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Transcriber's Office

Executive Board Committee
February 06, 2015

[LR32 LR33 LR34]

The Executive Board of the Legislative Council met at 12:00 p.m. on Friday, February 6, 2015, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR32, LR33, and LR34. Senators present: Bob Krist, Chairperson; Dan Watermeier, Vice Chairperson; Kathy Campbell; Ernie Chambers; Colby Coash; Galen Hadley; Dan Hughes; Tyson Larson; Heath Mello; and John Murante. Senators absent: None.

SENATOR KRIST: I think we're going to try to get going here. I'm sure Senator Hughes and Senator Chambers will join us as soon as they can. Welcome to the Executive Board of the Legislative Council. This will be our first hearing for the year. I'd like to just go around the room and introduce the senators. My name is Bob Krist. I represent District 10, am the Chair.

SENATOR COASH: Senator Coash, Lincoln.

SENATOR MURANTE: Senator John Murante, Gretna.

SENATOR CAMPBELL: Kathy Campbell, Lincoln.

BETH DINNEEN: Beth Dinneen, committee clerk.

JANICE SATRA: Janice Satra, legal counsel.

SENATOR WATERMEIER: Dan Watermeier, District 1.

SENATOR HADLEY: Galen Hadley, Kearney.

SENATOR LARSON: Tyson Larson, O'Neill.

SENATOR MELLO: Heath Mello, south Omaha.

SENATOR KRIST: Thank you. Please turn off your cell phones or mute them. Although handouts are not required, if you do want to testify and give us handouts, we'd like to have 15 copies. If you don't have them, motion the page and he can make you a copy of it. Our page today is Brandon. Wave, Brandon, for the folks. There you go. Thank you. If you need copies, just let us know. Each witness appearing before the committee must sign in using the green forms provided at the entrance of the hearing room. If you haven't done that, please do that. Grab

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those now. Sign on the green sheet if you're going to testify. Your form must be given to the page who will give it to the committee clerk. Please print and provide all the requested information. Give the page your handouts if you do have handouts and he'll do that for you. We are going to use the light system. We're kind of confined doing things on the lunch hour here in Exec. I apologize but you'll get a five-minute light. That's the green one. You'll get an amber light that means you have one minute left. You'll get a red light saying you're done, and we'd appreciate you wrapping things up as soon as possible. If you don't, I'm probably going to stand up, try and do one of these things until you do or Senator Watermeier will. Spell your name for the record, please. We don't do that for any other reason than to have the Transcribers hear you spell it. And please spell it no matter how simple it is, first and last name. Nontestifiers, if you would like to...if you don't want to testify on the mike, you can also enter the form on the outside and make sure that your hearing presence is noted. So if there aren't any other questions, I will be presenting the three bills, all LR's today, so I'll turn it over to Senator Watermeier.

SENATOR WATERMEIER: Thank you, Senator Krist. I will open the hearing on LR34 and, Senator Krist, you can start when you're ready. [LR34]

SENATOR KRIST: Members of the committee, my name is Bob Krist, B-o-b K-r-i-s-t, and I am here introducing LR34. LR34 would authorize a special committee to study the following: the adequacy and funding history of programs designed to rehabilitate inmates; the availability of mental health care and the policies and procedures used to ensure inmates receive appropriate mental health care; the policies relating to solitary confinement, segregation, and other isolation issues; the transition of inmates from incarceration to the community; the administration of good time laws; any evaluation or study made of the department's policies and practices; and whether or not an office of the Inspector General of the Nebraska Corrections System should be created for oversight of the department. The committee as it was known last year as the LR424 Committee, comprised of those that have returned: Bolz, Chambers, Krist, Mello, Schumacher, and Seiler. The committee would be required to issue a report no later than December 15 of 2015. So again, this is a reconstitution of the LR424 Committee. The only loss in this membership is Senator Lathrop. And with that, I will stand for any questions. [LR34]

SENATOR WATERMEIER: Thank you, Senator Krist. Any questions for Senator Krist? Thank you. [LR34]

SENATOR KRIST: You bet. [LR34]

SENATOR WATERMEIER: Are there those wishing to testify in support of LR34? [LR34]

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MIKE MARVIN: Good afternoon, Senator Watermeier, members of the Executive Board. My name is Mike Marvin, M-i-k-e M-a-r-v-i-n. I am executive director of the Nebraska Association of Public Employees. We are the union representing the vast majority of state employees. I am here to testify today on all three resolutions so I'm going to do it all in one shot to save you a little time here. NAPE supports all these resolutions. We believe that it has given...having the Legislature have oversight, you get to watch the tax dollars that the state...that you put out that the state taxpayers put in there. That it has given a voice, another voice besides our union, to our employees to go forward to the committee members and express what's happening in the workplace and has allowed them to feel like they're contributing more. The...oftentimes management doesn't hear what frontline staff are saying. And I know our employees, particularly in the BSDC and ACCESSNebraska have appreciated having someone to go to and express their concerns. And with that, I'm going to support all three, and I won't take up any more of your time. If you have any questions of me, I would be happy to answer them. [LR34 LR33 LR32]

SENATOR WATERMEIER: Thank you, Mr. Marvin. Is there any questions from the committee? [LR34 LR33 LR32]

MIKE MARVIN: Thank you for your time. [LR34 LR33 LR32]

SENATOR WATERMEIER: Thank you for attending. And I think we'll make a note that you are supporting all three. If you don't want to testify on all three, that's fine. [LR34 LR33 LR32]

MIKE MARVIN: Yes. I signed in for all three too. [LR34 LR33 LR32]

SENATOR WATERMEIER: Very good. Anyone else for proponents of LR34? [LR34]

BRAD MEURRENS: (Exhibit 1) Good afternoon, Senator Watermeier, Senator Krist, and members of the Executive Board. For the record, my name is Brad, B-r-a-d, Meurrens. M-e-u-r-r-e-n-s, and I am the public policy specialist with Disability Rights Nebraska. I am here today in support of LR34. Disability Rights Nebraska is the designated protection and advocacy organization for people with disabilities in Nebraska, and we are charged with advocating for the rights of persons with disabilities in Nebraska. We completed a research report which I've attached to my testimony into the interplay between mental health and Corrections, focusing on what we felt were four key areas: the use of solitary confinement; in-house mental health treatment; reentry and discharge planning; community-based mental health and physical health services. Our report's findings support LR34's continued examination of the Corrections system and how people with disabilities, especially mental illness, are served currently within Corrections and where improvements can be made. We note a significant number of inmates with mental illness are placed in solitary confinement or extreme isolation or segregation

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programs. Once in segregation, whether long term or short term, their psychiatric symptoms and mental condition generally worsen, which can then be used to justify keeping them in segregation longer. Our research suggests that in Nebraska mental health services available to individuals in segregation appear to be limited to face-to-face meetings with a mental health professional, the frequency of which is determined by apparent need. The violence reduction program in Nebraska is not offered to individuals in segregation, who are some of the inmates most in need of those services. The vast majority of persons incarcerated in the U.S. prisons and jails will eventually be released. The immediate period after release is an especially vulnerable time for released inmates. In the first two weeks of release, former inmates are over 12 times more likely to die from health problems than general population as well as being at a heightened risk to recidivate. Navigating such a successful transition to community from postrelease is often uniquely difficult for former inmates with mental illness, especially without assistance in preparing for their release and figuring out what services are needed or how to access those services. System collaboration is a necessary part of a successful transition to community. The Corrections system, human services system, state agencies, and other relevant or pertinent service systems need to work collaboratively to address the scope of needs of former prisoners with mental health conditions once living in the community and resist the temptation to operate as service silos. Integrated services are essential. That concludes my testimony this afternoon. I'd be happy to answer any questions if you have them. [LR34]

SENATOR WATERMEIER: Thank you, Mr. Meurrens. Are there questions from the committee? Thank you for your testimony. [LR34]

BRAD MEURRENS: Thank you. [LR34]

SENATOR WATERMEIER: Any other testimony in proponent? Seeing none, anyone testifying in opposition to LR34? Anyone in the neutral capacity? All right. Seeing... [LR34]

SENATOR CAMPBELL: Vice Chairman. [LR34]

SENATOR WATERMEIER: I'm sorry. [LR34]

SENATOR CAMPBELL: I neglected to ask Senator Krist a question. Would it be okay if I ask him a question now? [LR34]

SENATOR WATERMEIER: I think so. [LR34]

SENATOR CAMPBELL: Okay. [LR34]

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SENATOR WATERMEIER: Senator Krist. [LR34]

SENATOR KRIST: Yes, ma'am. [LR34]

SENATOR CAMPBELL: Senator Krist, I was taking a look at the resolution and it talks about reappointing the committee, and I'm full in favor of that. Would it be possible...is that number seven? Are the returning members count to seven? The reason for the question is I would like to see that the committee have a full complement of replacement for Senator Lathrop in the sense that I think it might be helpful to have someone...you certainly were there from the Health and Human Services Committee from the mental health perspective. And if we filled it to the full original complement, it might be nice for one of the members of the Health and Human Services Committee to apply and serve, based on the need for mental health viewpoint. And so I apologize if the seven includes your replacement. [LR34]

SENATOR KRIST: There is also a committee amendment for us to discuss on Exec... [LR34]

SENATOR CAMPBELL: Oh, okay. [LR34]

SENATOR KRIST: ...that talks about the complement there. And I might as well say it now as long as the question has been asked, I've had conversations with several people about potentially turning some of these special committees that we appoint back to the committee of jurisdiction and then adding an appropriate number of people that would be, as you say, specialties in there. But I think that's something that we should talk about in Exec, and your point is extremely well taken. [LR34]

SENATOR CAMPBELL: Thank you. [LR34]

SENATOR WATERMEIER: Thank you, Senator Campbell. Senator Coash. [LR34]

SENATOR COASH: Thank you, Senator Watermeier. I'm going to ask you a question I asked you off the mike just because I want to make sure it's clear. With this particular resolution, this takes us...this is in effect for this year. Is it your intent for this year and for next year? [LR34]

SENATOR KRIST: Yes. It would be my intent in Exec to specify and make it very clear before this goes to the floor that it's for this session, so two-year time frame. [LR34]

SENATOR COASH: For a two-year session... [LR34]

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SENATOR KRIST: Yes. [LR34]

SENATOR COASH: ...even though we have a, as written now, a report which would be right in the middle of those two. [LR34]

SENATOR KRIST: Right. And I think it's appropriate for us to move that report to the end, at the end of the committee, which would be 2016. So we brought it back in its original form as Senator Lathrop drafted it for a one-year period. That's what we saw. That's what's there. It would be not inappropriate at all for us to talk in Exec and change it. That would be my intent and thank you for asking the question. [LR34]

SENATOR COASH: Thank you. [LR34]

SENATOR WATERMEIER: Good questions. Did I see anyone wanting to testify in neutral position? If not, Senator Krist, did you want to close? [LR34]

SENATOR KRIST: No. [LR34]

SENATOR WATERMEIER: (Exhibit 2) Okay. If not, we're going to end this testimony but for the record I want to add one letter from the Nebraska Chapter of National Association of Social Workers in support of LR34 be officially injected into the record. With that, we will close the hearing on LR34. We'll open up the hearing for LR32. Senator Krist, if you're ready, go right ahead. [LR34]

SENATOR KRIST: Absolutely, thank you very much. For the record, my name is Bob Krist, B-o-b K-r-i-s-t, and I represent District 10. LR32 special committee would provide oversight to ensure that the terms of the U.S. Department of Justice Consent Decree and the recommendations of the 2008 report of the Developmental Disabilities Special Investigative Committee continue to be implemented. This is the...formerly known as the BSDC Committee. The special committee would also be authorized to continue to study the quality of care related to staffing issues at the Beatrice State Developmental Center; investigate placement and quality of care statewide for the developmentally disabled in Nebraska; review the processes of eligibility determinations as well as processes used to determine when individuals are no longer eligible for such services. Just to remind you, LR32 would require the Executive Board to appoint the committee to consist of seven members. The board also appoint the Chair and Vice Chair of this committee. Previous members of LR20 2013 special committee who are still members of the Legislature are: Senator Bolz, Coash, and Krist. The special committee would

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continue its work until the start of January 2017. So this one is clearly written to our implementation. Any questions? I'd be happy to take. [LR32]

SENATOR WATERMEIER: Thank you, Senator Krist. Are there testimony in proponents for LR32? [LR32]

MICHAEL CHITTENDEN: (Exhibit 1) Good afternoon, Senators. My name is Michael Chittenden, M-i-c-h-a-e-l C-h-i-t-t-e-n-d-e-n. I'm the executive director of The Arc of Nebraska. What's being handed out is a brief one-page testimony in support of LR32. We would like to see the special investigative committee continue to ensure accountability and transparency. I also e-mailed you this testimony earlier today so you all have it. And for brevity, I'm done. Any questions? [LR32]

SENATOR WATERMEIER: Any questions? Oh, excuse me, Senator Coash. [LR32]

SENATOR COASH: Thank you, Senator Watermeier. Michael, do you see any value in this...this committee, and I've served on it since its inception, was really focused on the institutional nature. It was BSDC. [LR32]

MICHAEL CHITTENDEN: Right. [LR32]

SENATOR COASH: So state institution. But what we know is there's been a pretty significant movement for folks getting services down there have been transitioned to the community. [LR32]

MICHAEL CHITTENDEN: Yes. [LR32]

SENATOR COASH: And that is certainly the movement. [LR32]

MICHAEL CHITTENDEN: Right. That would coincide with the national movement as well... [LR32]

SENATOR COASH: Right. [LR32]

MICHAEL CHITTENDEN: ...to move from institutional to a home and community based. [LR32]

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SENATOR COASH: Right. Do you see any...so my question, given that foundation, is do you see any value in giving this committee the ability to kind of look at the community-based services a little bit as well, given that...when we're talking about a person, whether they reside in an institution or not, is the quality of care support that they're given may be something we want to take a look at? [LR32]

MICHAEL CHITTENDEN: Yes. [LR32]

SENATOR COASH: Do you have any comment on that? [LR32]

MICHAEL CHITTENDEN: Yeah. I would agree with you, Senator. I think there's huge value to constantly keeping an eye on, not only on BSDC, but home- and community-based care. That we are talking about very vulnerable citizens. We want to ensure their protection but at the same time encourage the dignity of risk. We all have to take risks moving into the community and becoming who we are truly meant to be. But there needs to be oversight. We need to make sure that money is being spent wisely, protections are in place, the CPS, APS, so forth. We would gladly like to see this special committee continue, constantly looking at all the safeguards for people with disabilities. [LR32]

SENATOR COASH: Thank you. [LR32]

SENATOR WATERMEIER: Thank you. Any further questions for Mr. Chittenden? Thank you for your testimony. [LR32]

MICHAEL CHITTENDEN: Thank you much. [LR32]

SENATOR WATERMEIER: Proponents for LR32. [LR32]

BRAD MEURENS: (Exhibit 2) Deja vu. Good afternoon, Senator Watermeier, Senator Krist, and members of the Executive Board. Again for the record, my name is Brad, B-r-a-d, Meurens, M-e-u-r-r-e-n-s, and I still am the public policy specialist for Disability Rights Nebraska. I'm here today in support of LR32. We are one of the organizations that helped unearth the problems at BSDC which gave rise to the creation of the Developmental Disabilities Special Investigative Committee. Given the systemic nature of the issues identified in LR32, the reports from the Department of Justice, as well as the Special Investigative Committee itself, a constant and vigilant public attention is required. The Special Investigative Committee has been instrumental in raising issues beyond those initial identified by us and the U.S. Department of Justice. The DDSIC has also been crucial in developing solutions to these issues and holding officials

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accountable for implementing them. We believe that if the recommendations stemming from the Special Investigative Committee report are to be fully implemented, continued oversight by the committee proposed in LR32 is crucial. Issues surrounding community-based developmental disability services and the capacity of the system to provide adequate and appropriate services for persons with developmental disabilities living in the community are equally important. The ability of the developmental disability system to provide services for those who are able to move out of BSDC or whose developmental disabilities do not warrant placement in BSDC must be examined as well. The most appropriate body to adopt such a wide-ranging investigation is the Special Investigative Committee as proposed in the resolution. And we encourage the Executive Board to advance LR32. If you have any questions, I'd be happy to... [LR32]

SENATOR WATERMEIER: Thank you, Mr. Meurrens. Any questions? Thank you for your testimony. Further testimony proponents? Opposition to LR32? Neutral testimony? Welcome. [LR32]

DOUG KOEBERNICK: (Exhibit 3) Thank you, Senator Watermeier. My name is Doug Koebernick, spelled K-o-e-b-e-r-n-i-c-k, legislative aide for Senator Burke Harr. It's very unusual for staff to testify, but Senator Krist asked me to do this for him. I was the, kind of the lead staff for the Developmental Disabilities Special Investigative Committee for about seven years for Senator Lathrop. And the last thing I did as that staff member was to give some information to Senator Krist and other people who were returning to the Legislature that had served on that committee in addition to some of the folks on the HHS Committee. And so Senator Krist yesterday asked me if I would come in here and present that information to you. So in the latter half of 2014, our office, Senator Lathrop's office, was contacted many times by individuals who were concerned about the use of overtime and the number of vacant direct care positions at BSDC. As a result, our office requested data regarding filled and vacant direct care positions as well as overtime for those positions from the Division of Developmental Disabilities. Between the responses to our request and the data in legislatively required quarterly reports from the division, it became obvious that overtime usage and direct care staff vacancies were a growing problem. Our focus was on direct care staff. There's lots of positions out at BSDC. I mean, there's medical, I mean, all sorts of different things; and there's different shortages depending on which positions you're looking at. But our focus was on direct care staff because those are the staff that work 24/7 with the Nebraskans who live at BSDC. And it's generally thought that staffing issues along with poor management were at the root of the problems that caused the federal intervention at BSDC and that led to the creation of the Developmental Disabilities Special Investigative Committee. So to cut to the chase, if you look at this handout, and this is information from the quarterly report that is prepared by the Division of Developmental Disabilities, and the latest one was dated in January, if you look at this on handout 1, it shows the vacancy rates by quarter for the direct care positions at BSDC in 2013 and 2014. In the first quarter of 2013, the vacancy rate for those positions--there's about 300 of those positions--the

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vacancy rate was 20 percent. By the third quarter of 2014, it had grown to 35 percent, with a possible dip--they don't have all the final numbers yet--to 33 percent for the fourth quarter of 2014, so a pretty significant change there as far as vacancy rate for those direct care positions. If you look at handout 2, you'll see that their goal is actually 10 percent. So that gives you some sort of idea of what we're looking at when you see that it's 33, 35 percent and their goal is to have a 10 percent vacancy rate. Observations are also included in that part, in that handout that state that hiring continues to lag behind turnover and that the second shift is the most problematic shift as far as staffing. It also presents information on the second shift incentive pilot program that began in February 2014 which is an attempt to address that problem. Now if you go to the handout 3, this contains overtime data at BSDC for those direct care positions, which are developmental technicians I, II, and III and then temporary on-call positions. There are two important figures to look at in this chart: the total number of overtime hours worked, which would be the sixth column over from the left, and then the percentage of total wages generated by overtime. And that is the column on the far right. As one would expect, as the number of vacant positions increased, so did the amount of overtime hours worked. In the fourth quarter of 2014, there were over 19,000 hours of overtime worked by people in those positions at BSDC. This was a 26 percent increase in overtime over the third quarter and a 39 percent increase in overtime over the fourth quarter of 2013. In the fourth quarter of 2014, over 19 percent of total wages for these positions was generated by overtime. This was only the second quarter since 2008 that had a number that high. So I think before seeing if there are any questions I do want to say this. The things that I just showed you here sound pretty negative and I think they are. However, there are many positive changes that have taken place at BSDC since 2008, and many of these can be found in the quarterly reports which are quite lengthy and very detailed and really well done by the division and also in the independent experts report from the Department of Justice. [LR32]

SENATOR WATERMEIER: Senator Coash. [LR32]

SENATOR COASH: Thank you, Senator Watermeier. Thanks for testifying, Doug. I'm just going to ask you a couple of questions just to get a couple of things on the record. Is BSDC still under the thumb of the Department of Justice? [LR32]

DOUG KOEBERNICK: They still are. It's getting close. [LR32]

SENATOR COASH: So the federal government is still paying quite a bit of attention to the services and how they're going down there? [LR32]

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DOUG KOEBERNICK: The last report was issued in December by the Department of Justice's independent expert. I believe they are coming back again. They haven't done the final sign-off yet, but they believe they're getting close. [LR32]

SENATOR COASH: So I mean that's kind of a big monkey off of the state's back to have the federal government say, okay, we're comfortable enough the way things are going that we're not going to basically house staff here to look at how it's going. [LR32]

DOUG KOEBERNICK: That's correct. [LR32]

SENATOR COASH: And can you say again when the state would expect to know whether or not they're leaving or staying? [LR32]

DOUG KOEBERNICK: I don't know the answer to that. You'll probably have to ask Director Fenner at the division. I'm not sure if they exactly know yet. [LR32]

SENATOR COASH: Okay. [LR32]

DOUG KOEBERNICK: But they expect...what typically has taken place is every three months the independent expert comes into the state with their team, monitoring team. And they've gone to BSDC and then three months later they went into the community and then BSDC, community. And then last year they really came in just a couple of times so they're spreading it out a little bit more. And then I think they're thinking maybe one more visit this year is what I've been told. [LR32]

SENATOR COASH: And we got into this when the federal government pulled their portion of...basically decertified the institution and so the state had to pick up 100 percent of the cost of the care, right? [LR32]

DOUG KOEBERNICK: That's correct. [LR32]

SENATOR COASH: But for the record, that...the institution has been recertified. They just haven't left. Correct? [LR32]

DOUG KOEBERNICK: Right. It's 100 percent recertified. We get all the federal dollars now. But the Department of Justice, they have a Consent Decree that and a settlement agreement that lays out all these different things that they're supposed to meet before they walk away. [LR32]

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SENATOR COASH: And we just haven't quite met all of those criteria. [LR32]

DOUG KOEBERNICK: Correct. [LR32]

SENATOR COASH: Okay. My last question relates to the overtime. And you've illustrated how the overtime continues to go like this. But what is the census of people getting supports that are done over that same period? [LR32]

DOUG KOEBERNICK: The census, I mean when we first got involved I think it was close to 250 to 350 people were out there. [LR32]

SENATOR COASH: Right. [LR32]

DOUG KOEBERNICK: Now I believe it's about 120 from the last number I saw. [LR32]

SENATOR COASH: So even though we're relying on more and more overtime, the number of folks who get services there and live there has been on the decrease. [LR32]

DOUG KOEBERNICK: Yeah. It's kind of a very slow decrease right now. I mean they went down pretty significantly and then it's kind of leveled out and it's just kind of one by one. [LR32]

SENATOR COASH: Okay. All right. Thank you. [LR32]

SENATOR WATERMEIER: Senator Hadley. [LR32]

SENATOR HADLEY: Mr. Koebernick, in my previous district before we redistricted, I had Bethphage Mission run by Mosaic. Have we ever done comparisons with what is happening with BSDC and how things are happening at Bethphage Mission? [LR32]

DOUG KOEBERNICK: As far as staffing? [LR32]

SENATOR HADLEY: Staffing and such as that. [LR32]

DOUG KOEBERNICK: Yeah. Last fall when we were looking at this and getting these numbers and we started seeing how significant they were, I did contact Mosaic. We didn't talk about that or get the information from the Axtell facility, but we did get information on what is happening

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in the Beatrice facility. They also have a pretty significant facility in Beatrice as well as some community-based services there. And the...when I asked for that information, they had 255.9 budgeted full-time employees and this was in September. At that time, they had 10 vacant full-time positions and they'd had a total of 500 hours of overtime. [LR32]

SENATOR HADLEY: Pretty significant difference then. Is that a fair statement? [LR32]

DOUG KOEBERNICK: I think so. [LR32]

SENATOR HADLEY: Thank you. [LR32]

SENATOR WATERMEIER: Further questions? Senator Campbell. [LR32]

SENATOR CAMPBELL: Mine isn't necessarily a question but just so that the committee knows and for the record Senator Seiler and I are also working with the Ombudsman's Office on an issue having to do with Bridges and overtime and workers' comp claims and so forth. So I guess my point would be that you wouldn't want to just single this committee. I agree with Senator Coash totally. You not only would want to look at BSDC and track that, but you'd also want to be looking at community services and all of the other programs because my concern is that we're beginning to see some problems creep up that were red flags initially at BSDC. And, Doug, you certainly can comment if you want. [LR32]

DOUG KOEBERNICK: Well, I was at a funeral this morning for somebody who lived at BSDC and just died the other day. And I was talking to a mother there who has somebody that is at BSDC but she's also a guardian for people in the community. And she said exactly what you said. And she thinks if there's a committee that exists that continues to exist that they should look at staffing in community-based programming and BSDC and Bridges because we did that once when we first kind of got started on this and looked at the turnover in the community-based facilities. And Senator Coash can probably share a lot of information with you on that, but it's pretty high too. I mean it would be really interesting to look at the whole system as far as turnover and vacancies and things like that and pay. [LR32]

SENATOR WATERMEIER: Further questions? Thank you, Mr. Koebernick. [LR32]

DOUG KOEBERNICK: Thanks. [LR32]

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SENATOR WATERMEIER: (Exhibit 4) Other testimony in neutral capacity on LR32? I do have one letter to read into the record in support from the Nebraska Planning Council on Developmental Disabilities in support of LR32 for the record. [LR32]

SENATOR COASH: Can I ask Senator Krist a question before he closes this hearing? [LR32]

SENATOR WATERMEIER: Certainly, Senator Coash. [LR32]

SENATOR COASH: Senator Krist, it's kind of a technical question. As I was looking through these resolutions, on the one that we're on, the Developmental Disabilities Special Investigative Committee, the language says that the Exec Board will appoint the Chair and the Vice Chair. [LR32]

SENATOR KRIST: Correct. [LR32]

SENATOR COASH: But on the Correctional one and the one you're about ready to open on, the ACCESSNebraska, the Chair and Vice Chair are chosen from within the committee. [LR32]

SENATOR KRIST: Right. [LR32]

SENATOR COASH: So just two different approaches there, and I was wondering if you could...if that was something you considered or I'm just wondering why we have an inconsistent approach on these two. [LR32]

SENATOR KRIST: We again used exactly the language as they were constituted to begin with. It is this group's responsibility I think and it would be appropriate again to look into either all three of them appointing Chair and Vice Chair or allowing the group to elect their own Vice Chair. We can do that with a committee amendment before the LR gets to the floor. [LR32]

SENATOR COASH: Sure. That makes sense to me. I just wanted to know if there was a reason why there was...that you...but it's just how it was introduced originally. [LR32]

SENATOR KRIST: BSDC started in 2008. Senator Lathrop wrote up the LR424 last year. You know, I think it's when it actually happened and what the will of the Exec Board was at the time. [LR32]

SENATOR COASH: Okay, thank you. [LR32]

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SENATOR KRIST: Thank you. [LR32]

SENATOR WATERMEIER: Further questions for Senator Krist? Do you want to close on LR32, Senator Krist? [LR32]

SENATOR KRIST: No, I'll save my comments for Exec. [LR32]

SENATOR WATERMEIER: Okay. Thank you so much. We'll close the hearing on LR32 and we'll now open the hearing on LR33. Senator Krist. [LR32]

SENATOR KRIST: Thank you. A special committee would be authorized to provide ongoing oversight of ACCESSNebraska. The special committee would also analyze the experience of clients and their family members and examine customer service experience, access to benefits, and responses to changing family needs. The Exec Board would appoint seven members to the special committee. The special committee selects its Chairperson and Vice Chair. Currently, current senators who are members of LR400 Special Committee are: Senators Bolz, Crawford, Gloor, Howard, and Nordquist. The special committee would issue a report with its findings and recommendations no later than currently, December 15, 2015, which again would be subject to your approval. [LR33]

SENATOR WATERMEIER: Questions for Senator Krist? Do I have testimony in proponents for LR33? Welcome. [LR33]

KATIE PITTS: (Exhibit 1) Good afternoon, Senator Watermeier, members of the Executive Board. My name is Katie Pitts, K-a-t-i-e P-i-t-t-s, and I am the director of public policy for Nebraska Appleseed and I'm filling in for my colleague, Molly McCleery, who is out sick today. Nebraska Appleseed is a nonprofit organization that fights for justice and opportunities for all Nebraskans. And I am here today to testify in support of LR33 on behalf of Nebraska Appleseed and the organizations that are listed on the letter that we are passing out to the committee. Since its inception, ACCESSNebraska has had serious problems. Clients have experienced long call wait times, lost paperwork, erroneous benefit terminations, and delayed application processing. In 2014, in order to fully understand the root causes of these system problems and how to remedy them, the Legislature passed LR400 which created a special investigative committee to study ACCESSNebraska and issue a report with recommendations on system improvement. In December 2014, the special investigative committee issued its report which detailed serious problems, including significant delays in application processing and a poor working environment for employees. The report stressed a need for appropriate funding for additional employees, improved technology, a concerted effort to streamline application processes, and policy alignment. Among the report's recommendation was the continuation of the special investigative

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committee. It is our belief that LR33 is necessary to improve the ACCESSNebraska system and to ensure that it is effective and efficient in the future. The continuation of the special investigative committee will provide necessary oversight for system reforms. And additionally, it would allow for even greater data and information to be collected. For these reasons, we urge the committee to support LR33. Thank you. [LR33]

SENATOR WATERMEIER: Thank you for your testimony. Any questions? Thank you, Ms. Pitts. Thank you. Further testimony for proponents. Senator. [LR33]

SENATOR HOWARD: Thank you, Brandon. Good afternoon, Senator Watermeier and members of the Executive Committee. My name is Sara Howard, S-a-r-a H-o-w-a-r-d, and I represent District 9 in Omaha. I'm here to speak to you about LR33, which would continue the work of the ACCESSNebraska Special Investigative Committee. I won't try to reprise what previous testifiers have said. Prior to the introduction of this LR, I was planning on putting in a bill that would have done something similarly to continue this work. But I think an LR is much more appropriate and a much better idea. As Vice Chair of the ACCESSNebraska Special Investigative Committee, I spent the interim going to sites across the state. So I visited Lexington, Scottsbluff, Omaha and tried to look at how ACCESSNebraska truly functions and whether or not it's doing what we planned on it to do. And while I have had some frustrating challenges with my constituent base about ACCESSNebraska, I do think that they're moving in the right direction. However, I think they still need our support to do that and they still need our oversight for that. We continue to see challenges with SNAP application timeliness. And what's so interesting is that during my mother's tenure we used to receive bonus payments for our SNAP applications. We used to get extra money. We used to be the best in the country. And so I think we can get back there, and I think ACCESSNebraska still needs the support and oversight of a special investigative committee. With that, I would be happy to try to answer any questions. [LR33]

SENATOR WATERMEIER: Thank you. Any questions? Thank you, Senator Howard. [LR33]

SENATOR HOWARD: Thank you, Senator Watermeier. [LR33]

SENATOR WATERMEIER: Further proponents? Welcome. [LR33]

KORBY GILBERTSON: (Exhibit 2) Good afternoon, Vice Chairman Watermeier, members of the Executive Board. For the record, my name is Korby Gilbertson. It's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing today as a registered lobbyist on behalf of the Nebraska Health Care Association which includes in its membership both nursing and assisted living facilities in Nebraska. Instead of reading my letter to you, I will let you do that. But I will echo what Senator Howard said in that NHCA has seen improvement in the services since the oversight committee

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was implemented and they truly believe that the continuation of the oversight committee will help continue to improve services and that we think that's necessary. With that, I'd be happy to try to answer any questions. [LR33]

SENATOR WATERMEIER: Any questions? Thank you, Ms. Gilbertson, very much. [LR33]

KORBY GILBERTSON: Thank you. [LR33]

SENATOR WATERMEIER: Further testimony proponents? Welcome. [LR33]

JOYCE KUBICEK: (Exhibit 3) Thank you, Senator Watermeier and Senator Krist and members of the Executive Board. My name is Joyce, J-o-y-c-e, Kubicek, K-u-b-i-c-e-k. I will also not go through my whole letter. I think I agree with the people that have spoken earlier that this has resulted in some good things and the issues have been identified to me seems very clearly. But there hasn't been an opportunity to have that work completed. And I am a...I supervise the care managers in the eight-county area for Aging Partners and Area Agency on Aging. And I, myself, spend a great deal of time in the homes of people 60 and older in that area. And I just know that most of them are not able to come here and speak to you. So I have come to say please continue this work. I will just say that for some people it's a frustration and a time-consuming process. But for my clients, the older people that have given a lot to the communities they live in and are our parents and grandparents, it could mean they don't get food stamps so they don't have a meal. They cancel a doctor visit because their Medicaid has been interrupted. They don't have insurance. So thank you for your work on this, and I hope it will be decided to continue it. [LR33]

SENATOR WATERMEIER: Questions for Ms. Kubicek? Thank you for your testimony. Further proponents? [LR33]

MICHAEL CHITTENDEN: (Exhibit 4) Good afternoon, again, Senator Watermeier and members of the Executive Board. My name is Michael Chittenden, M-i-c-h-a-e-l C-h-i-t-t-e-n-d-e-n. I'm the executive director of The Arc of Nebraska. I, too, will try to make this brief. You are being provided a copy of the testimony. In 2013, The Arc of Nebraska, through a grant through the Developmental Disabilities Council of Nebraska, did a family survey on services in Nebraska. I have e-mailed that survey to all of you earlier today so that you have a copy of it. Highlighted within this was the fact that the families were very upset because there was a confusing application process. They were unaware of any of...most of if not any services available. And there was really no outreach by the state of Nebraska to those families to promote the services. That's the highlight and so we would continue to...we would support LR33 and

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continue ACCESSNebraska in making it better for the citizens of Nebraska with disabilities. [LR33]

SENATOR WATERMEIER: Questions? Thank you for your testimony. [LR33]

MICHAEL CHITTENDEN: Thank you for your time, Senators. [LR33]

SENATOR WATERMEIER: Further proponents. [LR33]

BRAD MEURRENS: (Exhibit 5) Good afternoon, Senator Watermeier and members of the Executive Board. For the record, my name is Brad, B-r-a-d, Meurrens, M-e-u-r-r-e-n-s, and I am the public policy specialist with Disability Rights Nebraska. I'm here today in support of LR33. In the interest of time, I will leave you with these three sentences. ACCESSNebraska is a program of vital importance for many Nebraskans with disabilities. Many Nebraskans with disabilities utilize the public benefits and systems that are only acquired through the ACCESSNebraska gateway. Given the scope of the ACCESSNebraska problems and as those problems still exist today, it is only appropriate that the Legislature continue to have an official designated, investigative body to perform essential oversight responsibilities. Thank you. [LR33]

SENATOR WATERMEIER: (Exhibit 6) Thank you for summarizing. Questions? Thank you for your testimony. Further proponents. Anyone wishing to testify against LR33? Neutral testimony? For the record, we have one letter of support from the Nebraska Planning Council on Developmental Disabilities in support of LR33. And this will close this hearing. Thank you for attending. [LR33]