

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee January 27, 2023
Rough Draft

WAYNE: Good afternoon. Good afternoon and welcome to the Judiciary Committee. My name is Justin Wayne. I represent Legislative District-- I'm waiting for a sneeze to come somewhere. Guess not-- Legislative District 13, which is north Omaha and northeast Douglas County. I serve as the Chair of Judiciary. I'll start-- we'll start off with having senators and staff do self-introductions, starting with my right, Senator Ibach.

IBACH: Senator, Senator Teresa Ibach, District 44.

MEGAN KIELTY: Megan Kielty, legal counsel.

ANGENITA PIERRE-LOUIS: Angenita Pierre-Louis, committee clerk.

HOLDCROFT: Senator Rick Holdcroft, District 36.

DeKAY: Senator Barry DeKay, District 40.

WAYNE: There will be other senators joining us. Some of them are currently up in Exec. They must have a long Exec going with Senator McKinney, his bill up there. I would also like to start off by introducing our committee pages, Logan Brtek from Norfolk, who is a political science and criminology major at UNL, and Isabel Kolb from Omaha, who is a political science major and pre-law major at UNL. This afternoon, we'll be taking up five bills and we'll be taking them up in the order that was listed outside the room. On the tables in the back of the room, you'll find a blue testifier sheet. If you are planning to testify today, please fill out one of those and hand into the pages when you come up. This makes sure we have accurate records. If you do not wish to testify or somebody before you said the exact same thing that you're about to say, fill out one of the orange sheets that way your presence is recorded at the hearing and your position on the bill. I will also note the Legislature policy that all letters must be-- for the, for the record must be received by the committee noon the prior day to the hearing. Any handouts submitted by a testifier, we ask that you bring-- it will be included in the exhibits and we ask that you have ten hand-- copies for the committee. If not, the pages will make copies for you. Testimony for each bill will begin with the introducer's opening statement. After the opening statement, you will hear from the supporters of the bill then opposition, followed by those in a neutral capacity. The introducer of the bill will be given an opportunity to make closing statements if they wish to do so. We ask that you begin the testimony by giving your first and

last name and spell both of them. We will be using the three-minute light system. When you begin your testimony, the light will turn green, followed by one-minute, it'll turn yellow. And then red, we will ask you to wrap up your thoughts. I want to remind everyone, including senators, to please turn off your cell phones or put them on vibrate. And with that, we will begin today's hearing with LB334. Much better than Senator McDonnell, just want you to know that.

TIM PENDRELL: Out of town somewhere. Thank you, Chairman Wayne and members of the Judiciary Committee from hearing from us today. My name is Tim Pendrell, T-i-m P-e-n-d-r-e-l-l, and I am filling in for Senator Mike McDonnell from Legislative District 5 who could not be here today. The purpose of the Reentry Housing Network Act is to create minimum standards for reentry housing facilities throughout Nebraska and encourage the development of beneficial programming for those reentering society. Reentry housing provides a necessary steppingstone for those transitioning back into their communities. It supports successful reintegration and helps reduce recidivism by providing access to employment, treatment and programming. Reentry housing is a form of housing for individuals leaving prison, offering varying levels of supervision and services. These facilities are either run by private nonprofits or businesses and vary in size, conditions and the amount of programming they provide. It is often a condition of release that parolees or probationers reside in these homes, which can be difficult to access due to criminal history or waitlists. The majority of transitional housing is not under contract with the state, but receives payment from Parole, Probation or the Department of Corrections through vouchers or reimbursement. Rates may vary, but the state can expect to pay up to \$90 a day or \$2,700 per month for these services. The, the new State Advisory Committee on Reentry Housing will be established within the Nebraska Commission on Law Enforcement and Criminal Justice, or just the Crime Commission. This advisory committee will be devoted to closely overseeing key performance metrics such as expenses and program utilization through tracking data on cost, usage. And the results of these initiatives, the committee can provide feedback that ultimately allows for continual improvement in performance over time. By creating a more comprehensive system, we can help those transitioning back into society to have a safe place to live and the resources they need to succeed. LB334 will be a force for good, facilitating the creation of reentry housing initiatives which can have an impact on crime and recidivism rates. It's essential that those who are released from prison receive the support they need to move forward with their lives

responsibly and become contributing members of society again. In Nebraska, we have some reliable and well-equipped transitional housing providers such as Bristol Station, MHA and Heartland Bridges with Heartland Family Services. Unfortunately, we don't have enough of them across the state with the programming capabilities to guarantee that inmates who are reentering society will be set up to succeed. LB334 helps to fill this gap, ensures a baseline standard for reentry housing and sets the path to give reentering individuals a long runway as they reenter the community. We believe that the Reentry Housing Network Act is an important tool for addressing recidivism and helping those returning from correctional facilities to reintegrate back into society in a positive way with access to employment, treatment and programming support. It's our hope that LB334 will be passed and implemented so that Nebraska can move forward with providing safe housing for those transitioning back into their communities. Making sure our friends and neighbors are safe, secure and have a place to call home is something we can all get behind. We look forward to working together to pass LB334 and address the need for increased reentry housing in Nebraska. Thank you again for your consideration of this bill, which would create the Reentry Housing Network Act. It's an honor to be here representing Senator McDonnell and look forward to working with everybody to get this passed.

WAYNE: Thank you. It's tradition that we don't ask staff questions, but in Judiciary, we break that tradition. Any questions? No, I'm kidding.

IBACH: Oh, dang.

TIM PENDRELL: That's disappointing because I would love to--

WAYNE: Thank you.

IBACH: I do-- I would have one. Just-- oh, he's kidding. We really can't.

WAYNE: No, you really-- we really, we really don't. We really don't. No.

IBACH: I'm new here.

WAYNE: We'll follow up with McDonnell with any questions. Thank you.

TIM PENDRELL: I'll get you--

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IBACH: OK.

WAYNE: Proponents.

ZACH PLUHACEK: Sorry to the transcribers for that sound effect. Oh, no, I didn't-- oh, shoot. I'll get you one. I'm new to this, sorry. Good afternoon, Chairman Wayne and members of the Judiciary Committee. 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 of Corrections for the Legislature. The Inspector General is sorry, he could not make it today. He has a conflict out of state. I'm testifying today on behalf of the Inspector General's Office. LB334 is consistent with recommendations our office made in our most recent annual report. We'd like to-- excuse me, we'd like to thank Senator McDonnell for bringing the bill. We'd also like to thank the operators of these facilities for the service that they provide. People leaving prison face all sorts of barriers and finding stable housing is certainly one of the most significant. Transitional housing helps people overcome that barrier. That being said, we do think there's room for improvement in the system and we believe this bill will help. The page has passed out a memo that the Inspector General distributed to the Judiciary Committee last summer. I think some of you would have received that at that time, but you've got it now. The memo, I think, provides some good background information that-- on transitional housing in Nebraska. It includes a couple of examples of cases that our office has investigated within that system and it also touches on some of our concerns. These houses are privately owned and operated, but they do receive a significant amount of state funding through a series of voucher-based programs operated by Parole, Probation and the Department of Corrections. There's no blanket licensure required for these houses. Very few of them are actually under contract with the state. So when issues do arise, there isn't a very clear or consistent process for how those issues or complaints are resolved. This has created a lot of uncertainty not only for residents but also the operators. LB334 would create a single point of contact for transitional housing related issues, and we think that's really what's needed here. There's a lot of things that go along with that. Minimum standards are one piece because those touch on life and safety issues. We don't think the state wants to be paying for people to live in unsafe conditions. Just as important, I think, is providing some stability in the system and getting a better sense of whether we have adequate resources available. The bill would also have a research component that I can describe in more detail, if, if you would like. And like I said, there's a lot of people and agencies involved in the system and having a single point of contact would be

helpful. One thing I don't believe this entity would do is step on the toes of Parole, Probation or Corrections. It would still be up to those agencies to decide where people who are under their supervision can live. And to the extent that those agencies have funds designated to assist with housing, this bill would not change that. The network's role is to make sure the agencies are getting what they pay for and that everyone is on the same page as much as possible. I think I'll close with that. I thank you for your time and I'm happy to try and answer any questions you have, technical questions about the bill or the subject matter.

WAYNE: Any questions? Senator Geist.

GEIST: Yeah. Thank you for your testimony. And I know we've talked about this a lot, your office and mine, and, and I know most of the bill actually is looking at the issue-- the concerns that you had or I would say we had about the-- how-- the transitional housings that, that don't perform as well maybe as others or have issues that need more oversight. But there are things in the system as well that can be obstacles to those that do perform well. And I'm curious if-- just so this committee hears some of the things that, that-- the obstacles that are in place for those, that we want to continue to support because they do such good work. Would you just briefly let the committee know what a couple of those obstacles are?

ZACH PLUHACEK: Yeah. So we periodically, somewhat regularly hear from operators of these houses that changes are made to funding or there's an investigation that's opened or some kind of concern. And usually the complaint is they were, they were shut off. They're not sending people to that house anymore. That's a really big deal. You, you are already operating in a space where you don't know how many people are going to parole out in a month so you're holding those beds in hope that that person is going to parole out. There's a lot of uncertainty there. To, to have abrupt changes in-- for, for whatever reason, be it for financial reasons, for investigations, for anything without a really clearly established process makes things very difficult for these houses, whether they-- all of them, the good ones included. And I think most of them are good so I want to--

GEIST: Yeah.

ZACH PLUHACEK: --make that clear. But yeah, so I think that it-- does that answer your question?

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GEIST: It, it does, I'm-- I was curious since-- I just wanted to enlighten the committee a little bit on that of this abrupt change that happens sometimes because I was going to suggest-- and I should have talked to you about this before I said something. But maybe in this could outline a process of communication that needs to transpire between the funder, whether that's Corrections or Parole or whoever, and giving notification to, to the transitional house so that there is a stream of communication that's expected and that's required so that it's not abrupt. So on Monday, they find out they have to get rid of a certain number of employees for whatever reason and then trying to find housing for those employees or those housemates. So it would eliminate some-- am I on--

ZACH PLUHACEK: Yeah.

GEIST: --the right track here?

ZACH PLUHACEK: And I think what we might need to do is there is, there is a provision in here that requires, I believe, a speedy process to resolve disputes.

GEIST: OK

ZACH PLUHACEK: But we might need to broaden that a little bit.

GEIST: Maybe just make that more--

ZACH PLUHACEK: Yeah.

GEIST: --specific.

ZACH PLUHACEK: Yeah.

GEIST: Yeah. OK.

ZACH PLUHACEK: And if I, if I could just mention one other change, I, I saw the fiscal note from the Crime Commission and I think-- we think it's really good. It tells me that they're taking it very seriously and that they want to do this the right way. It's more than what we had envisioned when we thought of this.

GEIST: OK.

ZACH PLUHACEK: I think it would be appropriate to charge a fee and we can change language, I think, in the bill to accommodate that.

GEIST: OK.

ZACH PLUHACEK: You know, these houses are making quite a bit, so.

GEIST: Charge a fee from the house to the Crime Commission to support the investigations or whatever?

ZACH PLUHACEK: Yeah and the, and the support. I mean, I think they're going to be-- this is going to be a resource to the houses as much as-- if it's, if, if it takes place the way that we envision it, it should be a resource to the houses potentially for funding as well.

GEIST: And then one other thing I'd ask you to clarify is that I think also in the fiscal note, there was a-- an assumption that these houses would be regularly investigate-- not investigated, but visited.

ZACH PLUHACEK: Yeah.

GEIST: And I think the understanding that we had was different than that. Do you want to comment on that?

ZACH PLUHACEK: Yeah. I mean, I, I view it not as regulation in the way that we're used to it, where you need a license. I think this can be a bit more passive. It can be more complaint driven. I do think there will need to be some paperwork and things that, that should be on file and there should be regular sort of assessments to make sure that what a house says is happening in the house is happening. But in terms of fire inspections or building and safety inspections, I think those would happen on an as-needed, as-needed basis.

GEIST: OK.

ZACH PLUHACEK: And so to the extent-- I, I'm not sure the Fire Marshal would need to do quite as much work as they're thinking they would need to do in this. And I would say the same goes for the Crime Commission. They have two or three investigators, I think, in their fiscal note. And I, I think it would be much more valuable to have a program manager position that is of a higher level than what's in their fiscal note right now and then maybe sacrifice one or two investigators. We want somebody who can work as a facilitator as much as an investigator.

GEIST: OK. Thank you, but I think that helps.

WAYNE: Senator Blood.

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BLOOD: Thank you, Chair Wayne. So I have some questions about the bill that we weren't allowed to ask Senator McDonnell. And it sounds like you're, you're pretty hip to what's going on.

ZACH PLUHACEK: I'm division staff, so--

BLOOD: All right.

ZACH PLUHACEK: --I don't get the same protection, I think.

BLOOD: So the-- I have several questions and they're easy. I don't think they're hard questions. So one of the things you-- there's so many things defined within this bill, but one of the things that's not defined is support services. And as you know, I worked for the prison system for six years and I know what the general definition of support services is. What do you think it is in this bill when they say support services?

ZACH PLUHACEK: I would say for sure things like daily necessities and then non-clinical programming. I would have to go back and look at if, if we have programming mentioned as well.

BLOOD: Yeah, it says, "reentry housing means temporary housing and support services for reentering persons, generally in the first year following a period of incarceration."

ZACH PLUHACEK: So, so that could be case management. That could be-- I mean, these houses do so much and it's really hard to-- as you're, as you're aware--

BLOOD: So, so here's the concern I have reading over the bill multiple times is that I don't see anything about transportation and I don't see anything about people with disabilities.

ZACH PLUHACEK: Sorry, I didn't catch your--

BLOOD: I don't see anything about transportation and I don't see anything about people with disabilities. So when we talk about support services, the fact that there's no definition in the bill has me concerned because I-- and you know that one of the issues for many of the halfway houses are that they don't have access to transportation so they can't go and get a job, so they can't go and see their counselor and they can't afford a vehicle. And so that puts them on foot sometimes in areas where they don't belong. And then the fact that we don't address people with disabilities, as we know, there's a

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demographic within the prison system of people with disabilities, be it visible or not visible, that I'm not seeing defined or addressed in, in this bill. And granted, we can say-- well, as you know, it's already clearly said in the bill. You are going to monitor the data so we have a yearly report we have that we can do better with.

ZACH PLUHACEK: Exactly.

BLOOD: So in a year we say, oh, look, they weren't by bus stops or they-- an Uber cost \$100 to go across town depending on what time of day you go. So those are two concerns I have about this bill and that I would ask that maybe we find a way to phrase it where there's a-- it's-- there's a definition of what it means and that that's one of the touch points that, that we would have the expectation of when we would even consider a location.

ZACH PLUHACEK: Absolutely. I think a lot of us in this room have interacted with individuals who have had a hard time finding a place to live--

BLOOD: Right.

ZACH PLUHACEK: --when they get out of prison because they're in a wheelchair or have some other need for an accommodation. And you're right, the research component of this bill is huge. I cut it out of my intro because I was running out of time, but--

BLOOD: No, no worries.

ZACH PLUHACEK: --but that, that will be big in, in identifying those big-picture, long-term issues. I don't think we can require every house to be able to accommodate every condition, but--

BLOOD: I, I concur, but the fact that it's not even mentioned means there's not an expectation in my personal opinion.

ZACH PLUHACEK: Point taken and agreed with.

BLOOD: Thank you, Zach.

WAYNE: Any other questions from the committee? Seeing none, thank you for being here.

ZACH PLUHACEK: Thanks, Senator.

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WAYNE: Next proponent. Proponent?

MARK BROHMAN: Mr. Chairman and members of the committee, my name is Mark Brohman. That's M-a-r-k B-r-o-h-m-a-n. I live at 2637 Washington. I know most of you don't live in Lincoln so you probably didn't read the Lincoln Journal Star yesterday, but there was an article about a halfway house or a transitional house in Lincoln. That was my neighborhood. The planning commission turned that application down for a reasonable accommodation. They turned it down 7-0. Now the city council has to decide. They're afraid of the Americans with Disabilities Act and afraid of the Fair Housing Act because it says you can't discriminate against people with a disability and people that have a mental, alcohol or drug problem are considered ADA. But these houses aren't ADA accessible, but they're falling under that permit. So I want to tell you what's going on in our neighborhood and why we want you guys to look a-- find a way to correct the situation or at least inspect these facilities. We've got a house that sold this summer in June. It's a large house on the corner of 27th and Washington; 27th is one of the busiest streets in Lincoln. The house sits six feet off of the road because 27th was widened at one time and so it's right up against the sidewalk and the sidewalk is right up against the house. So from the house, you can almost reach out the window and touch cars passing by. So it's on a busy intersection. There's a fire hydrant in front of it so there's no parking. So every day, people park in front of the fire hydrant. When people come round the corner, people are honking. People are almost getting hit. At the hearing the other day, Mr. Michael Corrado, who owns this house, is called MAK Development out of Omaha. He owns nine of them in Omaha. He has three in Lincoln. This is his third one in Lincoln. And he's going to continue to get them because he's making money hand over fist. He's charging \$750 a day and he wants to put 12 people in this house. It's a four-bedroom house built in 1918 with two bedroom-- or two bathrooms and one of those bathrooms is in the basement. And it's a very rudimentary bathroom. It's a stand-up, small shower, doesn't even have a ceiling. And I'm very familiar with the house because I used to help the older gentleman who lived there. So they've got-- they want to put 12 people in four bedrooms, plus they have a house manager. Speaking of house managers, they've had four or five house managers that I know of in the house and they've only been there six months. When Mr. Corrado moved in there, you know, he said that the neighbor asked him if-- who was going to be in the house. He said, I heard you have got some college kids and they're going to live in the house. He didn't say anything. Didn't tell us what it was going to be. All of a sudden,

we saw all these people moving into the house. So I called the city and I said, hey, we've got more than three unrelated individuals here. So they came out, inspected the house. They found all kinds of violations, including no smoke detectors in front-- around the bathrooms, no ground fault, electrical plug-ins in the bathrooms. Those are deadly things. Those aren't just something to brush off. These gentlemen are stacked and they're-- you know, six people using each bathroom and they were-- no smoke detectors. Until I reported it, the city went out, he had no plans to put any smoke detectors in. He had no plans of coming and asking for reasonable accommodation. He was going to try to get by with whatever he could. We had all kinds of things in our neighborhood happened, including my wife went out one night at 10:15 on a weekday. An individual was having sex in front of our house where-- there was a streetlight one house down. She knocks on the window. The guy gives her thumbs up. And then to find that-- we find out a couple of days later he was kicked out of the house, but his buddy, he said, well, he had sex earlier tonight so he got--

WAYNE: Time, sorry.

MARK BROHMAN: --excuse me. So he got kicked out. So two guys get kicked out for that. So I'd be glad to answer any questions, but I--

WAYNE: Any questions from the committee? Seeing none, thank you for being here today.

MARK BROHMAN: Thank you.

WAYNE: Next proponent. Next proponent. So he went 20 seconds longer so he reduced yours by 20 seconds.

JASMINE HARRIS: That's quite all right. Good afternoon, Senator Wayne and members of the Judiciary Committee. And it's good to be back in front of the Judiciary Committee and all of you are new faces this time around. My name is Jasmine Harris, J-a-s-m-i-n-e H-a-r-r-i-s. I am the director of public policy and advocacy for RISE and I request that my testimony be included in the record as RISE in support of LB334. RISE is the largest nonprofit organization in Nebraska focused solely on habilitative programming in prisons and reentry support and our sole mission of RISE is to break generational cycles of incarceration. One of the biggest assets of our organization is our reentry team. As we are serving people who are incarcerated through our program in the facilities, we're able to dig into reentry planning with our participants. They complete reentry plans as part of the

program and about one year from their earliest release date, our reentry specialists are able to start working with them on refining those plans. We address all aspects of reentry, which include housing, employment, mental and physical healthcare, transportation and more. There are over 150 of our graduates that have returned to the communities across Nebraska after incarceration. Our reentry specialists work diligently to assist them through our case management services, and I can say that finding quality, safe and affordable housing is one of the biggest challenges that we deal with. This includes everything from public housing and private landlords to transitional living houses. There are so many barriers put in place when trying to find housing that include the person's conviction, geographical sanctions and availability. Transitional housing was supposed to be the answer to the issues of finding housing for individuals as they were released from facilities. What we have found is that (1) all transitional housing is not created equal and (2) there is still a shortage of the amount of beds needed for transitional housing. As our participants were coming out of incarceration and our reentry specialists were working with them to find housing options, transitional housing was always one of those options. As we work to get more people housed, we've heard of issues with some of those transitional homes and their operations, advertised programming not being offered in those houses and overall safety. In my candid opinion, once word got around that the state was paying for people to live in said housing through voucher programs, entities began to capitalize on the opportunity without really understanding how to operate a successful transitional house that would foster successful reentry and not harm a person's well-being. Also, during Senator Lathrop's mission to release the pressure on the pain points of Nebraska's criminal justice system, what could never be answered definitively was how many transitional housing beds do we have in the state and how many do we need? For these two reasons alone, LB334 will give us a starting point to bring transitional housing into alignment and present basic standard of operations that are evidence based and give us a sense of what is available across the state. Housing is one of the most basic needs that must be met to ensure safety. Creating this network and advisory committee will allow for people returning to communities to feel assured that they are getting housing that is held to a standard and not just being taken advantage of because they are trying to reestablish themselves. Thank you and with that, I'll take any questions.

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WAYNE: Thank you. Questions from the committee? Seeing none, thank you for being here.

JASMINE HARRIS: Thank you.

WAYNE: Next proponent.

SPIKE EICKHOLT: Good afternoon, Chair Wayne and members of the committee. My name is Spike Eickholt, S-p-i-k-e, last name is E-i-c-k-h-o-l-t. I'm appearing on behalf of the ACLU of Nebraska and the Nebraska Criminal Defense Attorneys Association in support of LB334. We support what we believe is sort of the underlying theme or the underlying purpose of this bill and that is to try to ensure that the state has adequate and safe transitional housing available for people who are reentering the community following their time in prison or their time incarcerated. You've heard what Ms. Harris said and what other people have said before. That is one of the biggest obstacles and speaking on behalf of the defense attorneys, is really the biggest determinant or the terminative factor for whether someone's going to complete a term of parole or probation successfully. That first few months when they're released, where they end up, who they're with, if they're sober, if they are properly supervised, if they've got a job, if they got positive support group, that's going to make a difference whether they're going to go back into the system or not. It's just that simple. And what this bill does is a number of things that facilitates that. It does require some recordkeeping. It does require some minimum standards. I think I understand what Senator Geist was asking about. We don't necessarily want to have a whole licensing scheme where we have a bunch of perhaps arbitrary state hurdles to it. But at the same time, we do want to have some assurance that where our people are going when they leave the system is something that will benefit them and benefit the community. So for those reasons, we urge support of LB334 and I'll answer any questions if anyone has any.

WAYNE: Any questions from the committee? Senator DeKay. About to say Kay.

DeKAY: Thank you, Chairman Wayne. You talked about recordkeeping and stuff. Who's in charge of the recordkeeping? Is that the house manager or is that Corrections or--

SPIKE EICKHOLT: It could be a couple of people. What the bill proposes is that the, the Crime Commission, or what they call the Nebraska Commission on Law Enforcement, actually sort of try to maintain a

record of the statewide facilities that are available; how many are there and which ones meet the standards that I think the bill is trying to set forth. Right now, I'm not quite sure record-keeping is done. I suppose the Board of Parole has some idea of where some people are going to go. Department of Corrections probably has some idea of where the different houses are. The Probation Department does work with some of the different placements. But as far as I know, and I, I can't speak as, as certain about this, I don't think there's actually any oversight-- statewide oversight for these facilities. Now if they're in Lincoln or in Omaha, they have the local ordinances that sort of regulate how many people live in a house who are unrelated. And I think one of the earlier testifiers talked about that. But what this bill does, at least to have some sort of statewide focus on that, that works with the Parole Department, that works with the Department of Corrections so that you can have a process that is-- makes it easier, more comprehensive.

DeKAY: Thank you.

SPIKE EICKHOLT: Thank you.

WAYNE: Any other questions? Seeing none, thank you for being here. Next proponent.

DEAN COLE: My name is Dean Cole. I live at 2644 Washington Street, Lincoln, Nebraska. I confirm everything that Mr. Brohman had talked about. He's my neighbor. I want to just talk to you about--

WAYNE: Can you spell your name for the record?

DEAN COLE: C-o-l-e. I just want to talk about what's going on there. I'm four feet away from this house. I have got to know eight of these individuals of about, I think, 25 that have processed to this house in the last six months. During this time, I have seen people have been dropped off with-- in their prison pants, a t-shirt, out in the cold and no direction where to go. I've gone over there and have assisted them using my cell phone and asked directly who do we call? They didn't know who to call. So a couple-- one time, I called Julie, which I don't know what her last name is, who's one of the workers with the Michael House. This is the Michael House at 2648 Washington. I would talk to her and I says, this gentleman does not know how to go and he doesn't know-- has no direction here. No one's here to work with him. She says, just have him go into the back. Just have him go in there and just go in and sit down and someone will be there. He hears this

conversation on speakerphone. He says, I don't want to go in there. He was scared. He says, I just got out of prison. He says, I don't want to-- these people have their own places. I don't know where to go. The other one we had, we had a gentleman by the name of Savan [PHONETIC] who was dropped off too. He was dropped off at the wrong place. My wife and I took him to the other location that he was-- in north Lincoln, where he had to be dropped off at the other Michael House. He was panicky. He was scared. Again, there was no direction. Another young gentleman was dropped off again too one day and again, no direction. There should be someone there waiting and helping with these people. I feel sorry for them. I've gotten to know, like I said, eight of them. And eight of them have also complained to me too that there has been no supervision in that house. They don't know who to complain to because they're scared to complain to Corrections. They're scared to complain to the Michael House because they don't know where they're going to go. I can honestly say-- and I'm going to mention their names-- I'm on a personal name basis right now, Mickey Kilpatrick [PHONETIC] and also with Jordan Wall [PHONETIC] and then I've also called Mr. Quinn, who's with Corrections. I told him that you were sending people into an illegal home that has not been approved by the city and with the zoning. And they have continued, Corrections-- and I've told him these other-- I've sent over 30-some complaints to them and they still continue to send people in there. And this problem has been going on even up till the day of the hearing for the zoning. So we've got-- we want people that want to try, that want to get ahead, but our system is failing. Also, we need some sort of advocacy here on-- of some sort of board or somebody that they can go to because they don't trust Corrections They don't trust-- and I can only speak to the Michael House. And also I've had people that had to come over and borrow cooking utensils from me. I've had to give them food because they did not have food. There was a confrontation over at the house where they had the-- where a knife-- two knives were thrown on the top of my roof and screaming going on over there. All of this was reported. Plus just one other quick thing too, just--

WAYNE: I gotta be pretty strict about it. I appreciate it.

DEAN COLE: I understand. Very good. Any questions?

WAYNE: Any questions from the committee?

DEAN COLE: Yes.

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GEIST: I-- just quickly, so the things that this bill is setting out, you're in favor of?

DEAN COLE: By all means. And I think, too-- one of the things, too, when I studied the bill-- I read it over fast. I think it'd be good to-- and I know it'd be hard to do this, but it'd be good to have some sort of neighborhood association people on that one advisory board too. I know that'd be difficult, but yet, I think that would be really important because they're moving into these neighborhoods. And again, we want these folks to be successful.

GEIST: Sure. Well, you have some good people in the audience here, so thank you.

DEAN COLE: Yes.

WAYNE: Thank you. Next proponent. Next proponent. Welcome.

RYAN SPOHN: Good afternoon, members of the Judiciary Committee. My name is Dr. Ryan Spohn, spelled R-y-a-n S-p-o-h-n. I am director of the Nebraska Center for Justice Research at the University of Nebraska-Omaha. The views I am sharing today are my own and do not represent an official position of the University of Nebraska System or the University of Nebraska at Omaha. Formerly incarcerated people are ten times more likely than the general public to be unhoused. Moreover, rates of homelessness in this population are higher for women, for racial and ethnic minorities, for older persons, and for those with two or-- two years or less since their release. Homelessness is a fundamental condition that contributes to a revolving door of incarceration that is costly to human dignity, as well as to Nebraska taxpayers funding our correctional system. Empirical research highlights the role that employment plays in reducing recidivism and reincarceration and society places an emphasis on employment as a signal that formerly incarcerated people are taking, taking advantage of second chances and conforming to societal expectations. We must consider, however, how difficult it would be for any of us to consistently make it to work or to even attend this hearing today if we were homeless or couch surfing. Consequently, I applaud the intent of this bill in encouraging the development of quality, safe reentry housing that will aid in the productivity of formerly incarcerated persons. Another key aspect of the bill is a call for minimum health and safety standards for reentry housing facilities. Neither the interests of reentering individuals nor the interests of the state are being served if our tax, tax dollars fund

dangerous or substandard reentry housing. Just as employment can encourage and restore human dignity, dignity among formerly incarcerated persons, safe and stable housing are essential for individuals to become productive, conventional, conventional citizens. Our interests are not served if the lack of standards allows for profiteering by persons providing substandard housing to this population. In summary, safe and stable reentry housing is a necessary component. Moreover, it is important to expand the manner in which the state tracks data on the cost, utilization and outcomes of reentry housing to better understand the future needs and to make sure that our policies are data informed. LB334 promotes the central aspects of the reentry processes aimed at reducing reincarceration and promoting safety. Thank you and I welcome any questions.

WAYNE: Any questions from the committee? Seeing none, thank you for being here. Next proponent.

KASEY PARKER: Thank you. Good afternoon, Senators. My name is Kasey Parker, K-a-s-e-y P-a-r-k-e-r. I'm the executive director of the Mental Health Association of Nebraska, better known as MHA. I'm here today in support of LB334. I'd like to start by stating I am not knowledgeable in the parts of the bill regarding certain requirements of the department, the division, network, board or commission. What I am knowledgeable about is developing, implementing and operating successful transitional living houses for people reentering our community from State Corrections. MHA has been providing respite housing for 13 years and transitional living for 8 in June-- as of June. We are CARF accredited, Commission on Accreditation of Rehab Facilities. There are over 1,500 standards that we are required to meet in areas such as leadership, finance, legal, health and safety, rights of persons served, technology and human resources, just to name a few. While I don't believe all transitional livings need to be held to this standard, my main concern is health and safety and rights of persons served. For-profit organizations have learned in the past few years that parole and probation will pay a daily rate providing housing to people reentering. They're buying four- and five-bedroom homes, stacking up to 12 people in the house. The lowest rate we receive is \$65 a day. That means at full capacity, they are making \$780 a day, over \$23,000 a month and over \$280,000 a year. This is, this is not a safe environment. It's not conducive to recovery, it's not trauma informed and it's exploiting people who often are just grateful for a place to stay. As a nonprofit, we receive the same amount. However, we are single-room occupancy, staffed 24-7 at a 1 to 6 ratio. We are inspected on a minimum annually by building and safety

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and the Fire Marshal. There are a few people who can show up unannounced and those are parole officers, probation officers and the Fire Marshal can have access at any time. We post annual occupancy permits and fire inspect-- inspections in the entryway. The Fire Marshal requires us to have all kinds of things, including carbon monoxide detectors, fire extinguishers, battery-operated lighting. And I think all people deserve this. The people we serve come to us with long histories of poverty, violence, trauma, substance use, and many have never experienced a healthy relationship. We must offer these for-profit companies who are coming and we stop-- we must stop these for-profit companies from coming in and exploiting them. We need to give them safe, clean, affordable housing that supports their recovery. A small taste of a different lifestyle may-- might give them the desire to want more for themselves. Thank you for your time.

WAYNE: Thank you. Any questions from the committee?

GEIST: I do.

WAYNE: Go ahead, Senator Geist.

GEIST: Thank you for your testimony. And I just want to thank you for what you do.

KASEY PARKER: Thank you.

GEIST: I've visited your house. You are known across the city, probably across the state, of being one of the best homes for transitioning that there is.

KASEY PARKER: Thank you.

GEIST: You do great work and I appreciate it.

KASEY PARKER: Thank you very much. I appreciate that.

WAYNE: Any other questions from the committee? Seeing none, thank you for being here. Next proponent.

TESSA DOMINGUS: My name is Tessa Domingus, T-e-s-s-a D-o-m-i-n-g-u-s. I'm going to try and not repeat everything that Kasey just shared, although I agree with everything she just shared. Prior to my incarceration, I had the opportunity to complete drug court. I went through treatment successfully. It was placed into a halfway house that didn't have any on-site supervision, support, programming. I was

not successful in that program, which led to my incarceration. While I was incarcerated, I was introduced to the Mental Health Association. They-- I was introduced to them through the WRAP program, Wellness Recovery Action Planning, which changed my life. They continue to be a support person of mine and I have now been employed by them for almost seven years and I'm one of the Honu coordinators. We operate with standards that I believe should be the minimum expectation of such entities that have such a huge impact on the success of individuals that are reentering. And that in turn also affects the safety of our communities. As-- there are already some standards in place for this when we look at transitional living through zoning requirements and those are being bypassed by many of the sober living houses that are now popping up today. And when they bypass those, they're bypassing the minimum safety standards that Kasey had talked about with fire extinguishers, fire escapes, using non-conforming bedrooms, basement rooms that don't have egress windows, attic rooms that don't have drop-down ladders, sun rooms that are hot in the summer and cold in the winter. They're not intended to be bedrooms. We do believe in the dignity of personal space and giving people that space by having their own room, that's important, especially after coming out of a women's facility where we can have six of us sometimes in a room. That personal space is really important. We believe in being a part of a community and teaching other people how to be a part of their community as well. We are staffed 24 hours and provide wraparound services like WRAP groups, [INAUDIBLE], trauma groups and other support groups on site. We have supportive employment and outreach workers that work with our people, and I just believe that there are some minimum standards that could be met by some of these other houses as well. I think there's not enough transitional living, but safe transitional living is important.

WAYNE: Any questions from the committee? Senator Ibach.

IBACH: Thank you, Mr. Chairman. What's the average length of stay for a-- for one of the persons at your facility?

TESSA DOMINGUS: The average length of stay is usually 60 to 90 days, but we try to keep it very individualized. So that might look different for somebody who's done two to five years versus somebody who's been incarcerated for 20 years or that was incarcerated as a youth and is now an adult. So we try to make sure that we have funding from different sources so that we can abide-- provide that individualized care. If you need to learn how to do laundry and cook

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and drive, you might be with us a little bit longer than 60 to 90 days.

IBACH: Perfect. Thank you. Thank you, Mr. Chairman.

WAYNE: Any other questions from committee? Seeing none, thank you for being here today. Next proponent.

TARA SHAFER: Good afternoon, Senator Wayne and members of the committee. My name is Tara Shafer, T-a-r-a S-h-a-f-e-r. I'm the residential director for Bristol Station and I'm here on behalf of Western Alternative Corrections. Western Alternative Corrections, Inc. would like to go on record in support of LB334. Transitional housing in Nebraska is a much-needed service for those transitioning out of incarceration, as well as a tool to be utilized as an alternative to incarceration for those who are on parole or probation supervision. Western Alternative Corrections, Inc. has been providing residential reentry transitional housing services at Bristol Station in Hastings since 2008. From 2008 to 2016, we worked with the Federal Bureau of Prisons to provide reentry services to federal offenders transitioning out of incarceration into the community. From 2016 to present, we have worked with several Nebraska entities, including Parole, Probation and DCS, to provide the same program based upon the model the Bureau of Prisons required. While providing services on the federal level, we received annual audits to ensure we were in compliance with the statement of work, which is a 150-plus page document which outlines how services are be-- to be delivered, life safety protocols, insurance requirements and staffing patterns. Since transitioning to providing services to the state of Nebraska entities, we have not received an audit from any of these funding sources to ensure that we have proper life safety policies and procedures in place to ensure the safety of the individuals that we serve. We have not received an audit to determine if we are insured properly to provide residential services. Only one of our contracts requires we provide a copy of the proper liability insurance to provide residential services. Although not required, Western Alternative Corrections, Inc. has continued to implement life safety protocols, accountability measures and facility requirements as outlined by the federal statement of work at Bristol Station because it's the right thing to do to ensure safety of the clients that we serve and to be accountable to the community. We have dedicated staff 24 hours a day. We provide case management services to all participants, as well as evidence-based cognitive behavioral programming based on risk needs and responsivity principles. We provide regular alcohol and drug testing and have a highly structured,

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safe environment. We have a community relations board comprised of the county attorney, sheriff, police chief, president of the chamber of commerce, Senator Halloran, local stakeholders and community leaders. Our program has been in the Hastings community for over ten years and we have maintained positive community support. The lack of oversight has resulted in a non-uniform standard of practice in programming and life safety. Western Alternative Corrections has ensured that all federal, state and local zoning, life safety, building fire and occupancy codes are accounted for, deferring to whichever is more stringent. Not all transitional housing programs offer the same services, but all should offer a safe environment.

WAYNE: Thank you. Any other questions?

TARA SHAFER: Questions?

WAYNE: Senator Geist.

GEIST: Yes, thank you. And again, you're another one of the good examples--

TARA SHAFER: Thank you.

GEIST: --of what to do and how to do it. But could I ask-- and if you don't mind answering, how much do you get reimbursed daily from Parole?

TARA SHAFER: I will get clarification and follow up.

GEIST: OK, OK. All right, thank you.

TARA SHAFER: Thank you.

WAYNE: Any other questions from the committee? Seeing none, thank you for being here.

TARA SHAFER: Thank you.

WAYNE: Next proponent. Next proponent. Switching to opponent. Any opponents? Any opponents? Anybody testifying in neutral capacity, in the neutral capacity?

DOUG HOHBEIN: Good afternoon, Chairperson Wayne and members of the Judiciary Committee. My name is Doug Hohbein, D-o-u-g H-o-h-b-e-i-n, and I'm the Interim State Fire Marshal. I'm here to testify in the

neutral capacity regarding LB334, which adopts the Reentry Housing Network Act. For the agency to comply with the requirements of LB334, clarification regarding notification and frequency of possible inspections is needed. The current language says the Reentry Housing Network may request the agency to investigate any reentry housing facility for fire safety. This has been interpreted to mean that a request for fire inspection may be sent to the agency from the network. The language also allows the agency to set a fee for such inspection, but does not state if this will be an annual inspection process, as is the case with many licensed state facilities or if it will be a on-time inspection. It is also unclear how the agency will be receiving these requests. If it is the intent to have this be an annual inspection process with regular referrals for inspections being sent to the agency, then the agency will need to request updates to current computer programs to accommodate this process so that it matches other state reform programs. Clarification of these items will assist the agency in meeting the requirements of LB334. Thank you for your time and attention. I'll be happy to answer any questions you or the committee may have.

WAYNE: Any questions from the committee? Seeing none, thank you for being here.

DOUG HOHBEIN: OK. Thank you.

WAYNE: Anymore neutral testifiers, neutral testifiers? Seeing none, we have five-- we received five letters of support for the record. And this will close LB334 and we will open the hearing on LB557. Welcome to your Judiciary Committee, Senator Vargas. How you doing?

VARGAS: Good.

WAYNE: Welcome, Senator Vargas.

VARGAS: You caught me. I was just taking some bites of the lunch I didn't get to.

WAYNE: Oh, sorry.

VARGAS: We were in Executive Board, so. Let's see here. Good afternoon, Chairman Wayne and members of the Judiciary Committee. If a page can help me with this? For the record, my name is Tony Vargas, T-o-n-y V-a-r-g-a-s. I represent District 7, the communities of downtown and south Omaha, here in the Nebraska Legislature. LB557 builds on the work that I've done with this committee over the past

few years around the use of restrictive housing. I do want to thank you for your support and help with this work. A couple of years ago, I introduced LB739, which was a comprehensive overhaul of how the Department of Corrections would be allowed to use solitary confinement and restrictive housing. Part of that bill dealt specifically with vulnerable populations, meaning inmates who are under 18, pregnant, or diagnosed with a serious mental illness that prohibited the department from placing these individuals in restrictive housing. That part of LB739 was amended into a committee omnibus, which passed. That bill defined the term "serious mental illness" to match what is in (5)(b) of 44-792 statute. Part of the definition reads serious mental illness means "any mental health condition that current medical science affirms is caused by a biological disorder of the brain, and that substantially limits the life activities of the person with the serious mental illness." The part of that sentence that is causing an issue is the part that reads, "that substantially limits the life activities." Now, what I've learned is the department does continue to place individuals with diagnosed serious mental illnesses in restrictive housing and justifying the decision by saying that the illness does not substantially limit their life activities. My intent, I believe, and the committee's intent from this hearing when advancing this bill was to ensure that no one with serious mental illness would be placed in restrictive housing. I introduced LB557-- or I'm introducing this bill to close this loophole so that the Department of Corrections is fully carrying out the Legislature's intent and we close this loophole for the benefit of what we had worked on in the last couple of years. There are individuals behind me that will have more specific information about the department's process. I'm just going to go ahead and outline some of it based on my understanding and we will absolutely hear from the Department of Corrections and other individuals, I anticipate in opposition, that will delineate more of this. So my understanding is that the department determines whether or not someone, even with a serious mental illness, requires a specific level of care, ranging from their own score of 1 to 5. Now, if somebody falls within the 1 to 2 range, that means that their serious mental illness does not substantially limit their life activities. As a result, I've been made aware that there are multiple individuals in restrictive housing with a serious mental illness. Now LB557 copies most of the language of the definition of serious mental illness that is found in 44-792. It just leaves out the problematic language about life activity being substantially limited, closing this loophole. LB557 also does make other changes that were not part of the bill from last year, the last couple of years. LB557 defines restrictive housing

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as receiving less than 10 hours of out-of-cell time per day and prevents inmates from being held for more than 15 consecutive days in restrictive housing. The data has shown us that the psychological harms of solitary confinement are extreme. Suicide rates and the incidence of self-harm are much higher for inmates who are housed in solitary confinement. Being placed in restrictive housing would be psychologically difficult for relatively healthy individuals, but imagine how devastating it can be for those with severe mental illness. This committee knows well the department feels about these kinds of limitations. They have justified in the past by stating it is necessary to deal with overcrowding issues. Obviously, that's left up to interpretation, but we have-- as a Legislature and an Appropriations Committee, I have been a staunch proponent of better funding our Department of Corrections and approved all the funding requests and I would actually trying to figure out how we can increase more of the raises so that-- at least for the public pressure so that the Governor and the past Governor will continue to better fund pay and continue to increase competitive pay so we can actually address the F-- the FTEs that we have and the vacancies we've had for years. It has gotten better and not only because of the pay increases, but that is a part of this. I do have sympathy for the challenges that the corrections systems are facing. Part of this is from bad sentencing requirements, from disproportionate incarceration of people of color or even from lawmakers that haven't done enough due justice in this area. But I think we need to really think about what we do here in this arena because we are contemplating spending millions of dollars on a new prison and as we are doing that, the, the existing percent and number of people in restrictive housing is only going to grow. It just statistically will grow when we have more, more housing opportunities to do so. However, the quality of life for these inmates are important too and they merit consideration. During previous hearings, we've heard from people who have suffered from serious mental illness, irrevocable consequences to their mental, emotional and physical health after being placed in restrictive housing. There are plenty of accounts of studies that demonstrate how quickly a person who is otherwise relatively mentally stable without serious mental illness can become unstable and how quickly their health can deteriorate when they are placed in solitary confinement or restrictive housing for even just a few days. We have people in restrictive housing for months on end right now and have had extreme cases for years. Now, LB557 doesn't tell the department that they can't use restrictive housing at all. It merely states that the Legislature is feeling that they shouldn't place already vulnerable

inmates with diagnosed serious mental illnesses there. And then further defines and creates different parameters for restrictive housing and defines for solitary confinement that-- more in line with what we're seeing across the country, places that have also addressed some of their overcrowding issues. Just a couple of other things. We'll have testifiers come and talk more about these issues we're seeing with the current definition and with some of the other aspects of the bill. Like everything that I've done in this committee and what I hope to do with not only with the new Chairman and other new members and existing members, I'm willing to work on this legislation. The legislation that we ended up passing wasn't the legislation that we introduced and I'm willing to work on many of these different items. But the one item that is very clear on the SMI absolutely, absolutely needs to move forward so that we are following through on the Legislature's intent that we worked on years ago so that we could actually address some of this overcrowding. I do want to thank Senator Wayne and Senator McKinney because my understanding is currently from the Legislature, we are three senators-- and you can correct me if I'm wrong for other senators-- three senators that have actually been to restrictive housing/solitary confinement units. And have actually visited inmates and spent time listening and talking and getting better educated on what the process has been and is. And there may be more of us that have done that, but I think it is important for any of you to do that because then you'll understand why it's important that we take on this and simultaneously, why is to continually important that we do invest in the staffing needs. So the fiscal note, I'll also say I support finding the funding to meet the fiscal needs of having staff and keeping staff safe no matter what. I do think the fiscal note is more than what I expected because it sort of over-- it over estimates the number of hours that we would need 24-hour individuals that, that are, that are there outside of the solitary confinement units. However, I'm in support of the money that we would need to have the staff so that not only are they safe, but we're also making these changes in statute. So with that, happy to answer your questions.

WAYNE: Thank you. Any questions from the committee? Senator Blood.

BLOOD: Thank you, Chair Wayne. Thank you, Senator Vargas, for bringing this bill forward. I, I keep reading and rereading the definitions on here and I have a couple of quick questions. You talk about what restrictive housing is and the definition in this bill. And based on that, the concern that I have and I'm not seeing in this bill, is that wouldn't this also apply to inmates that are those that are incarcerated in PC and AC? And if so, how would that be handled?

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VARGAS: It's something that I'm happy to work on. And like I said, there are proponents of this bill, specifically SMI, are things that are cleanup or things that are better-- actually defining these. But many of these things, we're trying to bring in some best practices of figuring out how we can better def-- actually define restrictive housing. I'm willing to work with the Department of Corrections and other advocates on how we can better define that, but that there does need to be a separate definition for solitary confinement that is more in line with what we're seeing.

BLOOD: Well, and I think-- I know you talked about the three that have come and talked. I've actually worked in the whole--

VARGAS: Yes.

BLOOD: --worked in PC, worked in AC so I can say I'm the only senator in the state of Nebraska that has done that. And the concern that I have is that with the current prison overcrowding, when we so narrowly define certain things, then we have unintended consequences. So the way I'm reading this-- and, and I'd love to be proved wrong, by the way, on this, but the way I'm reading this is restrictive housing would also apply to how we run PC and AC. And the purpose often for PC is, as you know, to prevent them from being with other inmates. And it can be very complicated as more crowded the prisons become, because you might have, like, a two-level housing area and you can't cross streams. Like, one level can't make contact with the other level or-- and then administrative con-- if they're there for administrative reasons, it makes it even more complicated. And so my only concern is that we're oversimplifying by making it narrow and then what's going to happen is there's going to be unintended consequences. But you did say that there are people from the system here that might be better able to define it for me.

VARGAS: Yes.

BLOOD: But that is one of my concerns about the way it's defined.

VARGAS: Yes. So I'm committed to making sure that if we're going to move forward on a-- on this current bill and the current language, that we have the staff that are able to carry it out to make sure that they are both safe and we're not having unintended consequences on movement or safety. I think that's what part of the fiscal note reflects. But I understand your rationale and I get that.

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WAYNE: Any other questions from the-- Senator McKinney.

McKINNEY: Thanks, Chair Wayne. Thanks, Senator Vargas. Thanks for this, bill. I really don't got a question, I guess, just a comment. I mean, I'm looking at the fiscal note. It's almost about \$10 million and that's less than a prison so I think it's a good idea. Thank you.

VARGAS: Wait, say that again. I missed that last part. There was laughing.

McKINNEY: I said the \$10 million is less than a new prison so let's, let's do it.

VARGAS: My. My, my only comment to that is, yeah, it is a lot less. We're just saying let's, let's make sure that we are following through on the SMI changes. And for the other changes, that would lower the amount of restrictive housing and solitary confinement we have and it would increase the demand on staff. But I want to make sure that we have the adequate staff and if we have to fund the staff, just like we have every single year in the Appropriations Committee and supported the FOP and the deliberative efforts with the Governor, which I'll continue to do, I think we can do both and maintain that safety for them. And make sure that the inmates, we're not creating a problem where we have too many. There's a 2021-- the last report, it was, like, 1,600 people or 1,500 cases of people that were in solitary confinement at that time. Well, no, 540 at that time were in solitary confinement. I mean, the average around that time was maybe 24 days, but we have these extreme examples of individuals in solitary confinement that-- you remember because we were on that same visit, so.

WAYNE: Any other questions? Seeing none, thank you for being here. Are you going to stay for close?

VARGAS: I will not, but I will be happy again to work on any amendments to this to try to make it work. And there are substantive changes, which I have delineated, but the one thing that we do need to do is update SMIs so that it's in accordance with what our Legislature's intent was so we can keep the ball moving forward. Thank you.

WAYNE: Thank you. Any-- oh, I'm sorry-- proponents? Next, proponents. Welcome to your Judiciary.

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REX WALTON: Thank you. Thank you for your time. And Mr. Chairman and senators of the Judiciary Committee and the page from Nebraska, Norfolk. One thing I-- that I am bringing is a personal note on the idea of mental health and how it needs to be helped immensely by taking this close new look at transitional housing.

WAYNE: I need your name and spelling of your name.

REX WALTON: Oh, I'm sorry. My name is Rex Walton, R-e-x W-a-l-t-o-n. I work with the FEAST program at the church-- at Our Saviour's Lutheran Church, which is a transitional prison program, and I worked with the lutheran church of Nebraska to teach for four years out at NSP. So I know 50 or 60 people out there quite well and they've shared their experiences with me and sharing them about restrictive housing is why I'm here today. One of my best students and longtime friends out there was Jackson Hedrick. I have permission from his parents, Sue and Bob Hedrick. Jackson killed himself two years ago at the Pen. He committed suicide. I am not saying that he did not have programs. I am saying that the environment there is such an extreme environment. We need all the help we can get in the way of, of mental health. The restrictive housing and the, and the, and the solitary confinement is, is unacceptable to me. I understand there are inmates that need to be separated for their own personal reasons and for the reasons of staff safety, etcetera. But we have so many people out there, so-- such an overcrowded situation for so many years that we have no way of separating individuals completely or even partially to try to keep the people that are dangerous to themselves and others away from some of the people that are just trying to get their time in and their, and their programs to get out. So with that, I rest my case and if there are any questions--

WAYNE: Any questions from the committee? Seeing none, thank you.

REX WALTON: OK. Thank you very much.

WAYNE: Next proponent. Welcome.

PAUL FEILMANN: Welcome.

WAYNE: This your only time you're going to testify this year in Judiciary?

PAUL FEILMANN: I'm focused. Yeah, this is kind of a biggie. My name is Paul Feilmann, F-e-i-l-m-a-n-n. Welcome. Thanks for letting me testify, Senator Wayne and committee. My name is Paul Feilmann, 5122

Mayberry, Apartment 220, licensed mental health therapist, retired. I'm testifying in favor of LB557. Over the past five years, I've provided volunteer support to residents of several NDCS prisons through the RISE Program and Compassion and Action. I also have engaged in collaboration with NDCS, the Legislature and Inspector General of Corrections to advocate for more programming, mental health support and more effective restorative justice support of prison residents. This has included advocating for better pay and training and working conditions for staff. During my efforts, I have advocated for the elimination of isolation of residents commonly referred to as segregated housing. My research led me to the PBS Frontline documentary, the Last Days of Solitary, which shows how a person in a prison in Maine worked over three years to eliminate highly damaging and restrictive segregated housing. I've given you an email link to this documentary which shows, according to Inspector General Koebernick, a segregation unit very similar to those operated in the Nebraska prison systems. I strongly encourage you to watch this video to make yourself familiar with the extreme mental stress units-- such units put on residents and staff. In the email I also sent you-- each of you, I attached the extensive Ombudsman's report regarding the history-- excuse me-- of incarceration and mental health issues related to Mr. Nikko Jenkins. Mr. Jenkins killed four community members following his release into the community from segregated housing, this despite a clear pattern of expressing an uncontrollable urge to kill. In the summary, the Ombudsman emphasized that over his several years of incarceration-- this is really important. I want you to focus on this fact. Over Nikko Jenkins' time in incarceration, several years, he was in Douglas County Jail for a year and a half. He had ongoing mental health therapy. The notes are in-- of the therapist are in the file. He had ongoing psychiatric care and was on general population for 17 months. He was in segregated housing every year before that and every year after that up to when he left and killed four people on the streets. Mental health services are critical to, you know, folks in segregated housing. If they're in segregated housing, they need to be allowed to get those services he did at Douglas County Jail. And I don't think Douglas County Jail is a picnic, but they found a way--

WAYNE: Thank you.

PAUL FEILMANN: --to serve his needs there.

WAYNE: Thank you for your testimony.

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PAUL FEILMANN: Thank you.

WAYNE: Any questions from the committee? Seeing none, thank you for being here. Paul, I really appreciate all the stuff you do. You do send us a lot of good information so I appreciate it.

JASON WITMER: Jason Witmer.

WAYNE: Welcome.

JASON WITMER: Sorry.

WAYNE: No, you're all right. Go ahead, Jason.

JASON WITMER: J-a-s-o-n W-i-t-m-e-r. I'm coming representing myself. I've done at least about 20 years inside the system, so-- and at least about eight years of that, I would average, is the total amount I've been in solitary confinement. So I've, I've watched Nikko Jenkins go from a troubled kid to completely disturbed. But that's like a-- I can give you a dozen cases from people with feces on themselves or whatnot, but I myself have been in there. So because I present well now is often an illusion because, you know, you deal with all types of things. So when I went in, it didn't take me no time for fights because in prison, a fight out here when somebody will say somebody has a misconduct or this or that is nothing. You're in a prison system where you're surviving. Fights are almost mandatory in order to survive for most of us. However, I've escalated and escalated. Every time I come to the hole-- or the solitary-- or confinement, I will come out. One time, I barricaded the dormitories in, in NSP until they had to bring teams out to come get me. Went in on a gurney, had my clothes cut off, was down in what we called "South 40" at that time. By the time Tecumseh was open, I-- this just keeps going and going, hit people with objects and whatnot. However, I've never been diagnosed with any mental health because my mental health was perfectly well. I was just a troubled person. And you see how this hole is working? So some of us are not mentally ill, as they would say, which would protect us in some measure. We're just bad people. So we just keep getting put in a hole and then this administrative confinement comes upon us and we do two years. That's how I get-- and I don't-- and almost never did less than a year and a half. I would just sit there and we would just pick at each other in the hole. And some days were better than others. But the purpose that I want to get to is the segregation is-- could only help for short term of separation. You have to live in the system. There's not enough people

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in the state. We don't need it bigger for enough people to be in the prison system for us never to come in contact with each other. But we inevitably are coming in contact with each other. When fraternity or brotherhood or whoever is going to come up and tell you we can't keep each other-- our, our staff safe if we don't have segregation, that's like saying we can't do our job. So we would prefer to use this and then put it upon the community, as in the worst results have been mentioned, is people come out, can't adjust. And what happens? The community suffers the consequences, where the prison system-- this is where, if we're going to do this, we should be figuring out them higher levels. I-- if you want to ask because I'm going to run out of time, I now manage a mental health respite, which means I deal and associate with and walk besides people with high levels of mental health.

WAYNE: Thank you. I'm sorry, just--

JASON WITMER: No, that's OK.

WAYNE: --got to keep it strict because otherwise, we get gun day like yesterday. We're going to be here till midnight. Any questions?
Senator Blood.

BLOOD: Thank you, Chairman Wayne. Thank you for sharing your story. I have a couple of quick questions because I'm trying to put things in perspective. So you said that you were put on AC?

JASON WITMER: Yeah, repeated.

BLOOD: So how many times would you say in-- while you were incarcerated, were you written up? I'm not going to hold you to the actual number.

JASON WITMER: Not enough hands in here with fingers.

BLOOD: Would you say--

JASON WITMER: Misconduct reports--

BLOOD: --more than 50 times?

JASON WITMER: Yeah, I would say at least 50 times.

BLOOD: OK.

JASON WITMER: That's a common thing, yeah.

BLOOD: I, I agree. And then it sounds like you were aware that your environment was making things harder on you. Would that be accurate?

JASON WITMER: Very.

BLOOD: Did you ever write a kite asking for help?

JASON WITMER: Yes, I was-- I never wrote a kite or an interview request form, as some would know--

BLOOD: Oh, sorry.

JASON WITMER: --asking for evaluations or to be diagnosed, but I, I grew heavily into opposing, so I'd write what's going on? I would-- though the grievance process. I would do everything. Just--

BLOOD: Well, you have time on your hands when you're in solitary confinement.

JASON WITMER: Yeah.

BLOOD: That's kind of the norm, right, where there's a lot of grievances that are filed because you had--

JASON WITMER: Absolutely.

BLOOD: --a shakedown or-- I'm-- and, and I'm not judging. I'm saying--

JASON WITMER: No.

BLOOD: --that's just kind of the norm because you have time on your hands--

JASON WITMER: Understood, understood.

BLOOD: --right?

JASON WITMER: There's a, there's a whole different dynamic living in there and I understand some of the-- what I would present as being rational other people would see as irrational. You know, for instance, like, how many grievances has Jason filed? There might be 100 of them. Then you're thinking, irrational, right? But I would just-- all I wanted to say, in the part of the mental health, what I do now is I do-- I'm in association with people with high levels of serious mental

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health and the interactions change everything. I have never been assaulted. I've been threatened. I've been talked bad about. Having a-- situations I was worried about. But every thing-- every time has had the ability to de-escalate. And if it wasn't me, it was those who also worked there. And sometimes it was the individuals there because they just associated different. So I, without a doubt, have faith in the department that if you guys were to pass this, they could successfully do it as well as further solitary confinement reform.

BLOOD: All right, thank you.

WAYNE: Any other questions? Senator McKinney.

McKINNEY: Thank you, Chair Wayne. Thank you, Jason. I got a question. Do you-- so people that are deemed as individuals with serious mental illnesses, do you think there's a time period where they start taking medication where it's appropriate for the department to consider them not seriously mentally ill anymore?

JASON WITMER: Well, that's a hard one because that's talking about, you know, like, medication and, and something I have no experience with. I've never taken meds. I, I do know that for somebody, somebody to go to the hole and whatnot and get a chance to balance, you got to keep coming back into the population to see how you deal with other people. Otherwise you will inevitably be in the public. So if somebody is balancing out, I have no experience, but I would think a couple weeks. If it was a high level of violence that happened, a couple of weeks of violence behavior, I don't know how you'd predict that inside a confined cell, but yeah, the-- keep cycling. So Nikko Jenkins came out. He wasn't a serial killer on the yard. That's because he went out into a free society off his rocker, not having the support that he should have had and it just escalated into a mentality that he was stuck in, from my belief and what I've observed repeatedly in a community. Not that level of stuff, but people I've associated with work wise and personally in my community advocacy wise.

McKINNEY: Do you think the staff, the administration and the COs make it worse on individuals in those situations?

JASON WITMER: Oftentimes because there's a disassociation. So we put a person in the hole, our problems are resolved. However, I will say in defense of the department, they have implemented something called IPS, which is the intentional peer support, which is the men and women inside of the department who are able to be part of de-escalating

situations. That-- now this requires a culture of the staff to use it and not to start undermining the-- what the value is in there. And it's, it works. That's, that's what I'm speaking about when I'm talking to them houses. It works inside. Because I can imagine all my problems, they can't resolve all the issues I have. But if somebody is coming to me through the yard and is genuine and has care and doesn't have the uniform that's triggering me already to think you're just there for one reason, there's an opportunity for me to hear you. And if it's not happening at that moment, it will grow to be an opportunity for me to hear you.

McKINNEY: Thank you.

WAYNE: Any other questions? Seeing none, thank you for being here. Any other proponents? Welcome back.

JASMINE HARRIS: Thank you. You all will be seeing me a lot this session, I guess. Good afternoon, Chair Wayne and members of the Judiciary Committee. My name is Jasmine Harris, J-a-s-m-i-n-e H-a-r-r-i-s. I am the director of public policy and advocacy with RISE. Again, we're an organization who focuses on habilitative programming for people who are incarcerated and coming home. For this LB550-- I'm blanking on the number now, sorry. It's been a long day already--

WAYNE: LB557.

JASMINE HARRIS: --LB557, I do want to be on record as RISE is in support of this and I want to bring a perspective not from just being inside the facilities. We do appreciate the opportunity that the Department of Corrections offers to bring in our program and work with individuals. What I want to talk about is also when people release. Ninety percent of people who are incarcerated will come home to our communities. And so solitary confinement isn't just used for individuals who are on long-term or life sentences so this does impact people that we work with consistently. Incarceration can be traumatic as well and people who may not have had a mental health condition going in can sometimes come out with mental health conditions caused by incarceration and it can exacerbate mental health conditions. So solitary confinement on top of just regular incarceration impacts that from that standpoint. The long-term impacts of confinement are not just on mental health, but also physical health. And these are the things that we have to deal with as individuals are coming home. How can we get them connected to the services and resources that they need

to address these issues? Working with our reentry population challenges, we do see a lot of people who suffer from mental illnesses and when we have to work with service providers in the community, there are very long wait lists of us trying to connect individuals. We can't get them connected. Sometimes there's a 30-day wait. It just all depends. And so when we are working with individuals who are coming home from incarceration, when we know 90 percent are coming home, we have to start thinking proactively of what can we do to ensure that they're returning in a better situation. How can we provide the help that they need? And I want to say solitary confinement is isolation. We all dealt with this at the beginning of COVID. How did we all feel being confined in our, in our house for that long? And what research is showing, that mental health declined in that time frame for a lot of people. So if we are comparing it to that with solitary confinement in incarcerated individuals, we have to then take that into consideration of how long we're keeping them isolated and in confinement. And with that, I thank you.

WAYNE: Any questions from the committee? Seeing none, thank you for being here. Next proponent.

SPIKE EICKHOLT: Good afternoon, Chair Wayne and members of the committee. My name is Spike Eickholt, S-p-i-k-e, last name, E-i-c-k-h-o-l-t, appearing on behalf of the ACLU of Nebraska as their registered lobbyist in support of LB557 and we want to thank Senator Vargas for introducing the bill. Senator Vargas did give a very good overview of this committee and the Legislature's work on reforming, whether it's called solitary confinement or restrictive housing. And someone alluded to it before, but since there's new members of the committee, maybe I'll just sort of state it, kind of go over it again. The situation with Nikko Jenkins sort of raised a lot of these issues at the Department of Corrections that focused work on reform of the Department of Corrections. And one of those, as someone had said earlier, is that Nikko Jenkins spent a significant period of time in prison serving a number of sentences and a very significant percentage of the time he spent in prison was in what has been referred to as solitary confinement. You can't keep people-- not all people-- in prison forever. And the general sort of concept, if you will, for corrections, you take someone off the streets. They're held accountable for what they do. You put them inside for a while. You kind of try to rehabilitate them and then when they leave, they should be a little bit better than when they went in. And what we had with Nikko Jenkins was really the inverse. He was released from solitary confinement into the community and really in a matter of days and

weeks, he killed four people. That focused a lot of analysis on the department's use of solitary confinement. And due to the overcrowding situation, due to understaffing, it was used fairly liberally. And in 2015, the Legislature passed LB598, which establishes a task force to look at the use of restrictive housing. I think Senator DeBoer was or is on that task force, along with some other people representing different groups and organizations. LB598 prohibited restrictive housing or solitary confinement being used for discipline purposes, among a number of other reforms. And as Senator Vargas said, in 2019, the Legislature specifically delineated that certain vulnerable populations, people under 18, pregnant women and people with serious mental illness, should not be in restrictive housing. And what LB557 tries to do is to try to narrow the definition or the ability for the Department of Corrections to put people with serious mental illness in restrictive housing despite the Legislature's earlier mandate. At the ACLU, we received numerous intakes from people who were in restrictive housings, really for a period of years, who have diagnosed mental illnesses that fit the definition of serious mental illness. And that's something that is problematic and I can document those to you if you have any specific questions about that. But this bill seeks to further implement those reforms that the Legislature has already adopted and we encourage the committee to advance them to the floor and to consider them. And I'll answer any questions if anyone has any.

WAYNE: Any questions from the committee? Seeing none, thank you for being here. Any-- next proponent. Welcome.

BRENDA MAE STINSON: Hello, Senators. My name is Brenda Mae Stinson. B-r-e-n-d-a M-a-e S-t-i-n-s-o-n. I am a resident of the state of Nebraska and constituent and-- within our community here. My son Austin is autistic with manifested mental health issues. And you will find that way-- of course, I think is-- here we go. There is a court-- district court order here. Austin was sentenced to 16 years, no more than 18 years in prison on December 30, 2022. Austin was with developmental disability services in the community and then through, through some department mismanagement, he lost his developmental disability services. And, and he was, and he was placed on a medication while he was placed in emergency protective custody that caused him to go into a psychosis. He came to my house, beat me brutally-- brutally beat me, sorry. I wound up with a traumatic brain injury, broken shoulder, three cracked ribs. I almost died that day. And I kept on telling the courts, the county attorney, everyone, he needs to be at the regional center. He needs to get help. And logistically, it was not his fault. A medication was in his system

that was treating him that he was not to be treated with. Does Austin have volatile behaviors because of his autism and dual diagnosis? Yes, he does. When he is scared, when he's threatened, when he doesn't understand or know what other people's-- how they're communicating because of his autism. It can be the sensory issues within a cell. I know he's placed in this new area that they built over there, but prior to this--

WAYNE: Time, ma'am. Anybody have any questions? I have a-- can you wrap up a little bit quick-- just wrap up the last 30 seconds? I didn't want to cut you off like that when you're about to say something.

BRENDA MAE STINSON: Yes. No, that's fine. You know, our whole family feels like it's collateral damage. And that no matter how much we've called people, talked to them-- I was on Channel 8 News with the Shafer family just, you know, not long ago speaking out. It's, it's devastating. You know, he was once in prison before because he was vulnerable to-- within the community and it was before 2015. Four years he spent in solitary confinement without a break.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here today. Next proponent. Next opponent. Welcome.

DIANE SABATKA-RINE: Thank you. Good afternoon, Chairperson Wayne and members of the Judiciary Committee. My name is Diane Sabatka-Rine, D-i-a-n-e S-a-b-a-t-k-a-R-i-n-e. I'm the Interim Director of the Nebraska Department of Correctional Services. I'm here today to provide testimony in opposition of LB557. LB557 is a dangerous bill that creates unreasonable parameters considering the department's existing facilities, staffing capabilities and the acts of violence committed by some members of our population. The average number of people in restrictive housing is approximately 4 percent of the total population. This is a relatively small number of people who make the community within NDCS facilities unsafe. In order to operate safe prisons, we must have a mechanism to safely separate those who create significant risk of harm. The department is dedicated to housing individuals in the least restrictive setting possible. As you will see on the handout, we have significantly reduced the number of people in restrictive housing, with a 40 percent reduction rate in our restrictive housing population since 2018, without sacrificing the safety of our facilities. By contrast, LB557 proposes changes that would place our staff and incarcerated population in significant danger. Our correctional staff work long hours, have numerous

responsibilities and put themselves in harm's way every day. We must allow them to continue to do this important work without the additional danger this bill would create. This bill, particularly the limit of 15 consecutive days in restrictive housing, would send the message to incarcerated individuals that they can commit acts of violence in our facilities without serious consequences. For a period after NDCS stopped using disciplinary segregation on July 1, 2016, there was a misconception among some inmates that they were free to commit acts of violence. In July, August and October of that year, we had three out of the four highest numbers of staff assaults on record. The message sent to the incarcerated population matters and this bill would send a clear and alarming message. About two-thirds of Nebraska's longer-term restrictive housing population were placed there as a result of a serious act of violence. LB557 would create ample opportunities for incarcerated individuals who commit acts of violence to repeat those offenses. Section 2 of this bill specifically prohibits an individual with a serious mental illness from placement in restrictive housing. The department has put considerable effort into identifying individuals with an SMI, categorizing their level of care and managing them properly. More information about the levels of care and SMI services is provided in the handout. The department is opposed to LB557 because it will substantially increase the risk of physical harm to NDCS team members and incarcerated individuals. This bill is in direct conflict with the department's mission to keep people safe. We have significantly reduced the number of people in restrictive housing. Based on this work, we know that outcomes can be improved without the significant safety concerns this bill would create. Thank you for the opportunity to testify and I am happy to answer any questions that you have.

WAYNE: Any questions from the committee? Senator Blood.

BLOOD: Thank you, Chairman Wayne. Just a couple of quick questions. And noticed you've been here for the whole hearing, so--

DIANE SABATKA-RINE: Yes.

BLOOD: --I think you'll know the answer. Reading the definition of restrictive housing, do you feel that it's going to bleed over into AC and PC?

DIANE SABATKA-RINE: So we no longer use the terms of administrative confinement, or AC, or protective--

BLOOD: I'm old school, I apologize.

DIANE SABATKA-RINE: Protective custody is still a classification.

BLOOD: Right.

DIANE SABATKA-RINE: However, we have been able to move our protective management units out of a restrictive housing status. So they operate very much like a general population unit within their housing units and they get at least six hours out of cell every day.

BLOOD: OK. Excellent. Thank you.

DIANE SABATKA-RINE: Um-hum.

BLOOD: So you don't feel that that definition will, will affect--

DIANE SABATKA-RINE: The definition of restrictive housing will certainly impact the agency. So currently, the definition in the bill extends the out-of-cell time to two hours per day. And quite frankly, our facilities are not designed to afford that, that type of out-of-cell activity in those restrictive housing areas.

BLOOD: So it will definitely change it.

DIANE SABATKA-RINE: Yes.

BLOOD: Thank you.

DeBOER: Any questions?

McKINNEY: Yes.

DeBOER: Senator McKinney.

McKINNEY: Thank you, Senator DeBoer. Thank you for your testimony. I got a few questions. My first, are the individuals that you're placing in restrictive housing or solitary, whatever, are they human?

DIANE SABATKA-RINE: Of course they're humans, sir. All of our population is human.

McKINNEY: OK because I ask that question because how do you think you would fare if you spent 15 days in restrictive housing?

DIANE SABATKA-RINE: So I understand the concern. But again, we have a responsibility to keep people safe. So the people that are placed in restrictive housing present a significant danger to others that live and work in our facility.

McKINNEY: But you, but you do realize if you keep housing them in restrictive housing and their mental capacity deteriorates over that time because you think you want to keep people safe, when they were-- are released, those individuals present more potential harm to the public because you housed them in restrictive housing for an extended period of time. My, my second question is if you can't properly supervise 4 percent of the population, as you say, how can you supervise the 1,200 to 1,500 more individuals for the new prison that you guys want?

DIANE SABATKA-RINE: I'm not sure I understand your question, sir.

McKINNEY: If you can't properly supervise 4 percent of the population, how are we as a Legislature going to be-- going to feel comfortable-- I'm not voting for it, but some people will. How are they going to feel comfortable voting for, for the budget to allow you-- to allow for the construction of another prison if at this time right now, you can't even properly supervise 4 percent of the current population in restrictive housing?

DIANE SABATKA-RINE: I'm not sure what I said that led you to believe that we can't properly supervise the 4 percent of people in restrictive housing. We do supervise them. We do provide services to them. We do provide risk-reducing programming to them, so--

McKINNEY: It goes to my, it goes to my last point. Is the department vision to be overly punitive or corrective?

DIANE SABATKA-RINE: The department's vision is to be corrective. And again, we don't use restrictive housing for punitive reasons. We put people in restrictive housing because of the risk they present and we provide programming to them while in restrictive housing to mitigate that risk and reduce the opportunity for them to hurt others when they're released.

McKINNEY: Do you think your approach is working?

DIANE SABATKA-RINE: I do think it's working. Again, I think--

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McKINNEY: At the expense of the men and women inside of our prisons.
Thank you.

DIANE SABATKA-RINE: Certainly.

DeBOER: Thank you. Senator McKinney. Other questions for this
testifier? Thank you so much for--

DIANE SABATKA-RINE: Thank you.

DeBOER: --your testimony. Next opponent.

CHRIS BERGNER: What's going on, guys? Long time no see. Last time I saw you in a committee hearing, we were having a staffing crisis. Tried to fix it, still going on. My name is Corporal Bergner, C-h-r-i-s, common spelling, last name, Bergner. I've been with the department now for three years. I was at NSP for two years. I've been at OCC for one year and I got to work the RHU for 13 months during the pandemic so I have a lot to say about this. So three-minute time limit, I'll do my best, but let's see what we have. First thing they teach us in the academy, three out of four of our incarcerated individuals have mental illness. If we had more community wellness centers, maybe they could have avoided a few steps of making it to the prison. Saying we don't need to build a new prison-- McKinney asked me that last time I was up here. Do you think we need to build a new prison? I said we can't even staff the ones we have. Do you remember that? Well, we need a new prison. I think a huge problem that we're dealing with is the overcrowding. If we were to go to this whole 10 hours a day out-of-cell time, that would have a lot of strain, increased man hours, make our current housing units completely obsolete and it would cost the state millions upon millions. I think I heard Vargas say something like \$10 million. But if it costs \$2 million just to fix the roof on a housing unit, I can't imagine how much it would cost for each prison to have to tear down their current RHUs and SMUs and have re-renoate the whole thing. Plus, we're not even talking about the extra staff we would have to hire. And our staffing right now for Tecumseh, NSP and RTC is so bad, that's why we don't have more people here testifying is because they're currently, right now as we speak, at critical levels. So they weren't able to make it out here to say hi. If we're also going to add more community wellness centers, we'd have to have-- DHS [SIC] needs to have the tools to defend themselves and currently don't have the rights to treat or handle severe mental individuals if they're attacked. It takes one to two hours to get everybody out of their cells and out

onto a yard so they can get some out-of-cell time. Ask me why when my-- when the Q&A comes and I'll go more into that. OCC does not have the space or to fill-- the facilities to achieve this. I don't know where we would put everybody if we were able to give them 10 hours a day out-of-cell time, plus the current rules that go on there. I mean, let me put it this way, OK? If you have somebody with a severe mental illness, that does not excuse them from attacking staff, from attacking their cellmates, from attacking other incarcerated individuals, I mean, the people that go into the RHU, they usually rape their cellmates. They usually stab their cellmates. They assault staff. I'm sorry, Corporal Blood, I know that he stabbed you yesterday, but he's bipolar, so we can't put him in the RHU. We're going to put him back on the yard tomorrow. Good luck. Oh, man, I can't wait to see our staffing crisis goes from there. NSP deals with over 100 inmates a day in the RHU and they're there for very good reason. We need to remove-- it's one, it's an incentive. I've had inmates come up and say, Man, I f----- put something in you, Bergner, but I don't want to spend a week in the hole so consider yourself lucky. I'm really happy we have that as a way of preventing that from happening.

WAYNE: Time, time sir.

CHRIS BERGNER: Any questions?

WAYNE: Any questions from the committee? Senator McKinney-- about to call you McDonnell.

McKINNEY: Thank you. Thank you for your testimony.

CHRIS BERGNER: Thank you for having me.

McKINNEY: I'm glad you think people with serious mental, with serious mental illness needs to be punished even more. You mentioned, you mentioned overcrowding. If we even voted to build another prison, that would take four to five years. And once that prison is put online--

CHRIS BERGNER: We better get on it soon, huh?

McKINNEY: --it will already be overcrowded, so.

CHRIS BERGNER: Then we better start another one after that.

McKINNEY: So why would we do that?

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CHRIS BERGNER: I mean, where else would you like us to put these people, right back on the streets?

McKINNEY: Yes.

CHRIS BERGNER: Absolutely. And then what? What about our crime rates? The whole reason we have prison is when people--

McKINNEY: The crime rates are high apparently--

CHRIS BERGNER: --I'm talking-- when people break the law--

McKINNEY: No, I'm talking.

WAYNE: Excuse me, sir. I will ask you to leave.

McKINNEY: Yeah.

CHRIS BERGNER: OK.

WAYNE: Go ahead, Senator McKinney.

McKINNEY: These are the people that are supposed to be taking care of people inside. It's very alarming. But, you know, I thought the pay increase helped with the staffing crisis. Obviously, pay just doesn't change the fact that people don't want to work in these prisons.

CHRIS BERGNER: We have a mental health bill that will be discussing--

McKINNEY: I'm talking-- I didn't-- I wasn't finished talking.

CHRIS BERGNER: OK.

McKINNEY: All right.

CHRIS BERGNER: I thought you were.

McKINNEY: No, I wasn't.

CHRIS BERGNER: OK.

McKINNEY: Can you go? Bye.

CHRIS BERGNER: OK. Thank you for having me.

WAYNE: Next opponent.

CHARLIE BOECK: Good afternoon, Chairperson Wayne and members of the Judiciary Committee. My name is Charlie Boeck, C-h-a-r-l-i-e B-o-e-c-k c. While I'm a sergeant with DCS and steward with FOP 88, my views expressed here are my own and not representative of either of those organizations. Had I spoken on this bill prior to working and having been inside of a correctional facility, my viewpoints might be different. I'm speaking on opposition of LB557 because part of our mission to keep people safe requires us to have the tools to be able to do so. Restrictive housing is just one of the tools available for us to help keep not only ourselves safe as employees, but also the incarcerated population. We've spoken about disruption of the facility, violent acts. One of the things that we didn't speak about was protective custody requests. Protective custody requests go through the immediate segregation process. Limiting the stays in RHU to 15 days would limit the ability of the department to properly transfer and assign inmates-- incarcerated individuals to housing that's appropriate for them and safe for them, creating an additional safety hazard to staff on the yard if people are getting into fights, getting into arguments. Additionally, the new solitary confinement definitions would effectively turn all of the existing restrictive housing units into prohibited solitary confinement. This is due to property restrictions, eating with others and lack of group activities. Facilitating group meals and activities would be unsafe for staff, the general population, and potentially those that are housed in restrictive housing. The movement of information and contraband in and out of restrictive housing is extremely dangerous for the staff. Not limiting the property that individuals have in there becomes unsafe for them as well. To give you a perspective, to move one incarcerated individual within a restrictive housing unit, it can require up to two staff or more. And so that movement and putting people into a group, assign two staff per person would not only be not feasible with our staffing levels, it would be cost prohibitive for the department and the state.

WAYNE: Thank you.

CHARLIE BOECK: Thank you for your time.

WAYNE: Any-- Senator DeBoer.

DeBOER: Yeah, I do. So my question is when you're talking about not having enough time to get them out to the yards and that sort of thing, is that because we have too few yards? Is that part of the

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problem or is it because we don't have the staffing to move people between the yard?

CHARLIE BOECK: So my experience working in restrictive housing is in immediate segregation at Omaha Correctional Center. They only have immediate segregation. They don't have any long term.

DeBOER: Got it.

CHARLIE BOECK: It's a smaller unit. There's seven cells that can house two people and three cells that can house up to five or six. And there's one yard. So one hour of yard time is what's permitted and offered each morning and individuals are allowed to accept or decline. Additionally, at Omaha Correctional Center, they have the luxury of showering every single day, whereas the requirement would be three times per week normally.

DeBOER: OK.

CHARLIE BOECK: But yeah.

DeBOER: Thank you.

WAYNE: Any other questions? Seeing none, thank you for being here today. Next opponent, opponent.

JOSHUA URBAUER: Hello. My name's Joshua Urbauer, J-o-s-h-u-a U-r-b-a-u-e-r. I'm speaking today to oppose LB557. I believe the bill represents an unworkable alteration of the operation of segregated housing in the Department of Corrections. With 10 hours out-of-cell time and time off the units, the most violent and dangerous inmates in the entire state prison system, it places the lives of department employees and inmates at serious risk. Although I can understand why an individual may not like the idea of segregated housing, it is nonetheless a critical tool to ensure the safety not just of staff in our department, but the other inmates whose safety is placed in jeopardy by allowing these essentially uncontrollable inmates back into general population. These are inmates that cycle in and out of segregated housing based solely on their own behavior: being placed in segregation for some months, being released, almost immediately assaulting another inmate or staff, and being placed back into segregation. By passing this piece of legislation, it is a guarantee that the 90 percent of the inmates in our system who simply want to do their time and go home will be terrorized by inmates who have nothing to lose. This bill empowers the worst criminal actors by ensuring that

the Department of Corrections, from top to bottom, has no control over the mentally ill and violent portions of our population: white nationalist gangs and every other truly bad actor in our system. This bill would enable neo-Nazi gangs like the Peckerwoods, who make up a significant portion of our segregated housing population, to terrorize the minority groups in our prison more than they already are able to after the abolition of long-term disciplinary segregation. It's not just the Peckerwoods who would take advantage of this bill, but every criminal gang from the Surenos to the Crips, the Bloods and many others would love nothing more than to see a bill like this passed because the worst actors in our prison system have no qualms against physical violence up to and including murder. The Department of Corrections must be able to respond appropriately to the violence that these individuals seek to inflict for their own benefit. I urge you to vote against LB557 and I yield back the balance of my time.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here today.

JOSHUA URBAUER: Thank you.

WAYNE: Next opponent. Next opponent. No more opponents. Neutral testifiers? Anybody testifying in a neutral capacity? Seeing none, we have--

GEIST: Oh, there is one.

DeBOER: There is one now.

WAYNE: Oh, sorry. Welcome to your Judiciary.

TIM ELARIO: Thank you, Chairman and thank you, committee. My name is Tim Elario, T-i-m E-l-a-r-i-o. I work with the Department of Human Resources [SIC] for-- in my-- I'm in my 23rd year. I worked at LRC for all that time, the Lincoln Regional Center as a frontline tech, means I deal directly with the patients.

WAYNE: Sir, I have to stop you. On your blue testifier sheet, it says you're a proponent.

TIM ELARIO: Yes, sir.

WAYNE: Well, that section has already come and gone. You are, you are testifying in a neutral capacity. So we had already did proponents and then we did our opponents and now we're on neutral. So that's the

order it goes, but we have you down. I have you down for the record as a proponent of the bill.

TIM ELARIO: Thank you.

WAYNE: Just try to keep order. I appreciate it. Thank you.

TIM ELARIO: Thank you, sir.

WAYNE: Anyone else testifying in a neutral capacity? Seeing none, we received seven letters for the record; three in support and four in opposition. And that will close the hearing on LB557. And now we will open on LB265. I did get a text from Senator Brewer who said we have to administer an oath because he doesn't want you to go off on a tangent that he didn't want you to say. So you have to promise to only stick to what he was going to-- go ahead. Open on LB265. Welcome to your Judiciary Committee.

TONY BAKER: Thank you, Chairman Wayne, members of the Judiciary Committee. My name is Tony Baker. That's spelled T-o-n-y B-a-k-e-r. I am the legislative aide for Senator Brewer. He sends his regrets. He's currently in a medical procedure and can't be here today. I'm here to open on LB265. Senator Brewer introduced this bill because he believes it will help protect state employees from death or serious injury. As introduced, this bill has three operative sections. Section 1 would mandate that employee training in the Department of Corrections incorporate safety training. Section 2 would require the Department of Corrections to provide every correctional officer with a protective stab-resistant vest that is fitted to that individual. Section 3 would forbid the Department of Health and Human Services from restricting an employee's right to self-defense when facing imminent death or serious bodily harm, only under those circumstances. After Senator Brewer met with the Department of Health and Human Services General Counsel and other members of the executive branch, we learned that they were concerned about the language in Section 3 being vague and overly broad. I've given the page AM129, an amendment to this bill that clarifies this intent in Section 3. The intent is simple. When a state employee believes that death or serious bodily harm are imminent, that employee should not be punished by their employer for saving their own life or the life of a coworker or another patient. Section 3 is limited to only those extreme circumstances. This would not require a change in any policy relating to more minor incidents. Just to be clear, we did discuss the administration's concerns on this bill and the amendment is an attempt to address them. However, we understand

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that some objections from the administration continue to exist and may remain. Senator Brewer would ask the committee to advance LB265 with AM129 and he instructed me to, with the Chair's permission, tell the committee that I am able to accept questions, but I waive closing right now. Subject to your questions, that concludes my testimony.

WAYNE: I'll let Senator-- you want to go, Geist? Go ahead, Senator Geist.

GEIST: I do because this is a, this is a simple question. You use the word administration. Do you mean the--

TONY BAKER: The executive branch, ma'am.

GEIST: OK. Just clarifying whether you meant correctional or executive branch, so.

TONY BAKER: Well, it could be both. I'm not sure. I'm-- I think--

WAYNE: This is where I'd be dumb.

TONY BAKER: I think, I think, I think our friend from the ACLU will have more to say about that way.

GEIST: OK. All right. Well, thank you. That's all.

WAYNE: Thank you. Thank you for being here. We'll start with the proponents. Proponents. Welcome to Judiciary.

GARY YOUNG: Good afternoon. My name is Gary Young, G-a-r-y Y-o-u-n-g. I'm with Keating O'Gara law firm in Lincoln. I'm here on behalf of the Fraternal Order of Police Lodge 88. This is the lodge that represents about 1,500 custody staff workers in the prisons and lockup mental health facilities in our state. I appreciate the opportunity to speak. I thank the Chairman. Estimates are there are about 200 to 1,000 improvised knife attacks on inmates at corrections custody staff each year nationwide. At our own prison. Improvised knives are found in Nebraska prisons and searches of cells by corrections staff on a common basis. When you ask corrections staff, how often do they find knives in searches of cells? They will usually answer you, as often as they look. Research conducted on effectiveness, effectiveness of stab-resistant vests shows that a corrections officer who is assaulted while wearing a stab-resistant vest is 3 to 4 times more likely to avoid serious bodily harm or death than an officer without them. Furthermore, studies show that the wearing of personal body

stab-resistant vest is an effective deterrent against those who may consider knife attacks on staff. A vest for, a vest for each corrections officer in this state will cost, over its effective life of five years, approximately \$200 a year per custody staff member. Considering all of this, \$200 a year to dramatically improve the safety of our custody staff from knife attacks is a small cost to pay and ought to be thought as the cost of doing business in corrections. Two stories from our recent corrections history illustrate the importance of the bill. TJ Rutherford, a TSCI corporal, was brutally assaulted by an inmate in the year 2019. During that assault, he was stabbed 15 times by an inmate with an improvised knife. He had no vest at the time of his attack, although prior to the attack, his unit members had requested that the department provide them with vests. His wounds were not fatal by the grace of God, but he was left with serious injuries and, of course, a traumatic impact he has had to deal with the rest of his life. Contrast this with the more recent attack at TSCI on corrections-- on a corrections officer in the last quarter. At this-- in this attack, a corporal was attacked and-- by a stab wound to the heart, but he was wearing a stab-resistant vest and his life was saved by that vest. It is very simple. We would like you to provide vests to these corrections workers, but the department, for policy-- its own policy reasons we do not understand has persistently resist-- refused to supply vests that we have requested. We'd like you to take it out of their hands and protect our people. Regarding the second part of the bill, which is the DHHS bill that was just discussed, we would just like people who were in the-- working in those lockup facilities-- may I sum up?

WAYNE: Yep.

GARY YOUNG: We'd like those people--

WAYNE: Oh, no, no. I mean--

GARY YOUNG: Excuse me.

WAYNE: Unless some sort of-- some-- blah, blah, blah. I'm sure somebody will ask you a question.

GARY YOUNG: Sure.

IBACH: I'll ask a question.

WAYNE: Senator Ibach.

IBACH: Thank you, Mr. Chairman. Thank you for testifying today. Do-- currently-- so if, if any of the officers have their vest right now, do they provide it themselves or does the department provide them for them?

GARY YOUNG: No. As-- there is a small number of officers who have access to vests currently. Despite-- over the objections of the department, we were able to negotiate and require them to provide them in a certain segment of TSCI. However, the department has told us very recently that it does not want to expand that provision outside those-- that area, despite the fact that inmates in that area are now being moved to other parts of, of other prisons and present the same kind of threats.

IBACH: Thank you. Thank you.

WAYNE: Thank you. Any other questions from the committee? Seeing none, thank you.

GARY YOUNG: Thank you.

WAYNE: Proponents, any other proponents? Welcome to your Judiciary Committee.

DAVID LEIGH: Thank you to the committee for fielding our concerns on this bill. My name is David Leigh, D-a-v-i-d L-e-i-g-h. I'm a corporal at the Nebraska State Penitentiary. I've been there for about 12 years. And this bill is simple. I'm in favor of LB265. It's pretty simple. It'll provide stab-proof vests for correctional employees, not only at NSP, at Tecumseh and everywhere where they're needed, RTC. This bill isn't just for a vest. It's more to keep us safe. It's for me. It's for my family so I go home at the end of the day. As you're going through the pictures, those are common weapons that are found at NSP, RTC. They're found in common areas. They're found in anywhere from a maximum security inmate to a minimum security inmate. At the NSP alone, in November, we found around eight shanks, sharpened weapons, knives in common areas. The past two months, we found all around-- about six in all areas. The fall, we've had a large fight outside, 32 inmates. We found seven, eight shanks buried in the yard; in the dirt, in the bushes. We found them. Thankfully, they weren't used. We now got rid of the garden, got rid of the bushes. These weapons, as you can see, are made from anything from a fence tie to plexiglass, pretty much anything they can get their hands on, even a piece of wood. That's all I had to say for that. But really, just to

keep us safe, that's, that's all we're asking. It's pretty simple. Our number one goal is to keep, keep us safe. Just like you, my director. We just want to keep us safe. I'll take some questions if you have any.

WAYNE: Any questions from the committee? Seeing none, thank you for being here.

DAVID LEIGH: Thank you.

WAYNE: Next proponent.

ERIN KNICELY: Good afternoon, Judiciary Committee. My name is Erin Knicely, E-r-i-n K-n-i-c-e-l-y. I work as a mental health specialist at the Lincoln Regional Center for the Department of Health and-- Health and Human Services, but I am representing myself. When you think of Department of Health and Human Services, no one considers the idea that the employees for the DHHS ever consider to be in harm's way. However, for many employees, we face potentially dangerous situations on a daily basis. From being a child and family services representative to food service administrations, to myself and my coworkers as a mental health specialist-- we call ourselves techs on the job-- we are the people who are there to take care of the loved ones that have the incapacity to take care of themselves. For techs, this means that we take care of those who may not always have the mental capacity to take care of themselves. In many cases, our clients do not always have the ability for emotional and mental regulation. Their inability to regulate leads them to finding ways to express themselves in other avenues. In many instances, this means that they are going to take the avenue of physical aggression because they don't understand any other way. I face clients who are angry with their doctors, their therapists, their own family members, or a peer that upset them in the chow hall. And because I am the most accessible, they target me. I have had a client say to my face-- and I have censored this quote for the hearing-- this nurse is being a rude f---ing b---- and has pissed me f--- off. I know I can't beat the s--- out of her, but beating the s--- out of you ain't a felony. The client then abruptly charged me. I was lucky enough to have good staff that had my back and were able to contain the situation before it got out of hand with my client. However, I've had far too many of my own coworkers who have not had that kind of luck. My peer, Yvette [PHONETIC], who sits behind me and I were also in another unlucky situation. We were the only techs that were left on our unit, as the rest of our unit went to yard. Two of our clients that had been having

issues with each other that day chose to stay behind. They chose the moment that our unit was at minimum staff for a better advantage to go at each other physically. We were forced to place ourselves in between the two of them, thus sustaining injuries as well as our clients sustaining injuries because we were not able to defend ourselves or protect our clients from each other without the fear of legal represent-- without the fear of legal repercussion. If we were able to properly defend ourselves as well as de-escalating our clientele, situations like this could be avoided if not eliminated. We would like to see situations like this become the exception instead of being our norm. Voting yes on LB265 would make every aspect of being a DHHS employee a safer one. At the end of the day, the family members of our clients do not expect their loved ones to come home battered and bruised and neither should ours. Thank you for your time and I'm open for any questions and will answer them to the best of my ability.

WAYNE: Thank you. Thank you for your testimony. Any questions? Seeing none, thank you for being here. Next proponent. Any more-- thank you. Welcome to your Judiciary.

TIM ELARIO: Thank you, Mr. Chairman. Try this again.

WAYNE: You're fine.

TIM ELARIO: My name is Tim Elario, T-i-m E-l-a-r-i-o. I work for DHHS at the Lincoln Regional Center for-- I'm in my 23rd year. During those-- during that time, I've seen a lot of things going on. Originally, we had a conflict-- what was called conflict management to control someone that was out of control. We went to Mandt, which basically is giving someone a hug. If you can, you get two people, one will hug from one side, one will hug from the other to try and control the person and let them drag you around until they're tired enough to give up. After that, we went to what's called handle with care. And this system, we have to get behind the person to restrain them and basically pull their arms behind their back-- under our arms and face our hands on their back, which is not a comfortable position. In doing so, my muscle on my left arm was ripped off and according to the surgeon, it was the second-worst surgery that he has ever performed trying to reattach it. One of the things that happened is that I had a coworker who, when I went on work-- when I went on my lunch break, the patient came out, trashed the tech area where we have our stuff, the computers and everything, held her by the neck off the floor until her muscles pulled from her neck. Even after surgery and everything else, she's never regained full use of her, of her muscles. We have the

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worst of the worst. We have the people that are coming in from prison who have been evaluated for competency. We have people that are there to be restored to competency. They are prison mentality people. They get into fights to justify their position and their hierarchy. We have no way to protect ourselves except to try to talk them down. And in doing so, when they do get out of control, what we have to try and protect the patients and ourselves is this handle with care. We need something more effective. We can't get behind the person all the time to defend ourselves. When I was being-- a doctor was being charged by a patient one time and I stepped in front of him. I was slammed against the wall, repeatedly head strangled.

WAYNE: Thank you for your testimony, sir. Any questions from the committee? Seeing none, thank you for being here today.

TIM ELARIO: Thank you.

WAYNE: Any other proponents?

YVETTE OLIVETTI: Hi. My name is Yvette Olivetti. And I work at--

WAYNE: Spell your name.

YVETTE OLIVETTI: Y-v-e-t-t-e O-l-i-v-e-t-t-i.

WAYNE: Thank you.

YVETTE OLIVETTI: I just want to say that I'm for the LB265 and I agree with my coworkers. We are not equipped to deal with the population that we get, which are people that bounce back and forth from prison and jail. And we-- the amount of injuries we had-- like, several months back, we had someone from the Tecumseh prison. We had ten staff injuries that were pretty bad in one week, all resulting in going to the hospital. So I feel like if we were able to have the ability to defend ourselves if it was a dire situation-- because we have to wait for our coworkers to come from other parts of our building, which takes time, I feel like it would be safer for us. And I think that's all I have.

WAYNE: Any questions from the committee? Seeing none, thank you for being here.

YVETTE OLIVETTI: Thank you.

WAYNE: Welcome.

ROXANA MORA-OGLE: Thank you. Good afternoon. My name is Roxana Mora-Ogle, R-o-x-a-n-a, last name is M-o-r-a-O-g-l-e.

WAYNE: Can you speak up just a little bit?

ROXANA MORA-OGLE: Yeah. I'm here in support of the bill, LB265, by being passed. I'm here representing myself and I work at the regional center as one of the techs and like my coworkers said before, we get people-- repeat offenders straight from prison who have committed serious crimes. And during certain incidents that happened on the job, we've had staff members go into the hospital for injuries as serious as cracked ribs, broken noses and fingers and crushed eye sockets. And the repercussions that the patients receive aren't enough for them not to do it again so I think if we could defend ourselves in dire situations, it would help make the job a lot safer. Thank you.

WAYNE: Any questions from the committee? Seeing none, thank you for being here. Any other proponents? Proponents? Seeing none, we'll go to opponents. Opponents.

SPIKE EICKHOLT: Good afternoon. My name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t. I'm appearing on behalf of the ACLU of Nebraska in opposition to a portion of LB265. Just so I'm clear-- I'll try to be clear. We are not opposed to the provision of the bill that deals with the safety vests and the protective vests for the Department of Correctional Services employees. So that's Section 2 of the bill, page 3, lines 12 through 15. We're fine with that. That's not the issue. The concern that we have is Section 3 on page 3, lines 16 through 19. I did visit with Senator Brewer yesterday. I visited with his office yesterday and today. I-- the concern that we have is that what I'm gathering-- what we're gathering is that the Department of Health and Human Services or the state or the administration or someone has somehow issued a directive to the employees at HHS, at the regional center, probably at BSDC Center, maybe the YRTC's as well, that they are not to use certain types of force. And I think what the bill proposes to do is to restrict or not let the Department of Health and Human Services tell their employees not to use force. The concern we have is that we don't want to have a policy that's dictated by the Legislature that will somehow encourage or facilitate or allow force. I know that you did hear from some, some people today in support of the bill who had been the recipient of some violent incidents. But some of the people, the patients and the clients in some of these facilities, are vulnerable people. They are children. Some of them are disabled. Many of them are disabled. So I think we should be very

careful when we start putting things in statute that would either allow or permit or encourage the use of force. If you look at the fiscal note, I'm guessing the Department of Health and Human Services and the state has issued whatever guidelines they have to minimize the state's exposure to workers' comp claims, to tort liability claims, and that may be the preferred policy. I have not seen the amendment. I was described-- it was described to me yesterday. Maybe that will allay our concerns by having a heightened standard for when staff could somehow use force for self-defense or defense of others. I don't know. I almost didn't want to testify on the record. But if the amendment comes in differently than I was under the impression it would be, I'd hate to try to catch up to the bill later on if it didn't have me in formal opposition. I'll answer any questions if anyone has any.

WAYNE: Any questions from the committee? Seeing none, thank you for being here. Any other proponents? I mean opponents, opponents.

BRENDA MAE STINSON: Senators, I didn't know whether to mark opponent or neutral on this because-- well, first of all, my name is Brenda Mae Stinson. It's B-r-e-n-d-a M-a-e S-t-i-n-s-o-n. I'm not opposed to the first-- you know, the safety vests and people being safe. I think people need to be safe. And I also-- but I do believe that this bill is opening up a whole can of worms when there's a bill that says you can use force, you can,--you know, not that I'm opposed to people protecting themselves in a deathly situation, but when my son was in prison between 2010 and 2014, I, as his legal guardian, had to go there, be-- and had to speak with lieutenants because there were staff that provoked him. There were staff that threw things at him and-- to provoke him and then so that way they could then in turn use force on him. You know, my son has autism. And if he feels threatened, he, he's, he's going to kind of, you know, puff his chest. He's, he's going to protect himself. The staff may see that as a threat. And if he's-- you know, because of his miscommunication of his autism and socialization, what are we going to do with that? You know, I mean, it puts, it puts my son at risk. It-- to those who aren't professionally trained, to those who maybe had a bad day at work and/or at home and come to work and take it out on him, you know? I mean, these things happen. We're all human and it just takes one person to open that can of worms. And I don't want it to be my son or others like him who have disabilities that are in the regional center or the correctional facilities. That's all I have to say.

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DeBOER: Thank you. Is there any question for this testifier? I don't see any. Thank you for being here.

BRENDA MAE STINSON: Thank you.

DeBOER: Next opponent testifier. Is there anyone here to testify in the neutral capacity? OK, that ends our hearing on LB265, which leads us to-- oh, sorry. There were two opponents letters for the record and we're now going to LB82, which is my bill, so Senator Geist will be chairing.

GEIST: So I'll take, take it from here. Good afternoon, Senator DeBoer.

DeBOER: Good afternoon, Chair Geist.

GEIST: Your Judiciary Committee.

DeBOER: Thank you. Members of the Judiciary Committee, my name is Wendy DeBoer, W-e-n-d-y D-e-B-o-e-r, and I represent District 10 in northwest Omaha. I appear today to introduce LB82. LB82 makes two changes to state statute that were both recommended by the Inspector General of Corrections in the IG's 2022 report. They would require the continuation of a past practice of department strategic plans and the addition of new information in the department's restrictive housing annual report. In 2015, Senator Heath Mello passed LB33 to require the Department of Correctional Services to submit strategic plans to better inform the Legislature about the department's short-term and long-term plans through the biennium ending in 2021. It also required the department to issue reports to the Judiciary and Appropriations Committee through 2021 that provided updates on progress toward key goals contained in the strategic plans. LB82 would indefinitely continue these requirements, as well as the requirement that the department appear before the two committees upon request and present the progress report. Because the department has new leadership, it is more important than ever that the Legislature continue to stay informed about its short-term and long-term plans. This transparency will help us to continue to be good partners with them while working towards our shared goals of a corrections system that works best for Nebraska. When we're made aware of their long-term goals and plans, we're best equipped to help shape legislation to help them achieve these goals. LB82 also amends the statute regarding the department's annual report on restrictive housing. The department has made changes in recent years that have resulted in placements in housing units that

are neither general population nor restrictive housing, including the new high-security beds at the Reception and Treatment Center. These new places often involve substantial restrictions for those individuals: limiting out-of-cell time, access to programming, visitation, recreation, religious and employment opportunities. The department's annual report would provide the Legislature and the public with helpful information about the purpose and use of these settings. And I-- I'll direct your attention to page 3 of the bill, which outlines what those reporting requirements would be, but would include such items such as the description of the units, the number of inmates in such settings, and information on programs provided to them there. This is bottom to top a bill about good government transparency and strengthening-- continuing to strengthen the working relationship between the Legislature and the department. You may have heard earlier that I have personally been the Legislature's representative on the now discontinued long-term restrictive housing workgroup. I've seen the progress that we've made and I've been able to help structure bills based on the information that was shared in those meetings. I've elected to not ask to continue that workgroup because I think asking for these reports rather than requiring everyone to gather for quarterly meetings is probably more efficient. But I think the information requested in this bill will help us to continue under a new administration to build on our successes and understand how our classing-- understand our housing classifications better so that we can be better legislative partners. Zach Pluhacek with the Office of Inspector General for Corrections will be testifying after me on the IG's recommendation, but I'm happy to answer any questions that you may have. Thank you for your consideration. I ask the committee to advance LB82 to the floor.

WAYNE: Any questions?

GEIST: Yeah, go ahead.

WAYNE: Seeing-- questions from the committee? Seeing none, will you be here for closing?

DeBOER: I think I will.

WAYNE: OK. First up, proponents.

ZACH PLUHACEK: Good afternoon, Chairman Wayne, members of the Judiciary Committee. My name is Zach Pluhacek, Z-a-c-h P-l-u-h-a-c-e-k. I'm the Assistant Inspector General of Corrections. I

have a statement here that I'm going to read from my boss, Doug. Dear Judiciary Committee members, please accept this letter in support of LB82, which contains two changes to state law that were recommended in our 2022 annual report. I regret that I'm unable to attend today's hearing due to a previous commitment out of state. First, as the Nebraska Department of Correctional Services reduces its use of long-term restrictive housing, a growing number of people are being housed in highly controlled settings which just barely skirt the legal definition of restrictive housing. LB82 would require the department to provide information and data about the use of these controlled settings and is laid out on page 3 of the bill. For the purposes of this section, general population would be defined as an inmate housing area, which-- in which an individual is out of their cell at least 6 hours per day without restraints and generally has access to services available to the broader population outside of their unit. This would include access to programming and medical care, as well as such things as religious, educational and recreational opportunities. The units we're talking about would be higher security units where individuals are out of their cell at least 24 hours per week, but have substantial limitations placed on their movement and access to areas outside of their units. And I can provide some examples if anybody would like them. Second, in 2015, the Legislature enacted new requirements to ensure better oversight of NDCS and to keep the Legislature better informed of the department's short-term and long-term plans. Two of those requirements included the submission of strategic plans and progress updates. This ended in 2021, but LB82 would extend this indefinitely. Since NDCS May soon have the leadership and continues to face many challenges, this would provide policymakers with a continual flow of information about the plans and progress made on those plans of the department. That's all I have. I'll be happy to answer any questions you might have.

WAYNE: Any questions from the committee? Seeing none, thank you for being here.

ZACH PLUHACEK: Thank you.

WAYNE: Next proponent. Next proponent. All right, opponents. Any opponents? Anybody testifying in a neutral capacity?

BRENDA MAE STINSON: Hello again, Senators. My name is Brenda Mae Stinson, B-r-n-- B-r-e-n-d-a M-a-e S-t-i-n-s-o-n. I wasn't familiar with this bill, but the little bit that I heard from Senator DeBoer, it, it sounded like it would be a good oversight for, for this new

programming, the, the-- what is it called-- the, the, the R and T Center. I'm not quite-- the Reception and Treatment Center. I think it would be a really good oversight for that as a constituent out in the community because it would give the, the individuals that are in prison a chance to be out of their cell. And maybe that would lessen the distress on their brain, you know? I mean, I-- it would be better than being out of their cell for an hour or two. And-- but I know that-- I also think it would probably decrease the amount of volatile behaviors for them to be actually socializing with each other and learning those social skills that they need to learn and to become a, you know, a part of society again rather than being treated like an animal in a cage. And so, again, I do not really-- I didn't catch myself up on this bill, but it sounds like it's a really good oversight. And I think that our system works really good on checks and balances and we've been kind of neglecting that area. Thank you.

WAYNE: Any questions from the committee? Seeing none, thank you for being here. Neutral-- any neutral testimony? Neutral testimony. Seeing none, that will close the hearing on-- oh, sorry. Cindy DeBoer-- Cindy DeBoer-- Senator DeBoer for your closing.

DeBOER: I'll just say one more thing in that I think these kinds of pieces of information give us more tools to see how the people who are living in our correctional facilities where the people-- as well as the people who are working in our correctional facilities, what sort of situations they're facing every day, so.

WAYNE: Any question from the committee? Seeing none, that will close-- oh, yeah. We received one letter of support for the record. That will close the hearing on LB82 and open-- will open the hearing on LB467.

DeBOER: Good afternoon, Chair Wayne and members of the Judiciary Committee. My name is Wendy DeBoer, W-e-n-d-y D-e-B-o-e-r. I represent District 10 in northwest Omaha. I appear today to introduce LB467. LB467 would require our correctional employees to receive 10 hours of training for resiliency and other self-care mental health techniques to promote the mental health of such employees. This bill came to me from the Fraternal Order of Police Lodge 88, who are our corrections officers. For some of you who may be a little bit newer to this committee, you may not be aware of the full extent of the challenges our corrections system has been facing with respect to staffing, nor may you be familiar with the dedication of so many of these Nebraskans. Our state owes them a debt of gratitude. Given the unique nature of the job, we need to be sure we are giving our employees all

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the training that they need to be able to work safely for themselves, for their coworkers, their families, and for those incarcerated as well. These employees are tasked with keeping everyone safe and they specifically requested this training as one more tool in their toolbox. After years of mandatory overtime, severe understaffing, crumbling prisons, modified operations, overcrowding emergencies and the extra stress of the pandemic, I cannot imagine having to explain to these men and women that we elected not to provide them with this minimal mental health support. Our corrections employees know what happens on a day-to-day basis in their jobs. They know what they deal with and how it affects them, their coworkers and their families. They're asking for resiliency and other similar trainings. We should listen to them. And just as they answered the call to serve Nebraska, I believe we should answer the call to help them. There were folks-- be some folks behind me who will be testifying, will be able to answer questions about how not being equipped to handle the mental stresses of the job impacts their ability to serve. But I'm happy to answer any other questions that you may have. Thank you for your consideration of LB476. And with that, I urge you to advance the bill from committee.

WAYNE: Thank you. Senator Geist--

GEIST: Quick question.

WAYNE: --you have a question.

GEIST: I just want to clarify-- and I probably should open the bill and read it, but I'm just reading your committee statement-- that it's 10 hours of training. Is that total or annual?

DeBOER: Annual.

GEIST: OK, thank you. That's all.

DeBOER: And if that's not clear in the bill, we'll make sure it is.

WAYNE: Any other--

GEIST: Well, I'm not saying it's not.

WAYNE: --questions from the committee? Seeing none, will you stay for close?

DeBOER: I will.

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WAYNE: Thank you. First up, proponents. Proponents? Welcome.

CARLA JORGENS: Hello. Good afternoon. My name is Carla Jorgens, C-a-r-l-a J-o-r-g-e-n-s, and I would like to thank Senator DeBoer for introducing LB467. I've worked for the Department of Correctional Services for over 25 years. In my first 21 years with the department, I can recall about five suicides amongst my coworkers throughout the state. I could be wrong on the numbers. My memory is not as good as it used to be, but those were the ones that I do remember. In the last four years, there have been five suicides, two of them from individuals in my facility alone and I work in a very small facility. Three others were from the smaller Omaha facilities as well. Studies show that suicide rates among correctional employees are 39 times higher than the civilian population and double that of police officers. NDCS has always been a very reactive department to work for regarding your training. When staff have inappropriate interactions with inmate population, the professional boundaries training gets amped up. We're extensively trained and certified in CPR, first aid, AED, firearms, self-defense, uses of force, inmate suicide and inmate transporting. We're trained to run into emergency situations that are often violent and disturbing. NDCS has turned a blind eye to the effect that that has on its employees. We're not given any training on resiliency or self-care. We're not offered any PTSD or stress management training or any crit-- critical incident debriefing by professionals. This bill would save lives and it's obvious that NDCS has not been alarmed enough to do something about the increase in suicides amongst its line staff. Ten is ten too many. I ask that you advance this bill and commit the state of Nebraska to take the responsibility to provide us with the mental health resources and training that we so desperately need while we continue to keep the citizens of this state safe and ourselves as well. Thank you.

WAYNE: Any questions from the committee? Seeing none, thank you for being here. Next proponent.

JOSHUA URBAUER: Hello. My name is Joshua Urbauer, J-o-s-h-u-a U-r-b-a-u-e-r. I'm the chaplain for the Fraternal Order of Police Lodge 88 and I'm here to say that we as a state have an obligation to pass and implement LB467. I appreciate you allowing me time to speak on this topic that's so very important to me. Every day in our line of work, I watch as the officers around me struggle with their mental health under the weight of institutional problems and personal problems: fighting for custody of their children after a nasty divorce, which in our profession is far too common, or struggling with

depression, anxiety or PTSD, all of which are at elevated rates among corrections officers. In fact, according to a study by Desert Water Correctional Outreach, corrections officers experience PTSD at twice the rate of military veterans in the U.S. And almost inevitably these officers, whatever the problem they're dealing with is, will far too often turn to a bottle to numb their feelings and cope with the stresses. In corrections, we see an alcoholism rate far above the national average. And more than once, this has turned into a deadly situation when feeling as if they don't have any more at their disposal, they make the ultimate decision to take their own lives. I know that whenever I see the early warning signs and behaviors begin to appear, I do whatever I can, not just as the chaplain, but as a fellow officer to step in and try to connect these men and women on the front line of our prisons with resources. But the problem is far too large for one person to solve on their own. The problem of suicide in corrections requires a joint effort on all sides and it starts with LB467 so that every officer has the training they need to recognize when it's time to reach out and seek professional help so that every officer can advocate for the mental health of one another. The first step to changing the culture in corrections is by informing it with proper knowledge and information and then reforming it through institutional and departmental policy and legislative action. I believe this bill represents a critical first step to the shared objective of keeping our corrections officers safe from any threats to their well-being, including themselves. Please pass this bill and thank you for your time.

WAYNE: Any questions from the committee? Thank you for being here.

JOSHUA URBAUER: Thank you.

WAYNE: Next proponent. Welcome.

CHARLIE BOECK: Hello. My name is Charlie Boeck, C-h-a-r-l-i-e B-o-e-c-k. I'm speaking as a proponent of LB467. I've been with the department for about three years. In that time, I've seen my team members succumb to the stress of the job. Sometimes that's in the form of mental health issues: depression, substance abuse and even suicide. I personally have been impacted by the things I've seen on the job. It's things that the general public can't imagine. You see violent acts committed by members of the incarcerated population, multiple suicide attempts, improvised weapons, staff assaults, drug overdoses, and verified threats to my own personal safety. When those things occur, it changes how you interact with the people in your life

outside of work. My husband is a corrections professional so I'm very fortunate that I'm able to share some of the things that I see at work because we both work in the same field. Without proper training, without the ability to be resilient in the job and without the resources to reach out for help, that story might be different and it's different for a lot of people who don't have the support that I have. When we're able to take care of ourselves, we're able to take care of our team members and the incarcerated population better. Thank you.

WAYNE: Thank you. Any questions from the committee? Seeing none, thanks for being here.

CHARLIE BOECK: Thank you.

WAYNE: Any other proponents?

BRENDA MAE STINSON: Hello, Senators. My name is Brenda Mae Stinson, B-r-e-n-d-a M-a-e S-t-i-n-s-o-n, and over the past two decades, the recognition and diagnosis of autism disorders have-- has grown over-- results in parallel conditions of substantial prevalence of individuals with ASD have lifelong social and emotional deficits and become involved within the criminal system. It is generally acknowledged that many criminal justice professionals who encounter individuals with ASD are ill equipped to treat or advocate them. And for that, I am for the LB467 so that way they can get the proper training for mental health not just for themselves, but also for those who they work with in, in the system. And there is a great need to survey jails and prisons to first determine how they're currently processing-- process individuals with ASD specifically and to develop test and screening accommodations and treatment models. The model of one size fits all and then to develop-- treating and habilitating individuals with ASD is inadequate and will only perpetuate the problem. ASD has a range of associated benefit-- deficits that are widely across this popul-- or vary widely across this population. If you're unfamiliar with them, then an unfamiliar environment, misjudgment of relationships can be misinterpreted by the individual. Reflecting on this deficiency and lack of knowledge base, a recent textbook of correctional psychiatry does not cover ASD. This disparity between the potential for an integrated and productive life and lack of services to achieve this potential in correctional facilities represents an ongoing challenge. If we are to meet the needs of adults with and without ASD more effectively and appropriately, some

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significant changes will need-- to current system planning and interventions appear to be necessary. Thank you.

WAYNE: Any questions from the committee? Seeing none, thank you for being here. Any more proponents? Opponents? Anybody testifying in the neutral capacity? As Senator DeBoer comes up to close, we received five letters in support.

DeBOER: OK. Thank you, Senator Wayne and committee members. I did look at the, the language of the bill, It does not say annually which caused the fiscal note to appear to be only a one-time fiscal note. So that will have to be-- this was just-- I apparently was sloppy. I'm very sorry about this. I intended it to be annually. I thought it said annually. When I read it in my mind, it said annually. It does not in fact say annually. So I will make that change.

HOLDCROFT: A follow-up question. Yeah.

WAYNE: Oh, sorry.

HOLDCROFT: I woke up. I still got 15 minutes here. Ten hours of resiliency training seems pretty broad. I mean, who's going to put the training together and how, how will that be based? Has there been some thought put into that?

DeBOER: Yes. So the Department of Corrections would be the one that would decide how to do that since they would be the one that would provide the training and it would be done through their department. So we'd give them some latitude, obviously, to figure out what would best meet the needs of their employees.

HOLDCROFT: OK.

WAYNE: For the transcriber, that was Senator Holdcroft. All right. Any other questions? Seeing none, that closes the hearing on LB467 and closes today's hearing. We're going to Exec for about six hours and then we'll go home.

[LAUGHTER]