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Health and Human Services Committee
February 13, 2008

[LB972 LB1029 LB1031 LB1070 CONFIRMATION]

The Committee on Health and Human Services met at 1:30 on Wednesday, February 13, 2008, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1029, LB1031, LB1070 and LB972 and gubernatorial appointments. Senators present: Tim Gay, Vice Chairperson; Philip Erdman; Tom Hansen; Gwen Howard; Dave Pankonin; and Arnie Stuthman. Senators absent: Joel Johnson. []

SENATOR STUTHMAN: Good afternoon, ladies and gentlemen, and welcome to the public hearing of the Health and Human Services Committee of the Nebraska Legislature. I am Senator Arnie Stuthman and I will be the chair today for the hearings. I would like to introduce the committee members that we have present with us at this time and I would also like to note that there will be other committee members that will be coming in and joining us and some may leave because at this time it is a time that we do and are introducing bills in other committees. So I would like to, to my far left, Senator Howard from Omaha; Senator Hansen from North Platte; and on my immediate left is Erin Mack, the committee clerk; on my immediate right Jeff Santema, is a legal counsel; and to the next is Senator Erdman from Bayard; and Senator Dave Pankonin from Louisville. And those are the people are here. We may have some other ones joining us in a little while. These proceedings are recorded and will be transcribed and I would also like to mention at this time that if you have a cell phone, please turn it off because of the ringing in the ears of our dear transcriber. The committee will first hear today, we will have two gubernatorial appointments and after that we will have our legislative bills and they will be in the order that we have them on the agenda. The committee will hear the proponent testimony first and the opponent testimony next and the neutral testimony. We would like to have your testimony contained to about five minutes if possible and try not to be repetitious in your statements. At this time, I would also like to mention that when you testify please bring your sheet, the testifying sheet up to the box there on the desk and if you have any material to be handed out we have Matt Peterson, our page, he will help you with the handing the material out. Just place the material on the desk and he will take it from there and pass it out to the committee members. So with that, we will have our gubernatorial appointments and at this time, Leon Sykes, are you present? And he is with the Board of Emergency Medical Services. Good afternoon, Leon. [CONFIRMATION]

DR. LEON SYKES: Good afternoon. [CONFIRMATION]

SENATOR STUTHMAN: Tell us a little bit about yourself and your appointment.
[CONFIRMATION]

DR. LEON SYKES: (Exhibit 1) I'm the chief of the trauma service at Creighton University and I was appointed a year ago to the EMS committee and during the past

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

year I felt that it's been a rewarding position. I've been happy to be able to attend the meetings and contribute and I'm honored by the reappointment. [CONFIRMATION]

SENATOR STUTHMAN: Thank you. Thank you, Leon. Are there any questions from the committee? Senator Erdman. [CONFIRMATION]

SENATOR ERDMAN: I'll ask questions, Senator Stuthman. Leon, talk to me as a member of the board. What are some of the issues that you see? We've had a great deal of discussion in the committee over the past couple of years about EMT related issues in different things. As a member of the board have you been a part of those discussions and as we look forward, what are some of the things that you think we as a Legislature need to be aware of regarding emergency medical services?
[CONFIRMATION]

DR. LEON SYKES: I have been a part of some of those discussions and I think...I think as a whole, I think the state is actually in a pretty good position and I say that with having had experience in a number of states and with the healthcare delivery system in a number of states. I think there's always room for improvement. I mean, in terms of specifics, right at the moment I'm not really prepared to say anything but I think every member of the committee has been dedicated to, doing their best to improve healthcare delivery and making sure that members of the EMS community are qualified and are doing their best and acting in an appropriate manner at all times and will all continue to do that. [CONFIRMATION]

SENATOR ERDMAN: Let me ask you about the facility there at Creighton. Do you have EMS personnel working in there, alongside the staff of the hospital as the law allows for trained medical EMT providers to carry their care into the actual facility and it also provides additional opportunity for hours of experience and different abilities there. Do you have individuals doing that at Creighton and... [CONFIRMATION]

DR. LEON SYKES: Yes. [CONFIRMATION]

SENATOR ERDMAN: Do you see that as a positive? [CONFIRMATION]

DR. LEON SYKES: Yes. I...absolutely, because we are able to interact with them I think a little bit more, the fact that they're there. They're also there under downtimes. Obviously when a patient comes in and needs acute care, that's not a time when we can talk on a global basis about whatever issues they may have with the state or with the EMS system as a whole. But the fact that they are there and we do have downtime and between the arrival of patients and that does permit that sort of interchange and so, yes, I see it as a very positive thing and we see no reason why it shouldn't continue.
[CONFIRMATION]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

SENATOR ERDMAN: Very well. Thanks, sir. [CONFIRMATION]

SENATOR STUTHMAN: Thank you, Senator Erdman and Senator, I mean, Leon Sykes. I...Senator Hansen, go ahead. [CONFIRMATION]

SENATOR HANSEN: Thank you, Senator Stuthman. Good to have you here today. [CONFIRMATION]

DR. LEON SYKES: Thank you. [CONFIRMATION]

SENATOR HANSEN: I see on your resume that you are employed by Creighton University. So are you a teacher too besides the EMS? [CONFIRMATION]

DR. LEON SYKES: Yes, sir. Yes. [CONFIRMATION]

SENATOR HANSEN: Okay. How does that work out? Do you have rotations in the emergency section or do students ride in the ambulances or... [CONFIRMATION]

DR. LEON SYKES: Creighton is a teaching hospital and of course there's a medical school there and in addition we have a surgical residency program. So I am overseeing the education of surgical residents as that would involve acute care surgery and also trauma surgery and basically a continuous basis. And we have medical students who rotate on the service as well but both on the trauma service and in the surgical ICU and I interact with them in both arenas. [CONFIRMATION]

SENATOR HANSEN: I know some graduates from Creighton Medical and they do a great job, so thank you. [CONFIRMATION]

DR. LEON SYKES: Thank you. [CONFIRMATION]

SENATOR STUTHMAN: Thank you, Senator Hansen. Any further questions? Otherwise I see none and I want to thank you for serving on this commission and thank you for your volunteerism to that, and also thank you for attending this appointment hearing today. So thank you very much. At this time, Dave Schroeder, would you come forward please? And Dave Schroeder is for an appointment on the Foster Care Review Board. Good afternoon, Dave. [CONFIRMATION]

DAVE SCHROEDER: (Exhibit 2) Good afternoon and good afternoon senators. I'm Dave Schroeder. I'm from Lexington and I've served on our local Foster Care Review Board for a little over four years now in Dawson and Gosper Counties. And I have an interest in continuing some of those experiences at the state level with the State Foster Care Review Board and so I realized there was an opening and I sought the appointment. [CONFIRMATION]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

SENATOR STUTHMAN: Mr. Schroeder, is this your first appointment to this board as far as the State Foster Care Review Board? [CONFIRMATION]

DAVE SCHROEDER: Yes. [CONFIRMATION]

SENATOR STUTHMAN: What do you feel that you can bring from your past experience to the state level as far as the board is concerned? [CONFIRMATION]

DAVE SCHROEDER: Well, I think my experience at the local level to the board...the board is made up of a mixture of human service advocates and also some local review board members and from the local board membership we were successful in bringing forward some concerns with guardian ad litem and how they were serving the children that were placed in the state's care, and so I was kind of interested in that and had mentioned that as well. And so I'd like to continue to bring forward stuff from the local level. And I'm also have experiences in, as a journalist and, you know, I think, just the approach that I take to journalism, I think, is something I could bring to help analyze some of the issues that come forward to foster care in Nebraska. [CONFIRMATION]

SENATOR STUTHMAN: Thank you, Mr. Schroeder. Do you feel that with your past experience on the local board there are things in the foster care system that you would like to see changed or tweaked or any concerns or problems with that? That you may have an impact serving on the state that you can be an asset to that committee? [CONFIRMATION]

DAVE SCHROEDER: Sure. Well, I think, you know, I like to bring ideas forward to the board and of course it's a matter of the board's consensus of what we advocate for. But personally I want to see, continue to see Governor Heineman's initiatives in the foster care system. From a couple of years ago, they've proven...have seen some successes. In kids, more kids moving out of the foster care system and more kids being adopted and so I'd like to see that continue and, you know, there's some other issues on the horizon I suppose with the contract of services and that will be something too of interest down the road. [CONFIRMATION]

SENATOR STUTHMAN: Okay. Thank you. Any other questions from the committee? Senator Hansen. [CONFIRMATION]

SENATOR HANSEN: Thank you, Senator Stuthman. Good to have you here today. I see by your employment record that you work for KRVN..., [CONFIRMATION]

DAVE SCHROEDER: Yes. [CONFIRMATION]

SENATOR HANSEN: ..., which is a great radio station with a lot of coverage and I think

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

that your position on the Foster Care Review Board could, and the connection to KRVN could really help get some new foster parents, recruit foster parents for the program so I hope you and other folks at KRVN feel the same way. Your sister station in Scottsbluff, I mean, you cover a lot of area... [CONFIRMATION]

DAVE SCHROEDER: Yes. [CONFIRMATION]

SENATOR HANSEN: ...in western Nebraska so we need all the help we can get recruiting foster parents, so appreciate you doing this. [CONFIRMATION]

DAVE SCHROEDER: Yes, I agree and that's why I hear too from our local health and human services advocates too is that, you know, there's always an ongoing need for foster care or for foster parents and also more and more these days, perhaps foster parents who have more training because of the advanced issues that we seem to be delaying with today and that's only going to be continue. Now as a journalist I might address too that I won't necessarily be reporting on foster care issues where it may create more of a conflict. We do have other reporters at the radio station and I'll leave that to them but, you know, where I can do stories or so forth, that's what I will be doing. [CONFIRMATION]

SENATOR HANSEN: What did corn do today? [CONFIRMATION]

DAVE SCHROEDER: Pardon? [CONFIRMATION]

SENATOR HANSEN: What'd corn do today? [CONFIRMATION]

DAVE SCHROEDER: That's a good question. I don't know. (Laughter) Wheat was a big concern yesterday. [CONFIRMATION]

SENATOR STUTHMAN: Thank you, Senator Hansen. Senator Howard.
[CONFIRMATION]

SENATOR HOWARD: Thank you, Senator Stuthman. I'd like to ask you, what do you see is the most pressing issue if you could narrow it down to one, maybe two issues with the children in the care and custody of the Department of Health and Human Services? [CONFIRMATION]

DAVE SCHROEDER: I think, not quite so much in my area but I think in other parts of the state is the rotating caseworkers. It just seems that there's a large turnover of caseworkers especially in some areas and I think that that, sometimes that drags the process of, or progress rather, of the cases getting resolved in a timely manner or effectively. And so I think the caseworker turnover, I think is probably one of the bigger issues we have. [CONFIRMATION]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

SENATOR HOWARD: Well, you've done your homework. Thank you. (Laughter)
[CONFIRMATION]

DAVE SCHROEDER: You're welcome. [CONFIRMATION]

SENATOR STUTHMAN: Thank you, Senator Howard. Any other questions? Seeing none, thank you, Mr. Schroeder. [CONFIRMATION]

DAVE SCHROEDER: Thank you. [CONFIRMATION]

SENATOR STUTHMAN: And thank you for your commitment and dedication to the volunteerism and for the foster people. [CONFIRMATION]

DAVE SCHROEDER: I appreciate that. [CONFIRMATION]

SENATOR STUTHMAN: Thank you very much. Okay, at this time we will go into the legislative bills, LB1029. Senator Fulton. We will open the hearing on this bill. Good afternoon, Senator. [LB1029]

SENATOR FULTON: Good afternoon. Good afternoon, Mr. Assistant Vice Chairman and good afternoon to the committee. [LB1029]

SENATOR ERDMAN: Hold on. He's not the Vice Chairman. Don't give him (inaudible). (Laughter) He's just presiding. He's not anything at this point but a presiding officer. [LB1029]

SENATOR FULTON: Fine gentleman. [LB1029]

SENATOR ERDMAN: That he is. Okay, go ahead. [LB1029]

SENATOR FULTON: For the record, my name is Tony Fulton, T-o-n-y F-u-l-t-o-n, and I represent the 29th Legislative District. This is LB1029 and I bring this bill before you today after having gained some, although admittedly limited, experience in the foster care system, but enough experience that I understand this is something that needs to be discussed. LB1029 is designed to improve outcomes for children within the foster care system by increasing efficiency through privatization. As a member of the Appropriations Committee, I became aware that our foster care system is broken. And despite great efforts from both the executive and judicial branches, there is much work left to be done. Presently, the department partners with private foster care service providers in approximately 40 percent of foster care cases. LB1029 proposes to shift that system to complete privatization while giving the departments the freedom to oversee the entirety of the system. As has been seen in the Kansas system, which went

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

to a complete privatization model in 1998, privatization of foster care services can lead to greater adoption rates--44 percent increase in Kansas after their privatization model went into place--and can also lead to overall service quality, better outcomes. Assuming that indeed private agencies facilitate better outcomes, as seems to be the case in other states, we then must address costs. It would seem that in general private entities are able to achieve desired outcomes generally at lower costs. I know there may be contrary testimony following mine which would militate against this point, and we, therefore, have provided a clause within the bill that specifies that rates shall not exceed that which the department could otherwise provide for such services. By shifting caseloads to the private sector, I believe we would free up the department to implement greater accountability standards than what presently exists. As privatization increases, so must the assurance that such entities are implementing best practices and, thus, the department would provide greater managerial oversight than it is currently capable of. In conclusion, it is the proper role of the state to ensure that those most vulnerable receive the best possible service from the public sector. In application to the foster care system, the best service may be that which is handled by private agencies with an improved oversight, a corresponding improved oversight on the part of the department. And I will do my best to answer any questions that you have. [LB1029]

SENATOR STUTHMAN: Thank you, Senator Fulton. Any questions from the committee? Senator Howard. [LB1029]

SENATOR HOWARD: Thank you, Acting Temporary Chairman Stuthman. Senator Fulton, you and I've had some conversations about this very issue and I believe prior to your placing this bill in for consideration, and I've told you my concerns. And in looking over this, I see that you've quoted a number of approximately 40 percent of the cases are currently being contracted out. I'd like to know more about that and where you get that number. [LB1029]

SENATOR FULTON: Yeah, that's numbers...those are numbers that have been given to me. I'm not positive the precise number. And you know my background, I'd like to be able to give you the precise number. I'm not certain but I do know that there is an element of the private sector policy which is incorporated in our present policy. [LB1029]

SENATOR HOWARD: Well, maybe I can be helpful to you. At present there are three contracts for adoption services at the Health and Human Services Department. Those are located in Omaha. There are approximately, as I recall, 24 children being served. That's nowhere near 40 percent. If you're thinking about the foster care program, there are private agencies that do have foster homes and the department utilizes those homes. They do supervision, but those cases are not contracted out. The case management remains with the Department of Health and Human Services. So I would really appreciate having more information about the numbers that you've provided and what those are based on, any of that that you can provide to help me better understand

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

where this has come from. [LB1029]

SENATOR FULTON: Okay. I will endeavor to get that to you if it doesn't follow in testimony behind mine. [LB1029]

SENATOR HOWARD: I appreciate that. Thank you. [LB1029]

SENATOR STUTHMAN: Thank you, Senator Howard. Any other questions from the committee? Seeing none, will you want to close or? [LB1029]

SENATOR FULTON: I may well close so at that time I'll let you know. [LB1029]

SENATOR STUTHMAN: Okay, thank you. Okay, you've heard the opening. How many testifiers want to testify on this bill, either in pro, con, opposition, or neutral? We have two, four, nine. Okay. We will have the proponents at this time come forward, please. Good afternoon. [LB1029]

JIM BLUE: Good afternoon, Senator Stuthman, members of the Health and Human Services Committee. I appreciate it. My name is Jim Blue, B-I-u-e, just like the color, and I wanted to express my appreciation to Senator Fulton and the other senators who have made the opportunity for this discussion possible. I do serve as the president and CEO of Cedars Youth Services, but today I'm specifically representing the Children and Families Coalition of Nebraska, CAFCON, as its president. The members of CAFCON are all community-based nonprofit charities, and we are devoted to the welfare of children and families above all other interests. Our members include Epworth Village, Family Services of Lincoln, Christian Heritage, Richard Young Hospital in Kearney, Cedars, Uta Halee, Cooper Village, Heartland Family Services, Child Savings Institute, Catholic Charities, the Archdiocese of Omaha, Lutheran Family Services of Nebraska, Boys and Girls Home of Nebraska, and Child Connect. The intent of LB1029 is that all family-based foster care would be provided by private organizations. There is a, what I believe is a misunderstanding about this bill that it is an attempt to privatize the child welfare system in Nebraska. It is not. CAFCON believes that case management services should be retained by state Child Protective Services workers. So this is not an attempt to privatize the child welfare system in Nebraska. That's a very interesting subject, and I look forward to future discussions on that because it's been mixed results around the country. Family-based foster care, not adoption services, foster care has been provided by private agencies in this state for many, many years. Cedars does the work, Christian Heritage does the work, many members of CAFCON and non-CAFCON members do contract with the state to do foster care. Our only request is that we create a system in which we think the assets and the resources of charities across the state can truly be taken advantage of for the kids. Presently, state caseworkers with caseloads that vary 30, 40, sometimes more, sometimes less do both. They will have kids on their caseloads where they place those kids in state foster homes that they

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

support those foster homes. They get calls at night from foster homes on behavior management issues, etcetera. Some kids on their caseloads they contract out to private agencies. We think this is having one foot on one side of the fence and one foot on the other side of the fence. We again believe that all foster families would best be supported by the private sector with the case manager, the state employee, providing quality oversight, performance monitoring, and case management responsibilities. There are three general types of foster care in Nebraska: traditional, agency-based, and treatment. Where a child...what category a child is placed in depends on how they score on the foster care pay scale, FC pay scale as it's commonly called. And it's a scale to determine what the needs are of the child. If the child scores in the lower need category, they're placed in a traditional home, which generally are state employee supported foster homes. If the child has a littler higher needs, they're placed in agency-based foster care, which by its name indicates it's done by the private sector. If a child has a Medicaid-diagnosed issue, then they're placed in treatment foster care, which is also private. Here's the difficulty with this and this is a general, general example. So Maria comes into an agency-based foster care placement provided by Cedars because her needs are a little higher on the FC pay scale. She improves. Either Maria has to leave that home which she has bonded with, those parents, those older siblings, that neighborhood, that school, which have been part of her success and improvement, she either has to leave that for another foster family because she's improved or the private agency loses that foster family which they had recruited, trained, supported if that agency is interested in that child remaining with the family. And that has happened many times I know with the Cedars organization and I'm sure with other members, other organizations in the state as well. You can see the difficulty, the quandary that creates. You may hear testimony this afternoon about the need for improved quality monitoring of private sector organizations in our state. I absolutely agree with that. We have to create a better system to monitor the performance of private organizations across Nebraska. We think this bill, this initiative, will provide the guidance to state caseworkers that their job is to truly provide quality monitoring of the performance of private organizations instead of what I understand is the current situation, which is for some of the kids they're in contract monitoring and for some of the kids they're doing the direct work themselves. We think this guidance will create great clarity in their roles. Our vision is that all children who have experienced abuse and neglect and are now in need of out-of-home placement will be served by reputable community-based organizations who will be paid only for the outcomes that they are able to achieve with that child and family. We dream of the day when we can move past a per diem where the private agencies get paid per day per child and instead of a day when private organizations get paid, that child continues to be safe from reabuse, have stability in living arrangements, and can go back to their family, be adopted, or successfully age out of the system. That's our vision. I'd like to again thank Senator Fulton and all the senators who have sponsored this bill. We think that this bill will create decreased burden for caseworkers, savings in tax dollars because, again, charities have the unique position of being able to collect donations from our generous supporters to subsidize the state care--and when

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

foster care is provided by the state, it's 100 percent tax dollars--and most importantly, improved outcomes for kids because they are served in the community. And those organizations are incentivized to achieve those outcomes that we care so much about. And I'd be happy to try to answer any questions that you have. [LB1029]

SENATOR STUTHMAN: Thank you, Mr. Blue. Any questions from the committee? Senator Howard. [LB1029]

SENATOR HOWARD: Thank you, Senator Stuthman. Jim, I want to start by saying I appreciate the work that you do with children. I appreciate your commitment. [LB1029]

JIM BLUE: Thank you, Senator. [LB1029]

SENATOR HOWARD: You know I've worked in this field for 34 years before I was elected so I have had a lot of hands-on experience with this. What you're presenting is a bit different from what Senator Fulton presented. It sounds to me, and you can let me know if this is not correct, but it sounds to me like what you're suggesting is the piece, the foster care...management of foster homes piece be contracted out, not the case management piece. That remains with the department. Is that correct? Is that... [LB1029]

JIM BLUE: Yes, ma'am, and I believe that's the way the language in the bill is written. [LB1029]

SENATOR HOWARD: Well, that's an important difference... [LB1029]

JIM BLUE: Yes, it is. [LB1029]

SENATOR HOWARD: ...because if you're talking about the case management, that involves the relationship with the court, that involves the reports that are supplied to the court. And I guess I come down to a question of do you see the foster care agency, such as your agency, being responsible directly to the court to report the management of a child's care? [LB1029]

JIM BLUE: No, ma'am. The intention of this bill is that, and my personal and professional belief, is that case management responsibilities and that relationship with the courts should be maintained by the state caseworker. [LB1029]

SENATOR HOWARD: So that would remain on the current...we currently have this program, but the state maintains its own, as you call them, traditional foster homes. Are you saying those would be eliminated? Those would no longer be available? [LB1029]

JIM BLUE: That those families that are providing traditional foster care for the state

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

would be transitioned to, over a period of time, to private organizations so. [LB1029]

SENATOR HOWARD: Which would be at a higher payment rate. [LB1029]

JIM BLUE: Than what? [LB1029]

SENATOR HOWARD: Than what is currently paid the state traditional foster families. [LB1029]

JIM BLUE: I don't know the answer to that specifically. [LB1029]

SENATOR HOWARD: If they're transitioned into an agency-based, that is at a higher payment rate. [LB1029]

JIM BLUE: There would be a different level of support for kids who have lower...I think, I mean I think the foster care pay scale would generally continue to be the tool, and that would be a different level of support from private sector organizations. So I imagine that the payment rate for the outcomes achieved would be lower certainly than agency-based where the child has higher needs and in need of more support. [LB1029]

SENATOR HOWARD: Exactly right, exactly right. And while we're on this, you touched on a child that would have to possibly move if that child's behavior improved. Now when I worked for the department a few years ago, if a child's behavior improved and the family chose to accept a lower rate of payment, that child was not moved. That child remained in that home, the family was paid according too the needs of the child and that's what the payment scale is based on, the needs of the child. It's not reimbursement for the family. It's reimbursement for the payment for the needs of the child, and that's a big difference too. [LB1029]

JIM BLUE: Um-hum, um-hum. It happens both ways, and I think that's part of the confusion in the system, Senator. There are some unique children who no longer are scored in that agency-based category who there is a special agreement done for continuity care. And so because of the unique needs of that child, they may remain in that same home with a different level of support. [LB1029]

SENATOR HOWARD: Um-hum. [LB1029]

JIM BLUE: But the general system is designed for, you know, this family is agency-based and this family is traditional. And once that child has a needs, I mean issues needs improve, then they go to a different level of care. And a lot of times it happens that they leave the private sector foster family for a state foster family providing traditional. It happens both ways. [LB1029]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

SENATOR HOWARD: Well, I would have to respectfully disagree with you on that statement. Because if a child was flourishing in a home, the family had made an investment in that child, had helped that child to overcome many problems that they had come in with, I would imagine or in my practice when I did social work, that child remained with that family and that family would say we would accept a lower rate of payment rather than move that child yet again and disrupt that child's life. [LB1029]

JIM BLUE: It happens both ways today, and I'd be happy to talk with you more about that in the future. [LB1029]

SENATOR HOWARD: Thank you. [LB1029]

SENATOR STUTHMAN: Thank you, Senator Howard. Senator Hansen. [LB1029]

SENATOR HANSEN: Thank you, Senator Stuthman. Mr. Blue, if this was passed today, how long would it take for the agencies that you're representing just today to transition into a private system? I think I understand what the differences are now that you've explained them. But just that segment going into the private sector, how long would that take? [LB1029]

JIM BLUE: All of our goal would be to not lose any foster parents that are currently serving in traditional capacity with the state. I think it would be reasonable to discuss a 12-month transition period so we make sure it's smooth and very, very well communicated. And we'd work closely with Health and Human Services to accomplish that. [LB1029]

SENATOR HANSEN: Okay. Do you do the training of the foster parents that you recruit? [LB1029]

JIM BLUE: Yes, we do. [LB1029]

SENATOR HANSEN: Okay. [LB1029]

JIM BLUE: Recruitment, training and 24-hour support, yes. [LB1029]

SENATOR HANSEN: Okay, thank you. [LB1029]

SENATOR STUTHMAN: Thank you, Senator Hansen. Any other questions from the committee? Otherwise, thank you, Mr. Blue. [LB1029]

JIM BLUE: All right, thank you. [LB1029]

SENATOR STUTHMAN: Thank you for your testimony. Next testifier in the proponent.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

Good afternoon. [LB1029]

GREGG NICKLAS: Good afternoon. My name is Gregg Nicklas. I'm dressed in purple because we were celebrating earlier today and didn't have a chance to go home and change before coming. Again, Senators, my name is Gregg Nicklas, G-r-e-g-g, Nicklas is N-i-c-k-l-a-s. I, too, am a member of CAFCON and find it very interesting in listening to the presidential debates that everyone is speaking about change and every candidate attesting to the fact that they are the candidate to implement change. I'm here to speak on behalf of change, and that is the privatization of foster care. Nearly three decades ago, my wife and I founded Christian Heritage Children's Homes. We began as foster parents, and we were blessed to have the opportunity to work with CPS case manager Connie Amberg. She played a huge role in our success in enabling us to transition from doing foster care to begin opening group homes. We also worked with Roxie Cillessen who then was the southeast area administrator with an office in Beatrice and this day have wonderful working relationships with a host of people within the department. In 1987, we began providing foster care services as children were referred to us from the department. And I'm dressed in purple because we were celebrating earlier today the fact that we have 100 children placed with us in foster care in Lincoln and Omaha. So we drew together all of our staff and spent time celebrating this morning. We have offices just east of Lincoln at 148th and Old Cheney Road to serve children and families in Lincoln and the southeast service area. We also have offices in Omaha and serve children in Norfolk, Grand Island, and Kearney as well. I'm supporting LB1029 because I believe that it puts the responsibility for Nebraska's at-risk children where it belongs. I do believe that the department should maintain the responsibility of contracting with private agencies, of monitoring the provision of services, and evaluating outcomes. But I believe that the provision of the services to the children should be done by the private sector. As much as I respect state government, I believe private agencies can and, in most cases, do provide higher quality services at a lower cost. We have fewer turnover of staff, lower case ratios, and we require our foster care staff to be on-call 24 hours a day, 7 days a week. And I believe that these things work together to enhance the services that are provided to Nebraska's children and families. Furthermore, as Mr. Blue indicated, many private agencies work diligently to raise private contributions to supplement the revenue that we receive from the Department of Health and Human Services for the provision of care for children. And every dollar that we receive that is committed to the provision of services, in essence, subsidizes the care of the children placed with us. And as you know, when the state provides foster care, it does take 100 percent tax dollars. Before founding Christian Heritage, I was a marketing representative for IBM. Every year my branch manager gave me a quota, and I was held accountable to performing at that level. As a matter of fact, if I attained my quota, I was rewarded. And those individuals who didn't attain their quotas didn't stay with IBM. I'd like to share with you that the federal government, as you well know, has already identified outcomes or quotas through the children and family services review. The feds have identified safety, permanence, and well-being as the specific outcomes and seven

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Health and Human Services Committee
February 13, 2008

underlying outcomes that are important in measuring. There is absolutely no doubt in my mind that Todd Landry, director of Children and Family Services Division, is completely capable of drafting contracts for the private sector that require outcomes equal to or greater than those established by the feds. If agencies perform, reward them. If they don't, fire them. I'm not sure anybody knows exactly how much it costs the department to provide foster care services, but I believe it would be reasonable for a study to be conducted that would provide that information. I would ask on behalf of the private sector for a determination of this cost to be determined and would ask in determining that number if you would either include all direct and indirect costs that would include administrative costs, costs for maintenance of facilities, and other indirect costs, to compare those with comparable private sector costs. Or if you're going to exclude those indirect costs in determining a cost factor from the department's perspective, that they be considered excluded when considering comparable expenses in the private agencies. Lastly, I'd like to restate my belief that there's a tremendous amount of work, good work, being performed every day by competent, qualified, and compassionate state employees, not only within the Department of Health and Human Services, but within other departments as well. Just yesterday my older brother David received a pin commemorating 35 years of service as a state employee. On May 8, my brother will celebrate his 36th anniversary as a horticulturist at the Lincoln Regional Center. Furthermore, David Krogman, who is our program director, and Trevor Bullock, who is our Lincoln foster care supervisor, are both previous employees of the Nebraska Health and Human Services System. I applaud the work of those employed by the state. I endorse the legislative directive of LB1029 and I contend, Senators, that the time for change is now. I thank you for your serving our state, for your support of Nebraska's children, and for your consideration of this bill. Are there any questions? [LB1029]

SENATOR STUTHMAN: Thank you, Gregg. Any questions from the committee?
Senator Howard. [LB1029]

SENATOR HOWARD: Thank you, Chairman Stuthman. Gregg, I also remember Connie and Roxie, both excellent employees and very diligent individuals. Just a few questions for you regarding your agency. I'm going to ask you this. Is your agency accredited?
[LB1029]

GREGG NICKLAS: No, we are not, In terms of COA? No. [LB1029]

SENATOR HOWARD: You have no accreditation? [LB1029]

GREGG NICKLAS: No, we do not. [LB1029]

SENATOR HOWARD: How do you operate without any...? [LB1029]

GREGG NICKLAS: We are licensed by the Nebraska Department of Health and Human

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

Services. It's a child caring and child placing agency. [LB1029]

SENATOR HOWARD: So you don't have any federal inspection or accreditation?
[LB1029]

GREGG NICKLAS: We do not. We have auditors, a private auditing company at our organization every year, that happens to be there today doing our annual audit.
[LB1029]

SENATOR HOWARD: Well, you said that you have lower caseloads... [LB1029]

GREGG NICKLAS: Yes, we do. [LB1029]

SENATOR HOWARD: ...a better ratio. What is that? [LB1029]

GREGG NICKLAS: We are...actually we have ten, a maximum of ten families per individual who works directly with the children. [LB1029]

SENATOR HOWARD: Per year. Individually, you're talking case manager or equivalent to being a case manager position. [LB1029]

GREGG NICKLAS: Well, again, the case management would be provided by the department, but, yes, our people working directly with the families. [LB1029]

SENATOR HOWARD: So are these social work positions? [LB1029]

GREGG NICKLAS: They are what we call family specialists who work directly with those kids. [LB1029]

SENATOR HOWARD: What training do they have? [LB1029]

GREGG NICKLAS: They are bachelor's level individuals. Some of them have received their master's degree. And there are individuals who also have, many of them, a great deal of experience in working with kids. [LB1029]

SENATOR HOWARD: Okay. Bachelors' level in social work? [LB1029]

GREGG NICKLAS: Social work, yes. [LB1029]

SENATOR HOWARD: All right. So you do have lower caseloads of ten families...
[LB1029]

GREGG NICKLAS: Correct. [LB1029]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

SENATOR HOWARD: ...which compared to when I left Health and Human Services, I had 50. And these are bachelor's level individuals that have graduated from accredited colleges, universities. [LB1029]

GREGG NICKLAS: That's correct. [LB1029]

SENATOR HOWARD: Do you find that this is a number that's manageable? [LB1029]

GREGG NICKLAS: Indeed. [LB1029]

SENATOR HOWARD: All right. [LB1029]

GREGG NICKLAS: Indeed. Our families average about one and a half children per family, and so if they're working with ten families, that would be a maximum of 15 children. [LB1029]

SENATOR HOWARD: And I believe those are the national standards, the Child Welfare League of America standards. [LB1029]

GREGG NICKLAS: It may well be. It works great for us, Senator. [LB1029]

SENATOR HOWARD: Well, you're working within the bounds of those, so that's, of course, a good thing. But I think you're looking at a very large order with taking on the privatization of the entire foster care system. Would you be willing to look at taking on child protection, as well? [LB1029]

GREGG NICKLAS: Let me say that there's no way that we would consider taking this on alone. We believe that there are other great organizations like Cedars and others that are represented in CAFCON that would be working on this jointly, and we would consider that we would have a part to play in that, and perhaps a small part, but a part nonetheless. [LB1029]

SENATOR HOWARD: You are talking about the initial investigation and those pieces? [LB1029]

GREGG NICKLAS: No. No. [LB1029]

SENATOR HOWARD: So they wouldn't be under consideration? [LB1029]

GREGG NICKLAS: As Jim alluded to earlier, we anticipate that the state would continue to provide those services in terms of investigation, and the part...the role the private agencies would provide would be the direct work with those families who currently are

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Transcriber's Office

Health and Human Services Committee
February 13, 2008

traditional families, and the support services are provided by Health and Human Services. [LB1029]

SENATOR HOWARD: Thank you. [LB1029]

SENATOR STUTHMAN: Thank you, Senator Howard. Any other questions from the committee? Senator Erdman. [LB1029]

SENATOR ERDMAN: Not a question, Senator Stuthman, just a comment. Gregg, great to see you again. Appreciated getting to know your organization a little bit and seeing the work that you do, and getting to know some of your employees, as well, and commend you for your work. Regardless of what happens with LB1029, I know that you stand willing and ready to be a part of the solution. I think that's admirable. I think one of the things that I think is important is that we, as a state, recognize there are people willing to help if we give them a chance to do it. And I think it has to be done appropriately, as you pointed out, and my experience with your organization has shown that I think you are able to accomplish that. [LB1029]

GREGG NICKLAS: Thank you. If I could close with one final statement. This morning in our celebration we had supervisors take time to affirm and acknowledge the work that's being done by people at Christian Heritage. And I know that visitation is oftentimes a concern, because frequently when kids are placed in foster care and are driven to supervised visits with their parents, any time there's a number of different providers, and it causes a great deal of uncertainty for the kids. It's a difficult thing. And I just made two quick copies of comments that were made about a couple of our visitation people, and these are people that are working with us part-time. This visitation staff member once showed their determination to do a visit, even without a vehicle, by attempting to ride their bicycle all the way to our offices--by the way, we're at 148th and Old Cheney Road--to pick up a van, only to have the bike that they were riding have a tire go flat four miles short of the office, having to carry the bicycle the balance of the way. Yes, the visit took place, albeit a bit late. This type of effort speaks loudly to the families that we work with. We have received several comments from parents, indicating how good this person is with kids. And secondly, this person is a full-time student; we get comments from--all the time--from families and kids who love spending time with this individual. Once this specialist drove to Omaha from Lincoln just to take a youth that he wasn't working with anymore to a movie, continuing the friendship that had been built during the prior months of family visitation. I once heard this youth speak of this visitation specialist in the context that they were one of the his best friends. So that's, I think, that refers to the quality of people that we have working with us. Thank you. [LB1029]

SENATOR STUTHMAN: Thank you, Mr. Nicklas. Thank you very much. The next testifier. I would also like to remind the people that are going to testify to please come up to the front of the room when you're going to testify, to hasten the process so that we

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

can continue with that. I see no one else in the proponent...are you a proponent? Okay, in the opponent testimony now. Please come forward. I would also like to announce again that we would like to have your comments contained within five minutes. I have allowed the other two to go past that five minutes, but seeing the number of bills that we have this afternoon and the number of testifiers, I am going to try to limit the testimony to five minutes or less. So good afternoon. [LB1029]

JOHN SEYFARTH: (Exhibit 1) Good afternoon. My name is John Seyfarth, and I am a local foster care review board member in Papillion. [LB1029]

SENATOR STUTHMAN: Would you spell your name, please? [LB1029]

JOHN SEYFARTH: S-e-y-f-a-r-t-h. [LB1029]

SENATOR STUTHMAN: Thank you. [LB1029]

JOHN SEYFARTH: And I am a volunteer board member, have been for 11 years. I've also served a term on the State Foster Care Review Board a couple of years ago. I have some problems with LB1029 in that as it's written it doesn't seem to have a lot of safeguards for ensuring that the contracted services that are being provided are overseen well. And that's one of my...I'm very concerned about that. We've had a number of incidences in the last couple of years with children involved with contracted services. The most recent one, I believe, was a drunk driver transporting children. We had, just in the last week, talked with a school psychologist who I know very well, and she was...and I hadn't even said anything; she knows I was on the board...she says, I have had three incidents in the last week where kids have come back to school from a parental visit, and one of them had no restraint in the...it was an infant or a two-year-old was...there was no restraint in the vehicle when they came back. The other two, they came back; she said they were just full of smoke, so the drivers were smoking in the vehicle. We've had a lot of problems with...I get a lot of...we see a lot of cases on our board where there is no documentation for supervised parental visits by contractors. And we've seen also where some of reports to come back that are documented. There's four or five different people that are doing the visits on the same people, so there's not a lot of consistency. Another problem we have with transportation is that in many cases the kids will go out to the parents' place in one vehicle, in one person's vehicle, and they come back with (inaudible) and we've had lots of reports of that. And for kids that are especially 0-5, that's absolutely really traumatic for them because they are with a stranger. You know, these kids go in, and our intake in foster care, that's traumatic in the first place, and then they get moved around. Every time you move them, you know, these kinds of things, trauma things, we still need that added to (inaudible). But what I'm saying here, this doesn't appear that there's a lot of oversight, and that's one of the things I don't see much in the bill on that. Secondly, contracting is tricky. I've been on...I was in the Air Force for 20 years. In my last assignment I was involved with the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

acquisition of the B-1B, and I know from being a maintenance advocate for the Strategic Air Command, as it existed then, for that airplane, how tricky it really is. And we really need to have contracts that are verifiable...or I should say measurable...I should say quantifiable I guess is the word that I want...and that we have appropriate incentives and consequences for exceeding the standards or not meeting them. One of the things that I'm a little concerned about is that there is a section in the state law, 73-507, that exempts DHHS from being reviewed by DAS. And I guess what I'm saying is I'm not sure that their contracts need to be reviewed by DAS, but I think they need to be reviewed by an outside party. That's another thing that I have a problem with the bill here. And the other thing, the biggest thing is oversight. I think that's so important with any contract, and especially when we're dealing with children and their safety, because that's really what I'm really concerned about. Some of the other states have had some problems. You mentioned Kansas, but Kansas did not have a smooth start as I recall. They had a disastrous start as I've been reading the Web site. And Illinois seems to have done better. Illinois, I think, now has...they have a czar that's in charge of child protection and things like that, and they also have an inspector general, and they both report to the governor. The inspector general can inspect anybody at any time, things like that. So they have a little better system. But they also have put in a system where it says that if you are a contractor and you're a case manager contractor, you have the same exact criteria that the state employee contract, which I think is a wonderful they have...you know, they have some...they're very organized. So that's one of the things we're going to have to do in this state is get organized with that kind of oversight that needs to be done. But that's my objection to the bill. Are there any questions? [LB1029]

SENATOR STUTHMAN: Thank you, Mr. Seyfarth. Any questions? Senator Hansen. [LB1029]

SENATOR HANSEN: I have one. Thank you, John, for being here today. [LB1029]

JOHN SEYFARTH: You bet. [LB1029]

SENATOR HANSEN: With the inspector general in Illinois, is that a part of the attorney general office? [LB1029]

JOHN SEYFARTH: I think he works directly for the governor. [LB1029]

SENATOR HANSEN: Directly for the governor and not through the attorney general? [LB1029]

JOHN SEYFARTH: Yeah. [LB1029]

SENATOR HANSEN: Okay. Would they have...? Do you know enough about that system to say that they have enough power to do it, or does it need to be through the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

attorney general? [LB1029]

JOHN SEYFARTH: Well, as I understand it...we...I was on a conference call with them, oh, about couple years, a year, a year and a half ago. We were talking about how it worked. And I believe, if I'm correct, I believe that the inspector general works directly for the governor, and this child protection czar also works for the governor. But the inspector general can also go back and look at what the czar is doing, and report to the governor. So it's, you know...they can...you know, what I'm saying, there's some authority there that can be exercised by the inspector general. [LB1029]

SENATOR HANSEN: Okay. Thank you. [LB1029]

SENATOR STUTHMAN: Thank you, Senator Hansen. Senator Howard. [LB1029]

SENATOR HOWARD: Thank you, Senator Stuthman. I know that you are as concerned about, with the foster care review board, as concerned about permanency for children, as any other issue,... [LB1029]

JOHN SEYFARTH: Absolutely. [LB1029]

SENATOR HOWARD: ...and moving them toward permanency in a timely fashion. And one of the concerns that I have had is that I have seen, through the contracting, the present contracting, that there is an incentive, and I'm sure an unintended incentive but there nevertheless, to maintain foster home placements. And in some cases I've seen it, rather the permanency would be considered, the stability and the placement, rather than attaining the adoption, if that were the goal for the child. I had a case when I left Health and Human Services that was ready to go to adoption, and three years later had not reached that point. And I think that's way in excess of the time frame that should be allowed, and yet there wasn't the built-in incentives to reach that goal. The incentives were there to maintain placement. And I think that's... [LB1029]

JOHN SEYFARTH: Yeah. Well, like I say... [LB1029]

SENATOR HOWARD: ...that's something that we...that has to be...has to be acknowledged and has to be addressed. [LB1029]

JOHN SEYFARTH: Well, and like I say, it has to go both ways. There has to be consequences for nonperformance, and there has to be incentives for achieving the standards. And like you say, it all has to be in support of that child's permanence...I mean, good permanence is what I'm talking about here. [LB1029]

SENATOR HOWARD: That's right; that's right. [LB1029]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

JOHN SEYFARTH: And I've always looked at children as a person who we want to give...develop that person to as an effective adult as we can. And I think that's kind of the perspective that I have in my work on the foster care review board. [LB1029]

SENATOR HOWARD: I appreciate that. Thank you. [LB1029]

SENATOR STUTHMAN: Thank you, Senator Howard. Any other questions? Senator Pankonin. [LB1029]

SENATOR PANKONIN: Thank you, Senator Stuthman. John, I appreciate you coming. Since Senator Gay isn't here to laud you for...because you're in his district, but you're close to mine. I've been to your review board, as you know, and I just appreciate all the volunteer efforts you've done in this arena and all you've done for your community, and your service is very much appreciated and your opinions are valued. And so we thank you for coming today and giving us this information. [LB1029]

JOHN SEYFARTH: Thank you. [LB1029]

SENATOR STUTHMAN: Thank you. Seeing no questions, thank you, John. Thank you very much for testifying. Any other ones want to testify in the opposition? Please come forward. Good afternoon. [LB1029]

SARAH HELVEY: (Exhibit 2) Good afternoon. Good afternoon, senators. My name is Sarah Helvey and I'm a staff attorney at Nebraska Appleseed, and I'm the director of our child welfare program there. [LB1029]

SENATOR STUTHMAN: Would you spell your name? [LB1029]

SARAH HELVEY: H-e-l-v-e-y, and Sarah is with an h. [LB1029]

SENATOR STUTHMAN: Okay, thank you. [LB1029]

SARAH HELVEY: Thank you. We have concerns about LB1029 to the extent that the bill seeks to privatize child welfare services in Nebraska without any provisions regarding the role HHS would play in providing oversight of contracted services. And I heard Mr. Blue testify that the intent behind this bill was to provide privatization only of foster care, and not case management, although I want to just mention here that that wasn't entirely clear to me when I read the bill. I believe this bill is one sentence long, and that wasn't entirely clear to me when I read it. Maybe I was just missing something. But I think we've seen some concerns with oversight in terms of HHS's ability to oversee contracts in the past, and the department just doesn't have a strong record with regard to providing oversight of existing contracts, whether those be foster homes or transportation, and other contracts that they provide. Recent reports, for example,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

suggests that the department had no formal contracts with several Omaha agencies, although these agencies were providing services to state wards and were being paid by the state to do so. Furthermore, the department appears to have no clear system in place for ensuring that contracted providers are safe for children and meet quality standards. While we have worked closely with many private providers of foster care services, and believe that many of these agencies are doing a very fine job of providing services to children and care, we believe that Nebraska cannot and should not be looking at a contract-only system unless and until current oversight shortcomings are addressed. Thank you. [LB1029]

SENATOR STUTHMAN: Thank you, Sarah. Any questions from the committee?
Senator Erdman. [LB1029]

SENATOR ERDMAN: Sarah, so based on what you've heard today, the intent to be, whether it's reflected in the bill or not, what is your impression on what Mr. Blue pointed out that the intent of the legislation is? [LB1029]

SARAH HELVEY: You know, I think we would still have concerns based on oversight of all types of contracts. We don't feel like we have a good handle, as a system, on all types of contracted services. So I think at this time we would be concerned even about providing privatization, even of one subset of foster care services. [LB1029]

SENATOR ERDMAN: Is it my understanding, and is Mr. Blue correct though, that two-thirds of the services are currently privatized or contracted with? [LB1029]

SARAH HELVEY: I'm not aware, you know, one way or the other, of that date. I have no reason to dispute it. [LB1029]

SENATOR ERDMAN: Okay. [LB1029]

SARAH HELVEY: And I think that we...our position is that we have some concerns about HHS's ability to provide oversight of existing contracts, regardless of what that number is. [LB1029]

SENATOR ERDMAN: Okay. Because as I understand his testimony, we can follow up on this, the traditional care is under the department. The immediate and the treatment-based are somewhat privatized or contracted out, however you want to characterize it. But I appreciate your testimony. [LB1029]

SARAH HELVEY: Okay. Thank you. [LB1029]

SENATOR STUTHMAN: Thank you, Senator Erdman. Any other questions from the committee? Seeing none, thank you, Sarah. [LB1029]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

SARAH HELVEY: Thank you. [LB1029]

SENATOR STUTHMAN: Thank you very much. Next testifier in the opposition? Please come forward. I would ask those that are planning to testify, if you would come to the first front row or the second row so that we can hasten this along a little bit. I would appreciate it. Good afternoon, Carol. [LB1029]

CAROL STITT: (Exhibit 3) Good afternoon. I have a couple of handouts, and I am Carol Stitt, the executive director of the Foster Care Review Board, and I would echo. Our really main concern is the insufficient means of oversight, and then the serious communication gaps that occur between contractors and HHS. And it does run both ways. And I think we've had a concern about the lack of corrective action taken when concerns are identified. We did a special study, looking at over 900 children, birth to age 5, and found 147 children--that's right at 20 percent--had no documentation in their file about what happened during supervision. And there were also concerns about the number of people monitoring them. Twelve percent of the children had eight or more people monitoring their visits. What's particularly concerning about that is visitation is really the grounds that everything is decided on in child welfare, and so if you don't have a clear record of what's taken place you don't know whether reunification is really a good idea. With transportation, those numbers are even worse, where 85 children had four to different drivers transporting them, okay? So, you know, putting all those changes together, it is hard to get a clear picture of where a case should go. I think Senator Erdman raises a good question about how many services, how many service providers are there. I can't answer. I don't know that number. But I think looking at a study to determine just that issue and whether there are more positive outcomes, would be important. Currently, there are about three providers we have serious concerns about. Where it's reported to us, there is very little training for foster parents, and we have communicated this and we are working on it. So you have, you know, the people who were here today who I would say both systems provide strong services, but even in those systems we've seen some communication problems with the cases, and a reluctance to challenge a department. If they think that case plan is going in the wrong direction, sometimes the contract is a concern and they don't really want to fuss with the department too much. So those are just concerns I'd like to communicate with you. There is more documentation and more examples in my testimony, but I know you do have a lot of bills today and I want to honor your time. But I think the special study gives us some pause about seeing this as a magic wand for our system. I don't think it is. And I think the lower caseload sizes are something the Legislature really should look at in developing placements, and I think that's a place to look at the private providers. But, you know, it's not a panacea. We have to build a system of oversight, and they have to have the authority to take action. Okay? [LB1029]

SENATOR STUTHMAN: Thank you, Carol. [LB1029]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

CAROL STITT: Yes. [LB1029]

SENATOR STUTHMAN: Any questions from the board? Senator Hansen. [LB1029]

SENATOR HANSEN: I have one. Thank you, Carol, for coming today. Now, I can't find it, but anyway the czar idea from Illinois, I guess, how do you...if this would go through and we would privatize it at least a part of foster care, how do you see the Foster Care Review Board being a part of that, being the...? Would you like to be called czar? I think a "czaress?" [LB1029]

CAROL STITT: I've been called a lot of things. (Laugh) Czarina, you know. I was thinking about that when I was sitting back there; this testimony won't make me the most popular. You know, I think one of the things we really need in our state is an inspectors general. I gave you an example of a situation where we've been involved, we've had very serious concerns about a provider, and they are currently suing us. And, you know, it would have been very helpful if I could have just passed those concerns on to an inspector general, and say, could you go in and look at what's happened; could you look at these injuries; could you do an investigation? And in that way I think it's very important. I've looked more closely at the inspector general system than I have a czar. I think what the czar would be is, if there is a problem, that person would probably work with the inspector general's office to pass that on. But I certainly think we have to build more oversight. What we haven't talked about is there's a lot of money being spent in our foster care system. I really support the study that I think Senator Fulton was interested in, to figure out where are the dollars going, and is that really the direction that the Legislature thinks is appropriate. [LB1029]

SENATOR HANSEN: Okay. The czar, according to Mr. Seyfarth, said that in Illinois that person is part of the governor's staff. [LB1029]

CAROL STITT: Right. [LB1029]

SENATOR HANSEN: I mean, you are part of the Governor's (inaudible). [LB1029]

CAROL STITT: The Governor appoints my board and I work for that board. And that's one of the reasons I have probably been in my position as long as I have. I think if you were directly put in by the Governor, there would be turnover. And it's hard sometimes to figure out what's happening in the system. I was shocked by this study on how many visitation and supervision changes there were. And I had had people communicate that with me, but I didn't know that. I don't think it's good to put someone directly under the Governor if you want a long-term view of the system, you know, and report back what happened ten years ago and where are we now. I think you need a little insulation. [LB1029]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

SENATOR HANSEN: So would it be better for that inspector general to be a part of, in Nebraska, to be part of the Attorney General's Office... [LB1029]

CAROL STITT: I think so. [LB1029]

SENATOR HANSEN: ...where they have investigative and...? [LB1029]

CAROL STITT: Yes. I think a children's division in the Attorney General's Office, you know, that could... [LB1029]

SENATOR HANSEN: (Inaudible) prosecution (inaudible). [LB1029]

CAROL STITT: ...yeah, could look at this. We have that for criminal child abuse cases but we don't have that to look into facility concerns. And sometimes trying to penetrate some of these bureaucracies is a problem, and, you know, you also have the issue of, well, you're breaching confidentiality if you take problems forward, or...you know what I mean? There's a lot of ways they can go after you to stop it. Or you may have a very politically connected contractor, and it could be hard to get past that, you know. This way, if you had it clearly spelled out that these people could investigate it, I think there would be real promise. [LB1029]

SENATOR STUTHMAN: Okay. Thank you, Senator Hansen. Any other questions from the committee? Seeing none, thank you, Carol. [LB1029]

CAROL STITT: Thank you, Senator. [LB1029]

SENATOR STUTHMAN: Next testifier in the opposition. Good afternoon, Sarah. [LB1029]

SARAH ANN LEWIS: Good afternoon, Senator Stuthman, members of the committee. My name is Sarah Ann Lewis, L-e-w-i-s, and I'm the policy coordinator and registered lobbyist for Voices for Children in Nebraska. And I would just simply like to echo the concerns of those that have gone before me, about improving the current contract oversight that the system is dealing with. We would also like to see more information on the intent of this bill, as one sentence doesn't really bring us to full knowledge of what is intended. And also fiscal implications of privatization are also of a concern, as the fiscal note says that higher costs could...would be incurred to implement this bill based on the interpretation of the language of the bill. So those would be our concerns with this bill. [LB1029]

SENATOR STUTHMAN: Thank you, Sarah Ann. [LB1029]

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Health and Human Services Committee
February 13, 2008

SARAH ANN LEWIS: Thank you. [LB1029]

SENATOR STUTHMAN: Any questions from the committee? Seeing none, thank you very much. [LB1029]

SARAH ANN LEWIS: Thank you. [LB1029]

SENATOR STUTHMAN: Any other testifiers in the opposition? Good afternoon. [LB1029]

JODI SOMMERS: Good afternoon. My name is Jodi Sommers, J-o-d-i S-o-m-m-e-r-s. I am an agency-based foster parent, and I have worked with three of the major agencies in Lincoln. And I'll just start out with the latest story. The agency that I'm with right now, I had children, a three-year-old and a four-year old, that came to me after being in agency-based foster care for two years, that were...had been totally neglected. The four-year-old, her teeth were so rotted out that she had to be put under anesthesia to have her teeth fixed. They both needed glasses, and when I told them I was taking them to an eye doctor, that agency asked why, because they're little kids, you know. Well, they run into things. They obviously can't see. And they were prescribed very thick glasses. They were very developmentally delayed. I got one of them into special ed at a public school. I had no support or backing from this agency. All these appointments that I had to take these girls to, I had a hysterectomy three weeks after they came to my home, I took them to all these appointments when I was going through my recovery of my hysterectomy. And did I have any help with that agency? None whatsoever. The little girl that was put under, she totally freaked out when she woke up, and the staff came and got me and said we don't usually bring parents back here but we can't calm her down. I went back, two weeks after having surgery, cut open, and she's kicking my stomach and I'm trying to calm the poor little thing down because it was so traumatic, and they had to sedate her. And my point is, I don't see the overseeing of the state. I have tried to go to the state and report these issues, because I tried to work with the agency. The state just says, well, we'll look into it, but, of course, we can't tell you anything because everything, you know, is private. So whether they've done anything about it, whether the state covers the agency, we as foster parents do not find out. There are many other issues with these two girls. They were taken away from me in November. I was accused of child abuse, that I had burnt one of them, and they both had rashes because they had eczema and they had a rash that would last up to nine months. And I had told this agency when they called me and said that they were removing them because I had burnt this little girl, that it was her rash; take her to the doctor. Well, it went through the whole process. I sat down with CPS. I had to go through my interview. It was found that I had burnt her, and I said, no, no, no; you need to call Visinet. They were supposed to...the agency, they were supposed to take her to a doctor that day because I said, take her, it's her rash. Well, she left. She called me within one hour. She had called Visinet. Two days before that...oh, I'm sorry, I keep

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Transcriber's Office

Health and Human Services Committee
February 13, 2008

saying...the agency, two days before that they had found out it was a rash. They waited eight days to take her to the doctor, which is neglect on their behalf, waiting eight days, if they felt this child had been burnt. And they did not report it to CPS, knowing that they reported me to begin with, to say, hey, we have found out this is a rash; it's not a burn. And I am still trying to work with HHS on that fact, trying to get that straightened out. And I don't know if they've done anything against that agency or not. And for what I have been through, you know, it just...I don't see the oversight of anything, and I don't see where foster parents are protected in any way. And I am not for agency-based. I've been with three and I'm just not for it. [LB1029]

SENATOR STUTHMAN: Thank you, Jodi. Thank you very much for your testimony. Any questions from the committee? Seeing none, Jodi, I would like to ask that you fill out a testifier's sheet if you would, please, and enter it in so we have it in the record, so. [LB1029]

JODI SOMMERS: I will. [LB1029]

SENATOR STUTHMAN: But thank you very much for your testimony. [LB1029]

JODI SOMMERS: Thank you. [LB1029]

SENATOR STUTHMAN: Thank you. Any other testifiers in the opposition? Any testifiers in the neutral? Come forward. Good afternoon. [LB1029]

MICK KLEIN: (Exhibit 4) Good afternoon. My name is Mick Klein, M-i-c-k K-l-e-i-n. I am a agency-based and emergency foster care program supervisor. I'm also the chapter chair for the Nebraska Department of...or excuse me, the Nebraska Foster Family Treatment Association, which is an affiliation with the National Foster Family Treatment Association. And so this agency or this association is one that works with all of the different providers in the state of Nebraska that provide agency-based or emergency foster care programming in the state. I am a foster parent, have been a foster parent and also an adoptive parent, and adopted three children within the Department of Social Services system. We, our association, and I'm representing them, are taking a neutral stance at this point, mainly because we think there is more information that needs to be obtained before...and more research that needs to be done in regards to what goes on within a privatized system of care. I used to work at United Methodist Youthville, have been in contact with them in Kansas. They are the largest private provider in Kansas that does privatization. Kansas is the oldest state that has been privatization in the system, and there are issues that I think need to be addressed and studied prior to jumping into something as large as this might be in terms of taking on the entire foster care system by providers in this state. So what we would like to see is a study group formed to look into this process so that we can indeed look at what goes on within that context. There are states that are doing extremely well with privatization. There are

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Transcriber's Office

Health and Human Services Committee
February 13, 2008

states that are struggling. But there is a growing state-by-state initiative to look at privatization, and so I think what we need to do is look at how we can learn from what they have been successful at or not successful at, and build it so that it will work for the long run, in the long term. I think I've heard testimony that kind of mixes visitation with foster care, and those sorts of things. I think in some ways those are separate issues in regards to how things are contracted out. I think there is continuity issues that influence and affect what goes on with the system, and I think there's both pro and cons about how things are initiated and put out there in terms of these contracts. I think we would need to look at a whole different system rather than trying to just contract it out; that we need to look at a whole funding rate system and a number of different angles that need to be identified before we will want to jump in to this. And I think that will take some time to study, and that's why we're taking a neutral position. [LB1029]

SENATOR STUTHMAN: Okay, thank you, Mr. Klein. Any questions from the committee? Senator Pankonin. [LB1029]

SENATOR PANKONIN: Thank you, Senator Stuthman. Mr. Klein, I do appreciate your testimony because your thoughts are kind of like mine, from the standpoint this is a big move, maybe has a lot of consequences, and further study is probably...I appreciate Senator Fulton bringing it because I think it's an important discussion to have. But I like your idea that, you know, let's learn from these other states and find out what some of the pitfalls are, and I just appreciate your comments today, and so thanks for bringing them to us. [LB1029]

MICK KLEIN: Thank you. [LB1029]

SENATOR STUTHMAN: Thank you, Senator Pankonin. Any other questions? Seeing none, thank you for your testimony. [LB1029]

MICK KLEIN: You bet. [LB1029]

SENATOR STUTHMAN: Any other testifiers in the neutral? Good afternoon. You can just place them on the corner of the desk there. Thank you. [LB1029]

LEIGH ESAU: (Exhibit 5) Good afternoon. My name is Leigh, it's L-e-i-g-h, Esau, E-s-a-u. I'd like to start by thanking you for your time and the opportunity to speak before you this afternoon. My husband and I are current foster parents, and I follow the happenings of the foster care system closely. I have read through LB1029, and I would like to take this time to share with you some of my concerns I have about the bill in its current form. It is my understand that this bill would transfer the oversight and case management of foster care to agencies throughout the state of Nebraska. I have concerns about this proposal because I fail to see where this will enhance the ability of the foster care system to function efficiently. I believe the intention of this bill is to have

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Transcriber's Office

Health and Human Services Committee
February 13, 2008

closer accountability of where services and funds are distributed within the foster care system. However, I feel that the bill in its current form would not address the root of the problem of accountability. I don't see where having several different agencies with various philosophies and interpretations will be able to function as one entity to serve the children who are the wards of the state of Nebraska. I am also concerned with how this is nothing more than shuffling papers from one side of the desk to the other. Our current system has case managers overburdened with caseloads, and if we transfer caseloads to agencies, who typically have far fewer employees, I believe that we will just transfer the overburden to family support specialists. To keep repeating the very thing that is a burden on the system currently, agencies would have to hire additional staff. This could be cost-prohibitive for agencies, as well as the state of Nebraska. As a foster parent, I am very aware that there needs to be accountability for where and how services and funds are distributed. I am very aware that somewhere between the state budget and the foster care system expenditures, there is a great divide. All too often there are people being reimbursed for their services at a very handsome rate, while those on the front lines who are actually trying to meet the needs of the children, are left begging for crumbs. I am very aware that the foster care system of Nebraska is imploding. I believe that those who are responsible for the accountability of the oversight have been, to some degree, entered into a race that was lost long ago. For far too long there has been little oversight of the foster care system, and it has led us to the path we are on now. I believe that until the root of the problem is addressed, that we will simply add another runner to a race with the same results. This is not fair to the agencies, to the state of Nebraska, nor to the children we serve. I want to help bring positive change to the foster care system in any way that I can. I don't have a magic potion in my back pocket, and there are no quick fixes. I deeply care about this state of Nebraska and our future. I realize that many members of the future of Nebraska has walked through my doors. I want to make Nebraska the best possible state in the nation when it comes to setting an example of truly putting our children first. In closing, I'd like to thank you again for your time and allowing me to voice my concerns for LB1029. [LB1029]

SENATOR STUTHMAN: Thank you, Leigh. Any questions from the committee? Seeing none...or, yes, Senator Pankonin. [LB1029]

SENATOR PANKONIN: I've got one, Senator Stuthman. Appreciate you coming today. Just curious about just a little bit more on your background, being a foster parent, how long and some of the circumstances, a little bit of, how many kids, and that sort of thing, if you could... [LB1029]

LEIGH ESAU: Sure. We've been foster parents for approximately seven years. We have had approximately 20 children come in and out of our home. We've worked with everything from teenage boys to, right now we have two babies that are both a year old in our home. And I guess what I'd like to say, too, and wanting to be an advocate and

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Transcriber's Office

Health and Human Services Committee
February 13, 2008

somebody who is working to help fix or do something to improve the system, my husband and I started a nonprofit organization called the Foster Care Closet this last year, and that's to help bridge the gap between the lack of ability to get the funds necessary to take in emergency placements from meeting clothing needs and shoes and things like that, and we distribute those items free of charge to the caretakers of the people who are the wards of the state. So I am very concerned with how the current system is working--or better, not working. I am just not convinced that switching it all over to an agency-based transition is really the answer, because you haven't solved the problem. The problem is oversight. And until that is pinpointed and figured out exactly who is going to be in charge of that and give them the authority to be in charge, and then hold them accountable to being in charge, you're just mopping a dirty floor with dirty water. [LB1029]

SENATOR PANKONIN: Thank you for coming. Thanks for your service to the state in this way. [LB1029]

SENATOR STUTHMAN: Thank you, Leigh. Just...I've got one question. [LB1029]

LEIGH ESAU: Yes, Senator. [LB1029]

SENATOR STUTHMAN: In the process, and you stated you were with the system for seven years you've been a foster parent, parents for seven years, and there's been 20 kids that you've gone through. Do you feel that that's good to move so many kids through a home into another home, and then the kid is only there...? And I visited with foster teens that have probably been moved 15 times. Is that good for the child? [LB1029]

LEIGH ESAU: I would say that on an ongoing basis, no, that is not. However, I would caution you to remember that as a child gets older and as they are state wards longer periods of their time, it is very difficult for families to manage some of the behaviors that these teens eventually exhibit, because of this world of limbo. What you have got to do is you have got to start enforcing the guidelines of getting kids into a permanent placement in the time frame that best meets their needs. And so, no, it is not good, and each one of our kids that have been in our home have left for various reasons. Some have aged out. Some have moved into a bio-parent home, and some have run away and had to be put into higher level care. We have adopted one. We got a little guy when he was two days shy of being three months old, and we adopted him on adoption day last November. So he was a little over two by the time we were able to adopt him. But that's two years of his life. I have a new...a baby that came to us as a newborn, and she is now 14 months, and they are just now starting that termination of rights process, which means it's going to be probably at least another six months before she is really available to adopt. So, I mean, it's a really...this is a very, very complicated issued, and I don't think that trying to slap a Band-Aid on a dam is going to hold the water very long.

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Transcriber's Office

Health and Human Services Committee
February 13, 2008

[LB1029]

SENATOR STUTHMAN: Okay. Thank you very much, Leigh. Thank you very much for your testimony, and thank you for the service that you do. [LB1029]

LEIGH ESAU: Sure. [LB1029]

SENATOR STUTHMAN: Any other testifiers? Good afternoon. [LB1029]

SCOTT DUGAN: Good afternoon, senators. My name is Scott Dugan, S-c-o-t-t D-u-g-a-n. I am the president and CEO of Mid-Plains Center for Behavioral Healthcare Services. We're a service provider in central Nebraska, based out of Grand Island, work in the central service area. And for nearly 20 years we've been providing foster care services at the agency-based treatment in emergency levels, as well as several other associated child protection services that were contracted for. I'm here today on behalf of our agency in a neutral stance. Like others before me, I believe that going full steam into a major change like this needs to be done cautiously. I would agree that perhaps a study is in order to gather more information on what the impact truly is, and basically identifying what goals do we really want to attain. Just for the sake of time, there are just a few things I'd like to...I want to make sure that the committee is clear on, as there's been some mixing of issues. I agree with Mr. Klein earlier, saying that the visitation piece, while it's a component of foster care, that is an entirely separate issue from what Senator Fulton's bill is addressing. This is specifically addressing one segment of foster care that is still managed and run by the Department of Health and Human Services. And to that, you know, we've identified a couple of segments of foster care. The segments are not equal in volume. The section of foster care that's referred to as traditional foster care has an exponentially larger number of children than any agency-based or emergency foster care that's being done. So we're talking a large volume, and that's from our side of things as a provider, it's concerning to us that too quickly we have a burden of having to manage a very large number of homes and children that we couldn't be staffed to. The point of accreditation was brought up by Senator Howard. Accredited, I would guess, and I don't have the numbers, but the majority of private organizations providing foster care in our state are probably accredited by one of the accrediting organizations. And those accreditations mandate low caseloads. At our agency, it's an 8-1 ratio. Every foster care home coordinator only is coordinating for eight children. So if we were given another 300 children, you can do the math and figure out how many more staff we would have. That's why we're concerned about how would we implement this, because it would take some time, because our staff, again, bachelor's level people with experience, we have a 40-hour minimal training with an additional 20-40 hours of training on top of that. So I think it's important to realize what this would mean to our system as a private provider. I would also like to point out the cost factor. There's been some mention in testimony about being able to perhaps save money for the state taxpayers by doing this because

Health and Human Services Committee
February 13, 2008

charities and nonprofits such as Mid-Plains Center have the luxury of going out and raising a whole lot of money from donors. There is a big disparity between rural Nebraska and urban Nebraska, and especially when it comes to raising the funds. We don't have large bases of population and industry as you do in Omaha and Lincoln, where the potential for raising funds is much greater. You get out to Grand Island, Kearney, Lexington, North Platte, you don't have as much potential for raising money, so you cannot offset your costs to the level that perhaps you could if you were operating in an urban area. So I think that's important when you're thinking about this as a cost-savings measure. There may be part of this study has to be devoted to disparities between delivering children's services in rural areas versus urban. You know, when I have ten foster homes within a 3-mile radius in Lincoln, it's much different than ten foster homes in a 70-mile or a 100-mile radius out in rural Nebraska. So I think that's an important factor that has to play into this, as well. And then the last thing I wanted to mention is just that, just like any other segment of business, there are people who do things really well; there are people who don't maybe do them so well. And I would like to be careful that we don't group providers, whether they're for-profit, not-for-profit, into any certain group, that they can't do it as well. Every one of us, I think, is out there for the right reasons with the right intentions, and we're doing our best to help the children of Nebraska. So I would just ask the committee to perhaps discuss the issue and maybe look at some type of study, and then readdress this issue once more information on how this could best be done is taken. So thank you. [LB1029]

SENATOR STUTHMAN: Thank you, Scott. Any questions from the committee? Seeing none, thank you for your testimony. Any other ones in a neutral position? Seeing...well, you better get up here. I'm just about ready to call it done. We've utilized an hour and 15 minutes on this, and we have three more bills to go. So please keep your comments to less than five minutes, please. Good afternoon. [LB1029]

TODD LANDRY: (Exhibit 6) I will do my best, Senator. My name is Todd Landry, T-o-d-d L-a-n-d-r-y. I'm the director of the Division of Children and Family Services for HHS, and I'm here today to testify in a neutral capacity on LB1029. And first of all, I would like to express my thanks to the dedicated foster parents across this state who provide excellent care to children, and work with children's families toward change. And I would also like to express my thanks to the 17 provider agencies that the department currently contracts with for foster care services, for their commitment, as well. As you consider LB1029, I would like to share a few thoughts with you related to activities currently underway or planned related to children served by DHHS. In order to truly change from out-of-home to in-home services, reduce children coming into state care, and effectively and efficiently changing the service delivery system it is necessary to change the whole system, and not just an isolated piece of the system. By breaking off only the agency-supported foster care piece, true system reform is less likely because, in part economy of scale and continuum of care cannot be achieved. Outsourcing services requires packaging services in a bundle large enough to attract private sector

Health and Human Services Committee
February 13, 2008

providers that can provide the full service array. Breaking off only a section of foster care rather than all of out-of-home care, and perhaps in-home care as well, limits and restricts the funding possibilities and strategies necessary to create such profound reform in the delivery system. Our current direction in DHHS is to proceed in a much more encompassing way with services and the service delivery system than what is currently proposed in LB1029. While LB1029 focuses on agency-supported foster care, DHHS envisions a future that addresses all levels of out of home care, as well as in-home care for children. As you're aware, the department's response to the work of the Behavioral Health Task Force formed as a result of the passage of LB542 during the last session, outlines the department's intent to develop a true continuum of services that we refer to as our service array. The service array pyramid, as you see in Figure 1 of the attachment, includes foster care with wraparound in the second from the bottom layer of the pyramid, but also includes group home care with wraparound, and bio-family care with wraparound. The next higher level of care includes children needing more intensive services, like a psychiatric residential treatment facility or inpatient hospital stay. The pyramid really reflects our desire to serve children at the right level of care for the right amount of time in the right setting. And as you can see, the level of intrusiveness increases as you move up the pyramid. At the present time, the Division of Children and Family Services has just under 7,000 children in our care and custody. Of those nearly 7,000, approximately 4,800, or 70 percent, are served in some type of out-of-home care setting. While agency-supported foster care is one such level of care, there are many other placement settings as I just described. We are committed to serving more children in-home over the next few years, and will be working towards achieving and moving from 70 percent of children served out-of-home to 70 percent served in-home with wraparound services. This is described in Figure 2. We've also been working diligently to reduce the number of children in foster care and to expedite the movement of permanency for a child. We have reduced our numbers of state wards from an all-time high of over 7,800 in April 2006, to 6,985 in January of this year; a reduction of over 800 children successfully reunified with a parent or with a finalized guardianship or adoption. By this time next year we intend to have 6,000 state wards and eventually be down to 5,000 state wards by January 2011. To accomplish these outcomes of serving more children in their homes and having fewer children needing to be in state care, we need an array of services that includes agency-supported foster care, but also the types of foster care, in-home services, early intervention and prevention, and other out-of-home care. Thus we have outlined our service array pyramid, identifying those services we believe necessary to accomplish these objectives and assist us in meeting our federally mandated outcomes. Additionally, we've already moved forward with beginning to change our service delivery system. Early this month we released a request for proposal for an administrative service organization for managed care for treatment services for children. We plan to soon release an additional RFP for in-home services and to possibly follow up in the future with an RFP for all out-of-home care services. We continue to work with the department to coordinate the service array among the divisions, and we hope in the future you will clearly see a more

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Transcriber's Office

Health and Human Services Committee
February 13, 2008

seamless and more effective and efficient service delivery system. Thank you for your time. If you have questions, I'd be happy to try to answer them. [LB1029]

SENATOR STUTHMAN: Thank you, Mr. Landry. Any questions from the committee? Senator Erdman. [LB1029]

SENATOR ERDMAN: Todd, thanks for being here. Maybe you can't comment on the one testifier that was here today, but it doesn't seem to be unusual to have former foster families or current foster families find themselves in situations that they're not aware of the resolution or are not informed of some of the details. Ms. Sommer spoke of her situation where she was being investigated, and are we...? And I'll just be candid. When I first got elected to the Legislature eight years ago, I had a town hall meeting in Kimball, Nebraska, and everybody that was in that room at one point was a foster parent and they never will be again. I'm interested in knowing, for example, this individual...and these people were elected officials. It wasn't my intent to talk foster care, but they wanted to talk to me about it. What types of things are in place to help with those cases? And as the director, how do you see your role in making sure in addition to the services, but also the people that are helping to provide those necessary care services, are informed of what's going on, and how do we balance the interest between the state and their rights as a foster parent? [LB1029]

TODD LANDRY: Well, I think your very last statement is exactly right. We have to work on trying to find that balance between information that we're able to share and protecting the confidentiality of the youth and families that we're serving, at the same time trying to create a more seamless delivery system. We clearly have a better job to do. As I have indicated to some of you in the past, one of the keys that I believe is present that we need to move towards is true performance-based contracting. And I concur with many of the comments that were made, that we currently don't have performance-based contracting in many of our contracts. Beginning in July of this year, with the next wave of contracts, I believe you're going to hear and see very clearly that we're moving in that direction and we're trying those back to the federal outcomes. Part of that, to achieve that, is also going to be better communication with our foster parents. We know we need to do a better job of that. At the same time, we're always going to have to balance the piece that you said at the end, between confidentiality and information that we're able to share. We're always going to need to very carefully investigate allegations of abuse and neglect. Those are serious allegations and we have a statutory responsibility to make sure that we investigate those. Sometimes in the course of the investigation, we may not be able to share everything that we would like to be able to, and sometimes obviously we work with law enforcement to make sure we're not impeding any criminal investigation, as well. So there's a lot of considerations that have to go into that piece. What I will say is, I have a strong recognition that improvement does need to be made in the communication to our foster parents, as well as communication with other entities, such as schools, such as courts, and such as

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

others within the community. We just want to make sure we're doing that in a balanced perspective. [LB1029]

SENATOR ERDMAN: Good luck. [LB1029]

SENATOR STUTHMAN: Thank you, Senator Erdman. Any other questions from the committee? Seeing none,... [LB1029]

TODD LANDRY: I do want to, for the record, I know the question came up about numbers, and I would like to say, for the record, as of December 2007, there were 1,134 youth served through agency-supported foster care. There were 2,187 state wards in traditional foster care. So those are the exact numbers as of the end of December 2007. [LB1029]

SENATOR STUTHMAN: Thank you, Mr. Landry, for that information. [LB1029]

TODD LANDRY: You're welcome. [LB1029]

SENATOR STUTHMAN: And, again, thank you. Any other testifiers in the neutral? I see none. Senator Fulton, would you like to close? [LB1029]

SENATOR FULTON: With brevity. I would not be here with this bill if there weren't egregious problems within our foster care system. I've talked with many of you outside, and I think that we agree that there are problems. We therefore have two logical potentialities to consider. We can either continue what we've been doing or we can change. I propose to you a change. I proposed a particular way of change. There are arguments to be made in favor; there are arguments to be made against. But I think what I have gleaned in this testimony and what we should all glean is that there is grave concern of oversight. I have heard proponents and opponents both express concerns of oversight. With that, I want to point to the bill because the bill is actually very straightforward, and I will go ahead and read this to you. "The Department of Health and Human Services shall administer the program of social services in this state." That's existing statute, and there we identify the overseer, the Department of Health and Human Services. That's where statutory oversight lies. My sentence...or the following sentence, "The department may contract with other social agencies for the purchase of social services..." That's the way it is now, and the department has contracted with other social agencies. The testifier before me indicated there were 2,187 children, and of those, 1,134 are using other social agencies. That's the statutory language. These children have their services provided, if we do the math on this, about half of the children who aren't receiving care in the agencies are having their care provided, their services provided, by those that aren't agencies. The only logical possibility is the overseer. We have a situation where services are being provided by the very entity which is responsible for overseeing those services. Perhaps therein lies some of our

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

problem, and that's why I bring this bill to you today. The only thing I am adding to statute is one sentence, with the word "shall." And that leads us to this discussion we have now. The statute, I hope you'll bear in mind, is not ultimately for agencies in the private sector; it's not for the benefit of senators nor is it for the benefit of the department. Ultimately this statute exists for the benefit of these 2,187 children. It's a very straightforward sentence. And with the understanding that this exists for these children, let us not lose sight of the forest for all the trees. So I hope you will look favorably on the bill, and if there are any questions I would entertain them now. [LB1029]

SENATOR STUTHMAN: Thank you, Senator Fulton. Any questions from the committee? Seeing none, thank you very much. And this closes the hearing on LB1029. And we will open the hearing on LB1031. Senator Ashford, come forward. Senator Ashford. Come on Brad; come forward. We're ready. [LB1029]

SENATOR ASHFORD: I've got to make up a lot of amends with this bill here, I guess. [LB1031]

SENATOR STUTHMAN: Good afternoon, Senator Ashford. [LB1031]

SENATOR ASHFORD: (Exhibit 1) Senator Stuthman, thank you for inviting me. My name is Brad Ashford. I represent the 20th Legislative District and I'm here to introduce LB1031. And let me just tell you that I have a few people that are going to come after me that will talk about in detail what I'm asking this committee consider. And just as a little background this...first of all, this bill involves Section 28-377, the green copy sets forth the changes, the underlined changes, the changes that I'd like to propose regarding records that are available from the Adult Protective, under the Adult Protective Services Act, and then records that would be available under the Child Protection Act. This came about because of some meetings I had this summer regarding violence in Omaha and my interest in this topic really, in a general sense, emanates from my experience working in north Omaha and in south Omaha with people in extreme poverty, though this bill does not cover only that sort of thing. But in dealing with some of the extreme violence that we've had to deal with in our city and in consulting with some research people, very accomplished researchers from Creighton University, they have indicated to me some concerns that they have about their inability to obtain records that would enable them to do research into the root causes of violence. And I think we hear, and what really struck me about this idea, Senator Stuthman and members, is that we talk about how do we root out violence, how do we attack violence. Is there an answer, and it's clear there is not one answer. But one of the answers is to understand the societal issues involved in violence and why does violence occur. When does it occur? Where does it occur? And in order to get at those issues it's necessary, at least in my view and I think in the view of the testifiers that will testify on this bill, is they've got to be able to access names of individuals to talk to them about

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Health and Human Services Committee
February 13, 2008

their stories and about those things that have happened to them. And simply put, this bill would expand the individuals who would have access to records under these two acts, Adult Protective and Child Protective, and under restrictive conditions. And again, I do have an amendment that deals with University of Nebraska and Creighton University would be...they would have to be the entities requesting the records would have to be one of the two, either one of the two medical centers, and under the conditions set forth in the act. I know, I know that there are issues regarding confidentiality, obviously, there are. What I'm asking the committee consider is to address those issues of confidentiality to allow in a restrictive environment the ability of skilled research people to have access to records so that they can access people that, in order to find out what's going on in the lives of individuals that have been victims of violence. And Senator Stuthman, if nobody else, you certainly in your safe haven bill have brought out, brought to the Legislature the issue of violence with infants and so this is somewhat though on the same vein. So with that, Senator Stuthman, I would certainly urge this bill be advanced. [LB1031]

SENATOR STUTHMAN: Okay. Thank you. Senator Ashford. Any questions from the committee? Senator Erdman. [LB1031]

SENATOR ERDMAN: Brad, help me with your amendment here. We're amending page 4, page 2, line 24, after "confidentiality" insert "as issued by the National Institutes of Health." [LB1031]

SENATOR ASHFORD: Right. [LB1031]

SENATOR ERDMAN: So then the language would continue on, "on a form provided by the department." [LB1031]

SENATOR ASHFORD: Correct. By this state department. [LB1031]

SENATOR ERDMAN: So your intention is to leave, is to just add that phrase. That's your intention. It's not to strike the additional language but to add this to that. [LB1031]

SENATOR ASHFORD: Correct. [LB1031]

SENATOR ERDMAN: Thank you. [LB1031]

SENATOR STUTHMAN: Thank you, Senator Erdman. [LB1031]

SENATOR ASHFORD: And any other amendment just limits the individuals who could have access to the records. [LB1031]

SENATOR STUTHMAN: Okay. Thank you, Senator Ashford. [LB1031]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

SENATOR ASHFORD: Thank you. [LB1031]

SENATOR STUTHMAN: At this time I would like to ask how many people are going to testify as proponents for this bill. We have four. [LB1031]

SENATOR ASHFORD: I have a letter, some letters too. One letter if I could, sir. [LB1031]

SENATOR STUTHMAN: Okay. We'll give them to the page. And thank you for getting your testifiers organized. They're very respectable and come to the front of the chamber here. So, first testifier come forward please, and good afternoon. [LB1031]

FRED SALZINGER: Good afternoon, My name is Fred Salzinger, S-a-l-z-i-n-g-e-r. Senator Stuthman and members of the committee. I'm here representing Creighton University and I want to speak in favor of LB1031. I also want to thank Senator Ashford for bringing this bill forward. It's a very important bill that will help us out and help the state out over the long run. Information and access information is a critical component to successful research whether its biomedical research or demographic research. It's important that people have good information and have access to good information to make their decisions. This bill will allow our researcher, Dr. Trish Sullivan, who will follow me, access to the vital information that will greatly improve the quality of her research and to potential outcomes that may result. She has a long history of this research in looking at violence and has had a tremendous track record in protecting the confidentiality of her subjects. Creighton takes confidentiality of this type of information very seriously. It's...we are, we do a large amount of research at the university, a larger amount of it involves human subjects. We have many regulations that govern how we do that research. Primarily it's through an entity called the Institutional Review Committee or we shorten to the IRB. We cannot, and this applies to all our research, not just federal research. This is an entity that's monitored by the federal government. It's rules are defined by the federal government. They come in and they audit us. And they have the ability if we violate these rules, to shut down all the research at Creighton and any other research institutions. So, it's a committee that's composed of about 20 individuals from across the university including lawyers and other researchers and social scientists, and their intent is severalfold. One, is the research that's going to be done in the best interest of the, will it protect that person. Then it gets into the confidentiality and how we maintain that confidentiality, how we inform the subject of what their rights are and how the information will be used. We have stringent penalties in place if that is violated. While this is not patient care information that's protected under the HIPPA regulations, we go to great extremes to be sure that our subjects are well protected and their confidentiality is respected. The IRB also, they take their task very seriously and speaking, not speaking for the University of Nebraska Medical Center, but from experience, they treat this information with the same respect that we do at Creighton. Dr. Sullivan will explain more about her research which she does. If

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Transcriber's Office

Health and Human Services Committee
February 13, 2008

there's any questions, I'll be glad to answer them. [LB1031]

SENATOR STUTHMAN: Thank you, Fred. Any questions from the committee? Seeing none, thank you. At this time I would like to also enter into the record that we have been joined by Senator Gay, the vice chairmen of the committee, so thank you for coming. [LB1031]

SENATOR GAY: Thank you, Senator [LB1031]

SENATOR STUTHMAN: Next testifier as a proponent. Good afternoon. [LB1031]

DR. PATRICIA SULLIVAN: (Exhibit 2) Yes, Senator. My name is Dr. Patricia Sullivan, S-u-l-l-i-v-a-n. I'm a licensed psychologist in the state of Nebraska. I'm a professor of psychiatry at Creighton University Medical School and I'm an NIH funded researcher on the long-term effects of violence exposure, including child abuse, domestic and community violence in childhood and just beginning to get into elder abuse. I'm testifying in favor of LB1031 allowing researcher access to the names in the child abuse and elder abuse registers. My comments are written only limited to one page so, but I just want to kind of highlight them. You don't need a rocket scientist or me to tell you that violence is pervasive in society and it's in urgent need of such study. Violence has been designated as a public health problem by the Centers for Disease Prevention and Control and also by the NIH and violence reduction is a goal in Healthy People 2010, which is our nation's health agenda. It's also...violence is also going to be listed as a goal in Healthy People 2020. Now research is going to play an indispensable role in attaining that reduction in violence by actually identifying causes and correlates, as well as effective prevention and intervention targets. The public health approach, this is one of the reasons that the bill is, wants to have medical schools involved. The public health approach is a very stringent, very highly confidential and very efficacious means of research. It requires epidemiological studies through data collection in a collaborative, also cooperative effort across state and community agencies and researchers. And it's customary practice in medicine as well as in the legal area to compile databases of individuals with a given disorder or crime status and provide these data sets to bona fide researchers. The violence emergency that we have in our state requires the loosening of some of the confidentiality strings blocking our ability to learn more about specific characteristics and importantly, identify protective antidotes. This is loosening, this is not breaking. You know, allowing carefully controlled researcher access to the child abuse and elder abuse registries is a necessary starting point. Current law does not allow release of the names to researchers who have this stringent confidentiality framework. It's actually threefold. One is from the researcher themselves. I'm on the Nebraska Psychological Association Ethics Committee and you have to maintain all of your research confidential, irrespective of whether you're a psychologist or a psychiatrist. So that's one constraint. The other is, to get IRB approval, you have to pass this watchdog group of people worse than your dissertation committee questions,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

regarding what, how you're going to actually maintain confidentiality and then that interagency within the institution is the watchdog and insures that the researcher will maintain that. But secondly, there is a certificate of confidentiality that's available from the Secretary of Health and Human Services in Washington. That further protects the confidentiality of that data. If a researcher at Creighton or UNMC should be approached and given a subpoena asking for the names to be released, the researcher would not respond to that subpoena and by that certificate of confidentiality does not have to do so. What happens is, when you don't have the names, all you can do is count the number of victims. And we need to do more for victims of abuse than just count their number. When you do have the name, it allows you to look at their life circumstances and that's very important in identifying both prevention and intervention goals. It's also very important and integral in identifying some of the causes. You know, the Nebraska Department of Health and Human Service is a repository for the child abuse and elder abuse central registers. It's a regulatory and service entity. It's not a research one. There are financial benefits to the state. This is not going to cost the Unicameral anything in order to allow this. The bar in, if the legislation is passed, is high. Only the most stringent NIH funded researchers and people who wish to collaborate with them. Don't necessarily have to be in that medical school who want to collaborate. But the research itself would be conducted from the medical school because of those very high stringent confidentiality criteria. This will attract more NIH funding to our state, which we're one of the few states that uses or earmarks some of our tobacco settlement research dollars to encourage research and attract more research, especially NIH funded. It's going to create more competitive jobs for researchers in Nebraska, attract them, perhaps convince some people to stay here. I've lost some very good research assistants over the years to other states. And importantly though, the people in this state, state agencies, courts serving high risk youth and elders in Nebraska are going to reap the benefits of this research because it will identify the most efficacious prevention and intervention programming to implement with children, youth, and elders. This is going to insure a judicious use of state monies and you've heard many times this afternoon a plea for research. You know, one of the things that I would encourage and urge you to do, would be to make sure that that research is done independently by someone who is not the agency providing the service so that it will have more credibility. We're all victims of the effects of the violence epidemic in our state and we need to work together to both understand and address it. I thank you for your time. [LB1031]

SENATOR STUTHMAN: Thank you, Dr. Sullivan. Any questions from the committee?
Senator Pankonin. [LB1031]

SENATOR PANKONIN: Thank you, Senator Stuthman. Thanks, Dr. Sullivan, for your testimony. I...you know, obviously I think confidentiality is always a concern and I guess there's going to be a lot of ways to address that. I'm just more curious about this type of research. Do you talk to both the victims and perpetrators of these type of events or what do you actually try to do here? [LB1031]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

DR. PATRICIA SULLIVAN: Well, that depends, and that's an excellent question, Senator. It depends on whatever the research protocol is. In the grant that I have from the NIH, this is based on a study I did in 1994 and 1995 where I was granted names from the child abuse central register as well as Police names, and so forth. I am locating those people in adulthood and they're contacted telephonically and invited to participate in a research subject, or a research project, if they so desire. If they come in, you know, we run them through the research protocol. If they don't, if they say they don't want to be involved, we remove them from the database and never bother them again. In casting that net, if you will, we do get both victims and perpetrators. There are some who have a pathway from in childhood who were abused in childhood then who also then are incarcerated as adults for perpetrating child abuse. What we want to also be able to do then, is to look at elder abuse because some of these young people have told us that when they were abused as children, they lived with their grandparents. And now, they don't live with their parents anymore but their grandparents do live with their parents and they're being abused by their parents. So it's kind like of A, is the child originally abused, B, is the parent, and C, is the grandparent. You've got B abusing A and as they age, turns around and abuses C. Being able to trace those pathways is key. [LB1031]

SENATOR PANKONIN: Okay. Give me an example of how this research could have a preventive effect on the system. I mean, you find out that poverty is involved and abuse is involved, and what would be some of the practical things that could come from this research that would help? [LB1031]

DR. PATRICIA SULLIVAN: The practical things that can come from that are that not all individuals who have been abused are necessarily going to exhibit adverse outcomes. And it allows you to look at both the adverse and the positive outcomes. In my profession of psychology, we study deviance too much. There was 10 percent of the people or the children in Omaha, for example, who were victims of abuse. We're studying that 10 percent but 90 percent we're not. So what were the characteristics of those 90 percent that need to be prevention targets to use with children who are abused now, for one thing. You can also track people through early school problems to a mental, to a behavior disorder diagnosis, to a mental health setting, to a juvenile justice setting and then into the prisons. Okay, that is a trajectory that's very expensive for our state. It's one that also concerns juvenile court judges. If we can identify what we call mediators and moderators of that poor outcome, for example, which is prison. For example, it may be cooccurring domestic violence. It may be curb bullying victimization in school, and so forth, should say that. Then you know that that's an empirically derived prevention target and so over all, it benefits. [LB1031]

SENATOR PANKONIN: Thank you. [LB1031]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

SENATOR STUTHMAN: Thank you, Senator Pankonin. Senator Gay. [LB1031]

SENATOR GAY: Thank you, Senator Stuthman. You'd mentioned this would allow more NIH dollars to Nebraska and get researchers to stay here. Can you give me specific examples of why that would be, is it, by doing this would allow more researchers to come, we'd get more NIH dollars, more researchers would want to stay. Can you give any specifics how that works... [LB1031]

DR. PATRICIA SULLIVAN: How that works? [LB1031]

SENATOR GAY: ...or how you base that? [LB1031]

DR. PATRICIA SULLIVAN: It makes us very competitive at the NIH level and right now, well, and this is just a fact that people, schools and so forth in the Midwest, don't attract that much NIH money. That's one of the reasons the research towers were built. But the fact of the matter is, east coast, west coast gets that kind of thing. When I looked on, what the NIH had funded there were about maybe 10 studies where there was researcher access to the child abuse databases and they were from the east and west coasts. So that's one thing that helps with that. It also, violence begets violence but also research begets more research. Because what happens is, you identify, oh something else you never thought of as a researcher, that would indeed need to be studied also that helps with the over all picture. Violence is really complex, Senator, and I know you know that. We all do. It's got many roots and those roots are entangled in a variety of different ways. We have an opportunity in the state and we need more researchers to get involved. You know, if there is that passageway and it's a very structured, it's a very stringent strict passageway, then other researchers are going to be, are going to want to seek research funding to do that type of research. [LB1031]

SENATOR GAY: Okay. All right. Thank you. [LB1031]

DR. PATRICIA SULLIVAN: Did I answer your question? [LB1031]

SENATOR GAY: Yes, you did. [LB1031]

SENATOR STUTHMAN: Thank you, Senator Gay. Any other questions from the committee? Otherwise, thank you, Doctor. [LB1031]

DR. PATRICIA SULLIVAN: Okay. Thank you. Thank you, senator. [LB1031]

SENATOR STUTHMAN: Next testifier in the proponent. Good afternoon. [LB1031]

DR. ROSALEE YEAWORTH: (Exhibit 3) Good afternoon, Senator Stuthman and members of the committee. I'm Dr. Rosalee Yeaworth, registered nurse, professor

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

emeritus from UNMC and I can vouch for the strictness with which the UNMC...
[LB1031]

SENATOR STUTHMAN: Doctor, would you spell your name, please? [LB1031]

DR. ROSALEE YEAWORTH: Yes, R-o-s-a-l-e-e Y-e-a-w-o-r-t-h, Yeaworth. [LB1031]

SENATOR STUTHMAN: Thank you, Doctor. [LB1031]

DR. ROSALEE YEAWORTH: Um-hum. I can vouch for the strictness of the Institutional Review Board. It's been a while since I've submitted any (laugh) proposals so, but I am a member of the Leadership Council of the Coalition to Protect Aging Adults and quite concerned about elder abuse. So I'm testifying in favor of LB1031 to allow researcher access to the elder abuse register. Actually the coalition approached Dr. Sullivan about the possibility of some research because we saw the need. It's been estimated that between one and two million Americans over 65 have been injured, exploited or otherwise mistreated by someone on whom they depended on for care or protection. It's not just the stranger. It's somebody, often a family member. The National Center on Elder Abuse reported that only about 19 percent of all suspected cases are actually reported to the appropriate agencies. And it's expected that the occurrence and the severity of elder abuse will likely increase with our aging population. Over the past 20 years, knowledge about violence in families and child abuse has improved a lot but the data on elder abuse hasn't. Some evidence suggests that elder abuse may be as prevalent in the community as is child abuse. Approximately, one...and in addition to the people living in a community, approximately 1.6 million people live in licensed nursing homes and another million live in residential care or assisted living facilities and these are very vulnerable people who get few visits usually from family and friends. They're very high risk of abuse and neglect and yet there are no systematic research studies of abuse in either assisted living or nursing homes. Nebraska has laws that make intentional abuse of a vulnerable adult a Class IIIA felony, punishable by up to five years in prison or up to \$10,000 fine or both. It's mandated that physicians, nurses, persons who work in home care, long-term care, or senior centers report abuse but alleged abuse in a nursing home has to be reported to the health care facility investigation. Assisted living facilities are to follow the Adult Protective Services Act. Reports of mistreatment by RNs and LPNs and certified nursing assistants and medication aides are reported through regulation and licensures. And so you have different regulations, different departments, different divisions involved, making it difficult to get the whole picture. Access to data including the names of victims and perpetrators is essential to research. Researchers maintain strict confidentiality procedures that are approved and monitored by institutional review boards and research is critically needed to attack the problem of elder abuse in Nebraska. [LB1031]

SENATOR STUTHMAN: Thank you, Doctor. Any questions from the committee?

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

[LB1031]

SENATOR HANSEN: I have one. [LB1031]

SENATOR STUTHMAN: Thank you, Senator. I mean, Senator Hansen [LB1031]

SENATOR HANSEN: Thank you, thank you for coming today. If you named off the different groups that have oversight for other groups that possibly have the abuse on elders, would you have a suggestion on how we go about changing that to make that better? So we have a central place to have those, I don't know, accusations, I guess? [LB1031]

DR. ROSALEE YEAWORTH: I was surprised to find that assisted living went through, you know, the ombudsperson and through, and followed the Adult Protective Services and that nursing homes went to the facility investigation and part of that is, the fact that assisted living is under state law and nursing homes are pretty much regulated under federal law because of Medicare and Medicaid. And it seems to me that abuse of a vulnerable elder in a setting where they're supposed to be receiving care, should all be reported the same way. [LB1031]

SENATOR HANSEN: We're not following the money on this. We're following the abuse rather than the money, so thank you very much. [LB1031]

DR. ROSALEE YEAWORTH: Yes. [LB1031]

SENATOR STUTHMAN: Thank you, Senator Hansen. Any other questions? Seeing none, thank you, Doctor. [LB1031]

DR. ROSALEE YEAWORTH: Thank you. [LB1031]

SENATOR STUTHMAN: Any other testifiers as the proponents? Good afternoon. [LB1031]

JOHN LEHOTYAK: (Exhibit 4) Good afternoon. My name is John Lehotyak, L-e-h-o-t-y-a-k. I'm here to represent the Coalition to Protect Aging Adults. I'm the director of the Douglas County Victim's Assistance Unit and a retired police lieutenant. I was previously the lieutenant in charge of youth services in Omaha Police Department and was a leader in establishing Project Harmony, an advocacy center in Omaha for victims of child abuse that has become a national model for cooperation between medical, police, and social service agencies investigating child abuse. I am also a member of the leadership council of the Coalition to Protect Aging Adults. I am testifying in favor of LB1031 allowing researchers access to names in the child and elder abuse registers. I want to make three brief and important points. It is common practice for the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

police and victim assistance groups to release names of victims and perpetrators to bona fide researchers with stringent confidentiality safeguards to protect identities of victims. This practice allows them to conduct a meaningful research on the characteristics of violence victims and their abusers. Two, this type of research is very helpful to police and victim assistance agencies. It provides them with critically needed information that benefits victims. I'm aware of no adverse consequences to the confidentiality of victims names by releasing this information to researchers. Historically, there have been no problems in my agency in doing so. I'd like to add a fourth one and state that I've been writing grants now for the last ten years and I also review all the VOCA and VAWA grants with the crime commission staff for making recommendations on how much money, and every grant has stats, and surveys, and you know, stuff like this, research quoted in it, you know. And that's how it bolsters the way to get money for the grant and justifies it with the federal authorities. Thank you for your time. I encourage you to approve this bill. We have a violence problem in Nebraska and we need research to help address it. [LB1031]

SENATOR STUTHMAN: Thank you, John. Any questions from the committee? Seeing none, thank you for your testimony. [LB1031]

JOHN LEHOTYAK: You're welcome. [LB1031]

SENATOR STUTHMAN: (Exhibit 4A) Any other testifiers as proponents for this bill? At this time I would like to read into the record that we have a letter from Christine Costantakos being in support of this bill. I would like to know how many plan to testify in the opposition on this bill. Seeing none, anyone that wants to testify as a neutral? Good afternoon again. [LB1031]

TODD LANDRY: (Exhibit 5) Good afternoon, Senator. Senator Stuthman, members of the Health and Human Services committee. My name is Todd Landry, L-a-n-d-r-y, with the Department of Health and Human Services and I'm here today to provide neutral testimony on LB1031. As you've heard, LB1031 clarifies existing law relating to access to APS and CPS identifying information to allow researchers or auditors to have access under certain conditions and protects the researcher or auditor from being subpoenaed or forced to testify regarding the subjects of the research or audit. We have some concerns with the wording of LB1031 which we've shared with the senator's office. Our primary concern is based on our belief that the bill is unnecessary and in fact, has the potential of requiring the department to commit its resources to provide access for any and all research as currently worded without the department's review of the value or relevance of the research. We are also very concerned about the potential for a tremendous amount of confidential information pertaining to nearly 7,000 state wards that could be released under this bill when there may, in fact, be circumstances in which it would not be in the best interest of the child or groups of specific children to release such confidential information. We agree that the protection of the confidentiality of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

individuals involved with the APS or CPS systems is critical. However, we are concerned the bill may be intended to give researchers an automatic approval for their research without department review, approval or oversight. Removal of the department's discretion in releasing confidential information may not be in the best interest of children. I have additional information in my written testimony. LB1031 also includes several technical terms that we believe would need further clarification such as definition of the term, auditor. It's not clear whether that term describes financial auditors for organizations or the state auditor's office or federal financial or program auditors involved in reviews of the department's work. The terms, accredited postsecondary educational, institutional review board or governmental institutional review board are also not defined within the bill and no references are provided to other statutes for definition. We thank you for the opportunity to voice our concerns regarding LB1031. I'd be happy to answer any questions that you may have. [LB1031]

SENATOR STUTHMAN: Thank you, Mr. Landry. Any questions from the committee? Seeing none, thank you, Todd. [LB1031]

TODD LANDRY: Thank you. [LB1031]

SENATOR STUTHMAN: Any other testimonies in the neutral? Good afternoon, Martha. [LB1031]

MARTHA CARTER: Good afternoon, Senator Stuthman. [LB1031]

SENATOR STUTHMAN: Welcome. [LB1031]

MARTHA CARTER: (Exhibit 6) Thank you. Members of the committee, for the record my name is Martha Carter, C-a-r-t-e-r. I'm the legislative auditor and in that capacity manage the audit staff under the direction of the Legislative Performance Audit Committee. The chair of that committee, Senator DiAnna Schimek, asked me to come today to testify in a neutral capacity on this bill on the committee's behalf. The committee's taken no position on the bill itself but the issue that she would like to have me raise with you is that there could be potential confusion about whether or not the provisions of this bill would apply to the performance audit section. And so, I have circulated an amendment that she had requested. As you may recall, in 2006 the Legislature passed a bill making it very clear what the audit sections access to confidential information is and we believe that that, that that statute would already give us access to confidential information that the agency, that Health and Human Services in this case, holds including names of individual clients. So the concern would be, not that it's the intention of the bill to do it, but we would like to avoid a situation where we could have an agency say to us, no, you can't access to this unless you follow this other procedure, which we don't believe was intended to apply to our process, and which we believe that the existing statute would except us from. So the amendment would be one

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
February 13, 2008

way of doing that and if the committee proceeds with the bill, the audit committee would be happy to work with you to resolve it. It would be basically a harmonizing issue, I think is the way that Senator Schimek is looking at it. So I'd be happy to answer any questions, if you have any. [LB1031]

SENATOR STUTHMAN: Thank you, Ms. Carter. Any questions from the committee? Seeing none, thank you. [LB1031]

MARTHA CARTER: Thank you. [LB1031]

SENATOR STUTHMAN: Thank you very much. Any other ones that want to testify in the neutral? Seeing none. Senator Ashford would you want to close? [LB1031]

SENATOR ASHFORD: If I might very briefly, Senator Stuthman. The...and first of all I appreciate the testifiers that came down. They do good work and I think from their comments, one can see that they're interest is in trying to solve problems. The department's testimony was interesting in the neutral, (laugh) in that I think they suggested the bill was unnecessary which sounds a little opposing but whatever, for whatever it's worth. But we can certainly, and, I think, the amendments do, our amendments. I was just looking back over them and maybe they don't totally answer that, the issues raised by the department but we would be more than happy to talk to them about it. And clearly, Senator Schimek's, Cindy's comments are important and we can talk about those with them. This is important, I think, and with the amendments this is very restrictive, restricted access, and it is by people who are within a university setting within the state of Nebraska. We do need to get to the bottom of some of these issues and I think the comments by Dr. Sullivan were important where she's not, we're not knocking on people's doors. We're simply inviting people into research situations. I think that's important differentiation. But again, this is a big problem in our state and this is a way that our universities can help get to the bottom of some of the sources of the problems. So with that, I appreciate your listening to my bill. [LB1031]

SENATOR STUTHMAN: Thank you, Senator Ashford. Any questions from the committee? Senator Gay. [LB1031]

SENATOR GAY: Thank you, Senator. Senator, did you, the department testimony you heard, did you have any discussions with them prior to this? [LB1031]

SENATOR ASHFORD: Well, I don't know if they saw the amendments. I thought they had seen the amendments. I don't, I don't...the amendments I think address the issues but we've narrowed this down to the University and Creighton in Nebraska and with an NIH certificate narrows it further. I believe we've addressed those issues but if we haven't, we can certainly. But it's not unnecessary. If this were unnecessary, then we wouldn't be here. I mean, they aren't getting access to these registries. It's a policy

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Health and Human Services Committee
February 13, 2008

question of this committee obviously as to whether they should and whether it's, but... [LB1031]

SENATOR GAY: So the amendments would make an easier process. Know it make process easier than... [LB1031]

SENATOR ASHFORD: Well, we think it did. Narrows it. It narrows the...and it restricts the access to the information. [LB1031]

SENATOR GAY: Okay. Thank you. [LB1031]

SENATOR STUTHMAN: Okay. Thank you, Senator Gay. Senator Ashford, I have one comment. The thing that concerns me and I'm in favor of research but the thing about it is, I would like to know how you're going to utilize the results of the research. You know, what is going to be the benefit of it. How are you, when you get all the research together and compile the answers as to how these people got to that situation, and stuff like that, you know, I think we need to figure out someday how we can utilize that also. And it's just a comment so. [LB1031]

SENATOR ASHFORD: And I think we do need to drill down on that and we can provide the committee with that, more information on the nature of the research. [LB1031]

SENATOR STUTHMAN: Okay. Thank you very much. [LB1031]

SENATOR ASHFORD: Thanks, senator. [LB1031]

SENATOR STUTHMAN: That closes the hearing on LB1031 and now we will open the hearing on LB1070. Senator Dubas. Good afternoon, Senator Dubas. [LB1070]

SENATOR DUBAS: Good afternoon, Senator Stuthman. Members of the Health and Human Services committee. My name is Senator Annette Dubas, A-n-n-e-t-t-e D-u-b-a-s, and I represent the 34th Legislative District. Thank you for giving me this opportunity this afternoon. I introduced LB1070 after a group of caseworkers from my district approached me with their concerns about family centered practice. Family centered practice involves those children who are in custody of the state. As part of family centered practice, children removed from their home are typically placed with family, other family members. This practice is working well for the department as the number of children in state custody is decreasing because of these family placements. So as not to discourage this practice, it is important to set a procedure in place that will document the placements and encourage safe and appropriate placements. Although most times it is appropriate and safe for a child to live with his or her extended family, there are times when this is not the case and what this bill looks to do is to create this formal process that again will document what's happening. It creates some consistency

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Transcriber's Office

Health and Human Services Committee
February 13, 2008

and also some very needed accountability. This legislation requires the Department of Health and Human Services to develop written procedures to document efforts to identify and locate relative placements. The department will have five working days to provide the custodial parent with a child placement resources form. The form shall instruct the parent to provide names and contact information for any persons or relatives of the juvenile who may be suitable for out of home placement. Within 30 days of taking the juvenile into custody, the department shall locate the persons named on the child placement resources form and then investigate whether such a placement is safe and appropriate. And I appreciate the Department of Health and Human Services serious consideration of this. I am fairly certain they will be testifying later or perhaps at least presenting their viewpoint in written form but I think they've given this some very serious consideration. There will be people following me who are going to be much better qualified to answer any questions you might have. If you have questions, I'll try but I'll probably refer to the experts in the field. [LB1070]

SENATOR STUTHMAN: Thank you, Senator Dubas. Any questions from the committee? Senator Gay. [LB1070]

SENATOR GAY: Senator Dubas did you receive any information like this that was handed out earlier? Did you receive any information from the Department of HHS today? [LB1070]

SENATOR DUBAS: Is that... [LB1070]

SENATOR GAY: Some of the policies that are being done. Do you have that? [LB1070]

SENATOR DUBAS: Yep, yep, yes, I did. Yes, yes. [LB1070]

SENATOR GAY: Okay. I was going to say if you didn't, we could get it to you. [LB1070]

SENATOR DUBAS: Yes, no, I did receive that, yes. And that's what I was trying to acknowledge that I appreciate their attention to it. [LB1070]

SENATOR GAY: Okay. That's...just make sure. Thank you. [LB1070]

SENATOR STUTHMAN: Any other questions? Senator Pankonin. [LB1070]

SENATOR PANKONIN: Thank you, Senator Stuthman. Senator Dubas, we appreciate your coming before us and you know, I know since I've been down here you've had a lot of interest in foster care issues and I appreciate that and we'll give this serious consideration and look how we can...I know you're always wanting to try to improve the system so we thank you for that, bringing this before us, so we'll give it good consideration. [LB1070]

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Transcriber's Office

Health and Human Services Committee
February 13, 2008

SENATOR DUBAS: I appreciate that and as I said, there's going to be some people who will really be able to give some substantiation to what I brought forward in this bill, so thank you. [LB1070]

SENATOR PANKONIN: Okay. Thank you. [LB1070]

SENATOR STUTHMAN: Thank you, Senator Pankonin. Any other questions from the committee? Seeing none, thank you, Senator Dubas. Are you planning to stay to close? [LB1070]

SENATOR DUBAS: I'll probably be listening for a while and then see if that's necessary. [LB1070]

SENATOR STUTHMAN: Okay. Thank you. At this time I would like to know the number of people that want to testify as proponents. We have four. How many plan to testify as opponents? How many in the neutral. One. Okay. First one as a proponent, would you come forward please. Good afternoon. [LB1070]

PAMELA ALLEN: (Exhibit 1) Good afternoon. I'm Pamela Allen, A-I-I-e-n. I'm the executive director of the Nebraska Foster and Adoptive Parent Association and NFAPA serves all foster families across the state, both licensed and approved. My husband and I have opened our home to foster children for the past 11 years. We have had approximately 56 children through our home during that time and believe that all children need and deserve to be placed with a birth parent or if children can't be with birth parents, it makes sense to have them with relatives they know or that have ties to their extended family when that is safe and appropriate. Along with that we believe that it is very important that birth family be found as soon as possible once a child has been placed into foster care and if that relative is appropriate, move the child as soon as possible, especially when younger children are involved. Imagine, if you will, a case where an aunt has been unsuccessfully trying to take placement of her 18-month-old nephews who have been in care for almost a year. The aunt has had visits, gone to doctors appointments with the children and is wanting to adopt, however, does not have the children placed with her. Instead, the foster family may be the ones adopting the children in large part because the children have now become attached to the foster family. Or the grandparents who go through licensing process for foster care and are licensed but are not able to take placement of their grandchildren who were instead adopted by the foster family. Or in the case of the foster family who has had a baby placed with them and raised that child for four years and then a relative from another state steps forward and the child is removed and sent to the relative. Birth to age five is a critical time in the emotional age of a child. Why wasn't the relative identified sooner? I believe we do emotional and psychological damage when we ignore attachments that occur between children and their primary caregivers. All the children who come into

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Transcriber's Office

Health and Human Services Committee
February 13, 2008

foster care have already been pulled from their mommy's and daddy's. How can we in good conscience allow children to bond to another family and then be moved to yet another caregiver after six months, twelve months or longer. What damage are we doing? Why should children attach and trust yet again? We have had many children through our home who do not trust, who do not attach, who have a very difficult time interacting with others. We need processes to insure as a state we are implementing best practices to identify forever homes for children as soon as possible. One way to do that is to look into whether relatives can be a safe placement option early on. Again, I believe that children deserve to be with birth family. I also believe, however, that we need to look at the emotional well-being of children, the bonding and attachment process, and make sure that children are placed into forever homes as soon as possible, which means that relatives should be identified in a timely manner so that we do not create unnecessary placement disruptions later on. I want to thank you for listening to me today and I hope that you will look at making it mandatory that relatives be found for children in care as soon as possible. Do you have questions? [LB1070]

SENATOR STUTHMAN: Thank you, Pamela. Any questions from the committee?
Senator Hansen. [LB1070]

SENATOR HANSEN: I have one, quick one. Thank you for coming today. How far away removed, aunts, uncles, any great-grandparents or anything like that, how far away should we be looking for, relatives? [LB1070]

PAMELA ALLEN: I think any relative that the child has had contact with whether it's a great-aunt or a great-grandparent. I think as long as that child has contact and knows that person, I think that person should be considered. [LB1070]

SENATOR HANSEN: Okay. Thank you. [LB1070]

SENATOR STUTHMAN: Thank you, Senator Hansen. Any other comments? I have one. Pamela, have you ever in your 11 years experienced a child that was in your, under your foster care that the child was removed because the court system tried to reunification with the mother again, has that ever happened? And then, because of drug addictions and then the mother falls off the wagon again and then the child is probably back into a foster home but maybe not back into your home. Can you comment on anything like that in your experience? [LB1070]

PAMELA ALLEN: I can. We had children that came into our care a year ago in December that were with us for nine months. The children went back home the end of August to their mom. They stayed with mom for a month and a half and were removed again. We have them back in our home now. They were placed back with us again in December but they were first moved to another foster family before they came back to us. [LB1070]

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Transcriber's Office

Health and Human Services Committee
February 13, 2008

SENATOR STUTHMAN: So this does occur that they are in a different home and never get back to like your home again where they're removed from and I appreciate the fact that if parents, grandparents or a close relative could take the placement of them kids, I think that would be a lot better in my opinion, so. But I think the court system, we need to do something about that also. [LB1070]

PAMELA ALLEN: I agree. [LB1070]

SENATOR STUTHMAN: Okay. Thank you and thank you for testifying. [LB1070]

PAMELA ALLEN: Thank you. [LB1070]

SENATOR STUTHMAN: Next testifier as a proponent. Good afternoon again. [LB1070]

SARAH HELVEY: (Exhibit 2) Good afternoon again. Again, my name is Sarah Helvey, S-a-r-a-h H-e-l-v-e-y, and again I'm a staff attorney in Nebraska Appleseed and director of our child welfare program there. I want to first start by thanking Senator Dubas for her strong leadership in seeking to improve our foster care system in Nebraska. I'm here today to testify in support of LB1070. Through our child welfare work at Appleseed we have repeatedly heard concerns from attorneys and others about relatives or extended family members not being identified and considered as possible placements for children who have been removed from their homes due to abuse and neglect until very late in the case. LB1070 seeks to hold HHS accountable for identifying and investigating potential relative placements early in the process. Identifying relatives early on prevents unnecessary placement disruptions for children who, when relatives are pursued late in the case, then face being moved from what are oftentimes at that point long-term stable foster care placements. Current law provides that relatives should be considered as priority placements but doesn't provide any direction or accountability to insure that relatives are identified early on in a case. Similarly, HHS has a policy memo outlining what is expected of caseworkers in terms of locating and considering relatives but it's just a memo so it's not enforceable and therefore, provides no accountability for insuring that the policy is actually put into practice. Therefore, this bill doesn't present a policy change for HHS but provides important direction and accountability. A number of other states in recent years have enacted similar legislation seeking to implement best practices with respect to kinship care. And I've provided some references to those in your, in the written testimony. Placing children with relatives or others previously known to the child has a number of benefits, including that placements tend to be more stable, keep siblings together, and provide important cultural connections. We're not suggesting, however, that relatives are always the best placement for children, and accordingly this bill specifically requires the department to conduct an investigation to make sure that relatives would be a safe and appropriate placement. Furthermore, even when extended family members aren't appropriate as a placement, bringing them into a

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Transcriber's Office

Health and Human Services Committee
February 13, 2008

case early on in the process, can often provide important information, resources and support for the child, the family, as well as the system. Likewise we aren't suggesting that HHS isn't ever placing children with relatives. The focus of this bill is on the process. First, providing accountability, and secondly, making sure that relatives are identified early on. Importantly, this bill also requires the department to get the name and contact information of any noncustodial parent within five days of taking custody of the juvenile. And this provision addresses a long-standing problem in which a missing noncustodial parent isn't identified until late in the case, sometimes even after a custodial parent's rights have been terminated, which unnecessarily delays adoption for children. Our child welfare system in Nebraska has been failing for far too long. Too often our system fails and causes harm to children because it neglects to do the necessary work early on in a case. One step to improving our foster care system therefore is to make sure that procedures are in place at the front end. LB1070 seeks to do that and we ask your support and that you vote to advance it out of committee. [LB1070]

SENATOR STUTHMAN: Thank you, Sarah. Any questions from the committee? Seeing none, thank you very much. Next testifier. Good afternoon again. [LB1070]

SARAH ANN LEWIS: (Exhibit 3) Good afternoon. Good afternoon Senator Stuthman, members of the committee. My name is Sarah Ann Lewis, L-e-w-i-s and I'm the policy coordinator and registered lobbyist for Voices for Children in Nebraska. Voices for Children would like to commend Senator Dubas for introducing LB1070. We support this bill because it is in accordance with federal and state law and is in the best interest of children. LB1070 provides a means to an end to place children in relative placement sooner. It lays out in law what we believe should be occurring presently. Multiple placements for children in Nebraska's child welfare system is an ongoing concern for Voices for Children. Nationally, children in foster care are more likely to reunite with their parents after a relative placement with a less than chance of returning to foster care. According to recent data from the Nebraska State Care Review Board, there has been a 3.4 percent increase in relative placements over the last ten years. Though the number of children in relative care have, the numbers have been increasing, it is at a seemingly slow pace and the numbers of moves experienced by children remains high. We like that this bill would document the results of investigations and hold the department accountable. Providing a workable mechanism to increase safe and appropriate relative placement as LB1070 does, is in the best interest of children in the state's care and we would strongly encourage you to advance LB1070 out of committee. Thank you. [LB1070]

SENATOR STUTHMAN: Thank you, Sarah Ann. Any questions from the committee? Seeing none, thank you for your testimony. [LB1070]

SARAH ANN LEWIS: Thank you. [LB1070]

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Transcriber's Office

Health and Human Services Committee
February 13, 2008

SENATOR STUTHMAN: Next testifier. Good afternoon. [LB1070]

MARY JOHNSON: Good afternoon. Senator Stuthman, members in the health committee. My name is Mary Johnson, J-o-h-n-s-o-n, registered lobbyist for Ruth Mueller Robak and I'm testifying today in behalf of the Nebraska State Bar Association. The bar association is pleased that Senator Dubas brought this bill, partly because it carves out a process by which families can be reunited. I think the most important thing is, is that there's no process to gather information and document it and that's the concern of the bar association so we're pleased she brought this forward to create this process. [LB1070]

SENATOR STUTHMAN: Thank you, Mary. Any questions for Mary? Seeing none, thank you very much. Any testifiers as proponents? Any other testifiers in the opposition? Any testifiers as neutral? Have we got any other ones that are testifying in the neutral? We have one other one. Okay. Thank you, and good afternoon. [LB1070]

SCOTT DUGAN: (Exhibit 4) Good afternoon again, senators. Thank you for this opportunity. I'm here...my name is Scott Dugan, S-c-o-t-t D-u-g-a-n. I am the president and CEO of Mid-Plains Center for behavioral healthcare services located in Grand Island, Nebraska. For nearly 20 years, we do many levels of foster care as well as other children and family services. I'm here on behalf of our organization testifying in the neutral just to provide a little more insight from a provider of foster care that works with the department, now only in the care and management of children out of home but on the front side on the initial entry piece, as this bill is really addressing the early intervention and placement of children. We contract with the department in several instances to provide home studies for relative placements for agency based foster homes, and to insure that those homes are safe and appropriate for these children. While we support the intent and what Senator Dubas is putting forward here, is really an accountability on the department to really manage a practice that should already exist. We do, however, think that there's, there's a little bit of a misnomer, that just simply putting in place a new administrative process and form on top of the overworked caseworkers that you've heard about in various testimonies on other bills, will actually create better outcomes on placing children with relatives. The other concern we have, and the proponent testimony has really focused a lot on putting children in relative homes. That's a great thing, but not always. Oftentimes, we see that the problems of abuse and neglect that are in homes that cause a removal of a child from a home are generational. So there's things that parents learn from their grandparents, from their aunts and uncles and it's not necessarily going to be a safe thing to place them in a similar situation with folks that may, in fact, end up of re-abusing those children. So this isn't going to fix a specific problem, other than it's going to hold more accountability and place better record keeping that we indeed did investigate, did try and find a relative that would be suitable for this child, so we do support that aspect of it. [LB1070]

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Transcriber's Office

Health and Human Services Committee
February 13, 2008

SENATOR STUTHMAN: Okay. Thank you, Scott. Any questions from the committee? Seeing none. Thank you, thank you very much. The next testifier and I think this will be the last. [LB1070]

CORINNE O'BRIEN: My name is Corinne, C-o-r-i-n-n-e, O'Brien, O'-B-r-i-e-n. I am currently a foster mom. I was not planning on testifying but I do think I have somewhat of a unique perspective. I plan to be the future author of a book called My Oldest Son Is Also My Cousin. We have two boys that we took guardianship of that were my cousin's children, so I am a second cousin to these boys. We have two children that we adopted from birth and we currently have one child that is a foster child and she just turned one-year-old in January. I think I offer somewhat of a unique perspective in that I very much also want to thank Senator Dubas for trying to put into place a procedure to identify relatives. I will let you know at the time that my two oldest children, there was concern about their welfare and safety, and they were going to be put into foster care. I actually contacted the caseworker because none of their immediate relatives knew my last name or knew how to get in contact with me. So I did pursue getting in touch with those relatives to obtain those children, and their grandfather was willing to transfer guardianship to my husband and myself. However, I would like to say in the situation of our foster child, she was initially looked at to be placed with an aunt that had a criminal record. And so I would say, on that side of things, I do not always feel that family is the best possible placement. She has been with us now for close to a year and as you've heard much already in the testimony, she is very much bonded with our family and the state is still looking at possibly moving her to be reunited with siblings which, of course, my husband and I are also in disagreement with. Her two siblings that are in foster care have been moved a total of four times at least in the last year, and we do not feel to move our child from her current home to another home would be in her best interest or her safety. So that's all I had to say. I have somewhat, like I said, of a unique perspective having both relatives as children and currently, a foster baby. Thank you. [LB1070]

SENATOR STUTHMAN: Thank you, Corinne. Any questions from the committee? Corinne, in the children that you have and they were placed with you, have they ever been taken away, placed in another home or anything or are you one of the fortunate ones that have been the only placement place for these children? [LB1070]

CORINNE O'BRIEN: Well, our two oldest children, the situation with them, their mother died when they were one and two, and as I said, she was my first cousin. They were then placed in the guardianship of their grandpa and grandma and their grandma died about four years ago. And at that time, their grandpa tried to care for them. He already had some medical issues and because of his medical issues, they decided that...he had to be in the hospital and there became concerns with older siblings. They were around that had criminal records, had been at Geneva and Kearney, and so forth. So they were

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Transcriber's Office

Health and Human Services Committee
February 13, 2008

with their mother. They don't really remember that too much. They were with their grandma until they were, I guess, they were 9 and 10 when they came to live with us, and the baby has been in our home since she came from the hospital. Her mother, the foster baby's mother is a meth addict so. [LB1070]

SENATOR STUTHMAN: Okay. Thank you very much for your testimony. Thank you. [LB1070]

CORINNE O'BRIEN: Thank you. [LB1070]

SENATOR STUTHMAN: (Exhibit 5) Any other ones in the neutral? I would also like to add into the record that we do have a letter from Health and Human Services stating that they are in the neutral position on this bill and that will be entered into the record. [LB1070]

CAROL STITT: Senator Stuthman, I'm not neutral. I'm in favor. Could I just pass up my testimony or would you let me do that? [LB1070]

SENATOR STUTHMAN: You're in favor. [LB1070]

CAROL STITT: Yes. [LB1070]

SENATOR STUTHMAN: We did the in favor ones a while ago. [LB1070]

CAROL STITT: I know. I...someone was actually giving me a special request in the hallway so... [LB1070]

SENATOR STUTHMAN: And you're asking a special request of me? I will allow it. Yes. [LB1070]

CAROL STITT: Well, I...okay. Okay. I'll be very brief. [LB1070]

SENATOR STUTHMAN: If you contain it to about a minute. [LB1070]

CAROL STITT : (Exhibit 6) All right. I will be. I would like to commend Senator Dubas. I believe that it is a good thing to look for relative placements. I would just like to say that there have been situations where relative placements have not been best for the children and children have been disrupted from very stable placements. And what we really support, is the procedure in putting a kind of a bookends on it, so five years later children aren't removed and placed in situations where they're then, you know, there are concerns established with. So the board definitely supports Senator Dubas in this effort. How did I do? [LB1070]

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Transcriber's Office

Health and Human Services Committee
February 13, 2008

SENATOR STUTHMAN: Okay. Thank you, Carol. Any questions for Carol? Seeing none, thank you. If there is no other testimony, Senator Dubas, would you like to close? [LB1070]

SENATOR DUBAS: I'll just briefly hit on a couple of points. Again, I want to stress and appreciate the policy that's already in place that Health and Human Services has, and the priority for relative placements. This just makes them document whether they're doing it properly. As I visited with the caseworkers from my area, their frustration was, they were scrambling to find relatives placements and if we have this in written form, there's that opportunity to investigate to make sure that these are the proper places to place the children. And while family centered practice is a priority, there definitely is the recognition that that's not always the best place for the child. But with this documentation process in place, it will help the caseworkers as well as others involved make the right decision. So I appreciate your consideration of this, and hope that we can advance it to the floor. [LB1070]

SENATOR STUTHMAN: Thank you, Senator Dubas. Any questions from the committee? Seeing none, once again, thank you. [LB1070]

SENATOR DUBAS: Thank you. [LB1070]

SENATOR STUTHMAN: At this time that closes the hearing on LB1070 and we will open the hearing on LB972. Senator Gay. [LB972]

SENATOR GAY: (Exhibit 1) Thank you, Senator Stuthman and members of the committee. For the record, my name is Tim Gay, state Senator of District 14. I'm here to introduce LB972. I'm going to be very brief and let the testifiers behind explain the necessity of this bill but basically what LB972 does is, it would require that optometrists from other states who apply for a license in Nebraska be actively engaged in the practice of optometry for at least two of the three years immediately preceding their application here in Nebraska. The bill also requires the applicant to provide evidence of being credentialed in another state with a license at the highest level. I do have an amendment that we're going to hand out. I think Lisa will give to Matt, that we're going to hand out that clarifies what this intent of the language is, and it states that a license from any other state must be at least comparable to our license. So if their highest level was not, you know, up to par at our level, then we would make sure that it was. So in Section 2 of the bill, we also had a change about the competency requirements could be waived if a person submits proof he or she will be suffering from a serious, or has suffered from a serious or disabling condition within the previous 24 months or was initially licensed in the preceding 26 months as opposed to meeting both requirements. So there's some changes that the department looked at and that recommended to make the bill a little bit better so. Yeah, and by the way, Senator Stuthman, I'd like to thank you for filling in for me. I've been gone some and... [LB972]

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Transcriber's Office

Health and Human Services Committee
February 13, 2008

SENATOR STUTHMAN: Happy to do it for you. [LB972]

SENATOR GAY: Doing a fine job. [LB972]

SENATOR STUTHMAN: But you can take over shortly again. [LB972]

SENATOR GAY: I've got accolades that didn't receive but anyway, thank you very much. I introduced too many bills this year apparently. (laugh) [LB972]

SENATOR STUTHMAN: Thank you, Senator Gay. Any questions from the committee? Senator Erdman. [LB972]

SENATOR ERDMAN: Senator Gay, there's a letter from the department. Their recommendation to clarify the language is to strike the new sentence that you've added and just change it from one to two. Their rationale is that current regulations are to require optometrists licensure to meet the requirements with therapeutic certification which is the highest level of practice in Nebraska, and they think that the new language is unnecessary. Have you seen that letter? [LB972]

SENATOR GAY: Are you looking at the one on February 13th? [LB972]

SENATOR ERDMAN: That is the one. [LB972]

SENATOR GAY: Yeah, and I think the amendment, that's going to see... [LB972]

SENATOR ERDMAN: Is that what your amendment does? [LB972]

SENATOR GAY: Yes. [LB972]

SENATOR ERDMAN: Fantastic. [LB972]

SENATOR GAY: And if we haven't done that, we'll make sure it does correct that. Thank you, Senator. [LB972]

SENATOR STUTHMAN: Thank you. Any other questions? Seeing none. At this time we will have the testimony from the proponents. How many will testify as a proponent? We have one, two, three, as...two as proponents. How many opponents? How many in the neutral? Okay, we'll have the first testifier as the proponent. Good afternoon. [LB972]

DAVID KINCAID: (Exhibit 2) Good afternoon. Mr. Chairman and members of the committee, my name is David Kincaid, K-i-n-c-a-i-d. I'm a Nebraska licensed optometrist and I practice in South Sioux City. I am the chairman of the Nebraska Board of

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Transcriber's Office

Health and Human Services Committee
February 13, 2008

Optometry and I'm testifying on behalf of the board in support of LB972. As you heard in the opening statement, there are two components to LB972. Let me provide you some additional background and explanation about the two changes this bill is seeking. The context of the changes is the Legislature's rewrite last year of both the Uniform Credentialing Act and the Optometry Practice Act. The Board of Optometry supported these changes to the practice act contained in LB398 last year, which the Legislature considered at that time. Those changes were designed to simplify the practice act and make it easier for the Board of Optometry to consider applications for licensures from doctors from other states as they might be moving into our state. Portions of LB398 were eventually amended into two other bills passed by the Legislature in 2007. They were LB236 and LB247. The changes we sought in LB398 were proposed at the same time the Legislature was considering the broad rewrite of the Uniform Credentialing Act. The revisions to the Uniform Credentialing Act eventually passed as part of LB463, impacted all licensed professions, including ours, optometry. In the course of the four bills and various amendments with overlapping language and changes, several of which were passed by the Legislature, we have discovered two minor errors that resulted. All of the changes passed last year by the Legislature to the Uniform Credentialing Act and the Optometry Practice Act take effect December 1 of this year. Before they go into effect we are seeking a fix to those errors and that's what this amendment is all about. The first is in Section 1 of LB972, the language be amended, being amended comes from Section 881 of LB463 last year. The Board of Optometry is on record from our meeting October 20, 2006, as having supported the language you see before you in Section 1 of this bill. It is our intent that this be part of the 2007 rewrites. It was not included in the bill we originally introduced, LB398, because we were informed that it would be included in the omnibus rewrite of the Uniform Credentialing Act which was the subject of LB463. Unfortunately, the language we intended was not included correctly when LB463 passed. Section 881 of that bill incorrectly stated the requirement for licensees from other states as practicing at least one of the last three years, instead of two out of the last three as we had intended. And it omitted the requirement that applications for licensure from another state must practice at the level of licensure comparable to what Nebraska law allows. Those were our intentions. We are seeking to correct the law to match the original intent of the Board of Optometry. The reason these changes were sought in the first place involves helping the board to assure the competency of all optometrists coming from another state. Evaluating applications from doctors licensed in another state has been very challenging for the Board of Optometry over the years, given a variety of specific requirements that needed to be met in Nebraska that were not always directly applicable to doctors from other states. The simplification of the optometric practice act passed by the Legislature last year will greatly help the board in evaluating requests for licensure by endorsement. However, we believe a provision that licensees must have been practicing in two out of the past three years is very important requirement and should be added to the statute in the interest of consumer protection. As we believe it is important that any licensee in another state should demonstrate that he or she has been licensed at the highest level,

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Health and Human Services Committee
February 13, 2008

and is comparable to what the requirement in Nebraska is. Currently, there is no such stipulation in statute. We don't believe it is good public policy to endorse the licensure of doctors who have not been able to practice optometry at a level similar to the highest level of practice here in Nebraska. We thank Senator Gay for the amendment. The amendment offered by Senator Gay is good clarification of the board's intent, and we encourage you to adopt the amendment. Section 2 of LB972 corrects a simple drafting error and Senator Gay basically read that to you. The language, Section 883 of LB463, last year's Uniform Credentialing Act, was requested by the Board of Optometry and was written the way it is proposed to be written in this bill. In other words, it was drafted with the word "or" intending that either circumstance noted in this section of statute would be sufficient cause for a waiver of continued competency requirements. Unfortunately, LB463 was introduced and passed with the word "and". We're simply asking that Section 2 of this bill correct this inadvertent error. I hope this has been helpful in providing background on the intent of this bill and I urge you to support LB972 and I'd be happy to answer any questions. [LB972]

SENATOR STUTHMAN: Thank you, David. Senator Hansen. [LB972]

SENATOR HANSEN: Thank you, Senator Stuthman. Dr. Kincaid, did you bring your copy of LB463 from last year? What have you...find that in that place...(Laughter) [LB972]

DAVID KINCAID: LB972 [LB972]

SENATOR PANKONIN: Oh, he's messing with you. It's 1800 pages. (Laughter) [LB972]

DAVID KINCAID: Oh, I've got the amendment here, I'm sorry. It's three pages. [LB972]

SENATOR HANSEN: We appreciate someone looking at that, I guess. [LB972]

SENATOR STUTHMAN: Any other questions from the committee? Seeing none, thank you. [LB972]

DAVID KINCAID: Thank you. [LB972]

SENATOR STUTHMAN: Thank you very much. [LB972]

SENATOR ERDMAN: Don't do that to people. That's not nice. [LB972]

SENATOR STUTHMAN: Next testifier, come forward please. [LB972]

SENATOR ERDMAN: We do it to Janssen, but don't do it to these nice people. [LB972]

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February 13, 2008

SENATOR STUTHMAN: Good afternoon. [LB972]

JEFF PAPE: (Exhibit 3) Good afternoon, I'll try to keep this as short as possible, I am... [LB972]

SENATOR STUTHMAN: Thank you. [LB972]

JEFF PAPE: Yeah, it's been a long day for you guys. Jeff Pape is my name, P-a-p-e. I'm an optometrist from Norfolk, Nebraska, and I'm the president of the Nebraska Optometric Association. As such, I represent about 80 percent of the licensed optometrists in Nebraska and I'm appearing today to support LB972. Basically, the NOA, the Nebraska Optometric Association, has worked with the Board of Optometry on the Optometry Practice Act and the Uniform Credentialing Act rewrite last year. We thought that was some great legislation. These changes are relatively small but we think that they provide positive clarification of the bill's intent and we hope with interpretation and implementation of the law and so, I'm here in just supporting it. [LB972]

SENATOR STUTHMAN: Thank you very much. [LB972]

JEFF PAPE: Thank you. [LB972]

SENATOR STUTHMAN: And you kept your promise. You were very short... [LB972]

JEFF PAPE: Yeah, very short. [LB972]

SENATOR STUTHMAN: ...to the point, and we really appreciate that. Are there any questions from the committee? [LB972]

SENATOR ERDMAN: I think you took longer to thank him than his testimony was. (Laughter) [LB972]

SENATOR STUTHMAN: Thank you. [LB972]

JEFF PAPE: Thank you. [LB972]

SENATOR STUTHMAN: Next testifier? Any testifiers in the opposition? Any testifiers in the neutral? And now we await the closing of... [LB972]

SENATOR GAY: I waive closing. [LB972]

SENATOR STUTHMAN: ...and he waived closing, Senator Gay waived closing and that closes the hearing today. (See also Exhibit 4) Are we going to go to Exec? [LB972]

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February 13, 2008

Disposition of Bills:

LB972 - Advanced to General File.
LB1029 - Held in committee.
LB1031 - Held in committee.
LB1070 - Held in committee.

Chairperson

Committee Clerk