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Developmental Disabilities Special Investigative Committee  
October 22, 2015

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[LR32]

The Developmental Disabilities Special Investigative Committee met at 1:30 p.m. on Thursday, October 22, 2015, in Room 1510 of the State Capitol, Lincoln, Nebraska. Senators present: Colby Coash, Chairperson; Roy Baker; Kate Bolz; Al Davis; Robert Hilkemann; and Jerry Johnson. Senators absent: Burke Harr. Also present: Roy Baker; Kathy Campbell; and Mark Kolterman.

SENATOR COASH: Welcome, everybody. We are going to go ahead and get started. Just so you...in case you're not sure if you're in the right room, this is the LR32 Developmental Disabilities Special Investigative Committee. I'm Colby Coash; I'm the Chair of the committee. Couple of housekeeping things before we get started. This is an interim hearing so we're not talking about a bill. We are going to have some testifiers. I do have some invited testimony and I'll call those folks up in the order that we have. And then following the invited testimony, if somebody else is here that wants to add to the discussion that didn't happen earlier, you are welcome to do that. If you could silence your cell phones that would be helpful. If you...when you...if and when you testify, if you'll fill out a testifier sheet, Christina will take those and will make a clear record. We'll ask you to state and spell your name for the record. And with that I would like to introduce the members of the committee and those that are up here so that you know who you're talking to. We have not only members of the LR32 Committee but also some members of the HHS Committee have joined us as this is an area under their purview as well. To my far right is Senator Baker from Beatrice. Next to him is Senator Campbell; she's the Chair of the HHS Committee. Senator Bolz is to my immediate right, from Lincoln. On my far left, way over there is Christina and Sam--they're going to act as...they are our committee clerks today-- Senator Johnson from Wahoo; Senator Davis from Hyannis; and Senator Hilkemann from Omaha. All right. So with that I'm going to go ahead and open the hearing. I'm going to start by giving a brief overview and then we'll start with our testifiers. Okay, good afternoon, fellow committee members. For the record I'm Colby Coash, C-o-l-b-y C-o-a-s-h. And I wanted to open this hearing with a few opening comments just to kind of frame up what we're going to be talking about today. Several of us spent a good portion of yesterday at BSDC talking to the staff, some parents, meeting some of the residents, had a great tour. So that was very helpful for us to do that. But I wanted to, because there's some new members on the committee, just kind of

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frame up how we got here and what we're about on this committee. BSDC stands for Beatrice State Developmental Center. It's been around in some form since 1887 and it's always been a place that served children and adults with disabilities. Now the manner in which they have served and provided support has certainly changed over the years, but the purposes remain consistent. It was and is a state facility run by state government, staffed by state workers. And I'll note that in the later part of the last century, BSDC was seen as a model for how services should be provided. But despite some dedicated professionals, things at BSDC did go south recently. And this is my opinion, but there was, frankly, lack of oversight interest in what was going on there and the nature of services started to decline. Funding at BSDC is important to understand. It is a state and federal mix. So all the funding that is provided to BSDC, some of it is state funds and some of it is federal funds--60 percent federal and 40 percent state. Now we're going to go now to the most recent history which is 2007 through 2009. During its reviews, the federal government came in and decertified BSDC. And that decertification meant a loss of that 60 percent funding during the period that the BSDC was decertified. During that period, Nebraska had to make up that federal portion to keep that place going to the tune of about \$25 million a year to continue services. Along with that action of decertification came oversight by the Department of Justice. So the Department of Justice opened up a case and got involved. And the reasons for this decertification and the DOJ involvement were a result of some very well publicized and horrific things that happened to the residents there--violated their health, safety, civil rights. And today there are still people serving time in prison for the actions that they took while working at BSDC. This committee was formed in 2009 shortly after that decertification to provide oversight and support needed for the changes at BSDC. Now in 2012 it was recertified and the DOJ closed its case earlier this year. And that is good news and it was the result of a lot of hard work by a lot of people to turn things around, at least to the point where the Department of Justice felt we didn't need to...they didn't need to be involved and we, again, retained that federal funding for the services. This committee's charge, I just want to put out there, what this committee was looking at originally was just BSDC, but this year...but with the support of the Legislature, the committee's scope was expanded to include community-based programs as well. And there's a reason for that. Many of the folks who left BSDC went out into community-based programs and the DOJ followed them out there and made sure that things were going well for them as they transitioned out. Today, we're going to hear from the department about the progress they have made. We're going to hear from some parents who have loved ones, past or present, at

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BSDC. We're going to hear from the workers' representation. We're going to hear about some of the medical issues that they deal with there from a medical standpoint. And we're also going to hear from a community-based provider that has worked with the folks who have come out of BSDC. Want to note that we have, currently, some leadership, lack of a better term, issues within the department, just so you understand who is going to be talking to you and what the nature of their positions are. Right now the director of developmental disabilities is being filled on an interim basis, so it's not a permanent appointment, as well as the deputy director of the Department of Development Disabilities. And the CEO of BSDC is currently an acting director. So we have three pretty important levels of leadership that are not permanently in place and the department is doing the best it can with some interim appointments as they work to fill those positions permanently. I want to make sure that my goal for this committee is on the record because I don't want it to be misunderstood. It's not my goal to find a way to shut BSDC down, that is not what this committee is about. However, we must start to talk about some planning with what BSDC is and will be. We must begin to work with the department to shape what BSDC will look like 5 years, 10 years, 15 years down the road. And my goal for this committee is to work to make sure there is a plan in place because it's important. Why is it important? Let me give you just some history: In its heyday, BSDC served a couple thousand people. As we sit here today, there are 118 residents living there. The campus was, obviously, built to support many more than that. But I will tell you, the quality of life of those who do live there is much better with a smaller census. There is much...it's greatly improved with the individualized services, more space, more room to grow. However, that overhead remains. To put those 118 in perspective, we have to understand that not one person has been admitted to BSDC since 2012. So for the past three years, no one else has come in there. And only four people have gone into BSDC since 2010. Okay? And as you're going to hear from the department, a majority of the folks who are currently getting services there fall under two categories. One is some behaviorally challenged folks that are difficult to serve for a variety of reasons, have not been served well in the community, and then some folks who are pretty medically needy and have some complex medical needs and that represents another portion. I'll let the department talk about that. But with no more intakes into BSDC we can see where the census is going. It's continuing on a decline and the costs remain high. And we have to put a plan in place. We have to figure out what the future of this place is because at some point what's happening across the country is places like BSDC are starting to crush under their own weight. Decisions will have to be made what is

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BSDC when there is only 100, when there's only 80, when there's only 50 people, if that's the trajectory we're on. And so we have to put a plan in place to figure out what services need to be and how BSDC fits in that continuum of services. A final word on the community-based programs that I mentioned earlier and the need for services in the community. As many of you know, I've worked in this industry and I will tell you that many of the challenges that BSDC has with regard to labor and things of that nature are mirrored in the community. The problems that BSDC has had are not unique just to that entity. Those problems continue into the community. There is a waiting list, as many of you know, for services. And the department is going to, in addition to talking about BSDC, is going to brief the committee on some of the challenges that they've uncovered recently so this committee is aware of what we may be facing in an upcoming legislative session, future legislative sessions as a result of some of the things that they're finding along that continuum. So with that, I just...I will end my testimony. If anybody has any questions I'll answer them or we can just go right to the testifiers. Okay, thank you. Okay, we're going to go ahead and start with the invited testimony. First testifier we've asked is a representative from the department to come up. So is that going to be you, Courtney? [LR32]

COURTNEY MILLER: Um-hum. [LR32]

SENATOR COASH: Great. Courtney is going to come up and we're going to give her as much time as she needs to kind of brief the committee on what's going on with all those things that I talked about and we'll see if the committee has any questions. But thank you for coming, welcome. [LR32]

COURTNEY MILLER: (Exhibit 1) Good afternoon, Senator Coash, members of the Developmental Disabilities Special Investigative Committee. My name is Courtney Miller, C-o-u-r-t-n-e-y M-i-l-l-e-r, Interim Director for the Division of Developmental Disabilities with the Nebraska Department of Health and Human Services. As the interim director, I am reaching out to all stakeholders, both internal and external, to take inventory of what is working and areas needing improvement. In addition, I have secured a consultant who is an expert in the area of Medicaid waiver programs for developmental disabilities to assist in this inventory. We are committed to building on our strengths. It is my goal to have the inventory complete in early December to share with members of this committee. As you are aware, the Division of

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Developmental Disabilities provides habilitation services to approximately 4,800 Nebraska citizens. Habilitation services help individuals learn, improve, and retain skills to become more successful and independent. A majority of those individuals, approximately 98 percent, receive their habilitation services in the community. Only 2 percent of individuals receive institutional habilitation services at BSDC. Today, there is a total of 2,070 individuals listed on the registry of unmet need. The longest date of need is November 26, 2009. Twenty-six percent of these individuals are already receiving some services and another 25 percent have declined services at this time. The Division of Developmental Disabilities administers three separate Medicaid waiver programs. They are: the children's waiver, which serves children from birth to age 21 years; the adult day waiver, which provides day habilitation services to adults 21 and older; and the adult comprehensive waiver, which provides both day and residential habilitation to adults 21 and older. Our two Medicaid adult waivers were submitted to the Centers for Medicare and Medicaid Services, CMS, for renewal on September 30, 2015, for approval. I have reached out to CMS to discuss our waivers, so this is a work in progress and additional information will be included in my inventory briefing for the committee in December. We are also working on our home and community-based services, or HCBS, transition plan. The final HCBS regulation, published January 26, 2014, requires states operating a Section 1915(c) waiver to submit a statewide transition plan addressing compliance with the regulation. The purpose is to ensure that people who live in the community and who receive home and community-based waiver services have opportunities to access their community and receive services in the most integrated settings. This includes opportunities to seek employment and work in competitive settings, engage in community life, control personal resources, and participate in the community just as people who live in the community and do not receive home and community-based services do. The new rule stresses the importance of ensuring that people choose service settings from options and are available to exercise rights and optimize independence. Services must reflect individual needs and preferences as documented by a person-centered plan. The HCBS Coalition was formed as one means to address the new CMS regulation and is comprised of a broad and diverse group of stakeholders representing aging, physical and developmental disabilities, traumatic brain injuries, mental health, independent living, self-advocates, and other groups who are interested in Medicaid long-term services and supports within the community. There is work to be done and I look forward to additional engagement with our division partners, providers, advocacy groups, families, and those we serve to provide the best transition possible for

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Nebraska. The Division of Developmental Disabilities continues to expand service network and community-based services. The division has 88 certified providers presently. In the past year, the Division of Developmental Disabilities provisionally certified five new providers who are providing services in the Lincoln/Omaha metro and surrounding area. Two new providers have been approved to begin offering services in those areas as well. There are also two existing agencies that have added services in Scottsbluff and are expanding services in Bellevue. We have several additional agencies who are in various stages of the process to become specialized providers. There are 116 individuals presently residing at BSDC. Of these, 98 individuals are employed, with 13 of those individuals who are semiretired and still working. Eighteen individuals are retired from employment. We are actively recruiting and interviewing for a CEO at BSDC. During this time, Courtney Phillips, CEO of the Nebraska Department of Health and Human Services, and I have made frequent visits to the facility during various shifts. It's important for staff to know us and for us to know them and their work. BSDC has a medical unit of three full-time primary care providers, one full-time psychiatrist, a part-time internist, and a full-time dentist. Dental care is provided on-site to individuals who reside at BSDC, as well as individuals who live in the community who transitioned from BSDC. The medical providers work side by side with a full complement of allied health professionals. Allied health professionals include a physical therapist, occupational therapist, speech and language pathologist, registered dietitian, an audiologist, respiratory therapist, and recreational therapist. Nursing services are provided through both the nursing department and the healthcare coordinator team. The nursing department provides a continuous 24/7 presence as a part of an interdisciplinary team approach to the healthcare and well-being of the individuals being served. The mechanics, gait, and ambulation clinic provides services to individuals with developmental disabilities and moderate to severe brain/body impairments who present the most complex physical and medical challenges of any individual group. The mechanical, gait, and ambulation clinic provides a professional, consultative review of body mechanics, gait, and balance to individuals residing at BSDC. The physical nutritional consultative services team consists of dedicated therapists and clinicians who monitor the health and safety of individuals who live at BSDC to eliminate or mitigate health risks associated with choking, aspiration, pneumonia, skin breakdown, and nutritional decline. The collaborative group includes occupational therapists, speech language pathologists, physical therapists, registered nurses, and registered dietitians working along with the home staff and guardians to identify changes in health status and

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potential risk factors. The behavior support team at BSDC seamlessly integrates medical and behavior support services. To date, the behavior support team consists of three board-certified behavior analysts, three full-time behavior analyst students, a part-time behaviorist, four licensed psychologists, three doctoral psychology interns, and a director who is also a licensed psychologist. In addition, the team clinically supervises six behavioral support specialists who assist with day-to-day monitoring and training of behavioral support plans in the homes. The team also provides training to community providers and is available, as needed, for consultation regarding specific people living in the community as well, to help continue the mission of changing behavior to improve lives for everyone in the state. At BSDC there have been no uses of mechanical restraint in almost four years. The last mechanical restraint was in December of 2011. The BSDC public health clinic medical team provides clinical services at the BSDC licensed public health clinic and is devoted to the care of individuals with intellectual developmental disabilities. Our specialists conduct both in-person and tele health clinics which are designed to provide maximum flexibility while mitigating geographical barriers. The BSDC dental clinic provides dental care for adult individuals with developmental disabilities. The clinic provides dental services to individuals who reside at BSDC and other individuals in the community who have been unable to access necessary services. Information about opportunities to transition are provided to each individual and/or their legal representative who choose to have them live at BSDC about community services at a minimum during their semi and annual meetings. They are also provided information when new providers are certified to provide services in the state of Nebraska. Some of the barriers to transition include a comfort level with a known service, relationships with other individuals and the staff, appreciating the tough decision so many years ago made to have their loved one served at BSDC, and the guardians honoring that decisions if the individuals' parents have already passed away. Our last quarterly report for 2015 on BSDC staff overtime indicated approximately 14,000 hours of overtime, which is approximately 15 percent of our total work hours, with close to 9,000 hours of overtime occurring on the second shift. The top four reasons for overtime are vacancies--our current vacancy rate average for this year is 27 percent--call ins, vacations, and meeting the minimum number of staff required. Our data indicates an increased usage in voluntary versus mandatory overtime. Ninety-seven and a half percent of the overtime is voluntary for direct-care staff. We are constantly evaluating the reasons for overtime and have engaged in promising practices to increase our hiring of qualified candidates and provide them the necessary training to focus on

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job satisfaction and retention. An HR representative works closely with the Department of Labor office and works directly with interested candidates monthly on-site at the Department of Labor. Our current average hiring rate for this year is 31 percent. It is an area of constant focus for our human resources and training unit. Our quality improvement efforts are documented and monitored. They show our targeted outcomes such as no abuse, neglect, and safety concerns. At the time of the review, this is at 99.5 percent. I would like to add that at BSDC we have a zero tolerance for abuse and neglect. In August, an employee was charged with abusing a vulnerable adult. This is unacceptable and there is no excuse whatsoever for this behavior. Our employees are trained on our policy and we expect them to follow them. This policy also requires any employees to report possible abuse and neglect. While I wish I could, I cannot assure you that this will never happen. I can assure you that we will be diligent in training, monitoring, and reporting on this important issue. And I can assure you that we will take action if reports are received. Another quality improvement outcome is that resources and benefits, such as SSI/SSA, SNAP, Medicaid, HUD are received if eligible. This is at 99.7 percent. Another outcome is that all individuals' medical needs are met and access to health services, preventative health care, and medical appointments are completed as needed. This is also at 99.3 percent. An area of success is that on August 3, 2015, a United States District Court ended the settlement agreement with the United States Department of Justice after establishing that the state of Nebraska fully complied with the settlement agreement. The Division of Developmental Disabilities will continue to build on quality improvement, identifying evidenced-based practices for implementation while focusing on health and safety on the individuals we serve. I look forward to following up with you on the inventory and more success stories in December. Thank you for the opportunity to provide information. I'm happy to answer any questions that you have. [LR32]

SENATOR COASH: Thank you, Courtney. We really appreciate it. I'll start, I have a few questions. And we understand you're an interim director and you haven't been in that position...how long have you been interim director? A few weeks? [LR32]

COURTNEY MILLER: A few weeks. [LR32]

SENATOR COASH: A few weeks, okay. So I don't want you to answer any questions that...you know, if you don't know, just say you don't know. [LR32]



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COURTNEY MILLER: Of course. [LR32]

SENATOR COASH: But do you know what the current budget for BSDC is? [LR32]

COURTNEY MILLER: The current budget... [LR32]

SENATOR COASH: Annual operating budget for BSDC? [LR32]

COURTNEY MILLER: I have the General Fund costs for BSDC last fiscal year. [LR32]

SENATOR COASH: What was it? [LR32]

COURTNEY MILLER: \$22,700,000. [LR32]

SENATOR COASH: Twenty-two point 7 million (dollars). Okay. And I misspoke in my opening, I said 118, but your testimony is 116 residents that live there. The census is going down. Can you speak to why nobody has been admitted to BSDC in the past several years and that we've seen...of course people have passed away and moved to other providers or things like that, but the census continues to go down. Can you speak to that? [LR32]

COURTNEY MILLER: Well, I think, of course, the DOJ oversight played into that. But also I think that the referrals that we've received and the information that we've received on those individuals and the team effort that we've had is that they were able to be served in the community or in a private ICF facility. [LR32]

SENATOR COASH: Okay. You heard me in my opening state that I strongly feel there needs to be a long-term plan for what BSDC is and how it fits into the grand scheme of services. Can you speak to anything the department is doing to plan ahead? Or are we...to plan, I'll just leave it at that. [LR32]

COURTNEY MILLER: We're in agreement--there needs to be a plan. And I think that's part of the inventory that I've begun and then the questions that I've begun asking to determine a plan of

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a plan and then the plan itself of...to collaborate with that. I mean, that's not something that the department would do alone. [LR32]

SENATOR COASH: Okay. You talked a little bit about overtime and we got the statistics on it. My question is, is we...this committee has heard about the overtime as a result of vacancies, all those reasons that you listed. My question is, is that what's the trajectory of the overtime? Is it going up? I mean, is the numbers that you gave the committee higher than what they were before or lower than what they were before? What direction are we going with overtime over the past several years, if you know? [LR32]

COURTNEY MILLER: I don't have the exact answer for that. I'd have to get back to you with that,... [LR32]

SENATOR COASH: Okay. [LR32]

COURTNEY MILLER: ...where that falls in previous years. [LR32]

SENATOR COASH: Okay. Finally, if you can, I would like you to speak a little bit to the culture of work at BSDC, the decertification and the DOJ reports were both pretty clear that a culture of indifference led to the things that happened to the residents there and that that culture needed to change. Now, the DOJ and the feds have seen enough from what they've seen to end their involvement, but I would like to know from the department's perspective what you've seen, where it's headed, what you've done to...in the realm of the culture of the workers and being there. [LR32]

COURTNEY MILLER: Sure. In the brief time that I've been in this position, my first presence at BSDC was a few weeks ago and I came on the campus, fresh eyes, had not visited before. And I think that the culture was very, very positive. I was welcomed. The staff were very caring and the individuals were happy and engaging with me. I think overall it was very positive. They expressed gratitude for me taking on this role and coming to visit with them and my commitment to spend more time with them. [LR32]

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SENATOR COASH: Are you aware of any specific initiatives that the department is taking to keep their eyes on the culture and continue to improve it? [LR32]

COURTNEY MILLER: I'm aware that Courtney Phillips, the CEO, has asked for my presence at BSDC and to serve as the interim CEO, so I am looking to dedicate quite a bit of my time to be there with them to help with that culture and also her presence on campus as well. But that's a start for me. [LR32]

SENATOR COASH: Okay. We'll see if the committee has any questions. Senator Johnson. [LR32]

SENATOR JOHNSON: Thank you. Thank you, Courtney, for coming in. And this is not a question of qualification, but just for the record, what was your duties before interim director within the department and how does that tie...your experience tie in with your duties right now? [LR32]

COURTNEY MILLER: That's a great question, thank you. I began with the department in 2008 with Medicaid and long-term care...Division of Medicaid and Long-Term Care as a program specialist. And I became the deputy director of Medicaid and Long-Term Care over the program section approximately two and a half years ago. And in that role I was responsible for the Medicaid waivers of the aged and disabled waiver and the traumatic brain injury waiver. [LR32]

SENATOR JOHNSON: Okay. [LR32]

COURTNEY MILLER: And a lot of these individuals are served in the Medicaid program. [LR32]

SENATOR JOHNSON: Yeah, thank you. [LR32]

COURTNEY MILLER: Sure. Thanks. [LR32]

SENATOR COASH: Senator Baker. [LR32]

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SENATOR BAKER: Thank you, Courtney. I'm going to explore it a little bit further. No new admissions since 2010? [LR32]

COURTNEY MILLER: Um-hum. [LR32]

SENATOR BAKER: Who decides? I mean, according to your numbers, there's about 7,000 people in the state who have developmental disabilities and 5,000 or so are being served and 2,000 are not. Who decides? Does Health and Human Services decide or does a guardian decide whether it's going to be community based or BSDC? [LR32]

COURTNEY MILLER: Well, as far as the ultimate decision about the placement, that is up to the individual served and the guardian of the placement of options. [LR32]

SENATOR JOHNSON: All right. Okay. [LR32]

COURTNEY MILLER: But as far as reviewing intake or referral for BSDC, anyone can ask to be considered for placement there. But it's an interdisciplinary team. It's many, many folks that come together from all aspects of that individual's care to make that decision. And we have reviewed individuals for BSDC. It was an option that was explored. It was just determined. The two that I have been involved with personally was that they could be served appropriately in the community and that's where they chose to be. [LR32]

SENATOR BAKER: May I follow up? All right, so you say there's a whole team that decides, so is it that team that decides or is it the parent or guardian who gets the final call on it? [LR32]

COURTNEY MILLER: Well, it's the parent or the guardian or the individual served that ultimately gets to choose where they want to live. And that's with the aspect of...we feel that it's a good placement and a good fit and offer that to them whether it's community based or residential, institutional. [LR32]

SENATOR BAKER: Thank you. [LR32]

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SENATOR COASH: Senator Davis. [LR32]

SENATOR DAVIS: Thank you, Courtney, for coming. Thank you, Chairman. A couple of technical questions first. I'm not familiar with a lot of the jargon that's used in this business. But you talk about the average hiring rate for this year up 31 percent. Does that mean your turnover is 31 percent? [LR32]

COURTNEY MILLER: No, it means that the number of people that are leaving employment is lower than those that are coming in for recruitment. [LR32]

SENATOR DAVIS: So what...so you say it's 31 percent. You mean there are...I guess I still don't follow what you're saying. [LR32]

COURTNEY MILLER: Thirty-one percent of...have to go back to my numbers here. [LR32]

SENATOR DAVIS: Page 5. [LR32]

COURTNEY MILLER: My page 5 might be different than yours. [LR32]

SENATOR DAVIS: Right above "Quality Improvement." [LR32]

COURTNEY MILLER: So the new hires coming in of total staff is 31 percent. [LR32]

SENATOR DAVIS: Thirty-one percent of the people are new hires you mean? [LR32]

COURTNEY MILLER: Yes. [LR32]

SENATOR DAVIS: The others have been there before or are coming back? [LR32]

COURTNEY MILLER: I'm sorry, I don't understand the question. [LR32]

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SENATOR DAVIS: Does anybody know what I'm trying to ask? Can you help me with it? Do you have an idea, Jerry? [LR32]

SENATOR JOHNSON: Well, the current staff that you have now, 31 percent of them are new? [LR32]

COURTNEY MILLER: No, no, it's 31 percent of the vacancies have been filled...that have been posted and recruitment. [LR32]

SENATOR JOHNSON: Okay. [LR32]

SENATOR DAVIS: Okay. [LR32]

COURTNEY MILLER: Sorry, thank you. [LR32]

SENATOR DAVIS: Okay, thank you. So one of the...so then talk a little bit about community-based programs. How many of those are there in the state of Nebraska? [LR32]

COURTNEY MILLER: There are many. I don't have the exact number and I can get that for you. But we have 88 specialized providers and we have another number of nonspecialized providers. Those assist the individuals in the program statewide. [LR32]

SENATOR DAVIS: And so I come from a very rural part of the state. [LR32]

COURTNEY MILLER: Okay. [LR32]

SENATOR DAVIS: And so many years ago most people ended up at a place like BSDC. [LR32]

COURTNEY MILLER: Um-hum. [LR32]

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SENATOR DAVIS: I'm wondering, in rural Nebraska, if these community-based programs are able to offer the same kind of specialized care that, say, BSDC does. And specifically, I'm kind of referencing something that one of the parents said yesterday about dental services and the lack...and the difficulty of finding someone to take care of their ward. Would you like to comment on that? [LR32]

COURTNEY MILLER: Well, it's dependent on the person's needs. I would say, yes, in the community statewide, those wrap-around benefits and support and services are there to provide that level of care and be successful. There are a number in our program that are there and getting successful treatment and care. But there are challenges for access of the basic Medicaid benefits and one would be dental. [LR32]

SENATOR DAVIS: And one other thing that I learned yesterday when I was there was about the average age of the people, I think some were in their 50s, so as those people get older, they will probably have increasing disabilities and needs as time goes on. Is that going to require additional staffing down the road? [LR32]

COURTNEY MILLER: No, we believe that what we have in place today can support those people. [LR32]

SENATOR DAVIS: All right, thank you. [LR32]

COURTNEY MILLER: Absolutely. [LR32]

SENATOR COASH: Senator Hilkemann. [LR32]

SENATOR HILKEMANN: Yeah, a couple of questions. I just wanted to...you said that the budget for BSDC is \$22.7 (million) from the General Fund? [LR32]

COURTNEY MILLER: Correct. [LR32]

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SENATOR HILKEMANN: So is that the entire budget? Or do we...is that just 40 percent? Because we were told 60 percent is federal, 40 percent is state funded. Is that the state funded portion? [LR32]

COURTNEY MILLER: That's the state funded portion. I believe the match is closer to 50/50. [LR32]

SENATOR HILKEMANN: Okay. So we're roughly looking at a \$56 million a year facility, if I put that 40 and 60 together? [LR32]

COURTNEY MILLER: With my math, yes. [LR32]

SENATOR HILKEMANN: Okay. So we have 116 residents, so we're spending approximately \$450,000 a resident per year. [LR32]

COURTNEY MILLER: Um-hum. [LR32]

SENATOR HILKEMANN: Okay. We have...this report says you have three full-time primary care physicians? [LR32]

COURTNEY MILLER: Correct. [LR32]

SENATOR HILKEMANN: On staff, three of them on...for 116 patients? [LR32]

COURTNEY MILLER: Yes, that also work in the public health clinic that's available to those served in the community as well. [LR32]

SENATOR HILKEMANN: Okay. Thank you. [LR32]

SENATOR COASH: Thank you, Senator Hilkemann. Senator Campbell. [LR32]



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SENATOR CAMPBELL: What's the total number of FTEs at BSDC? Can you get that number for us? [LR32]

COURTNEY MILLER: I can get that number, yes. [LR32]

SENATOR CAMPBELL: I think that might give some idea in terms of a follow-up on Senator Hilkemann's in the sense that if I look at it there's 20 FTEs that are in the behavioral support team. And so just getting some idea of how many employees would be helpful there. And to follow up on Senator Baker's, so of the 2,000 people on that list, and I know there's variations, there is no one, even in the future, that's on that list that's not asking for services now but in the future that would go to BSDC, of the 2,070 individuals on the registry? [LR32]

COURTNEY MILLER: Those on the registry are requesting community-based services. [LR32]

SENATOR CAMPBELL: Oh, okay. So there's nobody on any of the lists that in the future is asking for BSDC. I'm going back to the numbers here of the 116 people. [LR32]

COURTNEY MILLER: I couldn't speak to what their needs would be in the future. I mean that's... [LR32]

SENATOR CAMPBELL: Oh, but...no, but on the list nobody has noted that. [LR32]

COURTNEY MILLER: No, no. [LR32]

SENATOR CAMPBELL: And that's what I was looking for. [LR32]

COURTNEY MILLER: No, huh-uh. [LR32]

SENATOR CAMPBELL: Because to Senator Coash's point, if we don't have anybody in the future that has noted that in the files on that person, that means that we're really kind of working with the 116 people in the next five years. It's not going to increase; it's going to decrease then. [LR32]

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COURTNEY MILLER: Well, as I...I mean, as I stated before, if we review a need of an individual who has requested services to go to BSDC that that...we're not saying that there will be no more admissions. [LR32]

SENATOR CAMPBELL: Right. [LR32]

COURTNEY MILLER: We're saying that it just hasn't been an appropriate placement for those that I have participated in the review of. [LR32]

SENATOR CAMPBELL: And quite honestly, all I'm trying to get at is I'm trying to look at Senator Coash's 5, 10, and 15 years down the road. And if you don't at this current day have anybody who is noted on any list that they would need or wish to go to BSDC, that's a point that the special committee will have to look at. [LR32]

COURTNEY MILLER: Um-hum. [LR32]

SENATOR CAMPBELL: Okay. [LR32]

SENATOR COASH: Thank you, Senator Campbell. Yesterday, during our tour it was presented that there's about 500 employees there, but that's not... [LR32]

SENATOR CAMPBELL: Oh, good. [LR32]

SENATOR COASH: That includes part time as well, so. [LR32]

SENATOR CAMPBELL: Okay. [LR32]

SENATOR COASH: But we'll still take whatever hard data you get. [LR32]

COURTNEY MILLER: Okay. Sure. [LR32]

SENATOR COASH: Senator Baker, did you have a follow-up question? [LR32]

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SENATOR BAKER: Yes, thank you, Senator Coash. I wanted to explore further the staffing question. I assume that there's probably a periodic meeting, some type of individual care plan is developed... [LR32]

COURTNEY MILLER: Um-hum. [LR32]

SENATOR BAKER: ...that would indicate date of how much this service and that service and the other kind of service might be built into that plan. Would that be somewhat accurate as what happens? [LR32]

COURTNEY MILLER: Sure. [LR32]

SENATOR BAKER: Okay. Would that then not drive staffing? I mean, I'm thinking of situations in school districts where school districts whose enrollment has slightly declined a little bit and over a period of time, yet if they've still got the same staff, you know, they've got a pretty expensive operation. Is anybody checking...keeping a close eye on staffing in that regard. And when we talked to the people who are the direct caregivers, they seem to feel like they're almost overwhelmed. But yet overall, and some of the things alluded to earlier, the specialists and the number of them and all those things, I mean, it's a...is there someone homing in on that? [LR32]

COURTNEY MILLER: I can't speak for past reviews, but I can say that that's part of my inventory or review of that. [LR32]

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

SENATOR COASH: Okay. Senator Bolz. [LR32]

SENATOR BOLZ: Good afternoon, Director Miller. First, I just want to say thank you for stepping into this role. And I admire the way that you've handled yourself with some challenging circumstances. [LR32]

COURTNEY MILLER: Thank you. [LR32]

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SENATOR BOLZ: And I can say that, and I suppose I should disclose, because I work with disability service providers as a profession. So you deserve kudos. I wanted to ask a question about...and maybe partly for the education of the committee, there are levels of developmental disability services. There's, of course, BSDC, but there's also an intermediate level called an ICF/DD, an intermediate care facility/developmental disabilities, right? [LR32]

COURTNEY MILLER: Um-hum. [LR32]

SENATOR BOLZ: And then there's specialized community providers, some of which have particular specialties, some in behavioral... [LR32]

COURTNEY MILLER: Um-hum. [LR32]

SENATOR BOLZ: ...needs and risks and then community-based providers that provide vocational and residential. So the question I wanted to ask you, and I honestly don't know the answer, in terms of the slowing growth of the need for Beatrice State Development Center, is there a connection to the capacity in the ICF/DD and intermediate-care facility level that is connected? In other words, do we need to build capacity at that level of care in order to continue the slowed growth of an institutional level of care that we're kind of moving away from the model of? [LR32]

COURTNEY MILLER: And just to clarify that BSDC is a licensed ICF/DD facility--they're one and the same. [LR32]

SENATOR BOLZ: Okay. But there are additional facilities that are run by organizations like Mosaic, right? [LR32]

COURTNEY MILLER: Correct. And they're the same level of care. [LR32]

SENATOR BOLZ: Okay. And is it part of the...and maybe it's too early to say, but is it part of the picture that in the future we might be building more smaller facilities run by organizations like

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Mosaic that could provide that facility level of care, but not necessarily in one congregate setting? Does that question make sense? [LR32]

COURTNEY MILLER: It makes sense. And that is part of the inventory. Absolutely. [LR32]

SENATOR BOLZ: Good. Good. Great. [LR32]

SENATOR COASH: Thank you. I think it would be...tell me if I'm wrong here, but the rules and regulations that govern BSDC are the same rules and regulations that govern community-based programs if they're both ICF/DDs? [LR32]

COURTNEY MILLER: The same clinical criteria for that level of care is the same. But it's the choice between an institutional facility and community-based services and more community wraparound services and supports. [LR32]

SENATOR COASH: Okay, all right, thank you. Go ahead. [LR32]

SENATOR BOLZ: And maybe just quickly to articulate what I was trying to get at, it's for the communities...or the committee's information, I think part of the idea to explore is, can we provide this same level of care in a different community and in partnership with nonprofit organizations, same level of care, different way of providing it? And I was just going to check, are you planning to stick around for the hearing if we have questions? [LR32]

COURTNEY MILLER: Absolutely. [LR32]

SENATOR BOLZ: Okay, great. [LR32]

SENATOR COASH: We'll let you down. I know we're going to...the agenda, we're going to go into some of the community-based discussions, so we'll have you come back up for that. [LR32]

COURTNEY MILLER: Okay. [LR32]

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SENATOR COASH: Thank you. Okay, we're going to move on to...I want to hear from some of the parents or loved...they're not all parents, but the loved ones of folks down there. We had on our list Joan and Peg, but I only see Joan. But I see some other...Mr. Crawford; we'll have Joan and Mr. Crawford go. I know we have other loved ones here. If you want to add to it, we might do that at the end, but I want to keep this moving or we might be here for awhile. Are you up...come on up, Joan. You're an old pro at this, so welcome. [LR32]

JOAN O'MEARA: Thank you. Senator Coash and the rest of the senators, appreciate you coming yesterday. It was great to have you. I just wanted... [LR32]

SENATOR COASH: We'll have you start with your name. [LR32]

JOAN O'MEARA: My name is Joan O'Meara, J-o-a-n, O'Meara, O-apostrophe-M-e-a-r-a. We're the head clan. I wanted to clarify a couple of things that you had said, Senator, at the very beginning about how many we had at Beatrice. And it's true. We had that number. However, most of the people at that time were not mentally retarded. They were girls that were pregnant and the parents no longer wanted them, so they put them there. We had young men or older men that were criminals, but yet not criminal enough to go to jail. So they put them there. We had hundreds there that were not mentally retarded. It wasn't until Dr. Russ (phonetic) came in and cleared the place out. And he took down the iron fence and iron off the windows and we became what we are now--a place of a haven for those with...who are...mental disabilities. Our weaknesses that we've had in the past few years, I feel, have come from the fact of lack of leadership. Our last good leadership was Dr. Peterson (phonetic). After that we fell lower and lower and lower. Not many of the people that were leading knew enough about mental retardation or about the politics of mental retardation to really lead the company the way it should be. We fell off the brink. We used to be a great place for people from all over the nation. And I still keep in touch with those people--friends in Russia, Scotland, England, Switzerland. They came; we had a open seminar and they came to learn about how we handled the profoundly retarded and then went back to their countries to establish a community similar to what we had. That ended when the next man came after Dr. Peterson (phonetic). We didn't have that anymore. We had no more sharing. We were at odds with The ARC, sorry about that. We are not anymore. We are working hand in hand. But it's taken parents to do that. Our last CEO, who passed away,

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was excellent. He was raised in the ranks. At 16 he worked on the campus. And while he was going to school, he worked in different parts of the campus so he knew all about it. He was excellent. Parents loved him. I could go into that office whenever I wanted and he would answer questions. We need a stable leadership. I know that we have an interim, but that isn't what we need. We need someone that is very strong in knowing what is necessary for the patients that are there, patients/residents that are there. Many of them are patients. And they have to know how parents react also, because we're a big bunch. We belong to several organizations: BSDC parent and family, or IDAN as it's now called. And then we belong to VOR--Voice of the Retarded--which is our national organization. We parents in April, there are two parents that go to Washington, D.C., and meet with other parents that have children in homes like BSDC. And we visit every single senator to talk about the need for the care of the mentally handicapped, whether it's in a place like BSDC or in a community. It's very important. My daughter was at BSDC when she was nine and a half. There was no other place to go. We went all over the country before that; couldn't find anything. And we finally found Beatrice. It was a wonderful place for us. And she passed away in February at the age of 60. But she was only given until 20 to live. The care that she received there I think helped her through the rest of the years. [LR32]

SENATOR COASH: Thank you, Joan. We appreciate it, appreciate your testimony. You always come down here and set us straight, so. [LR32]

JOAN O'MEARA: No, I appreciate all that you're doing. [LR32]

SENATOR COASH: We appreciate your input. Don't get up yet. We're going to see if we have any questions for you. We'll start with Senator Johnson. [LR32]

SENATOR JOHNSON: Yeah, glad you clarified the population number of those that, I'll just say, not qualified under the Disabilities Act or...when did that occur? What year, do you remember? [LR32]

JOAN O'MEARA: Oh, gosh, at the very beginning when Dr. Russ (phonetic) came in. [LR32]

SENATOR JOHNSON: And that was what year...beginning going back to... [LR32]

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JOAN O'MEARA: In the late 1800s, early 1900s. [LR32]

SENATOR JOHNSON: Oh, okay, so it's been a long time. [LR32]

JOAN O'MEARA: Yes, but it took us a long time to clear them out. [LR32]

SENATOR JOHNSON: Okay. [LR32]

JOAN O'MEARA: Can't just open the door and say, here, go. [LR32]

SENATOR JOHNSON: Well, no. Okay. [LR32]

JOAN O'MEARA: Yeah. [LR32]

SENATOR JOHNSON: Okay. And how did that affect...and staffing of the specialized providers of care are a lot different now than they were. [LR32]

JOAN O'MEARA: Oh, my, yes. [LR32]

SENATOR JOHNSON: But when they finished that depopulation, I'll call it, were any staff members removed? Because I would assume those people that were in there because of pregnancy or crimes... [LR32]

JOAN O'MEARA: Yeah. [LR32]

SENATOR JOHNSON: ...didn't take much care. [LR32]

JOAN O'MEARA: No. In fact, they were taking care of those with the mental retardation. [LR32]

SENATOR JOHNSON: Okay. Okay. [LR32]



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JOAN O'MEARA: Yes. [LR32]

SENATOR JOHNSON: Okay, thank you. [LR32]

SENATOR COASH: Thank you, Senator Johnson. Senator Baker. [LR32]

SENATOR BAKER: Yes. Ms. O'Meara, is it? [LR32]

JOAN O'MEARA: Yes. [LR32]

SENATOR BAKER: All right, okay. Let's just assume for conversation's sake that we're going to find good, stable leadership for that. What is your vision of what the place is going to look like in ten years? [LR32]

JOAN O'MEARA: I think in ten years it's going to look very similar in structure, but I think that we're going to have more people that are coming in with more disabilities, I really do, because we haven't touched the population of people who have no place to live and they have their children with them who are handicapped. So I think that we're going to have our hands full. [LR32]

SENATOR BAKER: I'm kind of confused because since 2010 apparently no one has said they wanted to come there, so...and yet you think there might be some... [LR32]

JOAN O'MEARA: I think that there is. [LR32]

SENATOR BAKER: Okay. [LR32]

JOAN O'MEARA: I think, but then I don't have proof. [LR32]

SENATOR BAKER: Yes. [LR32]

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JOAN O'MEARA: But anybody that was in the situation like I was with a child that you wanted to give something better than what she was crying or screaming about, you had to find a place and there are children still like that. [LR32]

SENATOR BAKER: Thank you. [LR32]

SENATOR COASH: Thank you, Joan. Senator Davis. [LR32]

SENATOR DAVIS: So since the troubles began, there have been some significant changes there. Can you comment on the changes that have been made? [LR32]

JOAN O'MEARA: We had three different CEOs. [LR32]

SENATOR DAVIS: In that time frame? [LR32]

JOAN O'MEARA: Yes. And that was like the sinking ship: Bye! And then right after that, we had one that shipped out over 100 people into hospitals, nursing homes, etcetera. Cindy was one of them. I fought like fury. That's when you heard from me. And I talked to Senator Lathrop and Senator Wallman. And that's why we have your committee now. And I appreciate you so much. You have no idea. I want you to keep us on track. [LR32]

SENATOR DAVIS: So would you just comment some on the changes that have taken place there as to how you feel they've...plus, minus. [LR32]

JOAN O'MEARA: Yes. We have...yes, I think that plus. We have more people that are doing physical therapy with the children. Even my daughter, Cindy, who, by the way, ended up in a wheelchair after she was pushed out, she could do it with her foot, a ball, just to keep her blood moving. And I think physical therapists that we've had and we've had rooms that have been turned over to physical therapy with different machines--that's wonderful. We have a retirement building where they can come and they can do arts and crafts and things like that. We have a music day. Tuesday is music day. We have chapel and we have...a priest come in for mass once a week, on Saturday. Others come in for religious services. [LR32]

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SENATOR DAVIS: And those are changes that have taken place in the last five years. [LR32]

JOAN O'MEARA: Yes. [LR32]

SENATOR COASH: Right. Thank you, Joan. We're going to have one more question for Joan and then we'll get on. [LR32]

SENATOR HILKEMANN: Joan, approximately what year was your daughter admitted to Beatrice State home? [LR32]

JOAN O'MEARA: Let's see, she was 9.5 and she was born in '50...no, '61. [LR32]

SENATOR HILKEMANN: Okay. So she was admitted at the time when they were clearing out the home of some of the others? [LR32]

JOAN O'MEARA: No. That was done 18...and then up to...yes, in fact, yes. [LR32]

SENATOR HILKEMANN: Yeah. [LR32]

JOAN O'MEARA: (Inaudible) building, yes. [LR32]

SENATOR HILKEMANN: Okay, I... [LR32]

JOAN O'MEARA: That was the only one left with bars on the window. They still are there, by the way. [LR32]

SENATOR HILKEMANN: Okay. Yeah, I...my...I had an aunt who was institutionalized there for about 20 years and that was about when she was moved out of there. So that was...it was interesting history because as a ten-year-old kid I knew my aunt was moved out but I didn't know why, so thank you. [LR32]

JOAN O'MEARA: Uh-huh. Yes. [LR32]

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SENATOR COASH: Thank you, Joan, appreciate it. [LR32]

JOAN O'MEARA: Yes, and I want to thank you all. [LR32]

SENATOR COASH: Okay, Mr. Crawford, come on up. [LR32]

DENNIS CRAWFORD: Good afternoon. Thanks for having me. I'm Dennis Crawford, D-e-n-n-i-s C-r-a-w-f-o-r-d. I reside in Lincoln, Nebraska. I'm here on behalf of IDAN, Intellectual Disability Advocates of Nebraska. I'm also here mainly...I'm here because my brother has been a resident of BSDC since 1975. He moved there 40 years ago when he was 15 years old. I'm his coguardian, as well as my mother, as well as my sister. We're three coguardians for my brother. And I can just tell you from his 40 years there, BSDC has done him a lot of good and is really the best place for him. It's been...he's been there for decades and it's done him a lot of good. His level of functioning increased significantly after he moved to BSDC. I remember as a teenager and in college, he was able just to do more and more things than he'd ever done when he lived at home. He went through some special programs in Lincoln. I'm not aware of what they were because I was just a kid, but, I mean, his level of functioning and abilities increased significantly in the first few years that he was at Beatrice. I remember being quite pleased about that. And overall he's been treated very well over the years and he has had a very good lifestyle. I visit him several times a year. He seems to be happy there. He seems to be very content. The employees at BSDC that are in the house that he shares with several other gentlemen are extremely nice people. I think they're top-notch folks. They're doing a great job. I mean, my brother at times will go up and kiss the lady that's managing the house because he likes her so much. So I think that's a really good sign. And my brother has been there for 40 years. I mean, BSDC, this is his home. This is what he's familiar with. He's very happy there. It would be extremely disruptive for him to leave BSDC and move to a community-based program. Several years ago...well, in the past he used to come to visit my parents' home in Lincoln and most the time he got along pretty well. But the last time he was there, this is probably 20 years ago, he just freaked out and started throwing dishes and stuff around the kitchen; he wouldn't eat; he wouldn't drink; he wouldn't urinate. So my parents took him back to Beatrice right away. He gets back to Beatrice, he eats, he drinks, he goes to the potty, all is right, all is well. So if he moved to a different environment, I think it would be very upsetting for him. I think he likes the routine. I think he likes the people

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that he lives with. He has a job there. He works at some place in Beatrice sorting nuts and bolts. I've seen him at his place of work so I think he's very content there and he would be very upset if he had to move somewhere else. It seems to me, at least from what I've seen from reading the media and some of the comments here at the hearing, that, you know, the cost is an issue and there's some concern the number of residents may be unsustainable because the amount of residents has shrunk. I mean, I've seen that. When I was in college as a young man, I'd visit there, the campus was full of folks, but now it's kind of empty. I mean, I've seen that. But I would take the position we can afford BSDC. I mean, there's a lot of other waste in the state budget. We could cut waste in other areas of the budget and invest that in BSDC. I'll just give a few examples of what I believe to be wasteful and ineffectual programs where we could transfer some money to BSDC if it became necessary. Obviously, the state's budget right now is in very good shape. We have a very large rainy-day fund; we're one of the most fiscally healthy states in the country. The Legislature has done a very, very good job of managing our budget the last few years. Kudos to the senators who have done that. But I mean, if you read reporting in the Nebraska Watchdog, Deena Winter, we spend like \$40 million per year on the Nebraska Advantage Act and there's no proof it's created any jobs. We sent \$160 million to ConAgra since they threatened to leave Omaha in 1987. They still left town. So there's areas where we could transfer money in the budget to BSDC if that became necessary. And we can afford it. I mean, unlike the Nebraska Advantage Act, BSDC is a program that is actually working. It's benefiting people. We can't prove that with that program. [LR32]

SENATOR COASH: Mr. Crawford, can I ask you a question? [LR32]

DENNIS CRAWFORD: Yes, sir. [LR32]

SENATOR COASH: Did you get...as a family member, when the reports came out in 2009 about some things that were happening, did that worry you? [LR32]

DENNIS CRAWFORD: Oh, it was very upsetting to me, very upsetting. [LR32]

SENATOR COASH: Well, I'm sure it did. [LR32]

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DENNIS CRAWFORD: Yeah, I was worried... [LR32]

SENATOR COASH: Can you comment on that? I mean... [LR32]

DENNIS CRAWFORD: I can. I mean, I visited my brother several times there a year and my mother visited several times and at least our impression was he was being treated well. He never had any problems. I mean one of the good things that my brother has going for him is his health is really quite excellent. He moves around, he walks, I mean, he's very mobile. So I think the people that had...were harmed the most were the people were deemed to be medically fragile. My brother is one of the healthiest individuals down there. So I think he escaped the worse of it. And I think he got along pretty well. That's all the reports we got. And when we went to visit him, his behavior seemed to be, you know, pretty normal; he seemed to be, you know, getting along fine. That was the impression my mother and I got. It was stressful. [LR32]

SENATOR COASH: Okay. Let me see if we have any questions for... [LR32]

SENATOR JOHNSON: I don't know if he finished his prepared testimony. [LR32]

SENATOR COASH: I'm sorry. Did you have... [LR32]

DENNIS CRAWFORD: I'll just give you a last closing argument. I guess I lost track of my time, I'm sorry. I just think guardians should have a choice. You know, they should have a choice between an institution like BSDC or a community-based setting. Okay? It's not a one-size-fits-all kind of a situation. I think the guardian should make a decision and choose what setting is best for their loved one. That's the position that I would take. Thank you so much. I thank you all for your service on this committee. The Legislature has done a great job in improving Beatrice since the problems began in 2007 or 2008. The Legislature deserves great kudos for turning the institution around. Many thanks. [LR32]

SENATOR COASH: Thank you, Mr. Crawford. Any...Senator Davis. [LR32]

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SENATOR DAVIS: I'll just ask you the same question I asked Ms. O'Meara. The changes that have taken place there in the last seven years, would you care to comment on those? [LR32]

DENNIS CRAWFORD: Well, I'm just very grateful for the improvement. I mean, the situation began to go down in 2007 or '08 and, at least from my own observations...I mean, my view of it I'll confess is narrow. I go down. I see my brother. We kind of hang around the Carson Center, then we'll like take him to the Homestead Act Museum and take him out for an ice cream or something. At least from my own narrow perspective and window, my brother, the house where he lived, it's very nice. The people are always very nice to him when we were there. He always seemed to interact with them in a positive way. So at least his situation always seemed to be pretty positive. So I didn't really see the negative. So to me it seems about the same. But then, you know, I just see a very narrow focus when I'm down there. [LR32]

SENATOR DAVIS: Thank you. [LR32]

SENATOR COASH: All right. Thank you, Mr. Crawford, appreciate you being here. [LR32]

DENNIS CRAWFORD: Thanks for having me. Thank you for your service. [LR32]

SENATOR COASH: Okay. We're going to move on. Ted, want to have you come on up and introduce yourself and share what you'd like to share. Welcome. [LR32]

TED BURI: Good. Thank you, Mr. Chairman, ladies and gentlemen. If I could, I want to take a second to thank my senator, Senator Campbell, for your service. We appreciate it, and everybody, but in particular she's my lady, so. [LR32]

SENATOR CAMPBELL: Thank you. [LR32]

TED BURI: My name is Ted, T-e-d, Buri, B-u-r-i. I'm employed by the Nebraska Association of Public Employees. And it...as a portion of my duties, I have a lot of interaction with the staff and the administration, including the HR function at the Beatrice State Developmental Center. As a quick point, I hope that...and I know this committee is focused on the fact that when we talk

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about BSDC, we're not just talking about a single campus. We're also talking about the Bridges program in Hastings. And I believe most of the committee members have had an opportunity recently to visit the program. And I think you're aware of the distinct types of issues and needs that exist out there. I know Senator Campbell is. And with that perspective I want to begin by echoing some of the things that were said by Ms. O'Meara. When we talk about new patients, residents, family members, and they are family members, coming into the institution or not coming into the institution, I hope we remember that the fact that no new clients, members, patients are coming into the facility could also have a lot to do with the direction and guidance they're getting from the state. Okay. It would be very easy, and I know this is something else the committee is looking at, to make sure that we're directing people, as the gentleman just said, to the best facility to meet their needs and not necessarily directing them, maybe, to a community-based facility that may not be in their best interest. You know, I don't think it's any secret. Obviously, there's a tremendous amount of money going into the program, state and federal. And it would be very easy to sit around and talk about closing the facility or revamping the facility. But again, the issue is what's best for the clients. The gentleman is right. We can afford to do that. And that doesn't mean that there isn't a place for community-based facilities. It wasn't that long ago that many of you sat in this room and you heard testimony from the agency that there weren't sufficient facilities. And at least in terms of their appropriate need, there are more and more community-based facilities coming on-line. So that's great. Culture--I'd like to comment just for a second. And I hope no one falls out of their chair. I want to start with a compliment for the Governor and the administration. Okay. As a labor person, you know, that's why I don't want you to fall out of the chair. What the Governor has done, my perception is, and you folks would know better, it seems that at least he has hit the ground trying to establish a reasonable, sound working relationship with the Legislature. That's what I see. So I think we're going to find that, whether in the long run we're happy or unhappy with the administration, at least, I think, you're going to have an administration that is open with the Legislature and that you can get answers that you weren't getting under the previous administration. Secondly, the key appointment, I think, of the Governor is Courtney Phillips, okay, great lady. I think she's moving in great measure to change the culture of the agency from the top down. We see it every day. It's an entirely different relationship between labor and management, just as I believe there's an improving relationship between the agency and the Legislature. I would echo...am I running out of time? [LR32]



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SENATOR COASH: No, we'll let you finish your comment. [LR32]

TED BURI: Okay. I would echo some of the things that Courtney said. And I think for the most part she was right on target. I'm a little concerned...when we talk about overtime, okay, and I think this committee has a pretty good handle on that and I know that the HHS Committee does, when we talk about voluntary overtime, please understand that when you're...that voluntary overtime is that overtime that you elect to work for your own personal reasons. There are people out there who use the opportunity of overtime to supplement their income. There's nothing wrong with that, especially if you're not creating unnecessary overtime. If it's there, that's fine. God knows, they need the money. Now, what they...when we talk about, in the labor relations, when we talk about voluntary overtime, the only thing we're talking about is people who are faced with constant, recurring, night-after-night overtime and that voluntary overtime is simply them exercising some selection, some choice through the contractual procedures to have some control over which days they work their mandatory overtime. Okay. With the exception of people doing it for financial reasons, it's all mandatory overtime. Okay. Looks like I'm out of time. [LR32]

SENATOR COASH: Did you have any final comments? [LR32]

TED BURI: One last comment, the...I hope that both the HHS Committee and this committee will follow the development of the Bridges program closely. And again, I know that just a few weeks ago a lot of the committee members were there. I think Courtney may have been there recently. And it is a developing problem. The vacancies, the overtime are burning people out. I know it's hard to understand sometimes when you look at a huge facility and the millions of dollars are being spent for a small number of clients, but believe me, the overtime is there. In regard to Courtney's comments on overtime, it varies. You know, overtime...and I think you all know that overtime varies from time to time. Right now, BSDC, the main campus, they have some overtime problems. It's not quite as bad as it was a month or so ago. It does fluctuate. It depends on the vacancies. The agency is working very hard, I give them credit, to fill...to hire and fill the vacancies. But it's one of those things where you hire three people and you lose four. You hire four people and you lose three. They're working hard at it. There's got to be something done to enhance the state's ability to retain employees. Okay? We've worked very hard on

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recruitment. There has to be something done for retention. With all the vacant positions, there's a lot of money sitting around in rate. Okay. I would hope that the agency would be allowed, within appropriate parameters, to spend that...some of that money in a manner that would enhance their ability to retain the employees that they're hiring. I will tell you that I give them credit; they're trying and it's being circumvented by the Department of Administration (sic), classification, and pay. They have to butt heads with DAS to get things done. I give them credit for trying. But they're drowning,... [LR32]

SENATOR COASH: Okay. [LR32]

TED BURI: ...particularly some of the other institutions outside of DD. Thank you. [LR32]

SENATOR COASH: Yeah, we've certainly heard that. And for the committee's benefit, one of the reasons that I've asked comments on overtime is the Medicaid decertification that DOJ specifically pointed to a high amount of overtime as a factor in some of the things that happened at BSDC that we wouldn't want to happen. And so they identified it and so we're going to keep our eyes on it as well. Let's see if we have any questions for you, Mr. Buri. Senator Johnson. [LR32]

SENATOR JOHNSON: Thank you. Thank you for coming in. I'm going to go to the staffing a little bit...or labor as it deals with staffing. Do you look into it from a perspective of, maybe, I'll just call it "right sized," the right number of full-time equivalent employees to the number of clients? Do you analyze that at all? Are we needing more staff and how much more? And you talked about retention and that's very important. [LR32]

TED BURI: We do. Obviously, the agency spends a lot of time doing that. We look at that also. Our approach is a little simpler. You know, hen these facilities are...when all the FTEs are full, okay, I'll say we're in pretty decent shape. Now one of the problems is, when...under the...I will say it this way, under the previous administration, when you folks, and anyone else, talked to the agency about staffing, they would always say that they're fully staffed. But fully staffed under what guideline? What they were really saying to you is that they were fully staffed based on the minimum allowable staffing under state and federal law...or the CMS guidelines. And so when I

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say we're fully staffed, that may mean we have enough warm bodies, but maybe we don't have enough warm bodies to account, as Courtney said, for call ins or illnesses or injuries or vacation time. Okay. So you still have some lapse in there. In all honesty, I think if the positions are fully filled, okay, I think the staff...I mean the staff are doing an incredible job now when they're short-staffed. Okay. I know the staff at BSDC. They love their clients. It's a family. And when we talk about the facility, we need to remember that this is their home. It's also an institution, it's a facility, it's an agency, but it's their home. For many of them, it's the only home they've ever known. But I think that things are getting better; they really are. And it starts at the top of the agency. And again, as a credit to the administration, they've made a couple of excellent hires. I believe...we believe that Courtney and her staff--and of course they'll need sign-off of with the administration--I think they will then in turn make some good appointments. And I think the future for BSDC is good. I think it needs to stay. Echoing what Ms. O'Meara said, it's workable. Obviously, there need to be some changes. And I know that all of the committees of the Legislature that are involved will monitor closely what's going on. It's got to be a team effort. It's got to be the Legislature and the agency and the support groups. [LR32]

SENATOR JOHNSON: Thank you. [LR32]

SENATOR COASH: Thank you, Mr. Buri. [LR32]

TED BURI: Thank you. [LR32]

SENATOR COASH: Appreciate your testimony today. [LR32]

SENATOR DAVIS: Can I just ask a couple questions? [LR32]

SENATOR COASH: Yep, go ahead, Senator Davis. [LR32]

SENATOR DAVIS: So I'm getting the impression from you that what is referred to as "voluntary overtime" may, in fact, be a mandatory... [LR32]

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TED BURI: There is no such thing; it's a myth. Now as I say, there are people out there who...since there's overtime available, you know, and they need to supplement their incomes, most of them have two and three jobs, so, yeah, they're going to do that. And that is voluntary overtime. But I promise you, when you talk to the staff down there about overtime, or any of the 24-hour facilities, voluntary...the word "voluntary" doesn't mean anything. Okay. We've come...and we're all guilty, you know, in our collect...in our bargaining relationship, we call it voluntary simply because the people have the opportunity to sign up for available overtime in advance so that they have at least some small measure of control over their family lives. Okay. [LR32]

SENATOR DAVIS: Okay. So have you then talked to management about trying to address the issue of overtime? [LR32]

TED BURI: Oh, absolutely. We talk about it every day. And again, you know, at least under Courtney Phillips' direction and the Governor and the administration they're...at least it's not secret anymore. They're not trying to hide the fact that there's a problem. And they deserve a lot of credit for that. And, yeah, they...there's a lot of good faith going into the process. I talk regularly...since we are where we are today, I talk almost daily with someone at BSDC. I talk regularly with the folks at Bridges. We have regular labor management meetings. The administration of both of the facilities are very open. Sometimes there was not as much openness, you know, over the last six, seven, eight years, but it is. It's more open, it's more transparent and I hate that word, but it's appropriate. [LR32]

SENATOR COASH: Okay. [LR32]

TED BURI: Things are getting better. But they need to have continued oversight. [LR32]

SENATOR COASH: All right. Thanks. Thank you very much. I don't see any other questions from the committee. Really appreciate you coming out to us. [LR32]

TED BURI: Thank you very much, appreciate it. [LR32]

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SENATOR COASH: We're going to move on. Courtney, is there anybody here that can talk about the medical oversight of medical needs that was...? [LR32]

COURTNEY MILLER: There is not. [LR32]

SENATOR COASH: Okay. Then we will...I'm going to ask Kierstin to come up and introduce herself and her involvement in BSDC and then we'll see if we have any questions for her. Welcome. [LR32]

KIERSTIN REED: (Exhibit 2) Thank you. Well, good afternoon, Senator Coash and members of the committee. My name is Kierstin Reed, K-i-e-r-s-t-i-n, Reed, R-e-e-d. I'm the state director for RHD Nebraska, which is operated by Resources for Human Development which is a nonprofit organization based out of Philadelphia, Pennsylvania. RHD operates in 14 different states and provides a variety of different human services, and in this region does specialize in providing intellectual and developmental disability services. RHD is a specialized community-based provider that is contracted through the Division of Developmental Disabilities. RHD began services in Nebraska in 2010 to assist with community services for individuals leaving BSDC and individuals in the community with high behavioral support needs. Between 2010 and 2013, RHD has supported ten individuals that are covered under the Department of Justice agreement. Five of these individuals were supported directly from BSDC, and the other five came to our agency from another community provider before their exit from BSDC. RHD is currently still supporting seven of these individuals. Since 2013, RHD has not been asked to provide support to any new individuals leaving BSDC. We have, however, found services in the community for several other folks with very similar support needs. RHD currently supports 75 people that live in the Lincoln and Omaha area. For some individuals supported there is a significant gap between the services for people who are covered under the Department of Justice agreement and other people that are not. We have seen significant success in the lives of each person that we support. I believe that the success of these services can be attributed to a few key areas: person-centered planning; dedicated, well-trained staff; and the flexibility of funding to support an individual's needs. RHD experienced several meaningful transitions with folks that we supported from BSDC. One particular transition stands out in my mind as the perfect experience. The individual had been in a previous community placement that was not successful.

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RHD was asked to develop a plan for him. Through several months of planning with the team, we began to look at the services and supports that that individual needed. His transition involved a very cooperative, team-oriented approach; open communication; and attention to detail. It included the dedicated staff on the agency and also on the part of BSDC to assist that individual to develop what their new life was going to look like. The process also included an examination of what that person needed for services and adequate funding to address those needs. This was done through the exception process in which they were provided an increased level of funding for staffing that was beyond the state's standard funding methodology. True person-centered planning needs to be a mainstay of our service system. The current funding methodology and process for developing services does not always lend itself to these best practices, and we want to meet the true desires of the people that we support. The success of our program as well as other providers is due to the dedication of our direct-support professionals. These are professional positions that are responsible for the day-to-day operation of our business. The dedication and training of our direct support professionals impacts the lives of the people that we support. The first RHD person supported that left BSDC was a great study in the dedication of our staff. Prior to his transition, the individual had multiple behavior issues a day. With the multitude of behavioral health and mental health diagnoses, as well as a developmental disability, this individual had very significant problems controlling his behavior and a very high level of anxiety. His mother has said that the dedicated staff have made the difference in the services that he receives at RHD. He is working towards being as independent as he can be. She is confident that he will never go back to an institution again. This young man has reduced the number of negative behavioral issues from daily to less than monthly. In five years, he has never been out of our care. He has never been in the hospital, he has not been in jail, and he has not been out of our services for any reason. The dedication in the staff and the time spent training those staff is the difference in this individual's life. Community-based service providers need to have adequate technical assistance and resources to support the people to be successful. This includes ongoing training, wages, and benefits that allow them to stay in this position as a long-term career goal. This would reduce the turnover and create sustainable work force in our field. The last key is flexibility of funding. There is a true art to providing support services to people to help them be successful. Success is often not achieved on the first try. Community providers need to be patient, supportive, and try multiple plans to help people achieve the positive changes in their life. In 2012, RHD began supporting an individual that also left BSDC. Since he has

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been with RHD, we've been able to see him through several successes, as well as some failures. We have continued to support him by changing the supports and strategies to find the right level of service to meet his needs. Today he is living in a home with people that he enjoys. He works at a local restaurant where he is considered to be one of their best employees, and he has discovered several things about himself. He's included that he is a very talented musician. He performs at several of our local art shows and events, and he's also met several friends and new people in his community out shopping and doing his favorite pastime, which is fishing at the lake. This didn't happen all at once. It took the dedication of his support team to listen to his concerns and change his plan when they needed to. These changes often meant changes in the funding for his services. Together, they found a way to decrease his reliance on paid support, maintain his health and his mental health, and live his life to its fullest. The community providers need to have flexibility in the funding so that we can support people to meet their needs. I commend you for your time and your resources that have continually been devoted to developmental disability services in Nebraska. Community service providers want to continue to have a successful partnership with the state of Nebraska to support all Nebraskans with developmental disabilities to the best of our ability. In order to continue to provide the best quality services, I'd like to point out a few key areas for your consideration. I ask that you continue to evaluate and respond to the increased needs of providers. I encourage the committee to look at the gap and explore the disparity between services that are provided to folks under the Department of Justice and those that are not. I encourage the committee to look at the flexibility of funding of community-based services. And lastly, I encourage the committee to evaluate the current needs and desires of all people that live at BSDC. As a community provider, RHD has not seen a transition from BSDC in nearly two years. I believe that the goal should be for all people to live in the least-restrictive setting possible. Community providers have significantly increased their capacity and their willingness to provide support to individuals. The circumstances and goals of the people at BSDC may have also changed. We don't want to lose any momentum on that very important topic. Thank you for allowing me to speak with you today. On behalf of the Nebraska Association of Service Providers, I've also provided a letter from them as well. And I'll be happy to take any questions that you have. [LR32]

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SENATOR COASH: All right. Thank you, Ms. Reed. And I'll just note for the record we've got a letter from the Nebraska Association of Service Providers--you know those guys?--which will be in the record. (Exhibit 2) Could we make sure and get a copy of your written or... [LR32]

KIERSTIN REED: Uh-huh. [LR32]

SENATOR COASH: ...so we can review your testimony? Two things I want to ask you about that stood out in your testimony. You mentioned the need for flexibility and support from the department in order to meet the needs of...it sounds like you meant everybody but especially for the people that might transition out. [LR32]

KIERSTIN REED: Right. [LR32]

SENATOR COASH: And you're one of the...you represent one of the providers who took on that task several years ago when there was a need for folks to move out because of a variety of different reasons. And some didn't...some wanted to go; some didn't. We know that. But do you feel like you've got the needed support from the department in that transition? Or do we still have work to do in that area? [LR32]

KIERSTIN REED: I do believe that the department did a very good job of supporting providers with the funding necessary to provide for the needs of the individuals that were coming out of BSDC. I want to make sure that that funding continues to be in place, even if the Department of Justice is not involved. That's a significant concern to providers. We want to make sure that the ongoing support needs are just continually evaluated for each person and that the funding remains available to support them. [LR32]

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

KIERSTIN REED: Uh-huh. [LR32]

SENATOR COASH: Senator Campbell. [LR32]



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SENATOR CAMPBELL: Just to go back--thank you, Senator Coash--just to go back in your statement, you said in the past two years there's not been anyone who's come out of... [LR32]

KIERSTIN REED: RHD has not taken anyone or been asked to take anyone into services. [LR32]

SENATOR CAMPBELL: Okay. [LR32]

KIERSTIN REED: The last person that we took into services was in 2013. [LR32]

SENATOR CAMPBELL: Okay. And why do you think that is? [LR32]

KIERSTIN REED: I think that the number of people that are requesting information or a desire to move into a community-based setting has significantly decreased. [LR32]

SENATOR CAMPBELL: Okay. So at the 116 or 118 figure, that's probably where we're going to be, you think. [LR32]

KIERSTIN REED: Yeah. [LR32]

SENATOR CAMPBELL: Okay. Thank you. [LR32]

KIERSTIN REED: Uh-huh. [LR32]

SENATOR COASH: Senator Johnson. [LR32]

SENATOR JOHNSON: Thank you, Senator Coash. I'm new to the committee but I, when I was mayor, we were involved in a situation in my hometown when Norfolk was closed and we opened up Liberty House. A lot of questions there, but my question today, since becoming a senator, I get a lot more questions about services. I just wanted to understand the process. Region V is also in Wahoo and one of the clients, a constituent that has been working on me, they feel their sibling is qualified and the parents have always taken care of the sibling. Well, the parents

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have aged out to the point where they can't do it anymore. And they're not able to get into another institution. Is there a gap here or is it funding or is it...? They said, well, they don't test out low enough or high enough, I don't remember which way, in order to know for sure where they should go. But the parents are saying, we physically cannot take care of him anymore. [LR32]

KIERSTIN REED: Right. Where are they currently at? [LR32]

SENATOR JOHNSON: Pardon? [LR32]

KIERSTIN REED: Where is that person currently being supported? Is it in... [LR32]

SENATOR JOHNSON: At home with parents. [LR32]

KIERSTIN REED: At home, okay. [LR32]

SENATOR JOHNSON: And they're just not able to handle it anymore. [LR32]

KIERSTIN REED: And there is a process to receive services from a community-based provider agency and that's to contact the Developmental Disability Services and qualify through the state services in order to enter a community provider agency, such as Region V in your area it sounds like. [LR32]

SENATOR JOHNSON: Yeah. Sounds like to me...well, maybe I'm taking too much time, but when I've talked to our director at Region V, said, well, they could go into our day program but not permanent or not... [LR32]

KIERSTIN REED: Correct. [LR32]

SENATOR JOHNSON: So again, that doesn't quite solve the situation. [LR32]

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KIERSTIN REED: Right. There was legislation passed in, I believe, '94 that stated that individuals could receive day service support but that's what the waiting list, that 2,000 number that you heard Courtney speak of,... [LR32]

SENATOR JOHNSON: Yeah. [LR32]

KIERSTIN REED: ...that's that waiting list. And a lot of those folks are waiting for residential services. [LR32]

SENATOR JOHNSON: Okay. Thank you. [LR32]

KIERSTIN REED: Uh-huh. Thank you. [LR32]

SENATOR COASH: Thank you, Kierstin. Courtney, could we have you come back up? Just want to have you talk about a couple of other things. And then we will, following your testimony, if anybody else wants to testify, be glad to take that. We've kind of transitioned from I wanted you to follow the community-based provider representative because it's the purview of this committee, but we've got a community-based system that's part of the array of services. We also have a waiting list for services and I know that you and the other Courtney, Courtney Phillips, have been evaluating how those services have been going. And I think it's important to let you comment on that, on the waiting list, what you're finding. Because at the end of the day if this committee and this Legislature has to get involved, we should start now understanding what challenges are out there with the community-based system. [LR32]

COURTNEY MILLER: Absolutely, and I appreciate the question. I think that this is in the preliminary stages of discovery and I think that I need time to build that inventory and bring that to you in December so that we can brief you on that, the issues, with a thorough understanding of what we found. [LR32]

SENATOR COASH: Okay. Do you know how many people are on the waiting list? [LR32]

COURTNEY MILLER: How many people are on the waiting list? [LR32]

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SENATOR COASH: Approximately how many folks are on the wait list? [LR32]

COURTNEY MILLER: I didn't bring my sheet up with me. Two thousand? [LR32]

SENATOR CAMPBELL: 2,070. [LR32]

COURTNEY MILLER: Yes. Thank you. [LR32]

SENATOR COASH: Okay. Okay. So we may have some questions from the committee, but I want to give you an opportunity to kind of tee it up. And we'll certainly have another hearing if we need to--sounds like we do--in December. But if you want to kind of tee up preliminary discovery, any...the nature of what you're looking at and what we may be talking about in December. [LR32]

COURTNEY MILLER: You know, I don't feel comfortable doing that. I think that it's too preliminary. I think that we need more information. I need to ask more questions and meet with stakeholders and discover and have a conversation with CMS regarding some of the questions that I have. [LR32]

SENATOR COASH: Okay. Okay. Senator Bolz. [LR32]

SENATOR BOLZ: I appreciate that and I appreciate the way that you've let us know that there might be a question or a concern around our waiting list. As an Appropriations Committee member, I think it's important for us to bring this issue to light because, as I understand it, there may be some questions about the way that we've been managing our waiting list. And why that's important, in my mind, is because the way we manage our waiting list connects to the eligibility for our waivers, our partnership with the federal government. [LR32]

COURTNEY MILLER: Right. [LR32]

SENATOR BOLZ: Is that...is what I said, that's fair and accurate that we have some concerns and that it connects to our waiver eligibility? Is that fair? [LR32]

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COURTNEY MILLER: I think I have questions, yes. [LR32]

SENATOR BOLZ: Questions, okay. And if something turns out to be significantly or not even significantly, if something turns out to be not quite right with that waiting list, can you just briefly tell the committee what some of the implications of that might be. [LR32]

COURTNEY MILLER: Well, there's a variety of options. It would be our partnership with CMS that would, oh, kind of dictate how we would work through that. If there was issues or significant concerns that they had or that we brought forth that were discovered, and it could be, you know, as simple as identifying, making corrections or a corrective action plan. It's...obviously, sunsetting the waiver is not an option for us, not an option for our stakeholders and the individuals that we serve. [LR32]

SENATOR BOLZ: Absolutely. That's helpful and I just think it's important for this committee to have on the radar screen that there is work to be done in terms of inventory and where we're at with the waiver and that the implications of that connect to our compliance with CMS. And if something turns out to be inappropriate, there may be a fiscal implication of that. As an Appropriations Committee member, that's where my mind always goes, so. [LR32]

COURTNEY MILLER: It could be, and that's why I appreciate the partnership. [LR32]

SENATOR BOLZ: Yeah. And I know that you have already expressed willingness and interest in working with members of this committee and members out there. [LR32]

COURTNEY MILLER: Absolutely. [LR32]

SENATOR BOLZ: One other question, and I don't expect you to answer this now. But you referenced reporting out on the inventory that you're doing in December with this committee. And one question that I would have and one thing that I think would be helpful for this committee to know as you're able to provide us information is just the longevity of some of these challenges. If this is something that is a recent concern, that means something different than if it

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has been an ongoing concern. So just have that kind of question in the back of your mind as you prepare for December. [LR32]

COURTNEY MILLER: Okay. Thank you. [LR32]

SENATOR BOLZ: Okay. Thank you. [LR32]

SENATOR COASH: Senator Davis. [LR32]

SENATOR DAVIS: Thank you, Senator Coash. And thank you again, Courtney. So one of the things that I think might be useful in December, and we've kind of drilled down into the finances at BSDC, but I think it would be helpful for us to look at the costs of programming in other areas so that we kind of have a bar as to where we are and what's out of whack and what isn't. Is that something that you could prepare? [LR32]

COURTNEY MILLER: Absolutely. And that's...I intend to include that in the inventory as well. [LR32]

SENATOR DAVIS: And of course, the waiting list is a concern of mine, you know, that it continues to rise. I think we need to work on that. But so with regard to overtime, did you say around 15 percent now? Did you know? [LR32]

COURTNEY MILLER: I'd have to refer back to my testimony. [LR32]

SENATOR DAVIS: To your notes? [LR32]

COURTNEY MILLER: I didn't bring it with me. [LR32]

SENATOR DAVIS: I just wondered. You know, I think I've got some data that shows, you know, we've kicked down the overtime, but it looks like we're maybe starting back on another uphill climb with that. It looks like it was down in around 11 percent in 2013, but at the end of 2014 it was about 19 percent. I'm just wondering if we're starting to go back up, what's going to be done

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by BSDC to try to, you know, get a handle on the labor problems. The reason I asked that question, one of the reasons, there were a lot of...and we did talk to staff yesterday and really didn't touch on the overtime issue but...very much. But the one observation I had was there are a lot of staff members who have a lot of years of experience. They're all getting close to my age. So you know, do you have a number of people who have been there a long time and when they're retired are you going to end up with just constant turnover to try to replace those people? [LR32]

COURTNEY MILLER: And I...this...I mean this figure is the quarterly report, so it's a point in time. So there could be some fluctuation and we'll certainly look closer at that to answer your question. I think that, you know, the turnover and retirements and the recruitment is something that has to be addressed in the plan. [LR32]

SENATOR COASH: Yeah. Here's my comment on that for the committee and for the department. Your predecessor, when we had these hearings back in 2010, talked a lot about and she used the term "rightsizing" BSDC. [LR32]

COURTNEY MILLER: Okay. [LR32]

SENATOR COASH: And she talked about managing the number of people served there around the number of...the amount of labor that they have available. And from my observation, although the census has gone down but we were...it was always presented that if the census can get down to a particular number and the staff can stay, we'll be fully staffed. However, they both went down. The census went down and the ability to retain those staff. And so that rightsizing that we had heard on this committee for several years never, never came to fruition. We never...and my concern is, is that if 30 people left BSDC today, and that meant we were fully staffed, it would be a very short time when we'd still have 15 percent overtime, even though we had reduced the amount of service that was needed. So that's something that the committee is going to have to continue to look at. So we look forward to have...you know, maybe it will be you, maybe it won't be in December, right? But we'll look forward to...

COURTNEY MILLER: Sure. [LR32]

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SENATOR COASH: ...working with the department as we move forward. [LR32]

SENATOR DAVIS: Can I ask one other question,... [LR32]

SENATOR COASH: Please. [LR32]

SENATOR DAVIS: ...Senator Coash? With regard to people leaving then, what kind of process takes place there? Do you sit down and visit with people as to why they're leaving, or do they just...is there no exit interview that goes on? [LR32]

COURTNEY MILLER: There are exit interviews, absolutely. That's the department. [LR32]

SENATOR DAVIS: And what kind of information do you get out of that? Or maybe you can bring that to us in December. [LR32]

COURTNEY MILLER: I can do that. [LR32]

SENATOR DAVIS: Okay. [LR32]

COURTNEY MILLER: Uh-huh. [LR32]

SENATOR DAVIS: Thank you. [LR32]

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

COURTNEY MILLER: Thank you. [LR32]

SENATOR COASH: Appreciate it. I see a couple other testifiers. Michael, you want to come on up and be the next testifier? Welcome. [LR32]

MICHAEL CHITTENDEN: (Exhibit 3) 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 am the executive director for The Arc of



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Nebraska. Before I actually get into my testimony, I can...I'd like to throw out a couple points about questions that were being asked. Waiting list, gentlemen and ladies, I will tell you that it's an underestimate. As you pointed out, Senator Johnson, there are families out there who are taking care of their own children that have not requested services, and these are only...the waiting list or interest list only reflects people who are interested in services, who have actually requested them. There's a significant number--we estimate minimum 500, maybe up to between 800 and 1,000 people--that are out there that would and should be qualified but either don't test well enough, and that is low enough, to get services, or they don't have the paper background, i.e., the information that they would have had graduating high school. That's been destroyed because they're in their 40s and 50s and there's no background to be able to show that they would and should be able to receive services. So just wanted to get that point out there because that is a huge concern of ours going forward. Senator Coash, members of the Special Investigative Committee, The Arc of Nebraska is a support and advocacy agency for and with people with intellectual and developmental disabilities. We're associated with The Arc of the U.S. We're a statewide organization of nine local chapters, and we have approximately 1,000 members around the state. The work of this committee is vital to ensure accountability and transparency in the decisions and processes of Health and Human Services pertaining to people with intellectual disabilities. Additionally, this committee has had a strong working relationship with the advocacy community. It is imperative that we continue to keep that good relationship, and we want to work with you moving forward. Committee members, The Arc of Nebraska advocates for a multiyear plan to close Beatrice State Developmental Center. We mirror what...the issues that Senator Coash brought up. It is far past time for the state Legislature to put a plan in place for the systematic closure. Simply having a "no front door" policy does not proactively address the continued issues that arise. Those issues are, one, safety--the safety of those living at BSDC. We continue to see abuse happen time and time again. We can go back to even earlier accounts in the '60s and '70s, what might have been termed "best practices" of people who had their front teeth knocked out and were hosed down with hoses. Now those are more general observations, not necessarily those at BSDC, but we saw it around the nation. Certainly we've had a recent situation where a person was assaulted and somebody was arrested. There are no guarantees of safety just because you segregate and seclude people. We must look at community-based supports. In over 60 years of providing advocacy and supports, best practices, which are those of normalcy and the dignity of risk in the field of supporting people with developmental disabilities,

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suggests that they should be supported in the community with the least restrictive supports possible. It's time to quit listening to those who would espouse the antiquated notion that the safest place for people with I/DD is segregated from the community. In reality, the community and being visible to others and creating and maintaining quality relationships is the best way to monitor and decrease the possibility of abuse. We also have laws that are being ignored, folks. We have the Olmstead decision and we have the Americans with Disabilities Act which dictates that we should be serving people in the least restrictive environment possible. And just because you remove bars from windows and fences around property does not mean it's not restrictive. They are not necessarily interacting with their community. I have deep concerns about people who spend their entire day, weeks, months on the campus without getting off and being in the community. And finally, I think we need better stewardship of our money. The fact that we're spending over \$400,000 per person, and you'll see some notes from the Coleman Institute that show better ways to do that through ICFs/DD, six-person or lower group homes, foster homes. These are opportunities to support people at about \$77,000 a year, according to our own state's figures. And in supported living, those supports that are less than 24 hours, it only costs about \$26,500, and it can be done. I have done it. My background is 30 years as a provider. I've taken on really difficult behavioral opportunities, sexual predators, the incredibly medically frail, and we've been successful. I've done it in Connecticut. I've done it in Texas. I've done it in Nebraska. We can do it if we try through the community providers. You have the rest of my written testimony. [LR32]

SENATOR COASH: Thank you. Thank you, Michael. I have a question. [LR32]

MICHAEL CHITTENDEN: Sure. [LR32]

SENATOR COASH: In your testimony you reference the safety of those at BSDC, and certainly that was an issue and we saw that. And I'm...do you see the same safety issues with community-based providers as well? [LR32]

MICHAEL CHITTENDEN: Absolutely. [LR32]

SENATOR COASH: Okay. [LR32]

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MICHAEL CHITTENDEN: Regardless of where a person is living, there will be safety issues, whether that be from the staff providing the supports or from the community. But that's the dignity of risk. We all live that. There's no guarantee that any of us is safe going...walking out our door any day or even when staying within our homes. And that's the dignity of risk principle. You have to be allowed to take risks in life because we learn as much from our failures as we do from our successes. [LR32]

SENATOR COASH: Right. I just wanted to get that on the record, because I think there's a perception out there that one modality is safer than another and...but they're really... [LR32]

MICHAEL CHITTENDEN: No. No. [LR32]

SENATOR COASH: ...I mean the issues that BSDC has had can happen in the community and vice versa. [LR32]

MICHAEL CHITTENDEN: They can happen in the community. I don't know if there's been any issues of arrest and adjudication and so forth of anybody in a community-based program, those providers. I know that they get fired. I don't know what happens after that, if charges are pressed. But I just don't know of any. I just know of the ones that have happened at BSDC have, in some instances, gone through the judicial system. [LR32]

SENATOR COASH: Michael, how do you...I know you work with families of... [LR32]

MICHAEL CHITTENDEN: Sure. [LR32]

SENATOR COASH: ...people with disabilities all the time. How do you...what do you say to a family that says this is where I want to be; this is my choice or our family's choice; this is where we as a family feel is the best thing for my loved one? A lot of the families I've talked to have had experiences in the community-based programs that weren't great. And so they finally found some peace of mind. So what do you say to those families when you're talking to them about their choices? [LR32]

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MICHAEL CHITTENDEN: Well, it goes back again to that dignity of risk principle. Yes, there are going to be failures in the community and we understand, you know, backing up, taking another look at what's going on and stuff like that. But again, the best practices, what we have seen time and time again over the long haul, over 60 years of being The Arc, we've seen that when you're in the community and you're creating relationships with individuals within the community, not just your loved ones but true relationships, that's where the safety comes in because people are looking out for you. Mom and Dad, I understand, are looking at what is...what they deem possibly safest or the best opportunity for their child. But we would argue back that the best opportunity is to always be inclusive in the community and making...being able to make those choices, being able...because, you know, when all is said and done, we hate to think of it, but Mom and Dad won't be there forever. And what happens when Mom and Dad aren't there to ensure that? Who's the watchdog then? Well, it's the other relationships within our lives that are the watchdog, whether that's siblings or friends in the community, coworkers, you know, whatever the case may be. So I think that's the way I try to address that. I understand that they want to have their choice and that's where they feel comfortable. I can also tell you that if you've spent \$400,000 on my kid for any one thing and, you know, I would be very happy with that and I would love that. But those services are available in the community: dentists, doctors, physical therapists. Just got to find the right people. It takes time. I think Ms. Reed addressed that adequately in her testimony. [LR32]

SENATOR COASH: All right. Thank you. Any questions for Michael? Senator Davis. [LR32]

SENATOR DAVIS: So I guess I'm going to ask you what the definition of the word "community-based" really means. [LR32]

MICHAEL CHITTENDEN: That will be different for each individual, but I know that what I'm going to tell you is from the advocacy field. Community-based is being in that community that you choose to be in, and that's living alongside and working alongside with what we call typical people. We don't like the word "normal" too much. It's hard to define "normal." So typical people, people without disabilities, people who don't go to some sheltered workshop before they go out to work at their McDonald's jobs. You and I go to an office or whatever our work site is. We don't have a stop in between unless it's for coffee. That's what's normal. That's what

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community is. Community is participating in the life, going to the church that you want, going to the high school football games, going to whatever, you know, taking part in whatever you want in that community. Segregation is being stuck in one place with the same type of people based on a diagnosis. [LR32]

SENATOR DAVIS: So don't the people at BSDC have interaction at all with the community?  
[LR32]

MICHAEL CHITTENDEN: There's some. I'm not claiming there isn't. I know that I was just imagining. I've been there a few times. I haven't traced everybody's steps so I can't...I will not say I'm an expert on BSDC. But I heard of a retirement program where there are, you know, people who are retirement age are just sitting out there. Well, people of retirement age that I see out in the community go to McDonald's to have their coffee. They go to, you know, and they meet as a group, or they go to a church function or whatever. They don't stay within a campus. They try to get out unless they're physically unable to. And even then, they probably try to make strides to be able to do that. I just think whenever you...whenever you congregate people in a setting based on a diagnosis, you are taking them out of the potential interaction with typical people. [LR32]

SENATOR DAVIS: Thank you. [LR32]

SENATOR COASH: Senator Johnson. [LR32]

SENATOR JOHNSON: Thank you. I'm not advocating this at this point for sure, but let's say that BSDC did need to be depopulated or closed down for whatever reasons. [LR32]

MICHAEL CHITTENDEN: Sure. [LR32]

SENATOR JOHNSON: We heard testimony that once taken out of that culture and moved to community in this case,... [LR32]

MICHAEL CHITTENDEN: Uh-huh. [LR32]

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SENATOR JOHNSON: ...that they went backwards in their skills. [LR32]

MICHAEL CHITTENDEN: Yes. [LR32]

SENATOR JOHNSON: Okay. And this is...have to be generalized a lot. Does a person...would a person normally be able to transition after a period of time to the new surroundings or does it...that...their previous home stay in their mind all the time? [LR32]

MICHAEL CHITTENDEN: This will be a very generalized answer. [LR32]

SENATOR JOHNSON: Yeah. [LR32]

MICHAEL CHITTENDEN: Obviously, everybody is going to have their own way of responding to those things. But they say one of the most stressful things you can do in life is move, you know, get married, move, a death in the family, things like that. So, yeah, it affects people with disabilities just like it would affect us. It's a stressful time. So there can be a decrease and it could last a little bit longer. The whole idea of a developmental disability is that things take a little bit longer to learn. Sometimes things take a little bit longer to develop. So that actually is normal and it takes time. And it still doesn't mean it's going to eventually work out. It still might be the wrong thing. But if you take a really good, long-term plan, you know, and build around a person and truly be person-centered, as we talk about, you know, maybe instead of moving a single person because they have friends within Beatrice, maybe you're taking two or three folks at a time and moving them into a smaller congregant setting: an apartment or a small house in the community where they have neighbors and they start interacting and stuff like that and help find them a job in the community. That can help the transition process. It's not a guarantee it will but that is a possibility. But, yeah, it will take a little bit of time. It's a stressful...it's very stressful situation. [LR32]

SENATOR JOHNSON: Thank you. [LR32]

MICHAEL CHITTENDEN: You bet. [LR32]

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SENATOR COASH: Senator Bolz. [LR32]

SENATOR BOLZ: I was pleased that you referenced Olmstead. And my simplified understanding of Olmstead is that it's a court case that found that individuals with developmental disabilities have a right to be in the least restrictive setting possible of their choosing. [LR32]

MICHAEL CHITTENDEN: Of their choosing, which also could include an institution,... [LR32]

SENATOR BOLZ: Right. [LR32]

MICHAEL CHITTENDEN: ...to be fair. [LR32]

SENATOR BOLZ: Right. And so other states, in response to that legal case, have developed something called an Olmstead Plan. [LR32]

MICHAEL CHITTENDEN: Yes, they have. [LR32]

SENATOR BOLZ: And you didn't say this directly, but we've had these conversations before. It seems to me that you might be advocating that now, given this conversation with BSDC and other factors, might be a good time for us to consider an Olmstead Plan. Would you want to speak to that? [LR32]

MICHAEL CHITTENDEN: Yeah. We've talked about that a lot in the advocacy field. We're one of the few states, maybe the only state now, that does not have an Olmstead Plan, so...and I do believe it is required by law. So I can't remember exactly what the previous director said in response to why we didn't have an Olmstead Plan, but something about the five-year plan was the Olmstead Plan. I think there needs to be a specific Olmstead Plan about how to serve people in the community in the least restrictive way possible. I think it should have not only DHH input but the community providers who you're going to have to access, advocacy groups, and of course the parent groups who are going to be most affected by this. And those are those parents who have children and loved ones and guardians at BSDC and Bridges, because I think both are examples of segregating from the community. [LR32]

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SENATOR BOLZ: Thank you. [LR32]

SENATOR COASH: Senator Hilkemann. [LR32]

SENATOR HILKEMANN: Do you consider the Mosaic program at Axtell, do you call that a community-based program? [LR32]

MICHAEL CHITTENDEN: No, I would not, sir. [LR32]

SENATOR HILKEMANN: Okay. [LR32]

MICHAEL CHITTENDEN: I'm only talking about BSDC today. But I can, and in full disclosure I used to work for Mosaic here in Nebraska, not at Axtell but in their northeast region. I do believe it is an institution and I believe it should also stop being in existence and we should be looking at community-based services for those individuals as well. I understand that there are high needs, high behavioral needs, high medical needs. I still fully believe that those with adequate...and I talk a little bit about that towards the end. I didn't get into that last paragraph of my written testimony, but it talks about it. And it's just a general plan. We're not going to solve the world's problems here today. But it is a plan that takes the money that's currently being spent on people. And over a five-year period, as they transition into the community and they get services and they make that transition that you were talking about, Senator Johnson, you start to titrate that money down so that it's not costing...and I don't know, I don't have the numbers on how much it costs per year per person to live at the Axtell campus. I only have the numbers through the Coleman Institute which talks about state-funded institutions, which is BSDC, so. But I would assume it's probably a pretty high number too, higher than what you would see as a normal average for community-based living. [LR32]

SENATOR HILKEMANN: And...but Mosaic does have community-based programs in Omaha. [LR32]

MICHAEL CHITTENDEN: Yes, they do have some... [LR32]



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SENATOR HILKEMANN: Yes. [LR32]

MICHAEL CHITTENDEN: ...community-based programs as well, yes, but they also run the institute out at Axtell. [LR32]

SENATOR HILKEMANN: Right. [LR32]

SENATOR COASH: I think it would be...you did the quick math of per person. [LR32]

SENATOR HILKEMANN: About \$450,000, right. [LR32]

SENATOR COASH: \$450,000. I think it's important that we understand that that's not the amount of money that it takes to serve somebody but it's the amount of money that we're spending to serve someone. [LR32]

MICHAEL CHITTENDEN: Yeah, it's an average of what you're spending, because some of that's maintenance and building maintenance and... [LR32]

SENATOR COASH: A big campus. [LR32]

MICHAEL CHITTENDEN: Sure. Yeah. [LR32]

SENATOR COASH: All right. Understand. Senator Johnson. [LR32]

SENATOR JOHNSON: Yeah, thanks. Okay, now you've kind of included part of Mosaic into this mix. [LR32]

MICHAEL CHITTENDEN: Oh, okay. [LR32]

SENATOR JOHNSON: Okay? So now we got a bigger number. [LR32]

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MICHAEL CHITTENDEN: Actually, actually, the senator brought up Mosaic; I just went with him. [LR32]

SENATOR JOHNSON: No, I understand. Yeah. So now we, to me, we have a bigger client...group of clientele to serve,... [LR32]

MICHAEL CHITTENDEN: Sure. [LR32]

SENATOR JOHNSON: ...to be served. [LR32]

MICHAEL CHITTENDEN: Yes. [LR32]

SENATOR JOHNSON: Do we have community facilities now that, let's say, all of a sudden Beatrice wasn't there at the end of December? [LR32]

MICHAEL CHITTENDEN: Yeah. [LR32]

SENATOR JOHNSON: And I'm not saying that. [LR32]

MICHAEL CHITTENDEN: No, no. Yeah. [LR32]

SENATOR JOHNSON: But would we be able to handle it with what's out there now or would they have to create new ones or expand? [LR32]

MICHAEL CHITTENDEN: I think, and I don't speak in any way for NASP or the community providers, but my sense of it is, yeah, it would be a burden. They're not necessarily ready to go right now if it were to close. But that's why we talk about planning over five years. [LR32]

SENATOR JOHNSON: Right. [LR32]

MICHAEL CHITTENDEN: And as the people move out, you know, a significant portion of that \$450,000 should go with them, you know, so that you can create those programs and then bring

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it down as things start to level out, as you get past those stressful transition periods. So but the better people to ask are going to be the community providers and NASP as to whether they have the capacity, but my guess is it would be a burden. [LR32]

SENATOR JOHNSON: Thank you. [LR32]

SENATOR COASH: Senator Hilkemann. [LR32]

MICHAEL CHITTENDEN: Yes. [LR32]

SENATOR HILKEMANN: You believe that even some of the most profoundly disabled people can be put in community-based programs. [LR32]

MICHAEL CHITTENDEN: Absolutely, sir. I've done it. I used to run group homes, ICF/MRs at the time, ICF/DDs now, six-person. As a matter of fact, I took the third most-expensive program in the state of Connecticut back in the '90s and within a three-year period I had it coming in well under budget, fully staffed, decreases in restraints, decreases in staff time out because of injury. It can be done. It takes a lot of work. It takes the right people in charge. I think you...the Governor...I would agree with the people that have said that the Governor has found a great person in Courtney Phillips. And I wish we could talk Courtney Miller into staying but I know that's not her long-term objectives. (Laugh) I think she's doing a wonderful job and I hope we hold on to her as long as we can. So there's some really positive change happening at DHHS. There's an air of communication and uplift in morale that hasn't been there in a while, so we're moving in the right direction. But, yes, to answer your question, yes, they can be served. [LR32]

SENATOR HILKEMANN: So you're not...yeah, because in some ways you refer to this as like warehousing these people at the present time. [LR32]

MICHAEL CHITTENDEN: I don't want to make it like that but, yeah, I guess I kind of am. So I'll stick with that and that's because, yeah, I think everybody can be served in the community. It might take a little more support for some people than others, but that all balances out in the end. And so, yes, everybody can be served in the community. [LR32]

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SENATOR COASH: Senator Davis. [LR32]

SENATOR DAVIS: Thank you. So when we were visiting with the parents yesterday... [LR32]

MICHAEL CHITTENDEN: Yes. [LR32]

SENATOR DAVIS: ...and about their...how they felt about BSDC, it was a very positive group of people who came to talk about it. One particular person talked about, I think, someone who had gone into the community-based program and then got kind of violent and ended up in jail. They said that sort of thing never happens in BSDC. But I guess I have a hard time really conceptualizing that everybody can just be put in some... [LR32]

MICHAEL CHITTENDEN: Sure. [LR32]

SENATOR DAVIS: ...in a community-based program. I don't see how you're going to do that. But I guess my question really comes down to how many times have you been to BSDC and how recently? [LR32]

MICHAEL CHITTENDEN: I've been there three or four times, the most recent one earlier this year. So we've seen the improvements, the aesthetic improvements and stuff like that. To your point about a person becoming violent and having to go to jail, well, violence within the community is dealt with differently than violence within, you know, the Beatrice community...or, sorry, the BSDC community. You know, it's more segregated. You're further away from people there. You know, I've dealt with people who have, you know, attacked other typical people walking through a mall and stuff like that. We've had to deal with police interactions and stuff like that. I'm not saying it's easy and it takes time and people have to learn and sometimes there's some natural consequences, whether that's jail or, in the case I'm thinking of, a very protective boyfriend punching one of my clients because he grabbed his girlfriend's hair walking through the mall. Tried to intervene, didn't get there in time, and he learned a valuable lesson, an unfortunate lesson, because I wasn't close enough. And that was my mistake. But he learned and he never did it again. (Laugh) We didn't need... [LR32]

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SENATOR DAVIS: Well, you know... [LR32]

MICHAEL CHITTENDEN: So...but it can happen. [LR32]

SENATOR DAVIS: And so then we heard from--and I think I made reference to this earlier--from a parent who's child had an abscessed tooth, was in a community-based program, could never get that taken care of, finally ended up back at BSDC. And that dentist there works with that all the time. So, you know, if the services aren't out there for people, I'm just not so sure that what you end up with is a better solution. [LR32]

MICHAEL CHITTENDEN: No. Listen. I have to give credit, yes, you spend a tremendous amount of money right now to have doctors and dentists and psychologists and behaviorists and everything right there, available to you at a drop of a hat. In the real world, it doesn't happen that way, doesn't happen that way for any of us. We have to get an appointment. We have to get...and we have to make sure that the dentist that we see takes our insurance. Well, here's where the issue comes in. Most of the people that are going to be living in these group homes are going to be on Medicaid and there's not a prevalence of doctors and dentists, and especially dentists, who readily take Medicaid. And so that answer actually lies within this body. We've got to make the Medicaid system better for these people so that doctors will take new patients, so that Medicaid will pay for those people. That's not the community-based providers' fault. That's not the community's fault. That's setting up a system that truly works for people who are truly disabled. I understand the concerns that everybody has about Medicaid and how it can get out of hand, but we're talk...if we can talk about just this specific population for...these are people who need it. These are people who are not committing fraud against Medicaid. They need the services and we need to be able to get them those services and in a timely fashion. That's this...the job of the Legislature and advocates. [LR32]

SENATOR COASH: Senator Campbell could probably have a whole hearing on access. [LR32]

MICHAEL CHITTENDEN: Yeah. (Laugh) [LR32]

SENATOR CAMPBELL: I'm ready. I'm ready. [LR32]

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SENATOR DAVIS: Yeah. [LR32]

SENATOR COASH: So we'll leave it... [LR32]

MICHAEL CHITTENDEN: We got your back, Senator, whatever you need. [LR32]

SENATOR COASH: We'll leave that to her. Thank you very much for your testimony, Michael. [LR32]

MICHAEL CHITTENDEN: Thank you. Appreciate it. Have a great day. [LR32]

SENATOR COASH: Is there anybody else that would like, that's here, that would like to go on record and testify? We are...come on up. [LR32]

DAVID MOHLMAN: My name is David Mohlman, M-o-h-l-m-a-n. I'm a parent and a guardian. My son lives at BSDC and I wouldn't want him to live anyplace else, except with me, in my community, which is Red Cloud, Nebraska, which is a small town. That's a community. And when the problems arose at BSDC--when was that, 2007, 2008--we went through a lot. And thanks to Mrs. O'Meara, you know, she just left. [LR32]

SENATOR COASH: David, we'll have to have you face this way; otherwise, the mike doesn't pick up your testimony. [LR32]

DAVID MOHLMAN: Okay. We were able to maintain BSDC and improve it. And, Senator Davis, as far as the changes at BSDC, it's been tremendous. They got some funding. After the feds quit paying, we got money to improve everything. It was ridiculous. I couldn't believe the change. Everything changed and it just got a whole lot better. My son has been there 15 years and it's taken 15 years to get his persona, his self stable. He finally can answer questions reasonably, somewhat. He's a man of few words. But he has a seizure disorder, schizophrenia, and he's mildly mentally retarded. He's got three strikes against him. And, yeah, he's gone to the hospital, because after he has three seizures in a day they get him to the hospital. That's too many. It's expensive but it's going to be expensive no matter what you do. As far as trying to get

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rid of these institutions, which that's what they call them, they are folks's homes. And the Olmstead act and the Department of Justice, you know, why take away choice? Isn't that what the United States is all about, is we have choice? And as I spoke to some of the senators yesterday about what happened to me in Kansas, well, there was no place to go. But later on, I don't know if I mentioned this, later on I found out, like after the fact, seven years later, oh, well, they were lying to me. There was a place to go but they really didn't want me to...they didn't want to take it on. Because the matter of fact here with Health and Human Services--and I'm not going to be kind to Health and Human Services--first of all, a lot of times it's all about the money. And when you get into that fact, it's about buck passing, okay? That's just because of the overload of people they have to deal with. It's huge. And BSDC is not a shining example but they're pretty darn good about stuff. They really are trying over there, which leads me to my last...you know, I don't know about the lights here. [LR32]

SENATOR COASH: When the red goes on, the seat ejects you. (Laughter) [LR32]

SENATOR HILKEMANN: Sends you back to Red Cloud. [LR32]

DAVID MOHLMAN: But I'll finish up here. I asked at the last meeting over there at our picnic that we have, the Friends and Family Association, just, you know, we were talking about the 116 issue. And it was like, well, what is capacity? What could it be? Because we've passed all the tests that the feds put upon us and now we're getting back to normal, how many could we have here? 160. Okay, 160. Well, why don't we get back to 160 then? Maybe that will help the cost issue per client or customer or, you know, person. Maybe that could help. And then yesterday I was wondering, well, you know, the wage structure here--and this was unknown to me--is, well, if you've been here awhile to keep from turnover, how often do you get a raise for doing a good job and being here, being on time? And the longer you're there, you're going to get more experience and...because it takes special people to work with the disabled. Oh, well, nobody gets a raise; they make the same as you can be there ten years and still get the same as somebody that's come on. Maybe that might help the situation to restructure that a little. But I guess they're dealing with that in the prison issues. They're looking. That's what I was told yesterday. So thank you for the time. And you know, I feel like my son is in a really good place. And, sir, you're right

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about I want my son in the best place he can possibly be. And I sure appreciate you guys spending that much money, because I don't know what I'd do. Thank you. [LR32]

SENATOR COASH: Thank you. Is there anybody else that would like to testify? Seeing none, I'm just going to close real quick. Colleagues, thank you very much for your time and attention to this issue. There are no easy answers here but a lot of questions. And we have a ways to go. I want to remind myself and all of us that before any of us got to this Legislature many years ago, the regional centers across Nebraska were closed. And there was a plan when that happened and the plan was not implemented. And we today are picking up the pieces of a lack of planning that occurred many years ago, and we are still dealing with that. With no change in what's happening tomorrow than what is happening today, and with no plan, the census will continue to decline at BSDC. And at some point there something...there will be a point where lives will be disrupted, and that's what we have to prevent. There must be a plan. And I'm not advocating for any plan as I sit here today. I think we've heard a couple different sides of what would be considered possibilities. But this Legislature has got to partner with HHS to assure that there is a plan moving forward, not just for 116 people at BSDC but for all the people in our state that are citizens that need services because they happen to have a developmental disability. And if we do nothing else, we need to continue to push for that plan. And so appreciate you starting today with that foundation. We have more questions. We will reconvene before the end of the year because we do have some significant things on the horizon and challenges that we are going to have to face, and we need to be aware of that. So thank you very much. And with that, we'll close the hearing. [LR32]