, so that director would have been independent of-- the health director reports independently of your old position to the director.

**DIANE SABATKA-RINE:** Correct.

**BRANDT:** Do you have any experience in the health arena?

**DIANE SABATKA-RINE:** Not direct clinical experience. I mean, I've served as a warden for several years, and so certainly I've worked with our health services staff closely on many issues for many years, but I don't have any direct oversight prior to my recent interim.

**BRANDT:** And now you get to jump in with both feet.

**DIANE SABATKA-RINE:** Yes.

**BRANDT:** OK. To echo what Senator McKinney said, I personally hate to see the state of Nebraska and all of our agencies use contract labor. Typically, and I'll use an example, in our nursing homes, particularly in our rural areas, we have the same problem finding LPNs and RNs, and there is a requirement that we have an RN on staff to dispense pills. So usually the ones that are local that work there are making X dollars an hour, then all of a sudden they can't fill a position, so they bring in a contract person making two to three times that just on straight wage. And in addition to that, you know that the contracting service is getting a bunch more than that. And that creates a lot of resentment among the existing staff when probably the correct thing to do would be just increase everybody's

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wages five or ten bucks an hour and just make it the best-paying job out there and quit giving these money to these contract services. Do you agree with that statement?

**DIANE SABATKA-RINE:** Well, again, as I mentioned in my testimony, many of our healthcare positions received a 30 percent standard increase. So, and as you're aware, for the majority of our frontline healthcare workers, they are covered by a contract, and so I would defer to that contract negotiation on the wage issue. Certainly, I would support that to the extent that we can when they enter negotiations. I think that, that work culture is also important in that, but I understand that when you're using agency nurses or contract staff, that it creates some additional challenges for us to manage.

**BRANDT:** But even with, even with this increase that you've provided, the two most common-- and I don't know if this was your report, health services, vacancies by position; I don't know if you gave that to us or somebody else did, Zach did. But the two most common ones on here are LPNs, we have 14 filled and 20 unfilled for a 58 percent vacancy rate; and registered nurses, we have 22 filled, 17 unfilled for a 43 percent vacancy. So even with the increased wages, two of the most common healthcare providers in the state of Nebraska isn't, isn't getting the job done, maybe on wages alone. What would you recommend to get more nurses into our facilities?

**DIANE SABATKA-RINE:** Well, again, I think part of that is a reflection of the shortage that we're facing across the country in those healthcare positions. And certainly we need to find creative ways to make working for our agency in those roles as attractive as possible.

**BRANDT:** OK. Last question, the program request report details, did that come from your department?

**DIANE SABATKA-RINE:** It's possible.

**BRANDT:** OK. And somebody had highlighted different categories on here, and one that sticks out on the front page is drugs. In fiscal year '20, actual expense, \$7.1 million; fiscal year '21, \$7.1 million; fiscal year '22, \$6.6 million. How did we save \$500,000 on drugs in the Department of Corrections?

**DIANE SABATKA-RINE:** I don't know.

**BRANDT:** OK. All right. That's all I've got. Thank you for--

**DIANE SABATKA-RINE:** Thank you.

**BRANDT:** --answering my questions.

**PANSING BROOKS:** Thank you, Senator Brandt. Senator DeBoer.

**DeBOER:** Thank you so much for being here. And thank you for doing the job that you're doing right now.

**DIANE SABATKA-RINE:** Thank you.

**DeBOER:** It's really important. Want to talk for a second just about these traveling nurses. What training do they have to work in your environment, as opposed to a hospital or some other environment? Do they go through the, the staff academy, like maybe a, a state nurse would go through?

**DIANE SABATKA-RINE:** So just to clarify, they're not, per se, traveling nurses. We typically use agency nurses. And then policy dictates what training they have to have to work in that environment. So it's kind of a shortened, modified version, but certainly gives them the basics. And typically when we have agency or contract nurses working, they are always working with another NDCS employee.

**DeBOER:** OK. And like you said, it's a modified version. Is it like a one-day thing? Is it online? Is it-- or do they get a little more than that, do you know?

**DIANE SABATKA-RINE:** I think they get more than one day, but I can't recall specifically what is detailed in the policy.

**DeBOER:** OK. I'll maybe follow up with someone on that. And then you mentioned that you thought that culture was one of the things that's playing into these shortages. What, what ideas do you have for working on that culture, for trying to improve the culture?

**DIANE SABATKA-RINE:** Well, I think, for the past several years, the department has focused on increasing employee engagement, making people feel valued and appreciated, making their opinions count, work along those lines. Again, I think that just makes for happier employees. And when employees are happier, I think it improves the work environment tremendously. And when people are happy with their work environment, I think they are less likely to look for other opportunities.

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**DeBOER:** Do you have any other ideas, something new that you haven't tried yet maybe?

**DIANE SABATKA-RINE:** Not specifically yet.

**DeBOER:** OK. Are these state nurses, are they subject to some of this mandatory overtime that we heard about with some of the other security personnel?

**DIANE SABATKA-RINE:** So our nurses work overtime. Most of it is voluntary. I'm not aware that we have been in a position where we've had to mandatory overtime. I'll have to check to ensure that. Again, the oversight of health services is kind of new to me, so that's not something I know for certain. But certainly they work voluntary overtime.

**DeBOER:** OK. And not just your nurses, but your other healthcare, I guess. I didn't mean to limit it to just nurses.

**DIANE SABATKA-RINE:** Right.

**DeBOER:** Yeah. OK. Well, I would be interested in knowing a little bit more about what percentage of overtime they're, they're doing--

**DIANE SABATKA-RINE:** OK, we can certainly look into that.

**DeBOER:** --and, and that sort of thing. Thank you. That's it.

**DIANE SABATKA-RINE:** Thank you.

**PANSING BROOKS:** Thank you, Senator DeBoer. I, I know that--

**LATHROP:** Yes, I do. Thank you.

**PANSING BROOKS:** --Chair Lathrop has some questions, too.

**LATHROP:** So you became interim director just a few days ago, am I right?

**DIANE SABATKA-RINE:** Technically, on Saturday, yes.

**DeBOER:** Oh, man.

**LATHROP:** OK, well, welcome to the Judiciary Committee. And it, it puts me in a little bit of a weird place, and I want to maybe say this before I start asking a few questions. So I'm not going to be

around next year, I think it's important that problems that I see that are present in, in the Department of Corrections, which we have been trying to provide some measure of oversight for the last four years, that, that those are laid out there so that people know going into the next session that they are present. And I appreciate that you've been interim director for a couple of days, so I'm not trying to lay this at your feet, but I do want to get to some of the issues that are related to the topic today and recognizing that this is not intended to be casting blame on someone who has been in this spot for three or four days. Fair enough?

**DIANE SABATKA-RINE:** Fair enough.

**LATHROP:** OK. So when we talk about people receiving care at the Department of Corrections and, and whether that's medical care, dental care or mental healthcare, our law in Nebraska is they are entitled to the community standard of care. Is that true?

**DIANE SABATKA-RINE:** Correct.

**LATHROP:** So whatever one might expect who is outside of the wall, if you will, or outside of the Department of Corrections, the type of care and the availability of care, it should be, inside the Department of Corrections, the same as it is outside the Department of Corrections. In other words, people ought to get the care they need for their condition.

**DIANE SABATKA-RINE:** Correct.

**LATHROP:** And that's statutory. That's required. You and I had a conversation before, I asked you if you wanted to go ahead of the Inspector General or after the Inspector General. And just in fairness, you asked to go first. And so I am certainly happy to do that and we're glad you're here. but I do want to ask a question because you are going first. You had a chance to see this memo from the Inspector General's Office?

**DIANE SABATKA-RINE:** Zach handed me that about five minutes before we started.

**LATHROP:** OK. And I'm not going to, I'm not going to ask you to talk about some of the, you know, this employee said this or this employee said that. But I'm-- I do want to talk about the numbers. So this report, and because I want to make sure the record reflects these numbers, I want to talk about this--

**DIANE SABATKA-RINE:** OK.

**LATHROP:** --this chart, if you will. It says that for registered nurses, we have in some-- at some level, we've made a decision how many registered nurses we need at the department. Right?

**DIANE SABATKA-RINE:** Yes.

**LATHROP:** And that's the column under total FTE?

**DIANE SABATKA-RINE:** Yes.

**LATHROP:** That's the number we should have.

**DIANE SABATKA-RINE:** Correct.

**LATHROP:** And then the filled column, that represents the number that we have.

**DIANE SABATKA-RINE:** Yes.

**LATHROP:** The next column, vacant, would be the difference or the number of vacancies, and then the percentage of vacant is just the math, the percent that are not filled for, for example, registered nurses.

**DIANE SABATKA-RINE:** Correct.

**LATHROP:** OK. I want to go through those, and I'll go through them quickly and put them in the record, but ultimately, my question when I get done is going to be, do you, do you have any argument with these percentages. OK? So for registered nurses, it says total FTEs, 52.5; filled, 26.5; vacant, 26, for a 50 percent filled rate. LPNs: total FTE, 34; filled, 14; vacant, 20, for a 59 percent vacancy rate. Physicians: 6 total FTE; 4 filled; 2 vacant, for a 33 percent vacancy rate. Dentists: total FTE, 6-- and I assume this total FTE would be what it takes to provide the community standard of care.

**DIANE SABATKA-RINE:** I would say, yes, that's accurate.

**LATHROP:** OK. Dentists: 6 total FTE; filled, 2; vacancy, 4; 66 percent vacancy. Dental Assistant: total FTE, 5; filled, 3; vacant, 2, for a 40 percent vacancy rate. Behavioral Health Practitioner, it's I-IV.

**DIANE SABATKA-RINE:** They're different classifications, so--

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**LATHROP:** Oh, I through IV. OK.

**DIANE SABATKA-RINE:** Um-hum.

**LATHROP:** Total FTEs, 88; filled, 53.5; vacant, 43.5; percent vacant, 39 percent. I only have three more of these left. Behavioral Health Practitioner Supervisor: total, 12 FTEs; filled, 10; vacant, 2; percent vacant, 17. Psychologist: 18 total FTE; filled, 6; vacant, 12; 67 percent vacancy. And for psychiatrists, it says total FTE, 3; filled, zero; vacant, 3; 100 percent vacancy for psychiatrists. First of all, did I read that properly?

**DIANE SABATKA-RINE:** You did.

**LATHROP:** And does that reflect the vacancies in those particular positions as of September 30?

**DIANE SABATKA-RINE:** As far as I know, yes. I actually pulled the data I have on the 28th, but they're very similar.

**LATHROP:** OK. OK. So I just want to make sure the record reflects the vacancies. So one of the, one of the points that the memo, and I appreciate you just got this before you sat down, but that struck me, total behavioral health vacancies within NDCS has nearly tripled since 2019. At the Reception and Treatment Center, which recently opened a new acute mental health unit and has a separate chronic care unit for people with serious mental illness, there is no designated psychologist; all four psychologist positions are vacant. Is that true?

**DIANE SABATKA-RINE:** I believe the psychologist positions are vacant. And in that particular case, at RTC, we have our chief psychologist that oversees mental health is filling in the gaps, as well as we use some telemedicine and telepsychologist services.

**LATHROP:** But just, just to be clear, and so that, so that there's a good understanding of what we're talking about, when we made that modification at the RTC, we were sort of merging the LCC and D&E, and we had this new structure that connected the two of them with a pod or a gallery, or whatever the proper term is, just for the seriously mentally ill.

**DIANE SABATKA-RINE:** Correct.

**LATHROP:** And right now, we don't have any psychologists that are designated for that.

**DIANE SABATKA-RINE:** Correct. We have behavioral health caseworkers and we have licensed mental health providers there also.

**LATHROP:** When we look at the vacancies-- and I'm, I'm going to ask you a question and this is, is my memory accurate? My understanding was that one-third of the people, the folks that are incarcerated, are on psychotropic medication. Am I right? Is my memory correct that one-third of the folks that are in the Department of Corrections are on psychotropic medication?

**DIANE SABATKA-RINE:** I can't say that with certainty. I'm not positive what the answer is.

**LATHROP:** Other than the people that are medicated to a decent place, more than a third of them have a chronic mental-- or a serious mental illness though. Would you agree with that?

**DIANE SABATKA-RINE:** Yes.

**LATHROP:** OK, so this is treating these people who come to the Department of Corrections, and in many cases, because of their mental illness, when they get there, their care and treatment to the community standard of care is important. Would you agree with that?

**DIANE SABATKA-RINE:** I would agree.

**LATHROP:** OK. Again, I'm not pointing the finger at you, but at a problem, and I appreciate your answers to my questions. You brought up in your testimony electronic health records. And I think I want to talk about that next week. So if you want to just kind of make a mental note--

**DIANE SABATKA-RINE:** OK.

**LATHROP:** --and we'll talk about the road that'll-- that getting on electronic health records has taken since that became a topic over at the department. Fair enough?

**DIANE SABATKA-RINE:** Fair enough.

**LATHROP:** And I'm going to, I'm going to maybe end my remarks with this observation. I did not see your testimony before you testified.

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You didn't share that with me. When I opened on this, I made the point that when Director Frakes was talking about trying to fill the vacancies in security staff, he literally talked about the things you just talked about. We have done ads in the paper. We have done job fairs. We have done billboards. We have done hiring bonuses. We have done bonuses to people who will refer a friend to become an employee. All of those things we did before we got serious and got the security staff up to \$28 an hour. Isn't that true?

**DIANE SABATKA-RINE:** That is true.

**LATHROP:** All of those things, all of those strategies didn't work to get our security staff up to snuff to recruit and retain. And I have to just say, and I appreciate your testimony, but it sounds a lot like what we heard with security staff. And at the end of the last session, it became very, very clear to me that an awful lot of the issues at the Department of Corrections are people who have addictions and people who have mental illness and they need care. They need care. You know they need care. I know they need care. And when we don't fill those positions and we don't get to the community standard of care, we're doing them a disservice. We're doing them a disservice. And for my-- for, for whatever it's worth, and to the extent people are concerned with what I think any longer, we just gotta, we gotta-- we know the formula. It is raising pay. It is raising pay. It worked with the security staff. We have to raise pay because this, this doesn't work. And when a nurse-- you can't recruit nurses and then you bring in a contract nurse and she's making three times as much, or he is making three times as much as a state employee. I've seen the resentments. I've seen the resentments over at the Regional Center, and it doesn't work and it contributes to the negative culture. You've seen it, too?

**DIANE SABATKA-RINE:** Yes.

**LATHROP:** OK. That's all I have.

**PANSING BROOKS:** Thank you, Senator Lathrop. Yes, another question, Senator McKinney.

**McKINNEY:** Yes. Thank you, Senator Pansing Brooks. I have a few more. Although you-- you're the interim director currently and you've been the interim for a few days now, you've been a part of Central Office for a while. How diverse is the senior, senior leadership in Central Office?

**DIANE SABATKA-RINE:** Well, in terms of diversity in general?

**McKINNEY:** Yes.

**DIANE SABATKA-RINE:** I mean, there are several females within the Central Office administration. In terms of, of racial diversity, obviously, Dr. Deol, but beyond that, there's not a lot.

**McKINNEY:** Do you think that's an issue with culture as well?

**DIANE SABATKA-RINE:** Potentially.

**McKINNEY:** How diverse is the healthcare staff or other permanent staff in NDCS or contracted staff? How much-- how diverse is that population?

**DIANE SABATKA-RINE:** I can't answer that, Senator. I have not looked at that, that specific information.

**McKINNEY:** OK. Do you support building a new prison?

**DIANE SABATKA-RINE:** I do.

**McKINNEY:** Do you think it would be better to just build a mental health and substance abuse facility to address the issues Senator Lathrop was just speaking about?

**DIANE SABATKA-RINE:** Within the Department of Correctional Services or a separate facility outside of the department?

**McKINNEY:** Within.

**DIANE SABATKA-RINE:** Well, I think that we could provide mental health and substance abuse treatment in a facility.

**McKINNEY:** A mental health and substance abuse facility built by the state, opposite of building just a new prison as a whole. Do you-- would you support that?

**DIANE SABATKA-RINE:** I would support units. I'm not sure that I would be supportive of, of individual stand-alone facilities built solely for those two purposes.

**McKINNEY:** Why?

**DIANE SABATKA-RINE:** Be-- I'm not sure that it would be cost effective, nor would it address our current crowding needs.

**McKINNEY:** I think, as somebody that thinks about-- because it comes up a lot and we always talk about taxpayer dollars in this building and, and we always talk about property taxes, and I think one of the issues that we have to address is recidivism. And a lot of individuals that return back and forth to NC-- NDCS deal with mental health and substance abuse issues. And I think as a state it would probably be a better priority to build something or, if not build something, repurpose a facility somewhere and house individuals that deal with those issues to properly address those issues instead of waiting until they're within a release window, when we should probably make sure that they're free from addiction in a, in a, in a-- and are in a great mental space years prior to trying to release them. So I know you probably disagree, but I would say it's probably better policywise and for taxpayers to build a mental health and substance abuse facility somewhere instead of wasting millions on a new fancy building that never addresses the mental health and substance abuse issues. Thank you.

**PANSING BROOKS:** Thank you, Senator McKinney. Anybody else? I just have a question, Interim Director Sabatka-Rine. I'm just interested-- I'm sure you're aware of the fact that bright-red Texas is closing prisons. And what is the difference about what's happening in Nebraska versus Texas? Why, why is Texas able to close their prisons, have sentencing reform, and, and we cannot do that here, we have to continue building at great taxpayer expense?

**DIANE SABATKA-RINE:** Well, in all honesty, Senator, I'm not sure what Texas has done.

**PANSING BROOKS:** They are closing prisons.

**DIANE SABATKA-RINE:** Yes, I know that.

**PANSING BROOKS:** Yeah.

**DIANE SABATKA-RINE:** I don't know what all work went into that beforehand that allowed them to get there.

**PANSING BROOKS:** Would you agree that that would be a goal, to not have to continue building prisons at great expense to the taxpayers? Certainly they're not-- and, of course, the Koch brothers have done numerous studies about that. It seems to me that, rather than

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continuing to build, we need to be smarter and not continue to build these, these great huge prisons.

**DIANE SABATKA-RINE:** So my role for the past 40 years of my career, nearly 40 years, has been to manage the population that is sentenced to the Nebraska Department of Correctional Services. I know, based on our current population, what our needs are. I am more focused on that, and have been for the majority of my career, than, than studying what can be done to prevent that.

**PANSING BROOKS:** Well, you're right front-and-center, it seems to me, in, in dealing with the population. You can be advising us about how to be more efficient and to do this better and I hope that, if, if you do continue on, that you will provide that knowledge and access to us so we can understand what is happening in other states. We have to-- we can't just be in our own little Nebraska bubble. It seems that you must be meeting with people from around the country at, at different times and understand what they're doing to improve the situation, keep their communities safe-- that's the number-one goal of all of us-- but also recognize the fact that just building more and more at taxpayer expense is not good. And I hope-- so I would ask you to please consider looking at that more in depth from here on.

**DIANE SABATKA-RINE:** I will do that.

**PANSING BROOKS:** Thank you very much. Thank you, Interim Director. I don't see any other questions. Thank you for coming today. Appreciate it.

**DIANE SABATKA-RINE:** Thank you.

**PANSING BROOKS:** The next testifier. Welcome, Mr. Pluhacek.

**ZACH PLUHACEK:** Hi. Good afternoon, Vice Chair Pansing Brooks and members of the committee and Chairman Lathrop. I'm not really sure who I'm supposed to address here. My name is Zach Pluhacek. That's Z-a-c-h P-l-u-h-a-c-e-k. I'm the Assistant Inspector General for Corrections. Inspector General Koebnick said he's sorry he couldn't make it today. He's off getting his statutorily required recertification. We appreciate the invitation to testify today. I think this is a really important subject. And I made the potential mistake of not bringing written remarks. So I'm kind of-- just kind of wing it here. I did want to start by just thanking the, the medical and mental health staff that we interact with at the

facilities and the ones we don't. They, they have a really difficult and important job and, and I know it's been a, a tough few years for them beyond what they usually even deal with. And so we really appreciate what they do. Mr. Koebernick had a few things he wanted me to touch on today. One was the memo that we gave out. There were also just some, some updates on our office's activities related to medical and mental health issues, and then just some thoughts kind of looking forward. But there were some questions that came up that I thought I could just quick get out of the way. Senator Morfeld asked, I think, about the dollars for contract staff. Is that correct? Was that your question?

**MORFELD:** That would be it.

**ZACH PLUHACEK:** That was my note. So there's a, there's a handout that I know Senator Brandt referenced with some things highlighted. The first page says drugs. That's not really-- I don't know why I even highlighted that. But on the second page of that, it looks like this.

**PANSING BROOKS:** Yeah.

**ZACH PLUHACEK:** That's from the department's biennial budget request for starting next year. And on the second page of that handout, there are a couple of line items that I highlighted that I believe correspond with the cost for some of those private agency contracts. So the first one on that second page is nursing services. And it looks like actual expenditures in FY 2020 were \$6 million, actual expenditures in 2022, \$6.9 million. And then looking ahead, they're, they're requesting-- well, for 2023, they're appropriated \$5 (million) and then \$5 million for the next two fiscal years. And then there's similar figures for psychological services and dental services. So that just kind of shows a bit of what we're paying when we go outside the state employees. And then there's also, on the next page, what I believe is the billing for when somebody sees an outside provider for specialty care or something like that. That's all sort of billed through Blue Cross and Blue Shield. They have a contract with the state to do that, and that's the-- that's the appropriation for that. There was a question about comparing what the department pays with what is paid for comparable positions in other states. And I don't have a lot of information on that, but we have heard anecdotally that there is a large disparity in pay between the Regional Center and some of the DHHS positions that are comparable and those at NDCS. I can try and get some more information on that and get it to the committee. And then, Senator McKinney, you had a

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question about staff race and, and how diverse our staff is. There's some information on that in our annual report that came out in September. And then the Inspector General and I have talked about-- we're actually in the planning stages of doing an analysis of the, of the incarcerated population by race as well. So hopefully we'll have some more information there.

**McKINNEY:** Thank you.

**ZACH PLUHACEK:** If I can find my notes, just moving on to, to what the Inspector General wanted me to kind of bring to your attention, you already touched a bit on the data from the memo, but I did want to note, in addition to the RTC, that we have some pretty serious concerns, I think, about the, the mental health situation at Tecumseh. They have a pretty high number of, of--

**LATHROP:** Can you talk just a little bit louder?

**ZACH PLUHACEK:** Yeah, I apologize. Is that better?

**LATHROP:** That's OK. I'm looking at the--

**ZACH PLUHACEK:** I'll move it closer.

**LATHROP:** --screening behind you--

**ZACH PLUHACEK:** Yeah.

**LATHROP:** --and I'm struggling a little bit.

**ZACH PLUHACEK:** Is this better for everybody?

**LATHROP:** That's better.

**ZACH PLUHACEK:** In addition to the RTC, which is something we highlighted in the report, I would, I would note that Tecumseh is also a concern. They have a, a large-- they have a mental health unit there as well. They have three psychologist positions budgeted and only one-- and yeah, that's a-- that's where we have our inmates sentenced to the death penalty. We have a high number of, of seriously mentally ill people there, and, and that's an important thing to highlight. I will go a bit into the survey results. We surveyed-- this, this email went out to more than 180 health services staff. That's all, as far as we could tell, that's all of the health services staff in the department. We got that list from them and

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about 50 percent responded. And that might be the best response rate we've ever had to one of these surveys our office has done. There were a lot of positives. Many of the staff said they look forward to coming to work. They felt safe in their work environment and, fortunately, they expected to be working there a year from now, which I think is really encouraging. But less than half said they were satisfied with their employment. Many of the responses and a great number of the responses were largely critical of the department's leadership, particularly when we asked if, if they felt supported by clinical and nonclinical administrators at the department. The vast majority indicated that they did not. So that was a concern. There was also-- to your question about community standard of care, there really wasn't any consensus on whether the department was meeting that statutory minimum standard. And then the memo also included a lot of written responses, many of which are in the memo. I've got some highlights from that, or lowlights, or whatever you want to call them. The main concerns that, that I think were raised in those written responses, to me it was clear that people were not satisfied with their pay or the working culture at the department. They felt they had little support from their administration. We, we distributed a copy of the survey to some former NDCS mental health staff, and, and their responses reflected that as well. Another issue that came up a lot was the use of private agency nurses. Their relative pay and their work product, that was an issue that came up a lot on the medical side. And then there's just a lot of other written comments that, that, that raised really good feedback for the department, both positive and negative. And I know Inspector General Koebernick has committed to meeting with Dr. Deol and Dr. Williams about that, and I think they've even scheduled a meeting. The responses-- our perception is that the responses were dominated by mental health staff. There was a significant number that related to behavioral health operations at the department, and their concerns were pretty wide ranging. And I apologize if I'm droning on. Nonclinical people being involved in making clinical decisions was a common theme, low morale, retaliation or perceived retaliation by administration, people struggling to perform their work due to the low staffing or due to even just resources like workbooks and things like that. So that's the memo. I did want to touch on some things that, that we've been doing. Early this spring, we were getting a lot of complaints, or at least it seemed to us that we were getting a large number-- it seemed to us this spring that we were getting a large number of complaints from people just about delayed responses to kites and things that they were sending trying to get medical care. So

Inspector General Koebnick started reaching out and asking some questions about staffing numbers even back then. We are-- that has sort of grown into we are looking into the community standard-of-care question. We've opened an investigation into that and notified the department of that. In June, as part of that investigation, we were reviewing some of the statutory requirements for medical services within the department, and we realized that, because of their shortage of doctors, they're actually out of compliance with a statute that requires each facility to have, with more than 500 people incarcerated, to have a full-time medical doctor specifically assigned. At the time that, that we-- we notified the Department of that. And at the time, I think about half of their doctor positions were vacant or in the process of becoming vacant. And then at Community Corrections in Lincoln, which has a little under 600 people, they've, to my knowledge, they've never had a full-time doctor. So, so that's a statutory compliance issue that may be something to look at. And then just a couple of reports we've issued so far this year, there was one that just came out this week that relates to electronic health records. I won't say any more than that, but that's maybe worth the committee looking at. And then earlier this year, we did a, a report that related to walk-aways at community correction centers, and it wasn't specific to mental health or medical issues, except that a significant piece of that report looked at the conditions at those centers and what, what-- and some of the stress that people feel at community corrections or what contributes to that. And we had a lot of staff and people living at those facilities who said that the lack of mental health resources there was a concern. Now they do have some substance abuse providers at those facilities. We're talking more general, general mental, mental health. We have encouraged and really continue to encourage the department to make therapy more available to people in those settings. There is a process for people to get permission to see an outside mental health provider. It's, it's somewhat opaque and, and has been difficult for people to access. So when we talk about telepsych and, you know, kind of what are these things that the department can do to accommodate for its low staffing, I think that's an area that we can learn from. They've really struggled to do that, in my perception, to, to make that available, even in a community setting where you don't have many of the barriers you'd have in a secure, high-security prison. Looking, looking ahead just at some other things that, that might be of interest, we're thinking it might be time to, to bring in an outside healthcare entity, such as UNMC, to, to do an assessment of medical and mental healthcare within the

system. Our office really doesn't have expertise in health services, so having UNMC or another entity do that would, would assist us and, and probably the next director of Corrections, whoever that may be. The community standard-of-care requirement that you mentioned is actually one of a bunch of statutory requirements that came about from an Ombudsman report actually in the late '90s, which is an interesting read. That report is, is-- it's really compelling and it documented some pretty concerning issues with the department's healthcare system at the time. Another thing that resulted from that discussion was the department's medical director position, which was placed in statute and has to report directly to the director of Corrections. Based on some of the survey responses and things that we've heard from over the years, our office is really starting to think it might be time to require something similar for mental health. Currently, the medical director, Dr. Deol, also oversees mental health, which is broken up into three different groups and isn't-- it's not really managed as a single entity other than by Dr. Deol. So that's something to consider. And then in, in 2021, our office recommended that the director engage with mental health staff to get a better understanding of their concerns and to develop a plan for addressing vacancies. To our knowledge, that hasn't happened, and I think it would be potentially a valuable thing for the, for the current interim leader or the next director of the department. And then, as I mentioned, with the Regional Center and DHHS, it might be worth looking specifically into how those salaries for these different health services positions compare across different state agencies, particularly at DHHS. We had one survey respondent who said that psychologists are paid \$13 an hour more at the Lincoln Regional Center than at NDCS. And I suppose we have someone here who might be able to speak to that, but that's everything I have. Sorry if I droned on. With that, thank you for your time and I'm happy to attempt to answer any questions you have.

**LATHROP:** OK. Thank you. Senator Brandt.

**BRANDT:** Thank you, Chairman Lathrop. Thank you, Zach, for being here today. On your opening on the contract services you mentioned something about Blue Cross and Blue Shield contract. Can you tell me what that, what that reference is?

**ZACH PLUHACEK:** Oh, it's hard for me to describe. So I-- my understanding is that it's similar to a-- to health insurance, but the department more or less contracts with Blue Cross to handle their billing. So if you were to look for what are we paying to outside

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providers, the, the Blue Cross is processing those bills for the department and probably doing negotiations with providers and stuff.

**BRANDT:** But there really is no health insurance for inmates [INAUDIBLE], so it's--

**ZACH PLUHACEK:** No, no, it's-- again, this is my understanding. The department is more or less self-insured, but Blue Cross is basically doing the administration of their outside medical billing for them.

**BRANDT:** OK. Is Department of Corrections responding to the OIG's concerns? Are they giving you guys the data that you're requesting?

**ZACH PLUHACEK:** Timeliness is sometimes an issue, particularly when it comes to individual institutions, and then recently we have had some issues with that. It's hard-- I want to be sensitive to the fact that they don't have very many staff. So as, as the interim director said, for example, the mental health administrator who oversees sort of one of those three mental health teams that I was talking about, I have some requests in, and I don't want to single anybody out, but she is currently providing care at the RTC because they do not have any psychiatrists-- or psychologists on staff there. So, yes, timeliness has been an issue. But there's, there's factors that contribute to that, that we understand to an extent, if that answers your question.

**BRANDT:** Thank you.

**LATHROP:** Senator McKinney.

**McKINNEY:** Thank you, Senator Lathrop, and thank you, Zach. What percentage of the population do you think deals with mental health and substance abuse issues?

**ZACH PLUHACEK:** Oh, that's a great question. I don't have good data on that. The department assesses everybody and I think there's some data maybe in the, in a-- in the, the report that I talked about with electronic health records that talks about 110 people being seriously mentally ill. If I understand-- I mean, the number is much higher than that, that-- those are the people who I think are currently in an acute or, you know, very high level of mental, mental illness. Excuse me. I would guess it's more than half. I, I would assume it's the vast majority, but I'm not a clinician and, and I don't have the data.

**McKINNEY:** All right.

**ZACH PLUHACEK:** I could get that for you, though.

**McKINNEY:** OK. Thank you. And my last question, do you think that medical decisions of the medical director may or may not make decisions based on political pressure?

**ZACH PLUHACEK:** Oh, I don't, I don't know the answer to that. I'm sorry.

**McKINNEY:** All right.

**ZACH PLUHACEK:** Yeah.

**McKINNEY:** Thank you.

**ZACH PLUHACEK:** It's a good question.

**LATHROP:** Maybe just a point of clarification. So the department will provide care if I have a cold, if I have something that they can treat there. But if I need my hip replaced, that's not going to happen at the department; they're going to take me over to Bryan LGH and the bill gets processed by a third-party administrator--

**ZACH PLUHACEK:** Correct.

**LATHROP:** --which is Blue Cross Blue Shield.

**ZACH PLUHACEK:** Correct.

**LATHROP:** So they're, they're paying the bill for the things that cannot be done inside the department--

**ZACH PLUHACEK:** By and large, yes.

**LATHROP:** --or inside--

**ZACH PLUHACEK:** By and large, yes. There might be some, some individuals who go see an outside provider due to, due to a shortage in the department. I don't know how often that happens.

**LATHROP:** OK.

**ZACH PLUHACEK:** But, yeah, by and large, it's specialty care that wouldn't be available in the department.

**LATHROP:** OK, generally, surgeries and things like that.

**ZACH PLUHACEK:** Yeah.

**LATHROP:** OK. That was just a clarification. I don't have anything else. I don't see any other questions. Thanks for being here. That was your first and perhaps only time to testify in front of the committee.

**ZACH PLUHACEK:** Hopefully, the last.

**JUSTIN HUBLY:** I have to be across the street for negotiations in a few minutes.

**LATHROP:** Good afternoon and welcome.

**JUSTIN HUBLY:** Good afternoon, Chairperson Lathrop and members of the committee. My name is Justin Hubly, J-u-s-t-i-n H-u-b-l-y. I'm the executive director of the Nebraska Association of Public Employees, AFSCME Local 61. We represent about 8,000 state employees that work at over 40 different state agencies in all 93 counties, including at the Department of Corrections. At the Department of Corrections, there are three bargaining units that are kind of germane to what we're talking about today. We represent folks in the social services bargaining unit. Those would be your licensed clinical social workers in the prisons, master social workers. In the healthcare professional bargaining unit, we have the behavioral health practitioners, I-IV. That does include chemical dependency treatment workers as well as registered nurses. And then in the healthcare nonprofessional bargaining unit, we have LPNs, care technicians, dental assistants, those kinds of folks. It's about 200 that we represent. So what I wanted to reference today are kind of three issues that I see that need to be addressed and hopefully we can count on your help for a couple of them moving forward. One, I think it's already been said, it's wages. And we know that wages-- when we increase wages, it works. We have tried everything under the sun. And one of my favorite pastimes these days is taking screenshots when politicians, no offense to present company, say, well, we always knew if you raised the wages, we'd fill the security positions. We know it works and I have the receipts now. With that said, we did see increases for registered nurses and some other healthcare folks, so behavioral health practitioners, in this historic midterm bargain that we did in November. But as my eighth grade math teacher, Mr. Anderson, always told me, 30 percent of a low number is still a low number. And so we haven't caught up to where things need to be. So our biennial bargaining process has started just a couple weeks ago in September.

And as I mentioned, I have to be across the street very shortly to continue that process. So I hope I can count on your support. We'll be working with this administration and obviously there'll be a new Governor during the middle of this process. But we have to make sure that we pay our mental healthcare practitioners well so that we can staff the facilities. The second area that I think we need to address is culture, and culture is harder. And I just want to offer some observations. With Director Frakes, I always felt like I had somebody who I could talk to and listen to and, and enjoyed dealing with big-picture issues. But I never felt like anything got down to the middle management who are running the prisons. My field staff dreads working with the Department of Corrections; they hate going to facilities because they are treated so poorly by managers, wardens, lieutenants. I had one come after me the other day, not knowing who I was, and said, you're a union steward. I love when they don't know who I am. And I said, oh, yes I am. But if they are willing to treat me that way, and then somebody told them who I was and suddenly I was treated nicely, that's inappropriate. And so our members tell us all the time how they are treated so poorly, and maybe that's systemic. We work in an institution where we have to control people, and so we feel that the staff are part of that. But I hope that Interim Director Sabatka-Rine and her-- whoever comes in after her to be the director, whether it's her or somebody else, you have our commitment, our members' commitment to work with you to have a better working environment to retain people. Lastly, is just a big-picture idea that I think policy makers like yourself should consider in the future. We have great educational institutions in Nebraska, and what if our contract in the state, we got some language in there where we had, you know, working internships and where we're recruiting people at a young age who want to be mental health practitioners. But let's get them involved in state service right away. Not only are they helping their fellow citizens, but at that point they're committing at a young age that a life in public service is worthwhile. And maybe that's a little too broad for discussion today, but I wanted to throw that out there. Lastly, I thought Senator Brandt hit one of my, my pet peeves, and so I'd like to address it. Travel or agency nursing staffing, I think, is the scam of the century, because what we do is we don't pay our workers enough, so we have to hire somebody that we pay more, so the nurses we have quit to work for the agency so they can make more to drive up the wage here, to drive up the wage here. It's a scam. Let's fix it and pay our nurses a fair living wage to make sure we can staff the facility. And then I think Zach had one thing I wanted to address. As far as inequity between DHHS, Veterans'

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Affairs, and Corrections, there are none in our contract. They're all paid the same. Where there are discretionary positions like psychiatrist and psychologist, I can't talk about how DHHS might prioritize paying their folks more at the Regional Center because we don't represent them. But our folks are all on the same pay scale and we look forward to these negotiations hopefully being fruitful this fall. And hopefully we can count on your support when the appropriation comes through in January. So I'm happy to answer any questions. Appreciate your time.

**LATHROP:** OK. I don't see any questions. We'll let you get--

**JUSTIN HUBLY:** Thanks, appreciate it.

**LATHROP:** --across the street.

**JUSTIN HUBLY:** I hope they brought their checkbook.

**LATHROP:** Hopefully, it solves the problem. Next testifier. Good afternoon and welcome.

**KJERSTIN EGGER:** Hi. Thank you. First time here. Glad to be here. Good to see you all. OK. Senator Lathrop and members of the Judiciary Committee, my name is Kjerstin Egger, K-j-e-r-s-t-i-n E-g-g-e-r. I am the wellness and education director at the Wellbeing Initiative here in Lincoln. I am also someone who has lived experience with mental health and substance use challenges. And I'm also a former participant in and graduate of the legal system in the state of Nebraska. I am here representing the Nebraska Association of Behavioral Health Organizations, otherwise known as NABHO. We are a statewide organization advocating for behavioral health providers, hospitals, regional behavioral health authorities, and consumers. Our mission is to build strong alliances that will ensure behavioral health services, including mental health and substance use disorder services are accessible to everyone in our state. We appreciate the opportunity to appear before you today. I will go back to our mission that refers to build strong alliances so everyone in our state can access services. Everyone includes those who are incarcerated. One of our strategic goals is to collaborate with the Department of Corrections to understand the needs and challenges they face to provide care and find ways to partner. We had started to do that when COVID hit, which brought our efforts to a halt. I am here today to state that this continues to be a goal and want, and want to be on the record with our desire to work with the department. Workforce

challenges are no surprise and cross all sectors of the healthcare world. Of Nebraska's 93 counties, 88 of them are federally designated mental health workforce shortage areas. That has only been exacerbated since COVID. So competition is stiff when we are looking to fill vacancies, similar to what the Department of Corrections is realizing. This is especially worrisome with higher-level positions such as psychiatrists and psychologists. We would appreciate opportunities to work with the Department of Corrections to determine if there are ways to collaborate and meet workforce needs rather than compete against each other. Numbers indicate a high percentage of those incarcerated have a diagnosed mental illness and/or addiction challenge. Going back to a report done by a special investigative committee in 2014, it was reported that ten times as many mentally ill individuals are in prison than our state hospitals. In the Douglas County Corrections, 21 percent of its population are identified as mentally ill. It went on to state that 40 percent of the population at Tecumseh State Correctional Institution suffer from a mental illness. Among the committee's recommendation, they identified the need for additional resources be devoted to mental healthcare and adequate programming. The mental healthcare and programming should be evidence based. That programming-- that, that providing rehabilitation for inmates through programming and mental health treatment is critical to public safety, and additional resources should be invested in community-based mental health. By ensuring that staff have access to evidence-based training and the ability to evaluate an individual's diagnoses and implement a treatment plan is critical not only for the duration of an individual's incarceration, but also once they are released back into the community. Working with community providers, we can support these individuals upon release, keep them on track with their treatment plan, and in turn help reduce recidivism. As the state and Legislature com-- contemplates the building of a new correctional facility, we encourage an emphasis on how to incorporate mental health and substance use disorder services and supportive programming. According to Council for State Government, a successful reentry, reentry system would include, among other things, coordinated treatment for substance use and other mental health issues, and to integrate both mental healthcare and primary healthcare. Looking for opportunities for collab-- collaboration can ensure inmates' treatment and programming needs are being met in a timely manner, supporting their release and ongoing success in the community. NABHO stands ready to work with the Department of

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Corrections to meet their mental health and substance use treatment needs.

**LATHROP:** Senator DeBoer.

**DeBOER:** Thank you, Senator Lathrop. So ten times as many mentally ill folks are in the Department of Corrections than in the state hospitals?

**KJERSTIN EGGER:** Yes. And I am reporting from NABHO's executive director, who wasn't able to be here today, but she's the one who, who gathered that research into this report to you all today.

**DeBOER:** OK. So do you happen just by chance to know what-- because you said 20 percent-- 21 percent of the Douglas County Jail System or the Douglas County Corrections and 40 percent of Tecumseh. Do you know what generally is the percentage in just the public populace?

**KJERSTIN EGGER:** I don't--

**DeBOER:** OK.

**KJERSTIN EGGER:** --know that answer. I wish I did, but I don't.

**DeBOER:** OK. Thank you.

**LATHROP:** I don't see any other questions.

**KJERSTIN EGGER:** OK.

**LATHROP:** Thank you for being here.

**KJERSTIN EGGER:** Yeah.

**LATHROP:** You did a great job for your--

**KJERSTIN EGGER:** Thanks. Thank you.

**LATHROP:** --first time being here.

**KJERSTIN EGGER:** Thank you all.

**LATHROP:** Next testifier. Good afternoon and welcome.

**SPIKE EICKHOLT:** Thank you. Good afternoon, Chairman Lathrop and members of the committee. My name is Spike Eickholt, S-p-i-k-e, last

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name is E-i-c-k-h-o-l-t, appearing on behalf of the ACLU of Nebraska as a registered lobbyist. I know that the-- this purpose of the interim study is to focus on healthcare staffing, medical staffing, and mental healthcare staffing in Department of Corrections, but I want to identify some related issues and kind of elevate those or at least highlight those. You've got a copy of my written statement, so I'm not going to read from that, but I wanted to kind of uplift a couple of these issues that might be back next year for those senators who are coming back next year. Unfortunately, some of you are not going to be back here next year. I know that some of you, all of you, actually, who are not coming back next year, really led on this issue. And these issues, unfortunately, are likely going to come back next session. I have a statistic that I actually got from Chief Heavican when he gave a State of the Judiciary last year, and he stated that up to 80 percent of the people who are involved in the court system either have substance abuse or mental health abuse-- or mental health issues. That's-- I'm taking his reference out of context, but I'm highlighting that because we know who enters the court system. And I think one thing this hearing does is illustrates the importance of deviating people from the prison system all together through problem-solving courts to try to identify those people who would better have their needs met outside of the prison setting, because this illustrates the cost to the community when those people end up in the prison system. I don't know what the statistic actually is for those people in prison. I know it's high, 30 percent, 40 percent, those people, unfortunately, have profound mental health issues do end up in the prison system and, as Senator Lathrop mentioned earlier, that's a core part of servicing or dealing with those people. It's not just some fringe condition of their confinement. If they aren't getting mental-- if they aren't getting medical care, their mental-- their medical condition deteriorates; if they're not getting mental healthcare, their mental condition deteriorates. Most of the people in prison are going to get out. We want them coming out at least not worse than when they went in somehow. We want them to be better. So I think this is something that the committee rightly wants to identify. The Inspector General spoke earlier. I wanted to mention the report they issued last week about the death of an inmate at the, at the York women's facility because, unfortunately, one of the things that was identified in the Inspector General's report was the fact that a woman died of cervical cancer. If she had received proper medical treatment, perhaps that could have been addressed earlier and treated. When I read that report, one thing that I thought was really kind of disappointing and frustrating

and somewhat disheartening was the fact that the Department of Corrections, at least at York, still doesn't have a, a comprehensive or even any organized way of maintaining the electronic or health records for inmates. They don't have a functioning electronic health records system. LB598 directed the Department of Corrections to do just that. The Legis-- you may remember if you were serving then that, after the interim, after the special committee that looked at the Nikko Jenkins situation with the miscalculation of sentences, that there was a push by the Legislature to encourage the Department of Corrections to sort of modernize and update or somehow organize the record-keeping overall, whether it was calculation of sentences, programming availability, and medical needs of the inmates. And unfortunately, when I read the Inspector General report, those issues still just don't seem to be properly addressed. I mention that, not somehow to, to make this hearing about that, but that this might be something the Legislature could look at doing next, next session. One of the things that I wanted to also mention that relates to at least mental healthcare, in 2015 as part of that same bill, LB598, the Legislature encouraged the Department of Corrections to reform the restrictive housing process at the Department of Corrections, to no longer have what they called, what was referred to as solitary confinement, but instead to prohibit solitary confinement and to allow for restrictive housing for certain inmates, to not allow restrictive housing to be a form of punishment or discipline, but instead to somehow deal with the inmates. There was a working group that came out of it, and I know Senator DeBoer was on that, that identified and crafted some regulations for determining who should be in restrictive housing, certain minimum conditions of housing, and standards, and so on. In 2019, the Legislature actually prohibited or passed a law that would prohibit certain people from being in long-term restrictive housing. Senator-- thanks to Senator Pansing Brooks, that included people who are under age of 18, it includes prisoners who are pregnant, and it includes those prisoners who are a vulnerable population, which includes people with traumatic brain injuries or people with serious mental illness. And I mention that because at the ACLU, we get regular reports of people who seemingly fit the definition of vulnerable population but appear to be in restrictive housing despite the law. Now they have that new sort of acute mental health unit, I think that they call it, or used to be SMHU, but now it's something, I think it's acute mental health unit at the RTC facility that is supposed to be designated to address those, those people who do meet that definition of vulnerable population. But you hear, unfortunately, that of the three positions

they have for psychologists to work with those people, none of those are staffed. So I mention that to kind of highlight or at least try to illustrate to you that the work that you've done on these issues, unfortunately, just aren't being met, aren't being effectuated, and they maybe need to be. And finally, as I'm sitting here, many of you worked with the CJI group that's on here. One of the things the CJI group identified was we don't really have a meaningful geriatric parole process. We have a statute that allows for some medical parole, but they have to meet, quote, terminally ill or permanently incapacitated, end quote, standard of, of life. We know from the CJI work, you know, even anecdotally, that when people get older, they're less likely to re-offend. When people get older, their medical needs are going to increase. What we have here is unfortunately we don't have a way to address what is, I'm certain, and it's at least safe to assume, is the population that is probably most taxing on the few medical staff and medical resources that we have in the prison system. We don't really have a way that address perhaps paroling those people so that they can get maybe adequate community care actually in the community. I'm not faulting this committee at all. I know it's something that CJI actually recommended. I think CJI identified that we have an aging prison population compared to other states. I know that many of you, and I worked for that goal as well, but perhaps it could come back next year, at least in this prism, if you will. And I just want to uplift those issues because they do at least touch on the purpose of the interim study today. I'll answer any questions if you have any.

**LATHROP:** OK. Any questions for Mr. Eickholt? I don't see any. Thanks for being here. We always appreciate your perspective. I know the ACLU was involved in doing a deep dive into the Department of Corrections before-- since 2014 and before the CJI process. I appreciate your-- the work of the ACLU in that respect. Anyone else care to be heard? Seeing none, I'll, I'll just make this comment, by way of closing, that the-- as a matter of just the morality of government and the people of the state of Nebraska, providing the community standard of care is important. Many of these people, because I get the, I get the letters, and I'm sure other people on this committee do, too, of people who are concerned that they don't get timely care. But the mental health and the substance abuse, we just know it's central to the reason many people are there, and having appropriate staffing is a common theme, and we know what the solution is, we know what works. And so I'll leave it to those who will be here next year to carry the torch on this issue. I think the

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Assistant Inspector General mentioned bringing the University of Nebraska Medical Center in or folks from there to do sort of a top-down assessment of how we are doing meeting this community standard of care. I think that's a great idea. I think that's a great idea and something that should be the subject of legislation for next session. And with that, I have nothing further and that will end our hearing today. Thanks, one and all, for being here, including senators who might have other things going on. Thank you.