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Health and Human Services Committee  
January 18, 2007

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[LB178 LB185 LB296]

The Committee on Health and Human Services met at 1:30 p.m. on Thursday, January 18, 2007, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB178, LB296, and LB185. Senators present: Joel Johnson, Chairperson; Tim Gay, Vice Chairperson; Philip Erdman; Tom Hansen; Gwen Howard; and Dave Pankonin. Senators absent: Arnie Stuthman.

SENATOR JOHNSON: Good afternoon, everyone, and welcome to the public hearing of the Health and Human Services Committee for the Nebraska Legislature. First, let me introduce the senators that are here, and there will be more coming. As many of you know, senators are out at other committees introducing other bills. However, on my right is Senator Pankonin from Louisville; then next in order here is Senator Tim Gay from Papillion, who is the Vice Chair and will actually be running considerable portion of the meeting this afternoon; and next to me is Jeff Santema, our legal counsel who keeps us running in the right direction. I'm Senator Joel Johnson from Kearney. On my far left is Senator Gwen Howard from Omaha; and then Senator Tom Hansen from North Platte; and last but not least, Erin Mack, our committee clerk. First of all, a couple of rules, and this is Senator Phil Erdman from Bayard. A couple of rules that are a little different than what we've had in the past and, first of all, these proceedings are all recorded and all transcribed. If you have a cell phone, please shut it off now or you'll be shot at sunset. (Laughter) One of these times I'm going to forget and leave my own on. The committee will first hear proponent testimony, followed by opponent, and then neutral testimony. We would ask that your testimony be brief and to the point. If you want to discourage this committee, read a three-page letter. (Laughter) Now a couple of other rules that are slightly different from before is a testifier sheet is available in the back and at the table for those who wish to testify publicly. Fill it out completely and place in the transcribers box. When you testify, please state and spell your name for the record. Testifiers need to kind of know the rules to come to the front as your time might evolve. Any printed materials, give them to our pages. We ask that you have 12 copies. If you don't have 12 copies, give them to the page and they'll help you out by making more than what you have. Now one of the things, and it might happen today but I doubt it: If there are people here that wish to...or do not want to publicly testify themselves but want to show their support for or against a measure, there will be a sheet for you to indicate that as well. Again, I'd ask that let's be brief because we don't want to get caught in the place where the person who may have traveled the furthest ends up not only getting the least time to talk but also will have lost the ability of this group to concentrate. So with that, let's open the hearing. And the first one is LB178, and Senator Janssen. [LB178]

SENATOR JANSSEN: (Exhibit 1) Thank you, Senator Johnson, members of the committee. For the record, my name is Ray Janssen, representing the 15th Legislative District, which we like to call the "Pathfinder District." I'm here to introduce LB178. The purpose of this bill is to establish the Nebraska Women, Infants, and Children Program

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Advisory Board. I introduced...as introduced, the board would consist of 17 members, including representatives of the grocery industry and the WIC program, and would meet at least twice a year to review the status of the state's WIC program. After I introduced LB178, I met with Dr. Joann Schaefer of the Health and Human Services, and I agreed to make some changes to the bill and have drafted an amendment that addresses her concerns. The amendment would create a 13-member vendor advisory group consisting of WIC retailers, manufacturers, and wholesalers who would meet at least two times a year with the administration of the state's WIC program to discuss their role in the program. It would also provide an opportunity for any future changes to the program to be shared with this group. The group would sunset in five years in order to provide for a review of needed membership and focus of the group, which I think is...you know, a lot of these committees and commissions that we get started go on forever and ever, so I think in five years you could see whether the program was going to play a vital role within our Health and Human Services. I believe it's important to have good lines of communications between those who administer the program and those who provide the WIC food to the WIC customers. This bill would be a positive step forward in improving the whole aspect of the WIC program. I believe there are people behind me who would like to testify who can further explain the need of this change. With that, I would try to answer any questions that you may have. [LB178]

SENATOR JOHNSON: Any questions of Senator Janssen? Ray, I see none. Will you be back or...? [LB178]

SENATOR JANSSEN: I am needed down the hall... [LB178]

SENATOR JOHNSON: All right. If we don't see you... [LB178]

SENATOR JANSSEN: ...so I would waive closing, Mr. Chairman. [LB178]

SENATOR JOHNSON: All right. If you're not here, we'll do that. [LB178]

SENATOR JANSSEN: Yes, I believe that your questions will probably be answered without me. Here is the amendment to the... [LB178]

SENATOR JOHNSON: (Exhibits 2, 3) I have a letter in the neutral position regarding this bill from Health and Human Services System, signed by Dr. Joann Schaefer, and also a letter of support for LB178 from the Nebraska Pharmacists Association. I don't know whether these people intend to testify in that position or not, but we have those records with us. How many proponents do we have that will talk today? One, two. Okay. Opponents? One. And neutral position? All right. Let's go ahead with the proponent testimony then. [LB178]

KATHY SIEFKEN: Chairman Johnson and members of the committee, my name is

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Kathy Siefken, that's spelled S-i-e-f-k-e-n, and I am the executive director of the Nebraska Grocery Industry Association, and we asked Senator Janssen to introduce this bill on our behalf, and we don't do this lightly. We have been attempting to get the people that are operating the WIC program to recognize a task force that we put together for a minimum of three years, and we have continued to hit resistance. And as a result, we met with WIC officials and asked them to work with us. When we didn't like their answers, we ended up talking to both Christine Peterson and Dr. Schaefer, and I believe that as a result of that meeting we will see some activity and we'll see some changes. But the problem that we've run into is we, in the past, have talked to Ron Ross when he was over at HHS and he helped us straighten out problems, and then we talked to Dr. Raymond and he helped us straighten out problems, and now we've gone to Dr. Schaefer. So whenever there's a change in the guard, so to speak, things happen that make it more difficult for our people to administer the WIC program at the retail level. And we are the people that deliver the food to the recipients. We believe that if this task force is formed and we're able to provide advice and work with the WIC officials, that we will have a program that will run more effectively, more efficiently. It will cost less money and it will be better for both their clients and for our grocers. So with that, if you have any questions, I'd be happy to try to answer them. [LB178]

SENATOR JOHNSON: Any questions? Yes, sir, Senator Pankonin. [LB178]

SENATOR PANKONIN: Senator Johnson. Kathy, just a question on how is this...is there a program right now being administered at all? Do we have any kind of a WIC program right now? [LB178]

KATHY SIEFKEN: We have a WIC program right now and that program provides vouchers to the...their clients, and on the voucher they've got a list of the different food products that they can have. They don't get money. And so when people go into the store, they have to get all of the things that are on the voucher, and that program is available to all of those people across the state that are...that are eligible for the program. And it's a good program. It's a great way to teach citizens of Nebraska how to buy healthy food. [LB178]

SENATOR PANKONIN: But you must think it's inadequate or needs to be improved because you're proposing a different...or study it or what? [LB178]

KATHY SIEFKEN: They make changes to the program. They don't visit with us at this point in time about those changes. We don't know about the changes until the vouchers come in and hit the front end of our stores, and it makes it very difficult. The most recent problem that we had was the elimination of one whole category in approximately 300 stores across the state of Nebraska, while other stores are still able to sell that product, and what it does is it directs people into those stores because you buy all or none on that voucher. And so if we would have had input to begin with, we believe that that

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decision to change the program, we would have given time...we would have been given time to react so that we could get products available. [LB178]

SENATOR PANKONIN: So hopefully this advisory board then will be able to better coordinate... [LB178]

KATHY SIEFKEN: Yes. [LB178]

SENATOR PANKONIN: ...and advise. [LB178]

KATHY SIEFKEN: Yes. Yes. [LB178]

SENATOR JOHNSON: Any other questions? Senator Gay. [LB178]

SENATOR GAY: I've got a question. You had mentioned three years and Senator Janssen mentioned five years. With the turnover, five years is...I would rather see these kind of things shorter, to see if they work, rather than longer, because longer, in my experience, a board goes, it just...it's harder, if it's not working, to get rid of it. But you had mentioned in your testimony three years, and to me that struck a chord because I think, as we're seeing the Legislature, the change, in five years it may come by, oh, we've been doing this for the last five years, it's great, where you're going to lose some of this experience that maybe...maybe in three years I'll remember...I'll remember more than I would in five years. Or maybe the whole committee could change quite a bit on that. So I would maybe recommend a three-year term. Would you have a problem, or what's your view on that? [LB178]

KATHY SIEFKEN: Well, actually the three years that I was talking about was we have attempted to get this task force up and going for at least three, four years. I mean it started several years ago and we haven't been able to get the task force voluntarily formed. That's what I was talking about. [LB178]

SENATOR GAY: Okay. [LB178]

KATHY SIEFKEN: The five years, the five-year sunset, I get a very strong feeling, and I guess I look at the bright side of things, but in talking to Dr. Schaefer, I really believe that her leadership is going to provide a difference and so in five years we may not need this. I think she is going to make all the difference in the world on the WIC program and how efficiently it's operated, and so a five-year sunset is okay; three years, we could come back and review that at three years if people feel more comfortable with that too. My...I'm concerned that it takes awhile for an advisory board to kind of get up and running and people to get used to each other, so I really want to make sure that it's a solid advisory board before we take away the legislative oversight. [LB178]

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SENATOR GAY: But...well, I... [LB178]

KATHY SIEFKEN: And three years might do it. [LB178]

SENATOR GAY: Yeah, I guess the recommendation, I misunderstood what you were saying there, but I'm looking at this as three years. Three years is a long time if you're meeting this much and you're going to have probably subcommittees and other things. I just hate to create more boards and then all of a sudden they never, ever sunset. I mean, five years, it's easy to...oh, I don't remember, let's renew it. So thank you. [LB178]

KATHY SIEFKEN: I would hope that an advisory board of this type wouldn't necessarily have to be driven and mandated by the Legislature, but I think there should always be an advisory board when you've got industry working with the government. Because when the two work together and talk together it just becomes a more efficient program. [LB178]

SENATOR GAY: I agree. And again, I think what you're...what this would attempt to create would be a voice, and that's what you're looking for, is a voice. [LB178]

KATHY SIEFKEN: Yes. [LB178]

SENATOR GAY: I just have a... [LB178]

KATHY SIEFKEN: Yes. [LB178]

SENATOR GAY: ...I think three years is probably... [LB178]

SENATOR HANSEN: Joel. [LB178]

SENATOR JOHNSON: Yes, sir, Senator Hansen. [LB178]

SENATOR HANSEN: Thank you, Senator Johnson. Do you represent grocers across the state, east to west? [LB178]

KATHY SIEFKEN: From state line to state line. [LB178]

SENATOR HANSEN: Okay. Will... [LB178]

KATHY SIEFKEN: And we are, I should clarify, we are a voluntary dues-paid organization. People join us by paying dues; however, we provide information to every grocery store across the state, regardless of their membership. [LB178]

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SENATOR HANSEN: Will the committee be made up across the state, too, then,...  
[LB178]

KATHY SIEFKEN: Yes, it would. [LB178]

SENATOR HANSEN: ...this commission? [LB178]

KATHY SIEFKEN: And the guidelines that are set out, it's a cross-section of geographical locations and type of stores, because you've got the large chain, you've got the small independents, and there would be a cross-section of all of those. Uh-huh.  
[LB178]

SENATOR HANSEN: I just wanted to make that western Nebraska is represented on the board. [LB178]

KATHY SIEFKEN: Absolutely, and they are right now on our task force. [LB178]

SENATOR HANSEN: Very good. Thank you. [LB178]

KATHY SIEFKEN: Uh-huh. [LB178]

SENATOR JOHNSON: Any other questions? Senator Erdman. [LB178]

SENATOR ERDMAN: Kathy, connect the dots for me, would you please? We have a letter from the department that says that there's a group that's being established and they will begin meeting in February or March. You're saying that that's a result of your efforts. And, yet, you're still here on this idea because you don't believe that that group is going to have the standing to effect change or...? And then in this follow-up there's going to be...we have a different structure now at HHS than we had prior, and we're going to have a different structure if LB296 passes, again, but now we have one individual at the top. So I guess I'd like to get some feedback from you on why this is important. I would understand that if this bill passes the grocery industry gets five representatives, and if I read this letter, depending upon how they're qualified, they may not have that many and you may be the only representative grocery industry on the actual advisory council that's being established. So connect...tell me the rest of the story, if you would, as far as why you're actually here as opposed to going the route that the department has outlined in this letter. [LB178]

KATHY SIEFKEN: We are here because we have asked WIC officials, and I'm not talking about Chris Peterson or Dr. Schaefer, we have asked the people that operate the WIC program for several years to meet with us and to form a task force, and we have been told no. They will not recognize my group or me as someone that they want to receive input from. [LB178]

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SENATOR ERDMAN: And I've heard that. My question, I guess to be more specific, is now that you have the attention of the CEO and Dr. Schaefer, who have agreed to establish this organization that's an advisory council independent of state statute, you still feel it's necessary to go this route because of... [LB178]

KATHY SIEFKEN: I've been here twice before. [LB178]

SENATOR ERDMAN: ...legitimacy issues,... [LB178]

KATHY SIEFKEN: Not before. [LB178]

SENATOR ERDMAN: ...because of... [LB178]

KATHY SIEFKEN: Not because...I haven't been before the Legislative before, but I talked to Ron Ross about this and I talked to Dr. Raymond about this, and apparently people aren't getting the message. [LB178]

SENATOR ERDMAN: Okay. [LB178]

KATHY SIEFKEN: And so, you know, I want people to hear that we are angry... [LB178]

SENATOR ERDMAN: I think we've heard. [LB178]

KATHY SIEFKEN: ...because they are doing things in our stores that are absolutely ridiculous and I want someone to listen, because we can make this program better for the recipients, we can make it better for our grocers. And so that's why I'm here, because we need to have something done. This can't continue where we are. Now I'm also going to add I think that the new leadership that we have will make a difference, and I'm sure hoping that we will see acceptance of our advice. [LB178]

SENATOR ERDMAN: So you're hedging your bets that the... [LB178]

KATHY SIEFKEN: That's exactly what I'm doing. I'm hedging my bets. [LB178]

SENATOR ERDMAN: Okay. That would have been an easier answer, but I guess I...(laughter) I guess I had to get the therapy out before we actually got to the answer. [LB178]

SENATOR JOHNSON: Senator Howard. [LB178]

SENATOR HOWARD: Kathy, you gave an example of, well, kind of a general example of some of your frustration. Can you make it just a little more specific so people have a

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really clear picture? You were saying some grocery stores would be able to make some product available, but others wouldn't. Maybe if you can just paint kind of a picture of what the frustration is, it would help everybody to get a good... [LB178]

KATHY SIEFKEN: Specifically? [LB178]

SENATOR HOWARD: Yeah. I think that would be helpful. [LB178]

KATHY SIEFKEN: Specifically what has happened is they have a cost-containment issue. They need to lower the cost of the program and, as a taxpayer, I understand that and I would agree with that. What has happened is when they send out forms that we fill out and we list the cost of all of our products. [LB178]

SENATOR HOWARD: Uh-huh. [LB178]

KATHY SIEFKEN: And specifically Juicy Juice was an item that...and it's a brand name and it is 100 percent juice and it meets all of the WIC nutritional requirements. All of the stores have Juicy Juice on their shelves. That product was removed from the authorized WIC products and when that happened, we only have...we have three companies that have private label, that would be Hy-Vee, the Associated Wholesale Grocer stores, and Wal-Mart, that have ready-to-drink juices... [LB178]

SENATOR HOWARD: Little boxes is it kind of the...? [LB178]

KATHY SIEFKEN: Well, they're ready to drink. [LB178]

SENATOR HOWARD: Okay. [LB178]

KATHY SIEFKEN: So you don't have...they're not concentrate. You don't have to mix them. [LB178]

SENATOR HOWARD: Oh. [LB178]

KATHY SIEFKEN: And so they have, those three, have ready-to-drink private labeled that are WIC authorized because they meet the nutritional requirements, which is very important. [LB178]

SENATOR HOWARD: Okay. Uh-huh. [LB178]

KATHY SIEFKEN: Once the Juicy Juice was pulled off of the authorized product list, that means that all of our Affiliated Foods stores, and there's like 230-240 of those in the state, and our Nash Finch stores, there's probably another 100 of those, don't have a product that is in a ready-to-drink form for WIC people. So they come in with a voucher

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and the voucher says this is what you can get, and that's something that we won't have as a choice in over 300 stores. So what those people are going to do is they're not going to buy concentrate. I mean anyone that's worked with these kind of programs understands that. They won't buy the concentrate. They will go where they can get the ready-to-drink premade juices, and that directs traffic away from the bulk of our stores. [LB178]

SENATOR HOWARD: Uh-huh. [LB178]

KATHY SIEFKEN: And, as a matter of fact, in western Nebraska there isn't a store out there, except for the Wal-Marts,... [LB178]

SENATOR HOWARD: Uh-huh. [LB178]

KATHY SIEFKEN: ...that have that product. So it basically steers those people into certain segments of our industry, and we don't think that's right. [LB178]

SENATOR HOWARD: Uh-huh. Because they'll want to use the entire voucher at whatever store. [LB178]

KATHY SIEFKEN: It's use it or lose it. [LB178]

SENATOR HOWARD: Yeah. [LB178]

KATHY SIEFKEN: Uh-huh. Yes. [LB178]

SENATOR HOWARD: Okay. Thank you. That makes it a lot clearer. [LB178]

KATHY SIEFKEN: Okay. [LB178]

SENATOR ERDMAN: Any other questions? Yes, Senator Erdman. [LB178]

SENATOR ERDMAN: Kathy, is Wal-Mart a member of your association? [LB178]

KATHY SIEFKEN: No, they're not. [LB178]

SENATOR ERDMAN: Okay. [LB178]

KATHY SIEFKEN: However, their type of stores are represented within our membership and on our board. It's a national chain, and we have the Baker's, the Kroger's. So it's not like, even though they're not a dues-paying member, it's not like their needs wouldn't be represented. [LB178]

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SENATOR ERDMAN: I understand. [LB178]

SENATOR JOHNSON: Senator Howard. [LB178]

SENATOR HOWARD: Kathy, it sounds like what you're asking for is really just a fair shot at it. You want to level the playing field, you want to be informed ahead of time when these products, this brand name, won't be available so that you can anticipate that. [LB178]

KATHY SIEFKEN: It's more than leveling the playing field. It's making things more efficient for all of us, because there are other...that's just the latest. There was an issue a couple years ago that they decided that the cost...their administrative costs were too high so they decided that they would just stop paying for the vouchers if there were any errors on any of the vouchers, and so their WIC people, their WIC customers, walked out of our stores with free groceries. And that's when I went to Ron Ross and they reversed that decision. And their thinking was that if we punish you and hit you hard enough, you're going to wake up and not make any errors on your WIC vouchers. Well, it's not like we try to make errors. You know, sometimes we've got 16-year-old clerks that are... [LB178]

SENATOR HOWARD: Yeah, human beings? [LB178]

KATHY SIEFKEN: ...human beings. They make mistakes. And so it was like hitting us across the head with a two-by-four, to be pretty graphic about it. And so if they would have come to us and said, you know, our errors are way up, we need to do something, we could have done something,... [LB178]

SENATOR HOWARD: Uh-huh. Uh-huh. [LB178]

KATHY SIEFKEN: ...but we had no clue. We had no idea that information wasn't shared with us. So if they work with us, we can make things more efficient for them, too, just by reducing our own errors. [LB178]

SENATOR HOWARD: Thank you. [LB178]

SENATOR JOHNSON: Any other questions? You will be happy to know that dealing with a four- and five-year-old on a regular basis, I am a Juicy Juice expert. (Laughter) Thank you. [LB178]

KATHY SIEFKEN: Thank you. [LB178]

SENATOR JOHNSON: Any other proponent testimony? Do we have any opponent testimony? Yes, sir. [LB178]

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BOB VAN VALKENBURG: Mr. Chairman, members of the committee, my name is Bob Van Valkenburg, V-a-n V-a-l-k-e-n-b-u-r-g, and since this is the first time I've been over since the great change of personnel, congratulations to the newcomers. As I read the vitae on all of the newcomers, many of them are younger than the amount of years the first time I appeared in this building. But be that as it may, I have great hope for the new class because God knows the old ones left a few holes for you to fill in. Mr. Chairman, I would consider myself a compassionate conservative and also a responsible taxpayer who just happens to have a web site that's looked at by about a quarter of a million folks, and I'll be as brief as I can on this one, but a little more lengthy on the bill having to do with the...well, LB296 I believe it is. And let the record show, ladies and gentlemen, I have nothing against women or infants or children. I'm married to one and have several of the other, so I do believe that the state needs to be responsible in taking care of and looking out after its people. But why I don't like this one, this bill, is because it creates another entity. It says it doesn't cost anything. The A bill I'm sure will have to have something in it because you're going to pay for expenses of people. And take a look just for the heck of it sometime how many of these entities that are created that have these annual meetings on a Friday before a football game. That's just a little aside I'll mention to you. I do believe that you are about to make some significant changes in the structure of the Health and Human Services System that will put at the helm a lady who is a former colleague of some of you, former member of this body; will be responsible enough to take charge and make people accountable. Such being the case, I don't really see a need for this extra level, this entity extra level of government, if you would, when the people in HHSS, if they're really doing their job, not on annual leave, on a cell phone, in a meeting or for some other reason not accessible, if they're really doing their job you don't need this. It's just one more thing to stand in the way of the people of our state getting good attention and the most bang for our bucks. Now you, ladies and gentlemen, have over 700 bills to deal with this year, this session. I would put this somewhere down around 699, because it's tremendously unneeded. Now also I want to call...respectfully call to your attention, and your legal counsel's attention, the fact there is no representative of the public, in the general public, in this composition of this thing. It's all suppliers, all who have a stake in--directly, one way or another--making money off of our system. Now for the newcomers, if you take a look at some of the historical research in this legislative body and all others in the country, all of the laws, rules, and regulations promulgated under those, of all of those, it's generally conceded that about 82 percent of those are put into the legal writ to allow somebody to make money or to keep somebody else from making money. Well, I have another suggestion. Let's just don't put it in there to begin with. Don't waste our time with it, and give the Governor's appointed person a chance to show what she can do to really bring fiscal sanity into by far the largest entity in our state government, the one that wastes more money than any other in state government. And I just don't think we ought to add to the waste. So with that, Senator Johnson, I...and members, I would respectfully request that you indefinitely postpone this bill. [LB178]

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SENATOR JOHNSON: One question. Just a second. Any questions from the panel? I see none, sir. Thank you. [LB178]

BOB VAN VALKENBURG: Thank you. [LB178]

SENATOR JOHNSON: Any other testifiers? Do we have any neutral testifiers? That being the case, oh, I'm sorry, didn't see you. [LB178]

MARCIA WALLEN: Neutral. [LB178]

SENATOR JOHNSON: Thank you. [LB178]

MARCIA WALLEN: (Exhibit 4) Good afternoon, senators. I am Marcia Wallen, M-a-r-c-i-a W-a-l-l-e-n. I'm the WIC program coordinator at Family Service here in Lincoln, and also have been the vendor manager, working with the retailers for the last 15 years or more. I am here today speaking as a representative of the Nebraska Association of Local WIC Agencies. WIC is a federal, special supplemental nutrition program for income-eligible pregnant, breast-feeding, and postpartum women, infants, and children to the age of five. WIC provides nourishing food, health and nutrition information, and breast-feeding support to approximately 42,000 Nebraskans each month. WIC is funded and regulated by the United States Department of Agriculture at the federal level. It is administered by Health and Human Services at the state level, with services provided by 14 local agencies throughout Nebraska. We agree with the concept of the WIC advisory board, however, this bill is a duplication of ongoing efforts within Nebraska between the state WIC office, Health and Human Service, local agencies, WIC participants, and retailers, which include the grocers and pharmacies. The proposed WIC advisory board membership is limited, although I understand there's now an amendment that's changed that a bit. It does not represent all aspects of the WIC program, and we would propose a broader base membership. I'd like to clarify some previous testimony. Participation on the WIC program by a retailer is voluntary. We are required to provide information regarding the program at least annually. Our stores sign a contract that's good for a two-year period, and before they can sign that contract they all must attend a training. This last fall, this September, we did train all of the retailers throughout the state. It's approximately a two-hour training, and part of the training does include the changes in the WIC foods. So the stores were not surprised as our checks came through their check stand. They did have warning on that. Juicy Juice was removed because of the federal cost-containment mandate. I did not bring with me a list of the other choices, but there must be at least another 25 juices that our clients can choose from, and many of those are in the ready-to-drink form. We have store brand orange juice, pineapple juice, grapefruit juice, tomato juice. The other juices are either frozen concentrate or pourable concentrate for which they would have to mix, but there are other choices for them that would not require mixing. We do pay checks that

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have errors. Approximately 99 percent of the checks that are used monthly are paid, leaving approximately 1 percent that are reviewed, and most of those are paid. We look...must have...must be signed by the shopper, must have the date that it's used, must have the store number on it. Most of those checks are reviewed and paid. There are some that may not be paid because they're out of our time frame, or foods that are not on our WIC-approved list were selected, or amounts greater than what were prescribed. The federal government won't let us pay for non-WIC foods. That's kind of out of our hands. Our group questions the need for legislation to initiate a process that's currently underway. I would be happy to answer any questions that you might have. [LB178]

SENATOR JOHNSON: Are there any questions? I see none. Thank you very much. [LB178]

MARCIA WALLEN: Okay. Thank you for your consideration. [LB178]

SENATOR JOHNSON: Any other testifiers? Seeing none, I'll close the proceedings on LB178, and open the proceedings on LB296. Vice Chairman Gay, would you please take over. [LB178 LB296]

SENATOR GAY: Thank you, Senator Johnson. All right, we'll open the meeting on LB296. Senator Johnson. Go ahead, Senator. [LB296]

SENATOR JOHNSON: Senator Gay, members of the Health and Human Services Committee, I'm Senator Joel Johnson, J-o-e-l J-o-h-n-s-o-n, and I am here today to introduce LB296 at the request of Governor Dave Heineman. LB296 adopts the Health and Human Services System Act. Governor Heineman's goal is to create a system that will bring greater clarity, transparency, and comprehension to one-third of the state government. The intent of this bill is to restructure Health and Human Services, this system often referred to as HHSS, and do this into a single agency to clarify the agency's core missions, scope, functions, and responsibilities; enhance the services provided to Nebraskans; and ensure and improve accountability, coordination, efficiency in the delivery of this service. As a brief history, ten years ago five separate state agencies merged into three under the umbrella of the Health and Human Services System. The five were the Department of Social Services, Public Institutions, Health, Aging, and the Office of Juvenile Services that have been in the Department of Correctional Services. At the same time, this was a huge change, bringing together programs and people that should have worked together but didn't. Instead, they were separated into individual agency silos by different and often competing goals, activities, and budgets. Since then, the system has been managed by a Policy Cabinet comprised of the three department directors, a Policy Secretary to coordinate legislative activities, and other issues that cross all three departments, and a chief medical officer when the director of Regulation and Licensure was not a physician. At the time a report to the

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Governor and Legislature said the work done to date is a significant milestone along the continuum of system change that will be ongoing for many years. The time has come to take that final step in the continuum--a necessary step to bring clarity to the system and do more to coordinate the state's health and human services. There will be one chief executive officer who reports to and serves at the pleasure of the Governor. The CEO is subject to confirmation by a majority vote of the Legislature. The duties of this CEO will include, but aren't limited, to the responsibility for administration of the system; managing services and programs of the state, including delegating powers and duties; assuring coordination for the consumers; providing services in accordance with the established policies, desired outcomes, priorities and goals; identifying strategies jointly with communities; and assuring access and service coordination; and performing such duties as provided by law. The bill eliminates three agencies which are Finance and Support, Regulation and Licensure, and Services. It creates six departments within the agency, aligned around the services each provides. They are Departments of Behavioral Health, Children and Family Services, Developmental Disabilities, Medicaid, Public Health, and Veterans' Homes. The six department directors will be appointed by the Governor and report to the CEO. LB296 updates current law to harmonize with this act, specifically, the current law on confidentiality, the cash fund, contracts, rules and regulations, lawsuits and legal proceedings. Transfer of employment and transfer of tangible items are harmonized in this new act. The bill strikes the Board of Inquiry and Review, and will replace it with the Veterans' Home Board and provides for which positions will be specifically exempt from the State Personnel System. Also, there is an amendment that will be prepared to harmonize existing statutory references from the three agencies to the new single agency. This bill contains an emergency clause and becomes operative on July 1, 2007. Chris Peterson, chief administrative officer of the Health and Human Services System, will testify regarding the details of this plan. If you would like, I would try and answer any questions now, but I would think it'd be more appropriate to wait till after Chris Peterson's presentation. [LB296]

SENATOR GAY: Thank you, Senator Johnson. Are there any questions of Senator Johnson at this time? Okay. Well, we're going to have a presentation, but just for time, and we've got a packed room, how many proponents right now are going to speak on this? Quite a few. Okay. Okay, how many opponents at this point? Any neutral? About two, three. Okay, we will start out with proponents. And can you go ahead, Chris, and state your name for the record? [LB296]

CHRIS PETERSON: (Exhibits 1, 2) Good afternoon, Senator Gay and members of the HHS Committee. My name is Chris Peterson, P-e-t-e-r-s-o-n, and I am the chief administrative officer of the HHS System. I am here today to testify in support of LB296. This legislation is an extensive commitment by the Governor to bring greater accountability and accessibility to one-third of state government. Last session the Governor made a commitment to the HHS Committee to study the HHS System and develop a structure that would provide more accountability, accessibility, and

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transparency. In developing this proposal, he also was cognizant of the overwhelming testimony presented at last year's hearing that there should be one single agency led by one chief executive officer. LB296 was developed to achieve these goals. I'd like to take this opportunity to thank you, Senator Johnson, for introducing this legislation on behalf of the Governor. The HHSS System has 6,278 staff positions in 114 locations across the state. Expenditures for state fiscal year 2006 totaled \$2.5 billion in state, federal, and cash funds. And in some ways, the system touches almost every Nebraskan, from our public health efforts, such as the licensing of healthcare professionals, and keeping public water systems safe, to our human services programs which serve some of the most vulnerable Nebraskans. Medicaid, for example, is our largest human services program, serving nearly 200,000 people at a current cost of \$1.4 billion. Actually, about one in every third child is on...receives Medicaid in the state of Nebraska. As Senator Johnson said, the time has come to bring clarity to the HHS System and do more to coordinate and efficiently manage the state's health and human services. If you look at the PowerPoint that we show, that shows--if you go back one, Mike, thanks--that shows you the current flow chart as we have it now with the Governor at the top, the four cabinet members, and at one time there were five because, by statute, if the director of Regulation and Licensure is not a doctor then you have to have a chief medical officer. And then as you fall down through that you see where the deputy directors and the administration divisions. It's pretty hard to look at that and know actually where you should go. If you're a person in the public eye and have a problem with behavioral health, or Medicaid, or child support, it's not easy to find that. Governor Heineman's blueprint for restructuring of the HHS System in LB296 is solid. It centralizes authority with one person in charge to ensure coordination across the entire system. It provides for greater transparency and accountability of the programs and services we administer. It more clearly identifies the true scope, duties, and core areas of responsibility into types of services provided, and names departments clearly so that our system is more easily understood and accessed by those we serve. The system charged with providing services to our residents should not be a complex maze of names and missions. It should be organized in a clear, logical, and accessible manner. Citizens will have a better idea of how to access our services and programs, and the sizes and scope of the new departments will be more manageable. LB296 is revenue neutral and does not require an A bill to implement. Since changes are likely to be made to various program budgets within the system, the total agency appropriations will go through the normal budget process so that they can be harmonized with the proposed new structure. I'd like to provide the details included in LB296. LB296 starts with a single CEO who reports directly to the Governor. All operations that support the work of the system are organized together under the direction of the CEO. Many times you've heard people say state government could be run like a business. This is very similar to a business structure, with a chairman of the board, executive vice presidents under that. This includes all human resources, information and technology, legal, regulatory analysis, financial, support, and communications activities. These are the functions that go across all of our program areas. We don't have a separate computer system for behavioral

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health and the regional centers. We don't have a separate computer system for the developmentally disabled programs. We don't have separate computer systems out in the fields. We have an IT system that manages all of our programs across the area, so this is a function for the entire system and we consider it part of our day-to-day operations. Same way with HR, if there's an issue with human resources, if it's a person dealing with human resources in the facility, still handled the same way regardless of where you're at in the state. So these typically are the operations that serve the support...that serve the services of the whole agency, not just one system. LB296 then creates six departments. Each focuses on a specific area of service and is named accordingly. The directors of these departments are also appointed by the Governor and subject to confirmation by the Legislature. The departments are Public Health, Medicaid, Children and Family Services, Behavioral Health, Developmental Disabilities, and Veterans' Homes. The director of the Department of Public Health also serves as the state's chief medical officer. New language mirrors the current language so there is an option to have both a director and chief medical officer if the director is not a physician. LB296 returns a focus, through the name, to important public health activities in the state for all Nebraskans. These include environmental health, licensing and credentialing, health protection and emergency preparedness, health promotion, disease prevention, and health planning and community development. One of the things that I think you may be interested in is that with the latest snow storm that we had and when the emergency operations were set up, our staff participated in that because of the work that we do through the bioterrorism planning, as well as our communications, crisis communications. Vital records, which was separated from public health, returns. The Department of Medicaid includes the Medicaid program and the State Unit on Aging. Medicaid reform and aging services have a shared vision of increasing community-based services and increasing choices. Medicaid includes funding and management of services for long-term care, hospital and primary care, claims payment and control, and Medicaid waivers. It is our largest single program in terms of expenditures, and is the focus of reform efforts to control spending while still meeting the needs of Nebraska's most vulnerable citizens. The Department of Children and Family Services combines the human services we provide to families into one department. Children and families often interact with a number of these program areas. This department includes protection and safety, including child welfare and the Office of Juvenile Services, and economic and family support, which includes ADC, food stamps, emergency assistance, childcare subsidy, child support, and Medicaid eligibility determination. What this means is that if a person comes into one of our offices across the state, we have people there that can go through the forms with them to determine if they are eligible for our programs, and so the people, while they're getting Medicaid, they are actually working with the same people that do the economic assistance eligibility for all of our programs. So when you go in and apply for one thing, we automatically search all of our programs to see if you qualify for any of those. The service area structure of offices across the state is also part of the Department of Children and Family Services. The decision was made to place accountability and

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reporting of these offices through the director of the new Department of Children and Family Services because employees in these offices work so closely to coordinate casework associated with human services programs across the system. Children and families enter HHSS through many different doors and being able to coordinate services from multiple programs is essential to provide the best outcome for each consumer. Problems getting through doors we consider a barrier to people that require our services. This department would have the largest number of employees. Governor Heineman has made protection and safety of children a priority, and we believe a department focused solely on children and family issues will provide accountability and better outcomes for those served. The Department of Behavioral Health includes mental health, substance abuse and gambling addiction services. It includes the state's regional center system, and a division completely focused on community-based services. This is an important focus as we continue to implement behavioral health reform in communities across the state, and we believe designation as a separate department highlights these efforts. Most of the employees in this department work in the three regional centers. Currently, state statute recognizes the position of administrator for the division of behavioral health as created in LB1083--the landmark behavioral health reform law enacted in 2004. This bill deletes the term "administrator" and "division." The division becomes a department and, as with the other new departments, a director is appointed by the Governor. The Department of Developmental Disabilities includes the Beatrice State Developmental Center, funding for providers of community-based developmental disability services, and central office staff. Most of these employees provide direct care at BSDC. And the last box is the Department of Veterans' Homes, which is responsible for the operation of the state's four veterans' homes in Scottsbluff, Grand Island, Norfolk, and Omaha. The bill changes the name of the Board of Inquiry and Review to the Veterans' Home Board. It also requires the board to review all applications and make final determinations for admission to the veterans' homes. The composition of the board remains as it is now, with two representatives of each of the recognized veterans' organizations in Nebraska. The chairman would continue to be selected from the board members. LB296 specifically adds service area administrators and facility operating officers as discretionary employees. In addition, it changes current statute to increase the number of agency discretionary employees in an agency with over 5,000 employees from 17 to 25. This is consistent with the number of exempt employees the Health and Human Services System had as three separate agencies. Having the discretion to hire certain positions is important, as it allows for increased accountability and flexibility to respond to needs as they arise. LB296 strengthens the HHS System and takes the next steps to improve the services we provide to Nebraskans. It creates a strong management structure, and elevates like programs and functions by bringing them together in departments with recognizable names. It allows for greater accountability, accessibility, clarity, and transparency to one-third of state government. We do have an amendment to offer at this time that incorporates the following: It adds State Statute 80-314, which was inadvertently omitted, regarding the duties of the state veterans' homes. The word

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"division" is changed to "department" within the Health and Human Services System. And the language also clarifies that there will be coordination between the new director of the Department of Veterans' Homes and the director of the Department of Veterans' Affairs. This amendment also clarifies that the Veterans' Home Board members are selected rather than elected. That's the process they have now. It clarifies wording that the department directors are appointed and serve at the pleasure of the Governor and that they are confirmed by the Legislature. It will statutorily recognize that the administrator of the Office of Juvenile Services remains in existence as an appointed position. This was an inadvertent omission. The reference to this position and its duties is reinstated in State Statute 43-404. It also adds to Section 26, in subsection (1)(t), "the administrator of the Office of Juvenile Services." It adds to State Statute 81-1316, in Section 26, a reference to each of the six department directors which are appointed by the Governor to clarify that they will be exempt from the State Personnel System. John Hilgert, the director of the Department of Veterans' Affairs, will follow my testimony to discuss how the Department of Veterans' Affairs, the Veterans' Homes Board, and HHSS will work together to ensure quality services to our veterans under the restructuring proposal. Thank you, and I'd be glad to try to answer any questions you have. [LB296]

SENATOR GAY: Thank you, Chris. [LB296]

CHRIS PETERSON: Yes. [LB296]

SENATOR GAY: Before we start questions, you had mentioned John will be second. Did you bring other department heads that will be speaking so...? [LB296]

CHRIS PETERSON: No. [LB296]

SENATOR GAY: Okay. [LB296]

CHRIS PETERSON: No, we have department heads...we have division heads right now that are available should there be any questions that we need to get back to you right away. [LB296]

SENATOR GAY: Okay. That's what I wanted because I didn't want to bombard you with a bunch of questions if we're going to have more testimony come up. [LB296]

CHRIS PETERSON: Nope. You can bombard me. [LB296]

SENATOR GAY: (Exhibits 9, 10, 11) So before we get started with questions here, I did want to, for the record, just say there is a letter of support for LB296 from Jim Jensen, also from the Nebraska Area Agencies on Aging, and there's neutral testimony that was submitted from the Nebraska Appleseed Center for Law in the Public Interest, so for the

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record is that. Start out with any questions for Chris. Senator Hansen. [LB296]

SENATOR HANSEN: I have one. Thank you. Chris, when you were talking about the Department of Children and Family Services, you stopped your testimony here and gave an example of when a family comes in, that they're automatically...the network is automatically searched... [LB296]

CHRIS PETERSON: Yes. [LB296]

SENATOR HANSEN: ...for additional programs. [LB296]

CHRIS PETERSON: Yes. [LB296]

SENATOR HANSEN: So is this correct, that if a family comes in, solely asks for food stamps, they would automatically search the program, search the network, and tell them that they're eligible for two or three other programs? [LB296]

CHRIS PETERSON: Yes. [LB296]

SENATOR HANSEN: Even though they only came in for food stamps. [LB296]

CHRIS PETERSON: Yes. And part of the reason for that, Senator, is when they're eligible, based upon either state statute or the rules and regulations of the program, our N-FOCUS system is set so that it automatically runs through, I believe, over 20 programs to see if the person, when they go through the eligibility piece, will qualify for those, and the idea behind that was, with the number of programs we have, to have to do a separate individual eligibility request was just overwhelming. And so the system was created. I can't tell you exactly how old the N-FOCUS system is, but that was the idea behind it; that the person, when they came in to ask for a request, we would be able to provide them the offer if they were interested in other services at that time. [LB296]

SENATOR HANSEN: Do they have to formally reject the other services if they decide not to take them? [LB296]

CHRIS PETERSON: We wouldn't send them...if I'm understanding what you're saying, if they come in and say they would like childcare subsidy would we sign them up for Medicaid at the same time, if they wish us to, we would, but if they don't, we wouldn't give them a Medicaid card. [LB296]

SENATOR HANSEN: Okay. [LB296]

SENATOR GAY: Senator Howard. [LB296]

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SENATOR HOWARD: Thank you, Senator Gay. Chris, you and I had the opportunity to visit prior to this, and that was very helpful to me, that provided quite a bit of information. But I think it would be of value to everyone here to understand how you would envision this affecting the direct case manager, or the person that's out there doing the work every day in, say, child protection. [LB296]

CHRIS PETERSON: It should not impact them at all. What this does is flatten the upper management of the Health and Human Services System. It doesn't change our funding, it doesn't change our funding streams, it's not meant to create less staff, more work, any of that. What it is doing is providing the direct accountability between one CEO at the top and then specific department's heads so that we can focus on the core responsibilities. I shared with you the other day that HHSS has over 900 duties. And people say, well, how is this going to be better than the cabinet or the division heads that you have now? If the Department of Public Health director is focused purely on the public health issues, and I think we're all in agreement that public health has grown over the last several years, every county right now is covered by a public health department. Up until LB692, that hadn't happened. We've had bioterrorism dollars that have come into the state, so we have a tremendous responsibility to look at all of our emergency preparedness. That's grown since the old Department of Health, but that director can focus on that; doesn't have to worry about the survey that we had with BSDC; doesn't have to concentrate on the Thomas Fitzgerald Veterans' Home. They're going to be able to look at that specific division. Now, going down from that, you will have the next step, which is the two administrator heads, which we have right now, and then that whole structure stays the same below that, stays the same with the classified positions, stays the same with the work that they have. Over the years we have found places in the agency, and I'm sure, Senator, you could see a few of them, where they work better in different ways, and if those come up then that would be a change. But we would certainly work in cooperation with our staff before we made any decisions like that. [LB296]

SENATOR HOWARD: Do you see any change in the communication? I know sometimes, as you were explaining, that's a difficulty. [LB296]

CHRIS PETERSON: Oh goodness, I hope we see a change in the communication. [LB296]

SENATOR HOWARD: Good. So you see that as a flow of communication both up and down. [LB296]

CHRIS PETERSON: The communication probably of...other than finding ourselves sometimes on the opposite side of a bill, the communication is the hardest piece because it's just like the past bill that came. Communication has to be both ways and

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sometimes I found that if you don't go to the right person, don't ask the right question, don't bring all the stakeholders in, people feel that they are left out. And pretty much I found if you work with people, they only get upset if you don't show them respect or you don't get back to them with an answer. And so my feeling on this is the communication is critical to making this work, and if that involves daily meetings, monthly meetings, checkoffs, I'm not sure exactly how we'll do it, but that's the piece we have...you nailed it, that's the piece we have to make much better than it is. [LB296]

SENATOR HOWARD: And I remember when you and I talked, you were committed to making this a work environment that people wanted to come to work everyday... [LB296]

CHRIS PETERSON: Uh-huh. Sure. [LB296]

SENATOR HOWARD: ...and felt proud of the job they were doing, which I think is critical. [LB296]

CHRIS PETERSON: Uh-huh. One of the things that I think I'm always aware of is that typically we deal with are not having...they're having times in their lives that certainly are hard to work through, and at that point then I would have to say that I think our system--granted, we have communication problems, I think the last bill was an excellent example of that--our staff do good work and they provide services to literally hundreds of thousands of people on a daily basis, and if they wouldn't, you would know about it. I mean, you hear from the people that come to you because they have a concern. We all want to make things work better and so that's the goal of this, is to make this system work better. But I do want to recognize the fact that we have excellent staff that handle a wide variety of complex programs and 99.9 percent of the time they do a good job and people are happy. It's that other piece we'll work on and nobody, nobody, I think, is adverse to changing things to make sure that we have a better outcome that helps everybody, including me. [LB296]

SENATOR HOWARD: Well, I agree you. We do have an excellent staff. We're very fortunate. And I'm sure the line staff would certainly appreciate hearing you say that. Thank you. [LB296]

CHRIS PETERSON: Good. Thank you. [LB296]

SENATOR GAY: Thank you, Senator Howard. Other questions? Senator Erdman. [LB296]

SENATOR ERDMAN: Chris, were you in the Legislature in '96 when LB1044 was passed? [LB296]

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CHRIS PETERSON: No, I was in the Legislature in 1997 and I served on this committee when we killed the second part of the bill, that was Senator Wesely's, from the Partnership. [LB296]

SENATOR ERDMAN: I guess here's the question. It's my understanding, and maybe your institutional knowledge can assist me, we previously had five agencies that were then collapsed into the three that we have;... [LB296]

CHRIS PETERSON: Uh-huh. [LB296]

SENATOR ERDMAN: ...set up the Policy Cabinet, Policy Secretary, that structure that we're now operating under. I'm assuming, and again this is where your expertise or maybe others can assist, I'm assuming that there were some of the similar goals in 1996 that we have today; that is, more accountability and more effective organization of the departments, linking the services with the people who have responsibility. And here we are today, ten years later, undoing that for a new structure. [LB296]

CHRIS PETERSON: Uh-huh. [LB296]

SENATOR ERDMAN: Now I think that's appropriate, that we analyze where we've come and figure out if there's a more appropriate way to organize to accomplish this. How do we know that we're not back here ten years from now redoing this for the sake that we should have thought through this a little more? How do we know that the thoughts have been put into place that says we've learned over the last ten years what's worked, what hasn't worked; we're looking into the future to make sure that we're not just making changes based on the last ten years; we're also trying to set ourselves up for success long term so that, again, we're not reorganizing the deck chairs and coming back and saying, well, that was a really fun, exciting experience that we've all had, and every ten years the Health Committee is going to be responsible for reorganizing this "ginormous" system called HHS? [LB296]

CHRIS PETERSON: Uh-huh. [LB296]

SENATOR ERDMAN: I mean what type of assurances or information can we glean from you directly, as far as your experience, that can help us to understand... [LB296]

CHRIS PETERSON: Okay. [LB296]

SENATOR ERDMAN: ...the...not just your testimony, but I mean what have we learned, how do we know this is the right...? [LB296]

CHRIS PETERSON: Right. Uh-huh. When I took this position, it was at the end of my third legislative session and it was at the six months into Governor Johanns'

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appointment...or election. And my first job was to go out and travel across the state, and I wanted to go to the offices. I wanted to go to our ten 24-hour facilities. And this was the second year of the Partnership, and that's what it was called, was the Partnership, because you took those five agencies and more or less in a very short time put them together. And when I met staff at that time it was, well, yes, I'm with DPI or I'm with Social Services, or I'm with Aging. There was not that system feeling. You won't see that now when you go out to our staff. So, Senator, I guess what I would say, we're not undoing it; we're only touching the top piece that maybe was a little too irritated at the time to streamline. The groups underneath are still the same work that they're doing now. It's the difference between the CEO and the Policy Cabinet and the deputy directors that has changed. We flatten that management. One of the things, I think, that is the success of a umbrella agency, which is what this is, is that you have all of the funding streams in one place. And that's what makes it successful, because these programs run on funding, whether it's state funding, federal funding. But you have to be able to move them and sometimes that's a walk down the hallway that says quit it, put the money where it's supposed to go. When you have separate agencies like we did, that was kind of the...and Senator Wesely would have maybe more history about that, when you have separate budgets in separate agencies that serve the same people, then you're going to have much more problem with communication, which I would say again, based upon what Senator Gwen Howard and I just discussed, that is the toughest challenge of all, is communication. So do I think it's perfect? I would bet you that right now in some of those there are some connections that were made that aren't quite right. Something is maybe under Public Health that should go over maybe under Department of Children and Families (sic). But for an umbrella organization that does the number of things we do, I think the structure is extremely efficient. [LB296]

SENATOR ERDMAN: Just from a graphical analogy here, it would appear that if you would turn this upside down, this thing is going to balance on the two folks that are at the top of that list, and I think the success or failure of whatever the department looks like in whatever the umbrella is, is probably who's going to be holding that umbrella. And so if you would flip that chart upside down, obviously you have the Governor and whoever is appointed the CEO, and I guess that's probably the question that I would have to you, as the CEO, is, is this the structure that allows that individual, whether it's you or somebody else, to effect the type of changes that need to happen, or do we still have the residual effect from previous scars and battles that still may not be overcome and may not be capable of being overcome by any member in that position? Other words, we can't just simply say we're going to rename things, we're going to rename who gets to talk to who, but are we truly getting to the point where the person who's at the top is going to be able to effect the change because we've overcome the bunker wars of the past of this is my area, this is your area, leave us alone, we're going to start throwing grenades? I mean is that...are we getting there, I mean, in your opinion? You've been in the system. You've been the Policy Secretary and now you're the CEO. I mean is it getting to that point and have we finally gotten to the situation where people

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are recognizing the opportunities to work together and don't see this necessarily as being forced to work together? And do you see yourself fitting into that role as an effective administrator of this new system? [LB296]

CHRIS PETERSON: Yes, I do. Since I took on the position of the interim director, one of the things that I found out is that unfortunately many times you have to manage by crisis management, and you have to move resources out of what they're doing normally to put them to work someplace else. If you have the ability to have a director who is focused on that area, it's much easier for them to look at what their department does, get down, dig down below just that top, top area. Part of the way the system works, Senator, is you have to be able to ask the right question, as I said before, and that takes an expertise, as well as the direction, to do that. And so what I would say to you, do I have those qualities to do that? I feel I do and I thank the Governor that he has the confidence in me. Is it going to be a struggle? Oh goodness sakes, yes. Goodness, it is. Do I...am I scared? Sure, but I'm excited. Like I said, we have good staff. The good thing about the Health and Human Services System and the people we serve is that there is not one of them that isn't afraid to come forward and tell us when they don't feel that something is going the way it should. And we don't need early warning signs or systems. The system itself does that. If we don't talk to somebody and be cooperative, you get a bill. If someone's check is late, you get a call. If some part of the system breaks down for somebody--as I said, these are essential services they have to have--when they're not going right they're going to let people know, and that comes back to me. And it's much easier to track down a specific incident. I mean, Kathy and I have worked on lots of issues together, especially with EBT. It's always easier to meet with a specific person and track down a specific incident, because once you get there then you can see in that area where the process is screwed up. So my fingers are crossed because we spent hours with the Governor on this. I think this is a good...a good, sound structure. Next year would it maybe need something? I don't know. We've got six months to put the people in place and then six months after that to see how it works. I'm very confident it's a good structure. [LB296]

SENATOR ERDMAN: Just one more question, Mr. Vice Chair. [LB296]

CHRIS PETERSON: Sure. [LB296]

SENATOR GAY: Go ahead. [LB296]

SENATOR ERDMAN: A few years ago we introduced an interim study as a committee, and I believe I was the lead senator on the introduction of that, that asked the question of what responsibilities the department has in trying to determine what the mission of HHS is. And I know that Jeff, as he has done on so many issues that we have tasked him with, did an exceptional job of going through the volumes of statutes and policies and coming up with some connections between where those responsibilities lie in the

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department. On Section 2 of the bill it speaks that the intent of the Legislature is to clarify the agency's core missions. In this process of doing this, is it also the goal, as we talked earlier about a business model, is it also the goal of this new structure to ensure that each one of these six departments understands what their core mission is, and then understands how that core mission fits into the overall mission of the system? And then, obviously, what is that core mission? I mean, will we have...you have a vision. The Governor has a vision. We're setting forth the foundation, if you will, to build that house upon. Is that effort going to be undertaken to make sure that the people who are on the front lines understand how they contribute to that core mission, and if they don't know exactly what that core mission is, how do they know that they're contributing to that? So in that same business idea, not that it's a nice slogan to place on your letterheads of the mission of HHS, but in practice, you know is our intent going to be fulfilled through your leadership and through this new organization that we are going to define the core mission of HHS as a system, and how do we implement that to accomplish that? And I'll let you off the hot seat after. [LB296]

CHRIS PETERSON: Okay. Oh, that's all right. That's all right. Senator, when I took this job, and that was when the other, the original, Policy Cabinet came on board, the first thing we did was to go through the whole mission goal process that I think you have to go through in order to define...put in your own mind why am I here. And at that time what we were looking at, what we were kind of being tasked with, well, you also need to put together a strategic plan and you name your areas of priority. And the problem with that was is if you said, okay, my area of priority is child welfare, my area of priority is foster care, anything, that we didn't want to give the impression then that any of the services we provide was of a lesser priority. And so what we felt was we needed to define a mission that would hopefully outlive all of us, you know? Whether my CEO skills are enough to keep me here for a period of time, regardless, the structure should be sound about that. And the mission had to be sound that every person, from front line on up, could buy into, which was. We believe in providing the most effective health and human services for the people in the state of Nebraska. I mean that's...that's what we do, we provide those services. That's the mission. Now when you get down into these specific areas, the Legislature has--and Jeff gave us that list, actually that's what we use to work with Bill Drafters to make sure that everything was harmonized in there, we went through every single one of those statutes--and many times the Legislature has told us what the core responsibility is. But I think as we work through this, that will rise to the top as something that these departments are going to want to do on their own, is create their own identity, under the umbrella of we're going to provide effective health and human services for the people across the state of Nebraska. That has to be our mission. The priorities and the goals of that, for that, will come from there. So, yes, I see that as happening. I don't think we have it right now. I think we have the mission. I believe strongly in that mission, but I think those department heads are going to want to go back and ask that same question of themselves and the people that they work with. [LB296]

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SENATOR ERDMAN: Thanks, Chris. [LB296]

CHRIS PETERSON: Uh-huh. [LB296]

SENATOR GAY: Senator Pankonin. [LB296]

SENATOR PANKONIN: Thank you, Senator Gay. Chris, on page 3 of your testimony, near the bottom,... [LB296]

CHRIS PETERSON: Could I get a glass of water, please? Thanks. [LB296]

SENATOR PANKONIN: ...I just wanted to ask you a little more, and coming from someone that hasn't had the institutional knowledge, on second paragraph from the bottom: "LB296 specifically adds service area administrators and facility operating officers as discretionary employees." I'd just like to know a little background. In other words, these folks in the current system haven't been discretionary? [LB296]

CHRIS PETERSON: Right. Hang on, Senator. I've got to just get a quick...my testimony was written a different way than yours was. [LB296]

SENATOR PANKONIN: Oh. Okay. [LB296]

CHRIS PETERSON: I had the big letters so I could read it (laugh), and the smaller words. And it was on page 3? [LB296]

SENATOR PANKONIN: Yeah, second to the last paragraph. [LB296]

CHRIS PETERSON: Okay. Thanks. Yes, right now in the system that we have in state government, you have three different levels of employees and you have the nonclassified, the classified, and then the rules-covered, and a classified position actually is what we call union-covered, which means that they are under the union contract. Rules-covered means we also have a process that we have to go through in hiring and firing. Nonclassified and discretionary hire, you know, that's at-will work. [LB296]

SENATOR PANKONIN: Sure. [LB296]

CHRIS PETERSON: What this does is it takes the service area administrators, which had been discretionary under by statute, excuse me, by the numbers, and moved them over into statute. So they were discretionary before, they're still discretionary. They're just now placed by name into the legislation. [LB296]

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SENATOR PANKONIN: Okay. So that's just kind of a technical change and cleanup of... [LB296]

CHRIS PETERSON: Each agency, based upon its size, gets to have a number of discretionary employees. When we had the three separate agencies, because they fell within...two of them fell under 5,000 employees, they got a different count than this one. This one now just counts as one; over 5,000 then you get a different number. And so this was to harmonize that, move some that were part of that count now over to named in statute. [LB296]

SENATOR PANKONIN: Okay. And that's discretionary by you... [LB296]

CHRIS PETERSON: Yes. [LB296]

SENATOR PANKONIN: ...being able to... [LB296]

CHRIS PETERSON: That's... [LB296]

SENATOR PANKONIN: ...hire and fire. [LB296]

CHRIS PETERSON: Yes, hire and fire at will, uh-huh. [LB296]

SENATOR PANKONIN: Okay. [LB296]

SENATOR GAY: Thank you. Senator Howard. [LB296]

SENATOR HOWARD: Thank you. Thank you, Senator. Chris, we've talked, I'd mentioned that earlier, and there's been a great deal of discussion about accountability on the part of the direct line employee, and it seems that frequently when we look at someone being held responsible it's done at the very lower level. I'm wondering how do you...how do you feel that you can hold the system accountable for doing the job that's been given to do? And I know that's a pretty big question, but it really contributes to whether the system fails or succeeds. How do you see us measuring that? [LB296]

CHRIS PETERSON: I'm assuming you mean for someone that's not a classified position, because accountability at that classified...in a classified position, you have a series of management steps you can take. [LB296]

SENATOR HOWARD: Uh-huh. Uh-huh. [LB296]

CHRIS PETERSON: It's...I think it would be the same regardless of what job you're in. You set the expectations that you have, whether it's you will be...you'll respond back to a senator's office within so many hours, or you'll be available 24/7, or you'll meet with

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your management staff every week. I have to be very clear in the expectations that I set with people that are going to be those department directors. I want them to be able to feel the urgency that I do, and I want them to be able to know that any time something is not done the best it can do, it will impact the lives of people. So we're going to...we'll have clear-cut management measurements, and then I'm assuming that they will do the same thing...I'm not assuming; I know they will do the same thing with the people under them. The best way we can make sure that we have those is that nobody has...there's no difference in the expectation I have of what I expect from them nor their understanding of what they need to be doing. It's...I can't give you a cut-and-dried answer, Senator, but it's something that we will have to develop as you do with any of your employees; let them know what your performance measurements are and what they'll be held accountable for, and then what happens if they don't meet those. [LB296]

SENATOR HOWARD: I see it also, in addition, to that I see it as an expectation from the public that Health and Human Services really does meet the need that's out there in the population that comes into contact, whether it be foster children or people applying for assistance; that they feel that the system is accountable to them as well. [LB296]

CHRIS PETERSON: That's an excellent point. The other piece that we want people to feel comfortable about is that there will be coordination because of this new system. The coordination should be expedited and actually at a higher level than it is now. I mean when you go through a reorganization or an initiative or a task force, the goal is to make something better than it was. And so for that, the public should assume that there will be greater accessibility for them. I don't think I've ever met, in the years that I've been here, anybody that ever called the department and got the person they wanted to talk to the first time around, you know? This will allow at least they can get the right place first. So we eliminate the steps that create barriers to the programs we have. I go back to you set your performance measurements that you expect from the people that work for you, you hold them to that, and then if they don't meet them for some reason--obviously you try to help them meet them--but then you hold them accountable. [LB296]

SENATOR HOWARD: Okay. I appreciate that. Thank you. [LB296]

SENATOR GAY: Thank you, Senator Howard. Senator Hansen. [LB296]

SENATOR HANSEN: One quick question. Thank you, Senator Gay. I really appreciate your knowledge of the system. You're teaching us, as new senators, a lot about HHS. The program that spends \$1.4 billion per year with 6,278 staff people, that's a huge agency and it affects one out of three children. Was there ever a consideration of any cost savings, either now or later on down the road, with this reorganization? [LB296]

CHRIS PETERSON: Cost savings was not a part of this bill. [LB296]

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SENATOR HANSEN: Okay. [LB296]

CHRIS PETERSON: It was in the original Partnership, as well as FTEs, but it was not...it was not the focal point of why this bill was created. Now would that happen? I would certainly hope we would have some cost savings because we would become more efficient, but it was never the intention that we would reduce staff. If we look towards the system in terms of the budget impact, every year we go through with our budget and we know what we spend and what's left over, so we'll be able to measure those efficiencies through the budgeting process, Senator. If you have...if you take less time to process paperwork for something and you don't have to have overtime or comp time or anything like that, those show up pretty quickly. The goal would be certainly that we would have some efficiencies because of this structure. That was not to be one of the priorities. [LB296]

SENATOR HANSEN: Okay. Thank you. [LB296]

CHRIS PETERSON: Uh-huh. [LB296]

SENATOR GAY: Thank you. There any other questions? Okay, thank you. Well, real tremendous challenge ahead and we're all looking forward to helping you any way we can, so... [LB296]

CHRIS PETERSON: I will take you up on that offer many times,... [LB296]

SENATOR GAY: Okay. [LB296]

CHRIS PETERSON: ...many times. Thank you for this. [LB296]

SENATOR GAY: Thank you. As we proceed, I know we have several proponents of this, and we now have the presentation that was given to us. I would like to ask if we can keep it, you know, in the ten-minute range possibly, but...and not be too repetitive, because we're all...we're all interested in the subject matter, but then when we add questions and everything else. So if we could do that and move things along. Go ahead, John, and introduce yourself. [LB296]

JOHN HILGERT: Thank you. Vice Chairman Senator Gay, members of the Health and Human Services Committee, I am John Hilgert, H-i-l-g-e-r-t, director of the Nebraska Department of Veterans' Affairs. I support the passage of LB296, the reorganization and reform of Health and Human Services. One of the six departments created by this legislation is the Department of Veterans' Homes. The specific designation structurally provides the veterans...the Nebraska Veterans' Home system a single department director appointed by the Governor, providing the veterans' homes a single advocate

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within the system, and an easily discernible chain of command. The reason for this reform is to enhance responsibility, accountability, as well as provide far greater transparency within the veterans' home system. LB296 also provides for a greater role for the veterans' service organizations, of which two are here today and will be testifying, as they select representatives for placement on the new Veterans' Home Board. The Veterans' Home Board, which is presently referred to as the Board of Inquiry and Review, will have access to information regarding the operations, the funding, and the quality of care that our members are receiving in the veterans' home system, as well as an opportunity to engage management when admission decisions are being made. There have been some who have advocated for the placement of the veterans' home system to be placed within the Nebraska Department of Veterans' Affairs. This idea was considered. In order to transfer the veterans' home system to Veterans' Affairs a bureaucracy would have to be created, smaller in size but not in scope to the present administrative support system that serves Health and Human Services. Our department is small in size and currently has 13 staff positions. There are 800 employees in the veterans' home system. It would take great expansion of our administrative capability to absorb so many employees and to properly serve the operation of the veterans' homes. This, of course, could be done, but not without a great expenditure of state funds, funds that are better spent for member care and not for the expansion of administrative operations, to address the concerns, may they be real or perceived, be they in management or operations, the size of state government need not be expanded to do so. A streamlined approach and the creation of the Department of Veterans' Homes will result in greater accountability, visibility, and responsibility for the operation of our four homes. LB296 will address the call of some advocates for reform. LB296 will enhance partnerships with our veteran service organizations and greatly expand the number of individuals within Nebraska who consider themselves shareholders and insiders of the system. Thank you for your kind attention. [LB296]

SENATOR GAY: Thank you. Any questions for Mr. Hilgert? I have one question. Are you giving personal tours when you open the new home? [LB296]

JOHN HILGERT: We could certainly personal tours of the new veterans home in Sarpy County, I believe, Senator Gay. [LB296]

SENATOR GAY: I drive by it several times. [LB296]

JOHN HILGERT: Yes, it will be the Eastern Nebraska Veterans Home. It's at 40th and Capehart. It is a magnificent structure and reflects the support this body had for the construction of a new facility. And by the way, I'm glad Senator Erdman is out of the room to ask me about my part in LB144 back in 1996, so I'm off the hook there. [LB296]

SENATOR GAY: Get out while you can then. [LB296]

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JOHN HILGERT: Get out while I can. Thank you very much. [LB296]

SENATOR GAY: Thank you. [LB296]

DON WESELY: Thank you, Senator Gay, members of the Health and Human Services Committee. I'm Don Wesely, D-o-n W-e-s-e-l-y, who carried as the chief sponsor LB144 back in 1996, so. I can't get away from that so I'm going to admit to it right up front, but actually I'm very proud of that legislation. I guess I'm here not representing any particular group but myself and the past to talk a bit about why we're in the situation we're in and the evolution of all of this. In 1996, Governor Nelson had previous to that set up a group and looked at the situation in Health and Human Services and the different departments, and had come to the conclusion that I had come to some time before that, that it was dysfunctional. And Senator Hansen, you were talking about cost savings. And what we were finding back then, the conflict between these different agencies was such that different departments would want to do services that were potentially Medicaid-eligible, which would then create a 60-40 match with the federal government picking up the 60 percent. And we would find that the Department of Social Services would not pursue options and waivers under Medicaid and pick those up where either you could expand services to more people or you could reduce the cost, either way, of benefit to Nebraska. And we found these conflicts were occurring and it was not productive. We also found besides the question of cost and the losses of millions of dollars, frankly. The 1990s were a time where many states pursued different types of Medicaid-creative options that ended up bringing those states millions of dollars. We were not doing that until eventually we came up with some strategies that ended up creating the Health Care Trust Fund. And that and the tobacco settlement helped get that established. But that was after we had made this change, because we were finding you weren't working together to find a way to save money or to find services for people at a lower cost or whatever option you wanted; we weren't getting it done. The other thing that was happening, and Senator Howard this would relate to your caseworker situation, now they were passing clients around. They would find that departments would try and get some other department to pick them up and have them as their expense, not the other expense. So they were kind of just passing problems around and costs around, and we just could not bring it together. And so the idea was, let's bring them together as much as we could. And frankly, the bill that Senator Johnson has introduced is what we originally envisioned. This is what we wanted to do ten years ago. But the thought was it was too big a change; too much power in one person's hands and we were afraid it was going to scare individuals away from making the changes that were necessary. So we ended up with a hybrid where we did consolidate; there were changes made. But we had this partnership idea and this cabinet. And it's worked. I can tell you, as Chris Peterson said, those were difficult days back when they first got together, and the clashes between cultures was very difficult. But eventually I think that's been overcome and now we're ready to take this step where at the top we have authority with one individual who can pull everybody together and

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get the job done. I think this is clearly necessary. I wish we could have done this ten years. It didn't appear at the time we could, but now is the time to move forward with it. The one thing I want to encourage is, as we go forward, and I think...I'm trying to think, one of you were asking about ten years from now. [LB296]

SENATOR HOWARD: Erdman. [LB296]

DON WESELY: Erdman; I thought so. The thing that I worry about...(laugh)...the thing that I worry about, Senator Erdman, because Medicaid is separated out to a separate entity, like I just...when you were out of the room I was talking about how Medicaid would not cooperate with the other entities. One thing I would worry: This committee has to have oversight and the CEO has to have oversight to make sure that doesn't happen again because now it will be separated out, and you don't want a situation where you miss opportunities to find funding or to find savings and what have you. But I think with the structure in place and with the accountability that Chris Peterson will bring to it, I just think that will work and it won't be a problem. But that would be the only caution I'd throw out at this time. So again I can go back in time and answer any questions you might have about why we did it or the way it worked out. I was on the committee 20 years; chaired it 14 years and thoroughly enjoyed it. I want to commend all of you for serving on this committee. It's the better angels of our nature that you serve here. This is where the poor and the sick and the disabled get their help, and this is the department that provides it for them. And you will find no greater satisfaction than the services that you provide as senators and this department provides to the people of Nebraska. With that I'd be happy to answer any questions. And I do want to commend Senator Johnson, Governor Heineman, for moving this forward and look forward to seeing it being enacted. [LB296]

SENATOR GAY: Thank you. Any questions? I have one. [LB296]

DON WESELY: Thank you. [LB296]

SENATOR GAY: Just...I have one; one question for you. [LB296]

DON WESELY: Oh, I'm sorry. [LB296]

SENATOR GAY: In your opinion, a wealth of knowledge and experience it sounds like that you've had, and you said this is maybe where we should have went. So we're going in the right direction, in your opinion. Senator Howard brought up a point and then as I'm looking at this thing, it's great to have...it's a big task when you're managing that many employees from the top. Do you think this will allow communications sideways? Because I think a lot of these departments, that's where the work gets done a lot of times is me talking to someone else and sharing ideas. Will this work better do you think? Or maybe it's working well now, but will this facilitate that, in your opinion from

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your experience? [LB296]

DON WESELY: Yeah. I definitely think so. And that's the people that work with the individuals directly are the ones that really know what's happening out there. And like what Chris Peterson talked about, the computer system now crosses lines, pulls information together. Instead of having to go to different agencies you can find out what you qualify for. You have a chance to communicate in a way that you didn't before. And so I think a lot happened when we made the change in '96 to improve, but this I think will add to that. [LB296]

SENATOR GAY: Senator Howard. [LB296]

SENATOR HOWARD: Just to shed a little light on that from also the history, I can remember this with you. But I do remember the intent was that there be shared resources. That was one of the big objectives of going to that cabinet and going to that system. But you're right, what happened was that there were more divisions and case managers would be confused about what services they would be able to access for a particular client if they needed disability assistance or job training. You know, it became very territorial. So hopefully this is going to iron some of that out. [LB296]

DON WESELY: Yeah. [LB296]

SENATOR GAY: Very good. Any other questions? [LB296]

DON WESELY: Thank you. [LB296]

SENATOR GAY: Thank you. Other proponents? [LB296]

BOB VAN VALKENBURG: Mr. Vice Chairman, members of the committee, I'm Bob Van Valkenburg and my name is still spelled the same. I live in Lincoln and want to echo all of those who are going to come up and tell you why this bill is probably one of the most needed ones of the session. As I said, the other one would rank about 699th; this has got to be 2 or 3. There are some things that you're going to need to know when this gets to the floor. And I'm a realist; I see you have enough introducers on the committee where unless you want to shoot yourself in the foot, this bill will come out of committee and it will go to the floor. You may have a few people that want to ask questions or take exceptions, and so I want to give you a bit of ammunition to prepare for that. Incidentally, I think you can glean from hearing former Senator Chris Peterson, now Mrs. Chris Peterson, soon to be CEO, that she has a grasp of what's going on. So I feel comfortable with this bill. If I didn't I'd be the first to stand up and so say and write a real mean article about it. But here's some of the things you need to take a look at. And Senator Johnson was right: The time has come to take the final step. And to all of you who (inaudible) worked on this and introduced it, I can't speak on behalf of all of the

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people in Nebraska, but a lot of those that pay taxes thank you. Because I do believe that Ms. Peterson will have the ability to, Senator Hansen, to tighten down the fiscal responsibility in an agency that wastes incredible, incredible numbers of dollars. I do have, and I want you to consider this, because the Governor of our state is referred to as the chief executive officer in many circles, and since I have a whole lot more experience in corporate America than in political America, the title maybe should more properly be chief operating officer because those of you who have dealt with corporate America know that the COO is the one who does most of the work and the CEO is the one that gets most of the glory, or in some cases as we've seen on television recently, goes to jail. I don't think that's going to be the case with Ms. Peterson. But as Senator Wesely said...(laughter) at least I hope it's right...as Senator Wesely said, when this was created about ten years ago or this system we have now, this monster, was created about ten years ago, there have been so many things that have made the news to show that there's been ineptness, blatant incompetence, the allowance of fraud, waste, and abuse beyond the imagination of anybody that was here when Senator Wesely chaired that committee...I believe he chaired this very committee...that we do need somebody that has the courage and the ability to go in there and straighten things up and tighten the money screws, Senator Hansen. I do wonder this: On the chart it showed that all of these subagencies are appointed by the Governor, and this thought to comes to mind. I'm not being critical of the Governor or Ms. Peterson, but if the Governor now or later,...and as Senator Erdman said, this is something that's being done for the future, not just for right now...if the Governor appoints an absolute nerd in one of these places and the CEO or the COO, whatever, is going to have to deal with that person, you have an automatic conflict created. I wonder if it wouldn't be better, if we have enough confidence in Ms. Peterson and I do, to say that since she reports to the Governor these other appointees report to her. And if she screws up, the Governor can deal with her. And that way you wouldn't have...you could take some bit of politics out of this, we're never going to get it all out, but some bit of politics out of this so that she would have a free hand to cross partisan fences and to cross north and south of the Platte fences, and all of the other things that have divided this body since its been a body. Now let's go to some of the reasons why this is sorely needed: accountability. There has been, in this last ten-year period, there has been the most gross uneven and inequitable application of rules and regulations in that department that I think has occurred since the history of the state. To give you an example, and the fellow just retired and I won't mention him by name, but there was a lawyer in that department that allowed U.S. Ecology to walk away when he could have gotten under operation of rules and regulations promulgated under law, he could have fined that entity \$22 million, and he either sat on his fanny or was on annual leave or on vacation, whatever. He just didn't do it. But now... [LB296]

SENATOR GAY: Can I ask that you don't bring any personal names or suggestions into this? This is about the restructure. [LB296]

BOB VAN VALKENBURG: Oh, no. I didn't mention any names and I won't, Senator

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Gay. I won't here; I'll mention maybe in what I write. [LB296]

SENATOR GAY: Okay. Just...this is about the restructuring and how the organizational flow... [LB296]

BOB VAN VALKENBURG: I'm sorry? [LB296]

SENATOR GAY: This is about the organizational flow, and if you can leave out any personal... [LB296]

BOB VAN VALKENBURG: Okay, let's go to the organizational chart. Right now... [LB296]

SENATOR GAY: Thank you. [LB296]

BOB VAN VALKENBURG: ...right now in Senator Johnson's area, in his district...and incidentally that problem arose in his district...and he's a good senator; he'll deal with it. But right now in his district you have, for instance, Custer County dumping its meth babies, his illegitimate meth babies, into Buffalo County because they can get...somebody believes they can get better attention in Buffalo County than in Custer County. So I believe Ms. Peterson...I talked to her about it; I think she's tough enough to get to the bottom of this thing so that you don't have, as we may have soon, a judge giving a baby girl that was born with methamphetamine in her system of a mother that was tested positive for methamphetamine, to give that baby girl back to that mother and not give that little girl a chance. Now, that's the kind of problems. And I know they may be small to this committee, but they're not small to me. I think that Ms. Peterson will see that focus is placed on the children rather than on some of the irresponsible parents. Right now, in that particular case, they haven't even made the lady that's getting free rent, free treatment, free car, and some other...and free babysitting...haven't even made her identify the sperm donor, which could probably have been anyone, several. The only one tested, tested negative. So there's things where, Senator Hansen, that this lady if she's as tough as I think she's going to be, will be able to flush that out of the system. And hopefully, Senator Gay, you might take a look at [vansopinion.com](http://vansopinion.com). You're going to see a good idea for maybe a good amendment or two; not to this bill but for some things in the future so that we can revolutionize this ungodly outflow of money which is going up geometrically. The Medicaid situation is bleeding this state. When you have people running around in \$7,000 motorized wheelchairs... [LB296]

SENATOR GAY: Well,... [LB296]

BOB VAN VALKENBURG: Just, if you would, let me finish this one. [LB296]

SENATOR GAY: No, I just want to say, there will be other opportunities to discuss other

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problems. Again, we have...I have six other people... [LB296]

BOB VAN VALKENBURG: This is the only other one I'll mention. [LB296]

SENATOR GAY: Okay. I have six other people who want to testify, and just for... [LB296]

BOB VAN VALKENBURG: Okay. I understand. [LB296]

SENATOR GAY: Thank you. [LB296]

BOB VAN VALKENBURG: But when Medicaid and Medicare pays for this expensive equipment, and then you read in the Lincoln Journal where they're turning around and selling that equipment, something is haywire. That's fraud, Senator. I don't know...you might be a lawyer, I don't know. [LB296]

SENATOR GAY: No. [LB296]

BOB VAN VALKENBURG: But that's fraud. That's certainly waste. So situations on and on and on and on and on, which I'll be kind; I won't go on and on and on and on and on. [LB296]

SENATOR GAY: We appreciate your comments. Thank you. [LB296]

BOB VAN VALKENBURG: Because Senator Johnson said don't read three pages; I normally write 10 or 15 pages. But I believe that your committee and I believe that the new wisdom that some of you newcomers bring to the body are going to do things that are long, long overdue. And I might say while I didn't like term limits, I'm kind of waiting; the jury is out. So good luck, new senators. Pass this bill and save Nebraska some money. Thank you. Questions? [LB296]

SENATOR GAY: Okay, thank you. Any questions? Thank you. Go ahead. Could you please state your name and spell it, please? [LB296]

JEFF KUHR: (Exhibit 3) Good afternoon, I believe. Senator Gay, members of the committee, my name is Jeff Kuhr, spelled K-u-h-r. I'm the director of the Three Rivers District Health Department which serves Dodge, Saunders, and Washington counties. And, in fact, I'll make a side comment in that LB692 has been mentioned twice so far, and our health department is a product of LB692 and we now have local public health coverage in all 93 counties in the state. I'm here today on behalf of the 400 members of the Public Health Association of Nebraska. Please let the record show that the Public Health Association supports the proposed reorganization of the Nebraska Health and Human Services system. The public health system in Nebraska, which is the

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collaboration of local and state public health agencies, is nationally recognized for the forward-thinking fashion in which it has been developed since the passage of LB692 in 2001. And vital to our success has been the strong partnership between our local public health agencies and the Nebraska Health and Human Services System. We see LB296 as an enhancement to this partnership in that it will reestablish the sorely missed state Department of Public Health. As we in Nebraska address multiple public health issues such as emergency preparedness, health disparities, chronic diseases, and all new emerging health threats, a clearly identified Department of Public Health within HHS will not only be an asset to the statewide local public health system but also benefit the people of Nebraska. Thanks for your time and attention to this matter. [LB296]

SENATOR GAY: Thank you. Are there any questions for Mr. Kuhr? Thank you. [LB296]

JEFF KUHR: Um-hum. [LB296]

JOHN LIEBSACK: (Exhibit 4) Good afternoon, Senators. My name is John Liebsack, L-i-e-b-s-a-c-k. I'm the adjutant quartermaster for the Nebraska Veterans of Foreign Wars, with a membership base of about 27,000. I'm also a member and vice chairman of the Board of Inquiry and Review of the Nebraska Veterans Homes. At the fall council meeting of the Veterans of Foreign Wars held on October 7, 2006, in Omaha, our membership voted to support the Governor's plan to reorganize Health and Human Services into six divisions. The motion was passed without opposition. Do you have any questions otherwise that's my testimony. [LB296]

SENATOR GAY: Are there any questions from the committee? [LB296]

JOHN LIEBSACK: I have a copy of the... [LB296]

SENATOR GAY: Thank you. [LB296]

JOHN LIEBSACK: Thank you. [LB296]

SENATOR GAY: Thank you. Hello. State your name. [LB296]

BOB CRAIG: (Exhibit 5) Good afternoon, Senator Gay and members of the Health and Human Services Committee. My name is Bob Craig, C-r-a-i-g. I'm appearing as a representative of the American Legion as a proponent for LB296. The American Legion was founded by veterans of World War I to care for their injured comrades, to assist widows and orphans of those who died in service, to promote for a strong national defense, and to assist in educating America's war orphans as well as all children of our nation. The American Legion has a long-standing interest in commitment to our nation's military veterans, in general, and to our elder and disabled veterans specifically. As state adjutant of the Nebraska American Legion, I'm representing 48,000 members here

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today. Our department executive committee, which is our representative assembly, met just last weekend here in Lincoln and unanimously adopted the report of our standing committee on veterans affairs, which put the American Legion on record recommending the reorganization proposed by this legislative bill. As a collateral duty as department adjutant of the Nebraska American Legion, I also serve as a nonvoting member and official secretary of the Nebraska Veterans Council. The Veterans Council is represented voluntarily, a volunteer association representing the eight recognized veterans organizations in the state of Nebraska. At our November 21 meeting, that council also adopted a resolution or a motion supporting the Governor's proposal and what turned out to be LB296. I would submit that also with a copy of this testimony for your use. If you have questions I'll be happy to try to answer them. [LB296]

SENATOR GAY: Are there any questions for Mr. Craig? Do you have enough copies there? Thank you. Any questions for Mr. Craig from the committee? Thank you. [LB296]

BOB CRAIG: As an aside I must also admit I was on the citizen's advisory committee that had many meetings in this building, including this very room, which developed LB1044, and I'm happy to be here today for LB296. Thank you. [LB296]

SENATOR GAY: Thank you. Any other proponents? [LB296]

LYNNE ANDERSON: (Exhibit 6) Lynne Anderson, A-n-d-e-r-s-o-n. I'm a registered nurse. Have my master's degree in nursing and 30-year practitioner, however I'm here today to speak for myself in favor of this bill. And like some of the other people in this room, I also remember LB1044's implementation, and it did make a big difference, all to the positive. I think LB296 will also add to the efficiency of Health and Human Services. I come here today with just two quick examples and I will read my testimony because I think that will keep it more concise. Many of the subdivisions within Health and Human Services are interconnected and will function more efficiently and cost-effectively if there's an individual ultimately responsible. And I, in looking at the diagram, Medicaid and families and children, many times those all have interconnectedness, as well as many of the others as you might all agree. There were two things that came up kind of personally for me, not personal but things that I thought we could do better. And the first example is there was a recent editorial, and this is why I think LB296 will make things even better. There was a recent editorial by Anna Quinlan in Newsweek. I don't know if any you saw it. Ms. Quinlan was writing about the extreme amount of paperwork required of Medicaid throughout the country. Nebraska unfortunately was noted by name as a, quote, worst-case example, as it was cited that it takes 46 pages of paperwork to apply for food stamps. When I saw that, I wanted to send the article to somebody in charge. And had we had a CEO it would have gone to that person--one, if it's true, what can we do about it or explain it, and two, if it's not so we have someone to respond to a national article like that. I kept that article around for several weeks, but decided, gosh, I don't know who to send it to, got lazy, and don't know where I put it

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now. But if this article was correct then we need to do something to make things better. And many times, I know I've been an employee of a large institution for many years, we kind of pile paperwork on paperwork. It seems like we add but we don't take away. Kind of like when computers came out and it was going to get rid of paperwork, well what it did was really add more to, although computers do make us a lot more effective, I think. But if we have someone who is responsible, visibly responsible, then when something like this comes up you send it off to that person. And it's not that you're pointing the finger of blame; it's just, gosh, this is something that can we deal with and make things even better or look better, or both. The other is I'm the Nebraska Nurses Association representative on the Governor's Commission for the Uninsured. And it's become clear that many Medicaid dollars could be saved if recipients have better access to and then use primary care providers. Many people throughout the state use hospital emergency rooms as their primary care providers because they do not have or do not think they have access to a primary care provider. Medicare and Blue Cross-Blue Shield, among others, pay nurse practitioners directly for care. When I asked why Medicaid does not pay directly, no one really seemed to know--and this is in the room with insurers, other people. It may be a simple oversight or there may be a very good reason for it. But if Nebraska can save money by having more people use primary care health professionals, perhaps that should be explored. How this can be clarified and addressed without setting up an atmosphere of conflict and defensiveness; and I think that's incredibly important. And as I heard...and I'm sorry, I don't know her title...Chris Peterson say, if we increase our ability to communicate so this is seen as a way we're looking at potential solutions, not blame-pointing which can happen when it goes through a system, then perhaps we can have a better accomplishing unified department with that. In conclusion, for the ordinary citizen it is useful to have a person or department that can direct inquiries, suggestions, and remediation. So I'm very much in support of this. [LB296]

SENATOR GAY: Okay, thank you. Hold on one minute. Are there any questions for Ms. Anderson? Thank you. Thank you for your input. [LB296]

BRENDON POLT: Good afternoon, Vice Chairman Gay and members of the committee. My name is Brendon Polt, which is spelled P-o-l-t. I'm assistant executive director of the Nebraska Health Care Association. The Health Care Association represents approximately 400 nursing facilities and assisted-living facilities. I'm appearing in support of LB296 and I'll keep this very brief. We believe the bill will improve communication and coordination among the various departments in HHS. For long-term care we're heavily regulated under HHS Regulation and Licensure while half of our funding for nursing home operations comes from Medicaid under Finance and Support. And so we believe that bringing Medicaid and public health divisions in one agency with a single CEO to ensure coordination will be a real improvement. Thank you. [LB296]

SENATOR GAY: Thank you. Are there any questions? Thank you. [LB296]

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ROWEN ZETTERMAN: Good afternoon, Senator Gay and members of the committee. I'm Rowen Zetterman. I'm the current president of the Nebraska Medical Association. [LB296]

SENATOR GAY: Can you spell that? Can you spell that for the record? [LB296]

ROWEN ZETTERMAN: Oh, I apologize. The first name is R-o-w-e-n, last name is Z-e-t-t-e-r-m-a-n. I'm the current president of the Nebraska Medical Association and I'm appearing today on behalf of the Medical Association in support of LB296. We would like to commend the Governor for his strong interest in the Health and Human Services System and agree that it makes sense to name a CEO in charge of HHS, and the divisions seem appropriate with all the functions that have been set aside for them. But we do have some concerns about whether the system as it's currently, as it will be established, will provide adequate medical input into all facets of the operation of Health and Human Services. The current system: the Governor appoints the Chief Medical Officer as either the head of Regulation and Licensure or to a separate position. And of course that CMO is responsible then for public health and all the disciplinary decisions that occur. The CMO is a member of the Policy Cabinet, and as such the Chief Medical Officer has direct access and direct input into the Governor for issues on public health, and we feel that that's a very important facet of the current system as it stands. While LB296 retains the Chief Medical Officer position either as the director of public health or as an appointment in a separate position, since the cabinet is gone the Chief Medical Officer no longer has direct input into the other medical areas or public health areas of the Health and Human Services. Of the five remaining ones besides public health, four of them have direct medical and healthcare issues with them. And we feel it's critical and encourage the committee to consider how physician involvement in all public health aspects of Health and Human Services can be carried out, and not just in the direct reporting relationship through the CEO. We also feel it's important to give the Chief Medical Officer an opportunity to have direct access to the Governor as needed, and also of course that that position should be filled by a physician. With that, I'd like to add my support to LB296. [LB296]

SENATOR GAY: Okay. Thank you. Are there any questions? Oh, hold on. [LB296]

SENATOR HANSEN: I have one short one. [LB296]

SENATOR GAY: Senator Hansen. [LB296]

SENATOR HANSEN: Thank you, Senator Gay. When we say the office of the Chief Medical Officer, is that more than one person? Is it several people? Is it a committee or...? [LB296]

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ROWEN ZETTERMAN: No, the Chief Medical Officer would be an individual... [LB296]

SENATOR HANSEN: One person; okay. [LB296]

ROWEN ZETTERMAN: ...individual person in all aspects. And that person right now in the reorganization would only relate directly to public health, leaving out the other four areas that still have healthcare concerns. [LB296]

SENATOR HANSEN: Is that person qualified then for pediatrics, the middle-age group, and geriatrics then too? How do you find a person like that? [LB296]

ROWEN ZETTERMAN : Well, first of all, you need someone who obviously has some special skills, who has good skills in epidemiology and broad skills in primary care. I think we've been fortunate to have such people over the last many years in that role. [LB296]

SENATOR GAY: Maybe a question, maybe a comment, but I think that it's key, a key person obviously, what you're saying. But do you...how would you in your mind...direct input, I think, would be there, but are you looking for something intangible that it has to be there? Or what do you...? How would you fix this? [LB296]

ROWEN ZETTERMAN: To me, I think the way to codify it would be to at least create a dotted-line relationship between the Chief Medical Officer to all of the divisions and their director that have healthcare areas within them. That would give them the opportunity to directly interrelate and give them an opportunity for input on healthcare issues as they arose. [LB296]

SENATOR GAY: Okay. All right, thank you. Any other questions? Thank you. [LB296]

ROWEN ZETTERMAN: Thank you. [LB296]

SENATOR GAY: Okay, any other proponents? Seeing none, we'll take testimony from opponents. And can I see the hands of opponents to this bill? All right, we'll go ahead and do that now. Do you want to approach? [LB296]

MIKE McDERMOTT: My name is Mike McDermott, M-i-k-e M-c-D-e-r-m-o-t-t, and I'm here to testify not necessarily against LB296 but a postponement until things are investigated, that sort of thing. I have here a sample of my urine. With all due respect to everybody and I hope it doesn't explode or I'm going to keep it from dropping. This is my urine that was taken December 14, 2006, just recently. That represents a five-year anniversary from when I had an operation to remove a kidney stone. And I went to the hospital, just briefly went to the hospital, and while in pre-op that's when I met with the urologist. And I told him that I thought I had passed the stone, that I no longer felt any

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pain. And he told me I was all doped up on morphine, had already left once thinking I had passed it and that we might as well go up and fix this thing. Okay? The fact of the matter is, after he left I asked for a urine strainer, urinated in it, and in the very bottom of it was this black speck. I have never seen a kidney stone but I gave it to the nurse and said, would you please go show this to the doctor? And the next thing I know, I'm talking to the anesthesiologist and then they wheeled me to what turned out to be surgery. Right before going into surgery, the nurse said, well, I showed that to the urologist and he said it's probably just a blood clot. I hadn't been bleeding before. And he disregarded it and the hospital never analyzed it prior to surgery. He went ahead and operated anyway. After surgery I bled. It looked like Hawaiian Punch and it looked like Hawaiian Punch for 12 days until they removed a stent that I was never told was placed in me. Okay? I complained to the state, Health and Human Services Regulations and Licensure. I said I think that this guy operated on me unnecessarily and I'm experiencing pain in my kidneys...my kidney...and my heart is going nuts. And they had me fill out a paper or whatever, and they sent it in and supposed a "Mike" investigated this. And so apparently they came back and said, well, we don't find anything. And I called them. I said, did you get my medical papers? It shows in there clearly that the stone had already passed--the problem stone. And they said, no. So I had a...you can appeal this decision in the next six-week period. So I showed up the day before this medical board was supposed to meet, and I met with a "Lucy" in the lobby of the Health and Human Services building and I met with her and I had all of my medical papers from the operation, and I had included in that was a medical papers from Mayo Clinic. Six months later I went to Mayo Clinic and they discovered this brand-new kidney stone in my left kidney where I hurt. And in it I explained that I had heard years ago that a nurse told me that the urologist, every chance he got, he would go up into the kidney and scratch it and it would form a new kidney stone in the same way that an oyster forms a pearl. And I told her that and, you know, I said, here's this...it shows I've got a brand-new kidney stone where I hurt. And she said, well, it's too late to submit these papers. And I said, what are you talking about? This meeting is tomorrow night and I wanted to make sure I had...I was here and I presented these in person. She said, well, it's too late, and Mike, he won't be here today and he won't be here tomorrow. And so she said, what we'll have to do is consider these in the next six-week session. And so they sent me another form, saying, well, sorry. Even the Attorney General for the state of Nebraska had determined that there wasn't anything there. And I never heard anything more from them. They were supposed to review then in that next six-week period, and they never did. And since then I have had nothing but problems. And the bottom line, this is four and a half years after my operation--I'm bleeding urine. The urologist that I met with at Mayo Clinic, he berated me. I had no insurance. He berated me and he said, the bottom line is you need to find somebody intelligent enough in Grand Island to explain it to you. And I left there really, really depressed that this doctor would address me in that way--a guy that clearly had a pain. And at one point I said, how do you attribute this pain that I've had since day-one from the operation? And he said, maybe it's from this kidney stone that they discovered. And then the very next day

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I met another doctor, who was from Nebraska incidentally, and he said, well, I don't think that pain is from kidney stone; I think it's from lying on a hard operating table six months earlier. And then he proceeded to tell me that a prescription that I was given without any checking of blood or taking blood pressure or anything for (inaudible) hydrogen potassium chloride was for potassium citrate. There is no such thing as KCl. KCl is potassium citrate...or potassium chloride, which is a medication for hypertension. But the bottom line is that never has this...you know, I...this...I'm getting the impression that if they were to restructure all of these things then finally they would be able to address somebody from the public who calls in and says, I have a problem and I want it investigated. Since then, the urologist has suddenly closed up shop and moved out of state. The medical examiner now works for the Bush administration, and I would love to see him come back and answer questions. Quite honestly, I have no idea if he did introduce this to the full medical board. How do you tell? But my opinion is...and before you can fix things, you need to know exactly what the problem is. And this problem has not been addressed, and here it is, five years later, and I have never been addressed by any (inaudible). And it's like, what do I need to do? What sort of hoops do I need to jump through in order to be addressed as a public citizen with a problem? And in my opinion this might be going on quite a bit. And if Medicare is paying for something like this, and the bottom line is, this kidney damage is permanent, irreversible and progressive, and ultimately could lead to dialysis. It already is, in my opinion, has led to hypertension. And it's like, if this isn't a significant enough problem to address by this board, what the hell is? And what are you waiting for? For me to die? I'm more susceptible to a heart attack and a stroke, you know. If I were to die, would somebody take a look at it?  
[LB296]

SENATOR GAY: Mr. McDermott, again what we're trying to discuss...I appreciate your testimony and your patience here, but what we're trying to discuss, and I think you're making a valid point, is how we can reorganize it to make this better. So I appreciate...  
[LB296]

MIKE McDERMOTT: Well, my point is, before you reorganize, it's important to realize what the hell the problem is. And if a public citizen from the state of Nebraska can't have his problem addressed... The ultimate accountability is not to the Governor; it's to the people of the state of Nebraska. [LB296]

SENATOR GAY: I agree. Thank you. [LB296]

MIKE McDERMOTT: Thank you. Any questions? [LB296]

SENATOR GAY: Any questions? Well, I appreciate you coming out today and sharing that with us. [LB296]

MIKE McDERMOTT: You bet. [LB296]

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SENATOR GAY: Thank you. All right. Any other opponents? Seeing none, anybody in a neutral capacity that would like to testify on this bill? Please approach, state your name and you can spell your name, please, Ms. Moore. Thank you. [LB296]

KATHY BIGSBY MOORE: (Exhibit 7) Senators, I'm Kathy Bigsby Moore, Kathy, K-a-t-h-y, Bigsby, B-i-g-s-b-y, Moore, M-o-o-r-e. I'm executive director if Voices for Children in Nebraska. And I am here and have conveyed that I am very supportive of the creation and the implementation of the single CEO. I conveyed ten years ago when LB1044 passed that I felt this was necessary. And so I'm very glad that we've arrived at this point in time and we will see this actually achieving, I believe, full implementation. And I'm also very supportive of the attention and priority that will be given to children's issues through the Department of Children and Family Services. The reason for my neutral testimony is that I was very hopeful that there would be more detail and more specificity, more intent language in this piece of legislation. And I think there have been two or three pieces of testimony today that have shown that there has not been adequate attention given to some citizens' needs, to certain providers' needs or vendors' needs in the state of Nebraska. And while we are all very hopeful that this change in structure will lead to that, unless there are some language placed in statute, I don't think we have any guarantee that this will happen. I think there was discussion earlier; Senator Erdman asked about core mission. And at the very least I was hoping that there were some core mission statements in LB296, and I really don't see them, even what Chris Peterson indicated in terms of the need to provide effective services in the state of Nebraska. All we see, in fact, is that the intent is to provide for the administration of publicly funded services. So I have actually submitted on page 2 of my handout to you some suggested terminology that I think would begin to better protect the citizens of the state of Nebraska and enable you and the rest of us citizens to hold the agency accountable to truly measure the progress that is made. I've been here for the last ten years, watching the implementation of LB1044. A couple of you are still around and have heard some of my statements before. And so I really do not want us to hurry this process without giving adequate thought to the words that are on these pages, as well as the words that are not on these pages. And so when you look at page 2, I'm suggesting in those top five some language that would talk about the state having responsibility to meet the human and social needs of Nebraska residents in a way that allows them to be as safe, healthy, and self-sufficient as possible given their individual circumstances. So I'm suggesting broad language that encompasses all of the responsibilities that we saw up there, but a commitment to keep people safe. I'm also talking about recognizing all consumers, and that they have the right, if you will, to quality, culturally competent, and accessible community-based services. Also recognizing that providers of those services have a right to equitable compensation, which is something that you will hear a lot about in this committee over the course of the next few months. Providers and consumers having a right to appeal decisions. And to some degree you've heard some comment about that, both from the grocers as well as

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this individual that just testified. And finally, promoting accountability. I think the last are that I am concerned may still be lacking in this proposal is the communication and integration, if you will, across those six department lines. I'm very, very comfortable with the CEO, both the presentation of this in statute, as well as the individual, but I'm fearful that there is not enough direction to the integration of the services provided. And there are many, many, many examples. For instance, even among children and family services, where some of the responsibility will fall in Children and Family Services, however, it will be funded through Medicaid dollars. And then at certain stages of that child's care they will be served by the behavioral health agency. And I don't see any suggestion of how that integration, cross-communication, collaboration, coordination, whatever words you want to use, will occur. So in the 1-4 recommendations toward the bottom of that page, again I have suggested some language that would establish both the communication and integration, as well in number 2 as providing some oversight through reporting of a vision, a long-term and a short-term vision to this legislative body every year, every other year, for budgetary purposes prior to the setting of the two-year budget process. And finally, again to address both the priority of children services as well as the integration of services, I'm suggesting the addition of a children's behavioral health coordinator. You're going to see services provided in Children and Family Services, but as I said, all of the community-based, all of the prevention services, everything that is provided at the regional level comes under Behavioral Health, and there has not been a children's expert in a leadership position within that agency. So actually Senator Pedersen has introduced LB617, which will suggest that, but ultimately I'm hoping that can come together with this piece of legislation so that we can really see an emphasis on children's services in the mental health arena, as well. So, in closing, I'm really hopeful that some additional language will be looked at and placed in LB296 before it's advanced out of committee. This committee has, I think, the greatest expertise in this area, and the rest of the body will be looking to this committee for that kind of direction and guidance. I would be happy to answer any questions now or provide additional information later. Thanks. [LB296]

SENATOR GAY: Thank you. Any questions from the committee? Senator Stuthman. [LB296]

SENATOR STUTHMAN: Thank you, Senator Gay. Thank you for the work that you do for the children and the representing as the voice of the children. And I truly respect you for that because you are a spokesperson for these children and the concerns that they have. I'm truly supportive of this reorganization and I'm more or less giving a comment other than a question. Just it occurred to me from the prior testifier in opposition, and I truly think with the leadership now, that there will be someone that hopefully can address his problems, because I don't like to see people fall through the cracks like this and not knowing where to go. And I truly respect the new CEO, Chris Peterson. I think she will be hopefully following up on something like this. [LB296]

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KATHY BIGSBY MOORE: Um-hum. Good. [LB296]

SENATOR STUTHMAN: Thank you. [LB296]

KATHY BIGSBY MOORE: Thanks. [LB296]

SENATOR GAY: Any other questions? Thank you. [LB296]

KATHY BIGSBY MOORE: Thank you. [LB296]

SENATOR GAY: Any other one wishing to speak neutral? [LB296]

TOM McBRIDE: (Exhibit 8) Good afternoon. I appreciate the opportunity to give some comments this afternoon. My name is Tom McBride, M-c-B-r-i-d-e. And I was trying to figure out as I was sitting back here, and it struck me that this reorganization in HHS, how many ways that it touches besides just what I had initially wanted to come in and talk about today, how much it touches my life. I've been 30 years working for...in a human services role, 20 years with children and families. HHS touches the Department of Education in so many ways and the operation of our schools. As a local school board member, that's a consideration. As the veterans home, as a member of the American Legion, VFW, and Military Order of the Purple Heart, I could find myself there sometime. So as we look at this reorganization, it's an important piece of work. It would have been very easy to also sit up here during the proponent stage of supporting LB296, and I really do, but because I had some considerations and perhaps some questions, thought neutral testimony would be better suited. A reminder that simply reorganizing something, an entity, doesn't guarantee positive results, but working together with, through Chris and her leadership, the department providers, the communities, we can create positive results out of this. With this redesign comes an opportunity, if not a responsibility, to clearly define and communicate and articulate a vision and a mission that brings all stakeholders within this process. As a caveat, as we continue to...as the departments are more defined, more articulated themselves, there also exists a risk of becoming increasingly more, seeing more siloing and compartmentalization. With the new structure, by rule and regulation, there has to be something in there to encourage that not to happen. Funding, services, other resources have to be interchangeable between those departments. I would love to see a...you know, we talk about Medicaid, the costs associated with that, but that's a critical program to the state of Nebraska. And I think that we could, if we saw a Medicaid department that was developed and intertwined, that's responsive to all of the other departments, rather than those departments being responsive to Medicaid, that we would see better service provision and some cost savings. As a provider of services, I see through this reorganization perhaps the opportunity to reduce duplication so we don't have five agencies or five departments coming out of the same agency doing inspections, licensing, and each one of those having separate fees. I would like to see, as Kathy Bigsby Moore talked about,

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a coordinating position for children's behavioral health and children's services. I think that would be a wonderful addition within the bill. I did have a question, that in looking at the flow chart, the organizational chart, in the absence of the CEO, where the leadership would fall, who would define that; and not wishing any ill will or anything, but extended vacations, illnesses, whatever, how that might be defined. Lastly, I think what I would like to suggest is within the legislation somehow is to write in a look-back or an evaluative process to a phase to examine the redesign and see if it is demonstrating the real and positive changes that it's intended to and expected to do. And with that I'll end my testimony. I have some written comments that I'll have available, and would take any questions. [LB296]

SENATOR GAY: Thank you for your input. Are there any questions from the committee? [LB296]

TOM McBRIDE: Thank you. [LB296]

SENATOR GAY: Thank you. Anyone else to speak in a neutral capacity? Please state your name and spell it for us. [LB296]

J. ROCK JOHNSON: Thank you, Senator Gay and members of the committee. My name is J. Rock Johnson; that's J. Rock, R-o-c-k, no hyphen, Johnson, J-o-h-n-s-o-n. I have four points to make: transparency, accuracy, interaction, and accountability. I think we have an opportunity here. It used to be in the past that people who guarded the information had the most control and the most power. But we've come to a time where we have power "with" rather than power "over." So to structure these changes in a way that we can truly be working and have as a goal transparency and exchange of information, I think will serve us well. As to accuracy, decision making needs to be based on empirically derived qualitative and quantitative measures. There's a sentence that, aphorism that advocates of research have which is, if you aren't measured, you don't count. And now we have quite a few different systems, N-FOCUS, AIMS, AVATAR, NIMS. I'm speaking within the behavioral health context; that's the area in which I've done most of my work. Each year the mental health block grant has an implementation report that goes to the federal government in October of the year. And there are performance indicators, and I won't go through all of them but so many of them have...at this time Nebraska does not the capacity to report on this measure. That includes criminal justice, it includes medication management which is a service that is delivered across the state. There's no ability to measure fidelity: that is, is the medication management service being delivered in the evidenced-based way that's been established by the Substance Abuse and Mental Health Services Administration. So there's work to do in this area. And to that end I would thank the executive branch and our Finance and Support for the successful grant for the Money Follows the Person. And the intent within that grant...it's a five-year grant to help people move out of nursing homes and into the community...is to develop a data system called Connect

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(phonetic). As to interaction, it's been mentioned about the potential as we look at a chart of having a silo effect. This used to be...you could have mental health services and substance abuse services, as an example. It had to be seamless to the client as long as you accounted for them separately. So we have a potential of a silo effect here. However, it's extremely important to people with behavioral health issues that we have a connection with primary care. That was part of the behavioral health reform in LB1083. Ten years ago people with mental health conditions or psychiatric diagnoses died on the average 8 to 10 years sooner than a member of the general public. In the last ten years, that has changed to 25 years. And many...there are various hypotheses, including medication that causes obesity and diabetes. So I'm saying that this is one particular point. And we have to be very mindful of making these connections and not be caught into a silo. As to accountability, I want to suggest an idea which would be a human rights officer who would report to the CEO. That person would help develop what some would call a grievance plan. We have no real statewide systemic grievance procedure. I find that word to be adversarial. I'd like to see a human rights officer who would deal with conflict resolution, problem solving, and also deliver education on developing negotiation skills for both staff, as well as the clients of this system. On page 8 of the handout which shows the Department of Behavioral Health, I note that the Office of Consumer Affairs is under Community-Based Services. As I recall, the development of that legislation, LB1083, as well as the testimony, the intent was it created...LB1083...created a chief clinical officer as well as this Office of Consumer Affairs. And the intent was that the program administrator of the Office of Consumer Affairs would report directly to the Department of Behavioral Health, and that is not what's reflected here. This is a structural issue. I want to note that the behavioral health reform was a long time coming and we have many, many, many things to do with it yet. I want to thank Ms. Peterson for the work that she's done, especially in dealing with such organizations as the Consumer Inclusion and Recovery Coalition, Mental Health Association, NAMI, because in the person who is appointed to this position we really need leadership. We need leadership that will change to the recovery-type system...a recovery-based, person-centered system. And that leadership, we feel is very important. And so myself and others who are working in the area of behavioral health look forward to the development of a new structure that should bring us very easily forward. Thank you. [LB296]

SENATOR GAY: Thank you. Are there any questions from the committee? Thank you very much. Anyone else in a neutral capacity? [LB296]

RACHEL PINKERTON: Thank you, Senator Gay and committee. My name is Rachel Pinkerton, R-a-c-h-e-l P-i-n-k-e-r-t-o-n. I have a great buzzword for you folks, which is transformation. Like J. Rock, most of my work is in connection with behavioral health. And transformation, you may be aware, is a national initiative to put the power in the hands of people who have the most at stake--the consumers and families. I am happy to say that I have come across some very exciting work, same word--transformation,

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same process, empowering people who are the direct recipients of healthcare services. And I don't know if you have heard of an initiative that started at Johns Hopkins. But it's been going forward for five years, and there are some very exciting, rather counterintuitive processes going on where people are taking responsibility for things that go wrong. And I'm happy to report that my husband's daughter, who is head of risk management at a hospital, she's a member of the bar of this state and also Washington State, and she's also a nurse practitioner, and the wife of the chief of surgery at the hospital where she serves. And when I talked to her, I said Amy, I saw this show on this patient safety that is really emphasizing putting more power in the hands of the patients and the families. And she said, oh, yes, I have that; I can get that for you on DVD; I use that in my orientation with staff at the hospital. So this is a very exciting time and I thank...you know, you're each in my prayers. I thank you so much for your work. I'm very excited about what has been put together here with the help of a number of different people, and I appreciate the Governor's leadership and look forward to seeing some transformation in our behavioral health and also in our other medical. And inclusion is the good buzzword, which is meaningful choices for and involvement, empowering people, again at the consumers at every level. So thank you. [LB296]

SENATOR GAY: Okay. Thank you. Are there any questions? Could you fill out a testifier sheet, too? I don't know if you did, but they are in the back of the room, I think. They are in the back and then just, you can drop one off. [LB296]

RACHEL PINKERTON: They're in the back. Okay. [LB296]

SENATOR GAY: Okay. Neutral. Thank you. [LB296]

VICKI J. HAHN: Hi. Senator Gay and committee members, my name is Vicki, V-i-c-k-i, J. middle initial, Hahn, H-a-h-n, and I'm here as a mental health consumer advocate and now someone who is somewhat physically limited. I've also worked in the behavioral health system at Boys Town, St. Joseph's Center for Mental Health, when Bryan LGH was Lincoln General with children--lots of work with children and adults in psychiatrics. And I don't like to consider myself disabled, but abled. I have some questions due to my own personal experience and people I know. I realize that in regards to Medicare and Medicaid guidelines, that the federal government sets those guidelines. People with disabilities are not receiving their benefits. [LB296]

SENATOR GAY: Vicki, could I ask you...could I interrupt you one minute? [LB296]

VICKI J. HAHN: Uh-huh. [LB296]

SENATOR GAY: Any questions, they're going to relate to the reorganization? [LB296]

VICKI J. HAHN: Yeah. This is... [LB296]

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SENATOR GAY: Okay. You're gong to get to the reorganization. [LB296]

VICKI J. HAHN: I may not be making my points clearly. I'm not used to doing this sort of thing. [LB296]

SENATOR GAY: Okay. Just as long as we stick to this topic or we could go on and on. [LB296]

VICKI J. HAHN: Yeah, reorganization. Yeah, I wrote everything out. [LB296]

SENATOR GAY: No, problem. Take your time. [LB296]

VICKI J. HAHN: Presently, people with disabilities have to separate or divorce to get benefits due to the income guidelines that are very unrealistic. And I'm wondering if in their organization, are there going to be some changes in this regard? I myself an going to Baltimore, Maryland, for a CMS conference, and I intend to address that. And in regards to child welfare is the CPS...is CPS going to be reorganized? Are children going to be sent back to abusive environments or are there going to be alternatives? Are there going to be more extensive background checks for foster parents to prevent abuses of any kind, while in their care? Thirdly, accountability for hospitals and liability for injuries incurred in their facilities. I'm speaking from a personal experience and I will not name the hospital. Is there going to be accountability for liability and safety measures, which I believe would decrease lawsuits if the hospitals would be responsible and accountable. And I won't go into the details of my own personal experience because that would take too much time. But I am...I could have ended up in a wheelchair because of very careless...a lot of carelessness inside of a hospital, but I was very fortunate not to be. And I worked my way through school for ten years to get a year in dance therapy, and it's really put a damper on my life for two years. So I would like to see that happen. And are there going to be more community-based services for people with mental health and substance abuse issues? I currently work for the Lincoln/Lancaster Jail Diversion Project as a research interviewer, and that's the goal. So I would like to see some major changes in the reorganization. I'm not familiar enough with the bill and the Legislature and that, but I'm speaking from my work experience and my own personal experience. [LB296]

SENATOR GAY: Well, thank you for your input. [LB296]

VICKI J. HAHN: Um-hum. [LB296]

SENATOR GAY: Are there any questions? Thank you very much. [LB296]

JOHN PINKERTON: I'm a man of few words, so don't worry. (Laugh) Good afternoon

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and nice meeting all of you senators, and good luck on this committee. My name is John Pinkerton, Rachel's husband, and we are providers across the state for housing for disabled vulnerable adults. And a couple points I wanted to make. I wish there was a more detailed and...well, first of all, Chris, I think she'll do a great job. I hope she can stay on. (Laugh) She is very capable, I think. But I wish there could be a more detailed mission statement before this. You know, Chris talked about strategic planning and then talking about mission statements. I think the mission statement is the number one thing that should be developed first. The other thing is inclusion of advocacy in the whole program, and I'm talking about behavioral health mainly. But I don't think we should let HHS hire advocates. We've got the National Association of Mentally Ill, the Mental Health Association, and they do fine jobs. I would like to see them almost funded by the state directly and not be dependent on HHS for any funding. I think that would help advocacy a lot and help the whole process become better continually. And other than that, that's about all I wanted to say. And here's our two sheets there. Glad to see Tom there; we have business out in North Platte and he's a great guy. Anyway, any questions? [LB296]

SENATOR GAY: Thank you. Any questions from the committee? [LB296]

JOHN PINKERTON: I will say, if any of you ever have any questions on behavioral health aspect of HHS, feel free to call my wife and I. We go to more meetings. We go to every Oversight Commission meeting. We have a lot of opinions...(laugh)...that I think are helpful. [LB296]

SENATOR GAY: Thank you very much. [LB296]

JOHN PINKERTON: Thank you. Congratulations (inaudible). [LB296]

SENATOR GAY: Any other one? Any neutral? Seeing none, we'll let Senator Johnson close. Senator Johnson. [LB296]

SENATOR JOHNSON: Thank you, Senator Gay. And what a great afternoon it's been. I think the testimony has been very good and I think some people, like our gentleman who had the kidney problems, testified more than what he thought that he did because he kind of showed the need for the reorganization. At any rate, last fall the Governor asked several of us to meet with him before he went public with this program. And I might say that there were 10 or 12 senators there, many of the ones that aren't with us anymore have been replaced. But the overall feeling was one of that this was definitely the direction to go. So I felt very good about that. The other thing, we have a letter from Senator Jensen, the past Chairman of this committee, and of course Senator Wesely was here, so there again is a long trail of leadership that says this is the right way to go. So I think we should be encouraged by that, as well. One last thing is this, is that when we talked last fall it seemed to me that the Governor was talking about what I like to call

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a pyramid of responsibility where you have this responsibility. It provides the access and it does provide the communication. And, yes, Senator Erdman, you can turn the pyramid upside down and it falls on the shoulders of the CEO and the Governor as the last people who are responsible. So I think it appears to be what we have in mind to move in the right direction with this, and I would think that we would need to give serious consideration but listen closely to the testimony that was presented today. [LB296]

SENATOR GAY: Thank you, Senator Johnson. All right, with that we will close the hearing on LB296. Thank you. We will take a two-minute break before we proceed to LB185. [LB296]

AT EASE []

SENATOR GAY: We will now open the hearing on LB185. Senator Johnson. [LB185]

SENATOR JOHNSON: Members of the committee and Senator Gay, I'm here to testify and open the hearing on LB185. This is a cleanup bill from the Health and Human Services Department. LB185 would change the provisions relating to these Health and Human Services. It's our cleanup bill that HHS has sent to us. The bill contains an emergency clause for portions of the bill. The bill essentially makes technical changes in statutes in five different areas: Medicaid statutes, birth and legitimization records for children; nursing assistants; medication aids; cancer registries. And a more detailed summary of the bill has been provided to you, and Chris Peterson, chief administrative officer of Health and Human Services System will provide a more in-depth explanation of the bill similar to what we did on the last bill. So if it's all right with the committee, we'll wait for questions after that. [LB185]

SENATOR GAY: All right. Thank you. Will there be other people testifying on this? Brendon, proponent or neutral? [LB185]

BRENDON POLT: Neutral. [LB185]

SENATOR GAY: Neutral. Okay, thank you. [LB185]

CHRIS PETERSON: (Exhibit 1) Good afternoon, Senator Gay and members of the Health and Human Services Committee. I'm Chris Peterson, P-e-t-e-r-s-o-n, chief administrative officer for the Health and Human Service System. And I'd like to thank the Health and Human Services Committee for introducing this bill on behalf of the department. I'm here to testify in support of LB185. This bill contains many important changes that we feel need to be made to provide more effective and efficient service delivery within state government. All of the changes are technical in nature, and we believe they reflect cleanup for existing statutes rather than prescribing new policy. The

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changes affect the following areas: references to the federal Social Security Act in state Medicaid statutes; birth records; estate recovery; cancer registry; medication aides and nursing assistants; and Medicaid. At this time I'll provide information on each of the affected areas. References to the federal Social Security Act in state Medicaid statutes. Nebraska Revised Statute 68-1021.01 adopts by reference the federal Social Security Act as it existed on April 1, 2006. Nebraska case law provides that a state statute may incorporate by reference a federal statute but only as to the date such state statute became effective and not all future changes in federal law. This statute needs updating so any federal changes that have been made are incorporated by reference. It simply brings us up to date with what the federal government has done. For example, in 2006, the United States Congress passed the Deficit Reduction Act into law. This change of law would reference that. We do it every year so that we just keep up and so we don't have to go back and cite previous. Birth records. When a child is born out of wedlock, parents of this child that have married at a later date may request a new birth certificate that legitimizes the child's birth. Unless there is a court order, the Vital Records Division of the Health and Human Services System cannot provide any explanation to the Social Security Administration, Passport Agency, or other entities as to why this birth certificate has changed. This bill will allow Vital Records to provide a copy of the evidence upon which this new certificate was made. Specifically, this evidence can be provided to the mother or father listed on the birth certificate of a legitimize child or the individual whose record was legitimized. Not to anybody else. We only give it to the people that are on the birth certificate or the person who is asking to have, say, a passport or anything to do with the Social Security number is there and they have to have a birth certificate. And so the Social Security Administration will say, your birth certificate has changed; why is that? They don't have any proof to tell why it was changed. We can't give them any proof. And so it creates really an uncomfortable situation for both us as an agency not to be able to provide the information, and the person whose birth has been legitimized, because the original birth certificate says one thing and the new one says something else. The individual must be of the age of majority under state law to request copies of this evidence. Subsequently, the court, the parent, or individual can then provide this evidence to the entity that is requesting clarification of the birth record. Estate recovery. I'm going to back up for just a minute. We can change certain things on a birth certificate and actually cross out what the changes made. If the name is spelled wrong, the date was wrong, if a person provides so much documentation. This is actually a brand-new birth certificate because the parents have remarried and now it's a legitimization of the person's name. State statute language is harmonized with existing federal estate recovery state statute. In Nebraska State Statute Section 68-916, the state is authorized to implement Medicaid estate recovery. However, the department may waive or compromise its claim if it is determined that the recovery creates an undue hardship for one or more of the heirs of the decedent. The bill restores the department's specific authority to define undue hardship in rules and regulations in order to be consistent with Section 1917 of the Social Security Act. This authority was formerly in Section 68-1036.02, subsection 6, but was transferred by LB1248 to Section

68-916. And the language was then inadvertently left out. Cancer registry. The two changes pertaining to the Cancer Registry, Revised Nebraska State Statutes, Sections 81-647 and 81-671 would allow for cancer registries outside of Nebraska to have access to data contained in the registry either through an entity's written application or through approved data exchange agreements. Section 81-647 identifies cancer registries located in other states as authorized to access Nebraska Cancer Registry information. If you may remember, some of the senators that were here last year, this was on our cleanup bill then to allow us to exchange data with other registries in other states. Up until then, we didn't have the ability to do that. In 2006, the U.S. Centers for Disease Prevention and Control endorsed cooperation with the International Association of Cancer Registries in a call for data. The IACR is an international data repository for research and publication of statistics. This proposed change would allow release of data to the IACR or other registries located anywhere outside of Nebraska, not just registries within the borders of the United States. So it would still be controlled in who it goes to, but it will allow us to do the interchange of data with the International Association of Cancer Registries. The changes to the medication aide and nursing assistant statutes are proposed to clarify the persons who are or have been licensed as RNs or LPNs and who have had their licenses revoke, suspended, or voluntarily surrendered in lieu of discipline are prohibited from being placed on the medication aide or nurse registries. It also automatically makes null and void an active medication aide or nurse aide registration for persons who have become licensed as RNs or LPNs. So if you are a medication aide or a nurse aide, if you have that license and you become an RN and an LPN that's just part of your practice so you don't need to have the duplicate license. But if you've had your RN or LPN license taken away, you can't then drop down and then say, well, I'm going to also now serve in this function. We're going to take that license too. Licensed nurses who have been removed from practice for disciplinary reasons should not be allowed to function as medication aides or nursing assistants since they would be authorized to provide medication and/or personal care to recipients--the very acts that may have resulted in their removal from practice as licensed nurses. Since these licensed nurses are already on the nursing registry, there is no reason to retain these nurses on either the medication aide or nurse aide registries. The bill also requires persons who have been denied, removed, or refused renewal on the medication aide registry due to lack of good moral character or competency standard violations or persons who have a finding of conviction placed on the nurse aide registry to wait at least one year before reapplying or petitioning for the finding to be removed. Currently, all other professions under the Uniform Licensing Law are required to do this. However, for these registries there is currently no time period required before a person can reapply or file a petition for removal of a conviction. Requiring a minimum of a year between denial and reapplication or petition will provide for more time for the person to demonstrate reasons why he or she should be added or reinstated on one of the registries. This is typical with the other professions. In 2006, the Legislature passed LB1248 which codified Medicaid statutes into law. LB185 updates the terminology to nursing facility and drops the old terms. Specifically, the term skilled nursing facility is

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replaced with nursing facility. Also, the term intermediate care facility is eliminated from the definition of qualified applicant. CMS eliminated this distinction between skilled and intermediate facility for Medicaid, and this terminology makes state law consistent with the CMS practice. I'd be glad to answer any questions if you have those. [LB185]

SENATOR GAY: Are there any questions? Senator Erdman. [LB185]

SENATOR ERDMAN: Chris, on the Section 4 regarding the birth records, the intent appears to be to allow an individual that's reached the age of majority to request this information. As a topic that I'm interested in, is it a difference to you as whether we define it specifically as 19 or simply reference the term age of majority? And then the second question is, is that what happens in the event that a minor is emancipated? Do they retain that right independent of this statute to access that information? [LB185]

CHRIS PETERSON: Senator, I couldn't answer those. At this point I don't know why the 19 or age of majority would be an issue, but I can look into that and find out also about the emancipated minor, too, and get back to you. [LB185]

SENATOR ERDMAN: Thank you. [LB185]

SENATOR GAY: Other questions? It looks like there are none. Thank you. For the record, other proponents who would like to speak? Let the record show there are no proponents. Any opponents? Let the record show there are no opponents. Anybody in a neutral capacity who would like to testify? [LB185]

BRENDON POLT: Once again, good afternoon. Members of the committee, Senator Gay, my name is Brendon Polt. That's P-o-l-t. Real quick, I wanted to be on the record neutral on this bill. We have some technical issues and I guess I just will voice these quickly and they might be able to improve the bill a bit. On page 6, under the new subsection (2)(a), presumably the intent is to prevent potentially dangerous former nurses from harming the public again as a nursing assistant. We think that's a...we applaud that goal. But it's unclear if this includes licenses held in other states, and if so who bears the responsibility to check each 50 states' registry. That could be financially burdensome to facilities, but in the interest of protecting the public it would seem relevant. Additionally, it's unclear why this would only apply to nursing homes if the people...if the former nurses are dangerous then they would also be dangerous in in-home healthcare and hospitals and anywhere else that nurses are employed. On the other hand, in order to not be overly punitive, we would offer that either the provision be amended to include revocation, suspensions, or surrenderings related to an offense characterized by abuse or some other dangerous behavior, or a time limit be provided for nonabusive events for which a nurse has successfully undergone rehabilitation. Under subsection (b) on the same page, we would suggest the term null and void be changed to inactive. My understanding is under federal law removing the record of a

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licensed nursing assistant from the registry is not allowed. What you do is that becomes inactive and then your updated license is the active license. In subsection (c), the bill seems to conflict with the federal nurse aide registry requirements of 42 CFR, and I'll submit this testimony, 483.156 (c)(iv)(D), which provides that registry content, "Must be included in the registry within 10 working days of the finding and must remain in the registry...unless the finding was made in error, the individual was found not guilty in a court of law, or the State is notified of the individual's death." So then on page 7, lines 21-23, that same similar to the nurse aide section on page 6, we have the same concerns about who does the checking of the registries, if that's the requirement, and why does it only apply to nursing homes, and whether or not there should be a time limit for nonabusive or dangerous types of offenses, prior offenses. And with that I would conclude my testimony and available for questions. [LB185]

SENATOR GAY: Thank you. Any questions? There are none. Thank you. Senator Johnson, would you like to close? [LB185]

SENATOR JOHNSON: The only closure that I really care to make is to thank Mr. Polt for his good perusal of the record and we'll look into it. Thank you. [LB185]

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Disposition of Bills:

LB178 - Indefinitely postponed.

LB185 - Advanced to General File.

LB296 - Advanced to General File, as amended.

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Chairperson

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Committee Clerk