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Health and Human Services Committee  
February 26, 2009

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[LB515 LB542 LB592 LB599 LB609 CONFIRMATION]

The Committee on Health and Human Services met at 1:30 p.m. on Thursday, February 26, 2009, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB592, LB599, LB515, LB542, LB609, and gubernatorial appointments. Senators present: Tim Gay, Chairperson; Dave Pankonin, Vice Chairperson; Kathy Campbell; Mike Gloor; Gwen Howard; Arnie Stuthman; and Norman Wallman. Senators absent: None. []

SENATOR GAY: All right. We will get started. Welcome to the Health and Human Services Committee. Appreciate you coming here today. We've got quite an agenda. As usual, we're very busy. We've got some appointments to go through and five bills, so we've got a lot ahead of us today. I'm Senator Tim Gay from Papillion-La Vista, District 14. And we'll introduce ourselves starting to my right over here with our legal counsel. []

JEFF SANTEMA: My name is Jeff Santema and I serve as legal counsel to the committee. []

SENATOR GLOOR: I'm Senator Mike Gloor from District 35, Grand Island. []

SENATOR CAMPBELL: I'm Senator Kathy Campbell from District 25, Lincoln. []

SENATOR PANKONIN: Senator Dave Pankonin, District 2. I live at Louisville. []

SENATOR STUTHMAN: Senator Arnie Stuthman, District 22, Columbus area. []

SENATOR HOWARD: Senator Gwen Howard, District 9, in Omaha. []

SENATOR WALLMAN: Senator Norm Wallman, District 30, which is in Beatrice and part of the Lincoln area. []

ERIN MACK: I'm Erin Mack, the committee clerk. []

SENATOR GAY: All right. And our pages, Justin and Blair, are here to help as well. If you need anything, they can help you out. One thing they do collect is if you have something to hand out they will hand it out to the committee. We have testifier sheets over in the corners. If you could print your name if you're going to speak on an issue, and then turn it in to the clerk so she can get that into the record. Then when you come up, if you could spell your name out, that also helps out because we have to transcribe these later and it's very helpful later when she's doing that. If you have a cell phone, we'd appreciate silencing your cell phone and so not to disrupt the proceedings. Also we're on a video Web cast that goes continually, so you are being broadcast not only in the Capitol but also on the Internet. So just so be aware of that, that many other people

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watch the hearings via...in-house and on the TV as well. So just wanted...for all information, so you know. With that, we will get going. We have some appointments on the Foster Care Review Board, and the order that we have is Mary Jo Pankoke, Mario Scalora, Dave Schroeder, and Georgie Scurfield. And why don't we go in that order and if you come on up and...Mary Jo, you'll...hear from you first. And these are all reappointments, I understand. []

MARY JO PANKOKE: Yes. Yes. [CONFIRMATION]

SENATOR GAY: Okay. Go ahead and... [CONFIRMATION]

MARY JO PANKOKE: Okay. Good afternoon. My name is Mary Jo Pankoke, the last name is P-a-n-k-o-k-e. I just distributed a memo that outlines my professional background and my reasons for wanting to be reappointed to the Foster Care Review Board, and I won't read the memo to you but I'll just give you the highlights. I know several of you, but for those of you that I don't know, I serve as president of the Nebraska Children and Families Foundation. The foundation has three primary areas of focus: child abuse prevention, prevention of school failure, and support of youth that are transitioning from foster care to independent living. Before joining the foundation I worked for the Department of Health and Human Services for 23 years. I started as a Child Protective Services worker in both rural and urban areas and also served as Child Protective Service supervisor and administrator. I am seeking reappointment to the Foster Care Review Board because I believe in the mission of the agency and want to continue working with the executive director and my fellow board members to increase our effectiveness as an organization. Given the concerns raised by the Performance Audit Committee, I believe it's important to have continuity in the composition of the board. The board takes the committee's findings and recommendations very seriously and we are working on a strategic plan to strengthen the management and operations of the agency. We also understand that we are being entrusted with a significant amount of state and federal dollars and we're committed to being good stewards of those funds. I believe it is in the best interest of the Foster Care Review Board and the children we serve to keep the current board intact so we can continue the work that we've started. I therefore respectfully request your support of my appointment to another three-year term on the board. [CONFIRMATION]

SENATOR GAY: All right. Thank you. Questions from committee members? Senator Campbell. [CONFIRMATION]

SENATOR CAMPBELL: Thank you, Senator Gay. Ms. Pankoke, you noted in your letter to us that you do receive funding through DHHS. [CONFIRMATION]

MARY JO PANKOKE: Yes. [CONFIRMATION]

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SENATOR CAMPBELL: What amount and what...tell us a little bit about that.  
[CONFIRMATION]

MARY JO PANKOKE: Okay. We have five contracts with the Department of Health and Human Services to carry out activities in the area of child abuse prevention. For example, we receive funding to support the efforts of Prevent Child Abuse Nebraska, working with communities to develop child abuse prevention efforts. We also receive funding funds that come through the department to help work with communities to develop prevention services so that children don't have to come into the child welfare system. Another good example is we've recently worked with the department and two private funders in Omaha to develop a public-private partnership to support youth transitioning to independent living. The department will contribute approximately \$400,000 to that initiative, and this year private donors will contribute \$1.3 million, so we're using the public funds to leverage private dollars. This is a four-year initiative and over the four-year period the private donors will contribute over \$10 million to the initiative. So we serve as a bridge between the public and private sectors so that we can use the public funds to leverage private dollars to increase the amount of funding available for youth. [CONFIRMATION]

SENATOR CAMPBELL: Do you think at any time that those contracts or your position there has compromised how you might vote or participate on the board?  
[CONFIRMATION]

MARY JO PANKOKE: I don't. All of the initiatives we're involved with are public-private partnerships so we have a number of funders that we're accountable to, so. And each of our contracts has very specific performance measures upon which we're evaluated, so I feel no pressure to vote in any way on the Foster Care Review Board in any way other than what I believe is in the best interest of the children that we serve.  
[CONFIRMATION]

SENATOR CAMPBELL: Thank you. [CONFIRMATION]

SENATOR GAY: Senator Stuthman. [CONFIRMATION]

SENATOR STUTHMAN: Thank you, Senator Gay. Mary Jo, nice to see you again.  
[CONFIRMATION]

MARY JO PANKOKE: Good to see you. [CONFIRMATION]

SENATOR STUTHMAN: Mary Jo, serving as executive director of an organization, do you feel this is a benefit to you on making decisions on the Foster Care Review Board because of your hands-on experience of experiences that you go through?  
[CONFIRMATION]

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MARY JO PANKOKE: I think it's essential for people that serve on the Foster Care Review Board to have some knowledge of the system and the children and families that are part of the system. I think that's been essential to me in my service on the board. I think it's also been helpful being in the position of, as a leader of an organization, to understand...to bring that management background to my work on the board. I think that's been very helpful. [CONFIRMATION]

SENATOR STUTHMAN: Okay. Thank you, Mary Jo. [CONFIRMATION]

SENATOR GAY: Any other questions? I've got one. I see you have Senator John Harms as--how do you know him?--on your references here. [CONFIRMATION]

MARY JO PANKOKE: Senator Harms used to be on my board of directors. [CONFIRMATION]

SENATOR GAY: Okay. Yeah, I wondered. [CONFIRMATION]

MARY JO PANKOKE: He's a former board member. [CONFIRMATION]

SENATOR GAY: Okay. All right. Any other questions? Don't see any. Thank you. [CONFIRMATION]

MARIO SCALORA: Good afternoon, Senator Gay and members of the committee. I am Mario Scalora, last name is spelled S-c-a-l-o-r-a. Thank you for the privilege of meeting with you and requesting a reappointment to the State Foster Care Review Board. I'll be very brief. My qualifications. I've been a psychologist working with people who have been involved with the legal system or at risk for being involved with the legal system for over 20 years. As a faculty member at the university, I also work a great deal with individuals who are learning to work with the child welfare and human service system, broadly speaking, in attempting to address the needs of youth and families throughout the state. I think it's...to echo what Ms. Pankoke said, I think it's critical at this point to maintain some continuity with the board, as there have been shifts and accountability at two ends. One, we see that there's a need for continued oversight regarding the services our youth receive. And we, with the outstanding staff we have who work very hard reviewing cases and the volunteers who put in a lot of hours, we are still needing to push to make sure we review as many cases as possible and get to meet our statutory mandate, which we have not yet, but we're moving ahead on that. The other end of the accountability spectrum deals with the agency itself, making sure that we are responsible stewards of a public resource. And so I feel privileged to work with an outstanding group of colleagues to try to work at both ends in that regard. To address this accountability issue or disclosure issue, I work at the University of Nebraska at Lincoln. We do receive funding from the Department of Health and Human Services. I

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cannot tell you how much the NU system receives. I presume it has a lot of zeroes behind it. No one there has asked me about my service on the board other than why, and then I explain. More pertinent to myself and my department, as a member of the psychology department, we as a department have a contract for a quarter of a million dollars for psychology services to the Lincoln Regional Center. That involves myself, approximately eight graduate students for whom the bulk of the money goes to, and a couple other faculty members who supervise services. The personal benefit to me is somewhere between \$10,000 to \$15,000. That goes towards salary. That covers my university time. In terms of any pressures that I might feel or any conflicts of interest, I have not encountered any. And typically, as members of the board when we've had disagreements, we've been able to work it out. There's been one circumstance where I recused myself related to a case in which I had overseen the evaluation of a ward that the Foster Care Review Board was reviewing, and noting that I recused myself from that case and passed that on to my fellow board members and Ms. Stitt, the executive director. So in that respect I exercised a judgment I needed to recuse. I'd be happy to answer any questions. [CONFIRMATION]

SENATOR GAY: Any questions? Senator Stuthman. [CONFIRMATION]

SENATOR STUTHMAN: Thank you, Senator Gay. Doctor, as serving on the Foster Care Review Board, do you feel that the foster care system, the organization, the way it's worked as far as placements, reunification, replacements, moving kids, you know, from one foster home to another foster home to another foster home and another foster home, is there room for improvement there? [CONFIRMATION]

MARIO SCALORA: Heck, yes. Yes, sir. Absolutely. [CONFIRMATION]

SENATOR STUTHMAN: Can you as a Foster Care Review Board member have any influence on that? [CONFIRMATION]

MARIO SCALORA: Where I see the board having the most influence is at two levels, sir. One, at the individual case level, just bringing attention to the courts where there may be specific concerns if, for example, permanency objectives in terms of kids moving around or the placement issues are problematic where it's being brought to the attention of the courts that are, frankly, very burdened in trying to keep up with the loads that they have. And I think in a broader level where I feel my expertise is actually stronger is looking at the bigger picture, the numbers. And what I've tried to do in consulting with the agency is to improve how we use our data to best inform. And so what I am very proud of is how the agency has used data more to better inform the issue and work with HHS to point out issues around, for example, where their glitch is in moving kids through the system faster toward one outcome or another that's more permanent or raising issues where safety concerns have been raised. So I think we can have an impact at two levels. I think for 1.7 million we should be able to give you some

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information you can use and give you something from the 500,000 foot level as well as ground level as to where some of the problems are. That's hopefully unbiased and not politically motivated, and that's our goal as board members. [CONFIRMATION]

SENATOR STUTHMAN: Okay, thank you, Doctor. [CONFIRMATION]

MARIO SCALORA: Thank you, sir. [CONFIRMATION]

SENATOR GAY: Any other questions? I've got a question for you on the data. I met with Carol Stitt and Todd Landry. There was a joint study done that I thought was very productive, and it's been handed out to everybody on the committee. But there's some good results I thought, good information being exchanged there. Is that something that you would pursue into the future, more opportunities to get together and find out where you can work together? [CONFIRMATION]

MARIO SCALORA: Absolutely, sir. I think...and that has been our common theme to, when appropriate to be collaborative with HHS. When we have to be confrontive, be confrontive but make sure we have our facts straight and have it be focused related to the youth and what the needs of the youth are, so we don't get caught into any politicized issues, so to speak. That sometimes has been accused in the past. And I think the staff have worked very hard to work those collaborations a great deal and I'm very pleased to see those outcomes. And I hope Mr. Landry's replacement, whomever that may be, would continue that same tenor of cooperation also. [CONFIRMATION]

SENATOR GAY: And the courts were involved in that a little bit too, as well as Judge Heavican. [CONFIRMATION]

MARIO SCALORA: Yes, sir. The Chief Justice was a key player also. [CONFIRMATION]

SENATOR GAY: Yeah, very good. Senator Howard. [CONFIRMATION]

SENATOR HOWARD: Thank you, Mr. Chairman. Thanks for being willing to do this again. [CONFIRMATION]

MARIO SCALORA: Thank you. [CONFIRMATION]

SENATOR HOWARD: One of the concerns that I have, and I'm going to share this with you so that maybe as time goes on you can be a vigilant person on it. Because I think it's very important when the Foster Care Review Board looks at cases that they really look at the federal guidelines that have come down, and that's in regard to termination of parental rights especially, because I think there are cases where courts delay addressing that. And I've had some cases that came to me over the summer, and as a

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matter of fact I almost put in a bill regarding that. But I think we can do some things prior to having to address it in this way. But the federal guidelines are there for a reason and you know that, 15 of the last 22 months of out-of-home placement, and that's especially critical with very young children. In a situation, for example, where a mother has a chemical addiction and the child is placed in foster care directly from the hospital. I would just urge you to keep that in mind in your work with the Foster Care Review Board, that those timetables are so important, especially in a little one's life.  
[CONFIRMATION]

MARIO SCALORA: Senator, agreed and noted, and will pass that on as we discuss at the next meeting. And for the record, that has been a major focus, and I think part of the issue has been getting the data right. As you might imagine, the data with these situations is a little messy and people have worked hard to compile that information and look at issues such as aggravated circumstances and time frames and what. And these families where chemical addiction, particularly methamphetamine, are a problem are very troubling and perplexing. As you nailed it right on the head, they tend to be a big part from what our data is suggesting looking at the last report. But I do think it is worth our being, continued to be vigilant and highlight that concern. So thank you.  
[CONFIRMATION]

SENATOR HOWARD: I really appreciate that. Thank you. [CONFIRMATION]

SENATOR GAY: All right. Any other questions? No, don't see any. Thank you.  
[CONFIRMATION]

MARIO SCALORA: Thank you, sir. [CONFIRMATION]

SENATOR GAY: Dave Schroeder. [CONFIRMATION]

DAVE SCHROEDER: Good afternoon, Senator Gay and Senators. I'm Dave Schroeder, D-a-v-e S-c-h-r-o-e-d-e-r, and I'm from Lexington, Nebraska, and I'm seeking appointment. Last year I was appointed to fill the rest of an unexpired term of a member who stepped down, so this would be an appointment, I guess, officially, I think. But I have had a background of serving on some community agencies involved with helping newcomers to our community, Latinos, and also have been involved with an organization that is involved in maternal healthcare, particularly targeting young mothers. And that's part of the perspective. And I've also served on our local Foster Care Review Board, as well, for a couple of years as well. And so I try to bring that, what we're seeing at the local level from the western part of the state, a little bit of perspective to that to the state board. And I'd be glad to answer any questions you have. [CONFIRMATION]

SENATOR GAY: Any questions from the committee? Senator Wallman.

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[CONFIRMATION]

SENATOR WALLMAN: Thank you, Senator Gay. And welcome to this committee.

[CONFIRMATION]

DAVE SCHROEDER: Thank you. [CONFIRMATION]

SENATOR WALLMAN: I see you know a lot of people I know. (Laughter) So thanks for coming here. [CONFIRMATION]

DAVE SCHROEDER: Yes. [CONFIRMATION]

SENATOR GAY: So you were...how long were you on the local board?

[CONFIRMATION]

DAVE SCHROEDER: I believe it's been five years. [CONFIRMATION]

SENATOR GAY: Five years prior to the last... [CONFIRMATION]

DAVE SCHROEDER: Well, currently about five years. [CONFIRMATION]

SENATOR GAY: Okay. And then the difference between the local board and coming to the state board is...I mean what benefit do you think that's bringing for you that may be different than somebody that hadn't put time in the local board as your meetings.

[CONFIRMATION]

DAVE SCHROEDER: Right. Well, one thing from a local level, I've noticed some trends that I try to bring forward if I see them as some of an issue we should look at. A couple of years ago we kind of felt, as a board, that the guardian ad litem weren't taking an active or enough interest in some of the cases and that could have been some of an barrier. It may not be a big barrier but it could have been helpful in advancing some of those cases to permanency and that's been an issue that I forwarded to our state staff, and I believe also too, I think, the Chief Justice recognized that and there was more of a focus on that in the last year or so. And so that's an example of something I try to bring up from the local level. I think it's something that we can examine at the state level.

[CONFIRMATION]

SENATOR GAY: So how would you...like what, do you have any proposals in mind that you would be pursuing if you're going to continue on? I mean, if you started down that road, what are you...what's the next step, in your mind? I mean, are you going...

[CONFIRMATION]

DAVE SCHROEDER: Yeah. Well, you know there's been some things I've observed, I



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guess, that concerns me. You talked about the study released earlier this week, and again one of the barriers to reunification sometimes, I think, is...although it's probably in the best interest to try to have kids placed with family members, but sometimes that can be a barrier because that doesn't create an incentive for the parent to work towards their program if they have access to their kids by being able to go to their parents and their kids are there, and so forth. And sometimes that doesn't create an incentive for them to work on their issues, and I really...that's something I'm thinking about and trying to find out more and see if that's something that could be looked at, because I know there's a real effort to try to keep kids placed within their family, so. [CONFIRMATION]

SENATOR GAY: Senator Howard. [CONFIRMATION]

SENATOR HOWARD: Thank you, Mr. Chairman. Dave, can I call you Dave?  
[CONFIRMATION]

DAVE SCHROEDER: Yes. [CONFIRMATION]

SENATOR HOWARD: I see you have a criminal conviction. Can you tell us a little about that? [CONFIRMATION]

DAVE SCHROEDER: That was an incident of shooting from the roadway during a hunting season several years ago, 15 or so years ago. [CONFIRMATION]

SENATOR HOWARD: You were shooting from a truck or a car or a...  
[CONFIRMATION]

DAVE SCHROEDER: From a roadway. [CONFIRMATION]

SENATOR HOWARD: You were in a vehicle. [CONFIRMATION]

DAVE SCHROEDER: No, no. Shooting from a roadway. [CONFIRMATION]

SENATOR GAY: All right. Any other questions? I don't see any. Thank you.  
[CONFIRMATION]

DAVE SCHROEDER: Thank you. [CONFIRMATION]

GEORGIE SCURFIELD: Good afternoon, Senator Gay. Good afternoon, Senators. My name is Georgie Scurfield, G-e-o-r-g-i-e, and Scurfield is S-c-u-r-f-i-e-l-d. I have been serving on the board for the last three years and for the last one year have been chair of the Foster Care Review Board, and I'm here to ask you to reappoint me for another three years. The performance audit that was conducted by the Performance Audit Committee of the Legislature during the last year was a difficult process for the board to

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go through and a thorough one. And we, as a board, have taken the performance audit recommendations very seriously. We're meeting next week with an outside facilitator to create a strategic plan that we hope will carry us through the next one, three, and five years with a vision for how we're going to best operate this organization and how to work out arrangements between...and separation between governance and management so that we can really do a good job. The heart of the work and the mission of the organization is really important to me. I spent the 30 years of my whole life and my career working in child welfare. And I truly believe that it's important to have an independent agency looking at the way in which the child welfare system is run, and having an independent voice and being able to provide information. The heart of that mission is the data. We have to be able to have access to good data, to look at the information, to have it clean, and to be able to present it back to those of you who are in positions of power to make a difference. And so for me, a lot of what we need to be doing is to make sure that the children are reviewed and that we have access to information to know where those children are, how many placements they've had, what's been happening with them. And I think we are really at a place now where we can move forward to clarify some of that in a way that we haven't had before we had the performance audit. So I'm enthusiastic about the work and hoping that you'll support all of the nominations so that we can maintain consistency in this board with the work that's been started and we can carry it through. [CONFIRMATION]

SENATOR GAY: All right. Any questions? Senator Wallman. [CONFIRMATION]

SENATOR WALLMAN: Thank you, Chairman Gay. Yes, good afternoon and welcome here. And I noticed you spent some time in the U.K. as a caseworker. [CONFIRMATION]

GEORGIE SCURFIELD: Yes. [CONFIRMATION]

SENATOR WALLMAN: And I have relatives in the U.K. How do you think the school system and the social system, are we on the same page as they are? Are we better? Are we worse? [CONFIRMATION]

GEORGIE SCURFIELD: Oh, what a great question. Probably a very long answer so I won't go with the whole thing. What strikes me very much is because there is universal access to healthcare, for a start, it's a very different system because there were questions that we didn't have to ask in England that I've had to learn to ask here. How are we going to access this particular service for a child in a way that we didn't have to then. I think education is slightly different too so there are different ways in which learning is expected to happen, and class is still a really significant factor in the U.K. and really isn't here and it's a very different way of looking at things. [CONFIRMATION]

SENATOR WALLMAN: All right, thank you. [CONFIRMATION]

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SENATOR GAY: Senator Pankonin. [CONFIRMATION]

SENATOR PANKONIN: Thank you for coming today and I've got to go to another meeting real shortly so don't be alarmed if I leave. But you mentioned a couple of times in your testimony about independence of the group and I think those of us we weren't here, the history behind the Foster Care Review Board is interesting from a legislative standpoint. At one time the Legislature didn't know what was going on, created this, and they wanted it to be independent. Now, we have some questions. There's a bill that's been before us, as you know, regarding conflicts of interest and things like that. As I maybe understand it, your husband works, does some work for the Department of Health and Human Services? [CONFIRMATION]

GEORGIE SCURFIELD: He works for a contractor with the Department of Health and Human Services. [CONFIRMATION]

SENATOR PANKONIN: A contractor that does DHHS work. [CONFIRMATION]

GEORGIE SCURFIELD: He works for Young-Williams. Young-Williams have a contract to do prosecutions in Douglas County of people who have not paid their child support. [CONFIRMATION]

SENATOR PANKONIN: Any comments on independents and conflicts, and the compromise that may happen? I know it's difficult because people have involvement in the system. That's why they know about the system, but. [CONFIRMATION]

GEORGIE SCURFIELD: Exactly. I think it's really important that we have people who have local knowledge, so we've heard from Dave today and I think it's important we have people on the state board who have those pieces across the state. I also think it's important that we have people who understand the child welfare system from the inside as well. So I think the balance is really good. The performance audit found no conflicts in what they were looking at, and they looked very thoroughly. They named us each. They looked at our backgrounds. They looked at what we were doing. So I don't think or I have not seen any problem and neither have they, so I think we need to maintain that balance so that people are both professional and committed and have an ear and an eye inside the system and understand it well, and then bring in some local voices too, people who may not have that inside knowledge of child welfare but do know their own community really well. I think that makes the balance. [CONFIRMATION]

SENATOR PANKONIN: Thank you. [CONFIRMATION]

GEORGIE SCURFIELD: Thank you. [CONFIRMATION]

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SENATOR GAY: Any other questions? Senator Campbell. [CONFIRMATION]

SENATOR CAMPBELL: Thank you, Senator Gay. I'm going to ask the same question to follow up from Senator Pankonin. At any time your work with the CASA program and the juvenile court, do you think that caused any compromise to any of the decisions that you made as a board member? [CONFIRMATION]

GEORGIE SCURFIELD: As Dr. Scalora said, there was one moment when I recused myself from a meeting because I realized that we were about to discuss a case that came through Sarpy County, and therefore I shouldn't probably be talking about that. So I think there's that moment. But I really don't see any conflict there. I have not been able to identify and thankfully neither did the performance audit identify that there was a conflict. I really have worked...in the past before I did the job on the governing board, with Foster Care Review Board staff very much as colleagues, that they would be looking at cases that maybe a CASA was appointed to and I was talking to them about that. I had great respect for the organization then, still, and they for CASA. I never felt like it was a problem and doesn't now. Thank you. [CONFIRMATION]

SENATOR GAY: All right. Any other questions? Don't see any. Thank you. [CONFIRMATION]

GEORGIE SCURFIELD: Thank you. [CONFIRMATION]

SENATOR GAY: All right. With that, we'll...do have, checked with the counsel. Any public comment? All right, with that we'll close the hearings on the appointments and move on to LB592. Senator Dierks. Thank you all for coming too, by the way. Welcome, Senator Dierks. Well, just for the public, there are senators coming and going throughout the day. What they're doing, not that they aren't paying attention to what goes on here, they've got bills in other committees that they have to testify on so people come and go throughout the day. And that's...when you see them coming and going that's where they're going. We're still holding hearings in a lot of different committees, and they're introducing their bills in other committees and they come back right when they're done. So that's...I wanted to get that on the record, because I know we're a few people are busy with some other things today and that's what's happening, so. Welcome, Senator Dierks. []

SENATOR DIERKS: Thank you, Senator Gay, members of the Health Committee. This is my third day in a row being at your committee. (Laughter) And Senator Howard suggested to me this morning if I was going to homestead out here, I ought to put a mailbox up, so. (Laughter) Chairman Gay, members of the Health and Human Services Committee, my name is Senator Cap Dierks. That's spelled C-a-p D-i-e-r-k-s and I represent District 40. I am here today to introduce LB592. David Buntain, lobbyist for the Nebraska Medical Association, brought this bill to me. He said it would just be a little bill

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that would add two words "geriatrics" and "geropsychiatry" to the Rural Health Systems and Professional Incentive Act. I asked him if he was looking for a geriatric rural senator to introduce the bill. (Laughter) And he just laughed, so that's how I became the introducer of this bill. I do have a long history with the subject area. I was a cosigner of LB400 in 1991 which adopted the Rural Health Systems and Professional Incentives Act. My good friend, Senator Stan Schellpeper was the main introducer of that bill. Two years later I brought LB152 which authorized funding for the Office of Rural Health family practice residency programs. So this is an area with which I am interested and have been involved. I have been told that geriatrics and geropsychiatry are already included in the approved medical specialties, although they're not specifically listed in state statute. I will leave it up to the Health Committee to decide if this bill is necessary. I do believe the idea behind the bill is good. According to statistics in the AARP and the Nebraska Humanities Council, Nebraska's population of individuals aged 65 and older made up 13 percent of the population in 2000, and by 2030 that number will increase to 21 percent of the total population of Nebraskans who will be 65 years or older. The baby boomers are aging and there will be a need for specialists in geriatrics and geropsychiatry, both in rural and urban Nebraska. With that, Mr. Chairman and members, I will end my testimony on LB592 and try to answer any questions you might have. [LB592]

SENATOR GAY: Thank you, Senator Dierks. Are there any questions? I don't see any at this time. [LB592]

SENATOR DIERKS: Senator Howard really didn't say that. (Laughter) [LB592]

SENATOR HOWARD: I might have. (Laughter) [LB592]

SENATOR GAY: I could see her doing that though. [LB592]

SENATOR DIERKS: I will waive closing. [LB592]

SENATOR GAY: All right. Thank you, Senator. One thing I did forget to mention when we were doing confirmations, but during our hearings we have...like I say, we have five bills to get through today. We have a time limit here of 5 minutes. And when the green light is on, that's on until 4 minutes. At 4 minutes the yellow light goes on; and when the red light is on, your 5 minutes is up. We'd like you...you can finish what you're saying, obviously, but lots of times if we're not repetitive, really that helps anyway. So it just helps move the day along. Not that we don't want to hear from you, but if we don't do that we're here until about 8:00 at night, and it's not too fair to the person that's introducing LB609 which is the last bill of the day, so. Welcome, Mr. Buntain. [LB592]

DAVID BUNTAIN: Thank you, Senator Gay, members of the Health and Human Services Committee. I'm David Buntain, B-u-n-t-a-i-n. I'm the registered lobbyist for the

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Nebraska Medical Association. And Senator Dierks is being modest. What I told him was, we were looking for a young and vigorous senator to introduce this bill. (Laughter) This bill results from a resolution that was passed by the House of Delegates of the Nebraska Medical Association, which was brought to it by Dr. Hoarty who is a fourth-year resident who is interested in practicing in the geriatric area. And it would not benefit her personally, but I think she recognizes, as a number of people do, that the population of Nebraska is aging and that the speciality of geriatric medicine is becoming a recognized speciality. Currently we have about 30 geriatricians practicing in the state and the American Geriatric Society estimates that we could use another 120 and that number is only going to grow in the years ahead. And a number of states have attempted to address this issue in their own states by developing a loan forgiveness program. We have been looking at this as...since we have a current loan forgiveness program, the rural loan forgiveness program is a place to start. I would be the first to admit that we're not sure that this is exactly the right way to address this problem. I guess what I would ask the committee to do would be to hold this bill and give us some additional time to work on this and, you know, obviously we can make a decision even in the next session whether this is the right way to proceed or not, but I do want to thank Senator Dierks for his interest in this area and for introducing the bill. And with that, I would entertain any questions. [LB592]

SENATOR GAY: Thank you. Any questions? Senator Campbell. [LB592]

SENATOR CAMPBELL: Thank you, Senator Gay. Mr. Buntain, then you may be aware of this letter, but we just received a letter on our desk from Dr. Schaefer indicating that the two fields that you're asking to be included, they would consider already included. Did you know that? [LB592]

DAVID BUNTAIN: I have not seen letter and I understand that the law could be interpreted that way. My concern, quite frankly, is that what we are proposing may not go far enough to accomplish what we want to accomplish, and so I think we may come back with a more robust proposal... [LB592]

SENATOR CAMPBELL: Oh, okay. [LB592]

DAVID BUNTAIN: ...than this, which could either be considered as an amendment to this bill or as a new bill next session. [LB592]

SENATOR GAY: Thank you. Any other questions? I don't see any. Thank you. [LB592]

DAVID BUNTAIN: Thank you. [LB592]

SENATOR GAY: (Exhibit 1) And Senator Campbell did mention we received a neutral letter from the department. Any other proponents? Any opponents? And we received

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the neutral letter and Senator Dierks waived his close. We'll close the public hearing on LB592, and Senator Howard is going to introduce LB599. Go ahead. [LB592]

SENATOR HOWARD: Good afternoon, Senator Gay and members of the committee. For the record, my name is Senator Gwen Howard and I represent the 9th Legislative District. Today I'm here to introduce LB599 for your consideration. Even when insurance is paying for medical bills, people want to know what they are being charged for. People are concerned with health insurance costs and want to review and verify their bills to be sure that the right items are included. I have been told of situations in which a request has been made for an itemized billing but the request has been refused or there has been a charge imposed. I believe if people are expected to pay for medical bills, either personally or through the insurance they purchase, they should be entitled to know what they are paying for. I found that the current law, and this is Section 71-2049, allows a patient to request a statement itemizing certain specific expenses. That statute, however, applies only to hospitals and ambulatory surgical centers. LB599 would simplify and broaden the patients' rights to itemized billing. Under LB599 a patient would be entitled to an itemized billing with diagnostic codes upon the request of the patient. The bill would be applicable not just to hospitals and ambulatory surgical centers, as in current law, but to any healthcare facility or healthcare practitioner facility, and there would be no charge to the patient for the itemized statement. There will be testifiers who are waiting to testify who can answer technical questions that you might have, but I'd be happy to answer questions I can about the public policy of allowing patients access to the charges incurred for their treatment. [LB599]

SENATOR GAY: Thank you, Senator Howard. Any questions right now? Senator Wallman. [LB599]

SENATOR WALLMAN: Thank you, Chairman Gay. Thank you, Senator Howard. Do you feel that there's double billing or something, why this bill is requested? [LB599]

SENATOR HOWARD: Well, this bill brought to me and I was requested to carry this bill, but I'm in complete agreement that people should have access to the bills. My medical bill for just an annual visit came in January, and the doctor was very precise in itemizing everything, every procedure, which I really appreciated. Then I knew the cost of things. And I think people have a right to expect that. If they don't receive it, they have the right to request it. [LB599]

SENATOR WALLMAN: Thank you. [LB599]

SENATOR GAY: Any other questions? I don't see any. Thank you. [LB599]

SENATOR HOWARD: Very good. Thank you. [LB599]

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SENATOR GAY: We'll hear from proponents. [LB599]

MATT LATHROP: Good afternoon, Senator Gay and committee members. My name is Matt Lathrop, I'm an attorney from Omaha. That's L-a-t-h-r-o-p. I'm here on behalf of the Nebraska Association of Trial Attorneys in support of this bill. If I may, I'll give a little background and then talk about why...address a great question that you asked, Senator Wallman. What are diagnostic codes? Diagnostic codes are simply a short number, a five-digit number or a seven digit number, that precedes on a billing statement the service provided. What it does is quickly informs the person reading the diagnostic code what the treatment was provided for. So if you see in a billing statement, x-ray, the diagnostic code will tell you broken leg, so we know the leg was x-rayed. Why are they important? They're important because if you've ever had to read a doctor's handwriting, sometimes you'll know it's all in shorthand, which I don't blame them for. And also sometimes it's hard to read even in the shorthand that they use, the abbreviations. So it makes it more understandable for a lay person or anybody else who has to read those records and understand the billing. The ICD-9 codes or the treatment codes are often and most...and easily researchable on the Internet. So you can look up a code and see what the treatment is. Why is...why is this important? As Senator Howard said, it's a sunshine law. It allows people who are looking at bills to see what treatment they were provided. We have great doctors here in Nebraska and I think we all would agree that many of them have a lot of patients and a lot of work and their staff work hard at doing what they do, and occasionally a mistake is made. If we look at a bill and we see that I, Matt Lathrop, was treated for pneumonia last Wednesday, and I was never sick, that helps me to call up the doctor's office and correct the problem before it snowballs into a big deal with the insurance company. So there's a great reason to do it. In my own practice, I can tell you there are several examples of why this would be helpful. When I am asked by an insurance company during the process of making a claim on behalf of a client to provide them with all of the related bills for the care that my client has received, if I have to call up the doctor's office and say, give me your patient's billing statement for all care that the patient has had but only give me the care related to the injury, that doctor's office is now burdened with having to do something that benefits me. On the other hand, if they provide me with an itemized list with diagnostic codes, I can do that work on my own because I know what I'm looking for. I don't have to trouble their staff and I have people that I can pay to look those things up. So it makes it easier for the doctor's office and for me to help my client. When does this come into play? Many times I have clients who have been in a car accident, for instance, and have neck pain or a neck injury. As a result of that, they're treated for neck injuries. But in the meantime, they're also going back to the doctor for rhinitis, for gout, for any other problem. This, again, gives me an itemized billing upon request that I can go through and provide to an insurance company only those parts of the bill that are related to the care my client got. And finally, when there is a recovery on behalf of a client--let's take Medicare or Medicaid, for instance--Medicaid wants their money back and that's reasonable. That's called a right of subrogation. Their repayment depends on getting from me those



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amounts of the settlement that relate to the care that they provided. And again, if I have a client who has received Medicaid treatment for a number of problems and I'm only required by law to repay Medicaid for the related treatment that I just settled the case for, those diagnostic codes help Medicaid and me communicate quickly and efficiently again so that the Medicaid office isn't burdened with going through 25 pages of my client's billings to look for those things that were treatment for a neck injury. So the ICD-9 codes are a shorthand way for people who are checking their bills to make sure they're being billed accurately, for offices to quickly go through the bill and find related treatment, and providing this to anybody who requests them but most, you know, directly related to my practice. Providing it to us allows us to put the burden on filtering these bills on us rather than on the Medicaid office or the doctor's office or other people who have better things to do. And I'll be happy to answer any questions. [LB599]

SENATOR GAY: All right. Thank you. Any questions from the committee? I've got one. You got a relative in the Legislature? [LB599]

MATT LATHROP: Yeah, he's a distant brother of mine. (Laughter) [LB599]

SENATOR GAY: I couldn't tell. (Laughter) All right. Thank you for coming today. [LB599]

MATT LATHROP: Thank you. [LB599]

SENATOR GAY: (Exhibit 1) Other proponents? We have a letter of support from the Nebraska Hospital Association as well. [LB599]

DAVID BUNTAIN: Senator Gay, members of the committee, David Buntain, B-u-n-t-a-i-n, registered lobbyist for the Nebraska Medical Association. We are in support of the bill insofar as it requires the provision of...or allows patients to request an itemized statement. Our position is that this is largely a solution for which there is no problem. Our understanding from most physician offices is that they will provide this upon request. I would note that I think this is being offered by the trial attorneys primarily to enable them to do some discovery, if you will, into the underlying codes. Obviously, we...our offices will provide this information to patients upon their request, at least they should, and we recognize that and there should be no charge for it. But it is, to some extent by requiring the diagnostic codes to be included, that may be a change in practice for some physician offices and it is an additional charge to them, which is basically being requested to assist the trial attorneys. And I think that should be made clear to the committee. And with that, I'll close. [LB599]

SENATOR GAY: All right. Any questions? I don't see any. I don't see any. Thank you. [LB599]

DAVID BUNTAIN: Thank you. [LB599]

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SENATOR GAY: Any other proponents? Any opponents? Any neutral? Senator Howard, do you want to close? Senator Howard waives closing. Oh, I'm sorry. You're shaking your head like, no. [LB599]

SENATOR HOWARD: No, she doesn't. Don't be so hasty, Senator Gay. (Laughter) [LB599]

SENATOR GAY: It was going so good for you, just figured... Sorry, Senator Howard. [LB599]

SENATOR HOWARD: I have to be faster. I see how this goes here. (Laughter) Closing. LB599 would simply make it easier for consumers, such as myself, to have access to itemized billing for their healthcare expenses. Trial attorneys issue, that may be as it is. I appreciate knowing what I'm paying for, frankly. In these tough economic times, I believe it's wise for us as legislators to do what we can to ensure fiscal transparency for all Nebraskans. I thank you for your attention, and I would ask that you support me in making financial healthcare information more accessible to our constituents and ourselves. Thank you. [LB599]

SENATOR GAY: Senator, hold on. See, now you're rushing off. Senator Gloor. [LB599]

SENATOR GLOOR: Thank you, Chairman Gay. I just have to ask this question. [LB599]

SENATOR HOWARD: Sure. [LB599]

SENATOR GLOOR: Was there discussion while I was gone, Senator Howard, that usually the bill has no relationship to what actually is going to be paid? [LB599]

SENATOR HOWARD: You mean the bill... [LB599]

SENATOR GLOOR: I should reword that. [LB599]

SENATOR HOWARD: Prior to the insurance payment coming through? [LB599]

SENATOR GLOOR: Yes. [LB599]

SENATOR HOWARD: I don't think necessarily there was. [LB599]

SENATOR GLOOR: But an understanding as far as you're concerned that you may have the bill but that doesn't necessarily list the charges on it. [LB599]

SENATOR HOWARD: Well, usually on the...usually on the bill, on my bills at least, it's

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noted insurance payment has been received, or if it hasn't there's a blank behind that. [LB599]

SENATOR GLOOR: Yeah, you'll get an explanation of benefits from the insurer... [LB599]

SENATOR HOWARD: The insurance company. [LB599]

SENATOR GLOOR: ...but not from the healthcare provider who may have multiple different relationships with different insurers that result in different things being paid for at different rates, and so. [LB599]

SENATOR HOWARD: I think that varies with the provider though, doesn't it? I mean, my doctor itemized everything and I appreciated that. [LB599]

SENATOR GLOOR: Yeah. Now you'll get an itemized bill. It's just that what you'll actually end up paying, or what gets paid for and how much gets paid usually is not going to be what the hospital or the physicians or the physical therapists... [LB599]

SENATOR HOWARD: Well, the doctor let me...he let me know what I owed. [LB599]

SENATOR GLOOR: Okay. Yeah, thank you. [LB599]

SENATOR GAY: Any other questions? I don't see any. Thank you, Senator Howard. [LB599]

SENATOR HOWARD: Thank you. [LB599]

SENATOR GAY: All right. With that, we'll close on LB599 and go to LB515. Matt, are you going to do this for Senator Flood? All right. And we'll open on LB515. Go ahead whenever you're ready, Matt. [LB599]

MATT BOEVER: (Exhibit 1) Good afternoon, Chairman Gay and members of the Health and Human Services Committee. My name is Matt Boever, M-a-t-t B-o-e-v-e-r. I'm the legal counsel in Senator Flood's office. He got called away unexpectedly for some business, but perhaps will be down here to close. Senator Flood represents the 19th Legislative District which includes all of Madison County. As you know, only EMTs, licensed physicians, registered nurses, licensed physician assistants, and licensed practical nurses can transport a patient in an ambulance. The problem is that in many rural communities across our state there are simply not enough medical personnel to operate ambulance service during the daytime hours. Patients in need of emergency care are needlessly waiting for transportation to the hospital. LB515 isn't Senator Flood's first attempt to find an answer to this problem. Over the last several years he's

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been meeting with many members of the EMS board and the emergency medical community. I think he thinks he's found a workable solution with this white copy amendment to LB515. And you should have copies of that, it's AM498. Under AM498 to LB515, the EMS board would provide...and this is on the last two lines of page 4 of the white copy. The EMS board would provide for temporary licensure of an out-of-hospital emergency care provider who has completed the educational requirements but not completed the testing requirements. The temporary license would be valid for one year or until the license is issued. The rules and regulations would specify "qualifications and training necessary for issuance of a temporary license, the practices and procedures authorized for a temporary licensee, and supervision required for a temporary licensee." Senator Flood's thought was that creating this period of temporary licensure, it would allow for more qualified people to become emergency medical care providers so that people in the more rural areas of the state could be better served. AM498 also makes changes to the titles of the providers, which brings the state in line with the coming federal-level changes. I understand that the educational materials will not be available until 2010 and that's the reason for those dates in the amendment. Senator Flood wanted to thank the EMS board and its members for its hard work on and support of what's become AM498. Bruce Beins is here today and he will explain the board's position. Senator Flood also wanted to thank Dr. Joann Schaefer, director of the Division of Public Health and Chief Medical Officer for being here today and supporting AM498. Again, Senator Flood's hope is that he can continue, and this bill will continue to bring the medical and EMS leadership to the table and finalize an answer to this problem. Thanks for your consideration of the bill and the amendment, and I'd be happy to try to answer any questions. [LB515]

SENATOR GAY: All right. Thanks, Matt. Any questions from the committee? I've got...Matt, I've got a question. If...I'm sure there will be people speaking. How many proponents will be speaking on this? About four. Any opponents? Opponent or neutral? Okay, well, I was just going to get to that. The discussion then, I assume most people are familiar with this amendment. Was this drafted and given to people? [LB515]

MATT BOEVER: Well, yeah. We only had kind of a short window to circulate it so we tried to do the best we could. [LB515]

SENATOR GAY: Okay, so but the amendment goes to the agreement and that's what we're going to keep our discussion to, because this is replacing the bill. [LB515]

MATT BOEVER: That's right. [LB515]

SENATOR GAY: So for everyone's...so we're all talking about the same thing, it will be on this amendment that he handed out, because I don't want it to get too...because this has a history, as we know, so that would help clarify it a lot if we can stick to this bill which we're voting on, so. And then, that's all. I wanted to make sure...just make sure

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this is complete. There's nothing in the other bill that...all right. All right. Any..no questions, I don't see for you, and we'll see if Senator Flood shows up and go from there. [LB515]

MATT BOEVER: Okay. Thank you. [LB515]

SENATOR GAY: All right. Thank you. We'll hear from proponents. [LB515]

TOM HAMERNIK: (Exhibit 2) My name is Tom Hamernik, H-a-m-e-r-n-i-k, and I'm a proponent of the amendment, AM498, and LB515. Good afternoon, Senator Gay and members of the Health and Human Services Committee. Next Wednesday will mark my thirtieth year as an EMT with Clarkson Fire and I'm also a member of the NSVFA's legislative committee. I'd like to thank Senator Flood for sponsoring LB515 and the amendment. Without his continued pressure this past three years, I'm afraid very little would be happening to resolve a very, very serious issue. In Clarkson we're fortunate that we have an adequate EMT staff, but during the workday the responsibility falls on a very, very few people. And many communities in Nebraska are not as fortunate as we are in having enough coverage, especially during the workday. Much of the amendment deals with the necessary name changes, updates, and structure of the EMS board and board member terms. The two parts that I would like to concentrate are on the one-year temporary licensure and Section 3. The one-year temporary licensure, I believe, is a small step that could be taken that would help in some situations to provide trained people for the transport part of the squad's responsibility. I believe it would be a small step but a good one and so I'm very supportive of that. And I believe there's ongoing conversations with the EMS board to continue to work out some additional solutions that might be possible to help resolve the issue. I do have concerns about Section 3, which is the adoption of the new U.S. DOT curricula or the scope of practice for Nebraska EMTs. I don't think that we've seen enough information about it to fairly evaluate how it's going to fit, especially rural Nebraska, and so it bothers me a little bit to put it into state law at this time until we really know how it's going to affect us. One of the concerns that we have is the number of hours that are required to complete the EMT course and getting people to make that time commitment for a volunteer job. When I took the class it was 81 hours plus 10 hours of emergency room work. And now, I believe, it's closer to 150 hours. And one of my employees is a month into the class right now, and she would take the class no matter how many hours it was because it's very important to her. But there are other people that just aren't willing to make that kind of a commitment for a volunteer squad, plus all the time that is involved in organizing a squad and making the calls. It is a big responsibility and it takes away from a lot of other parts of your life when you do that. As a current EMT-B, which is my classification in Nebraska, I don't want to reduce the number of skills that I have. I think in a squad that's essentially 30 minutes from a hospital, all of those skills are necessary. In fact, there are a couple of things like the endotracheal airway that I would like to see our squad have, because I could see that making a huge difference, especially in our cardiac patients. An endotracheal

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airway is inserted into the trachea of an unconscious patient to maintain that airway. And it is extremely difficult to otherwise maintain an airway in an unconscious patient when you're bouncing in the back of an ambulance for half an hour doing CPR. And if there's only two of you doing CPR, you are absolutely worn out by the time you get to the hospital. And so being able to maintain that airway is a critical thing and many squads have received the extra training and do the airways. And I have not been able to get it done in our squad because of the...we've gone through four different medical directors. Medical directors are required by Nebraska law and they are physicians that help you with your policies and procedures. They review your training. They help with your annual reviews and they're kind of a sounding board, and essentially, the physician has to be comfortable with what the squad is doing and they establish the criteria for that squad's service and provide some oversight. And our medical directors...it's just a matter of the local hospital being able to provide a physician in our local clinics to serve as our medical director. And we've had one that was especially good. He specialized in emergency medicine and he attended all of our meetings for a year, and it was absolutely priceless to be able to work with him and we were doing quite well with our squad. Now finding someone that's willing to make that commitment for a volunteer squad is very difficult, and I hope we can get back to that some day because they can make a huge difference in the expertise level of our squad members. As I mentioned, the new scope of practice, we'd like to see more information about that. I hope that it doesn't raise the number of hours that are required to complete the EMT-B or what's called the EMT-B classification now, because I think that will exacerbate the issue of the number of EMTs we have in the field. I hope that Health and Human Services can look at Section 3 and, in my opinion, pull it out of the amendment. But I think that the other information in the amendment, AM498, and LB515 are very positive and I hope that the committee can move them forward. And I thank you for your time this afternoon and I'll try and answer any questions. [LB515]

SENATOR GAY: Thank you. Any questions? Senator Gloor. [LB515]

SENATOR GLOOR: Thank you, Chairman Gay. Mr. Hamernik, I need to understand something. Years ago when I was a medic in the military I tested and was classified as an EMT-A. Now that classification may be gone but I know I took a national test. It sounds to me like there are national criteria but not a national test and therefore Nebraska develops its own test? [LB515]

TOM HAMERNIK: When I took the course in 1978, Nebraska had a test. And I believe sometime in the mid-'80s they went to the national registry test and I believe it was more difficult to obtain your national registry certification. At the time I took the class it was an option but it was not required. [LB515]

SENATOR GLOOR: Well, okay. My testing goes back earlier. Our ambulances were pulled by horses, I mean. (Laughter) But we are saying that there was a...this test

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probably isn't as stringent as what the national test would have been had people...or is, because it does still exist. So we could use a national test but we choose to use a test for Nebraska. It's a Nebraska test, is that... [LB515]

TOM HAMERNIK: Currently we're using a national test. We don't have a Nebraska test. And you will have other testifiers that are more familiar with that part of it. [LB515]

SENATOR GLOOR: Okay. [LB515]

TOM HAMERNIK: It's my understanding that we could go over and above the requirements that are set forth in the new curricula, but that is going to be the minimum. [LB515]

SENATOR GAY: Tom, I think you are right. There probably will be someone who will bring that up. Thank you for your service and your time. Appreciate it. Other proponents. [LB515]

BRUCE BEINS: Good afternoon, Senator Gay and members of the Health and Human Services Committee. My name is Bruce Beins, it's spelled B-e-i-n-s. I'm here before you actually wearing two hats. I'm testifying for the Nebraska State Board of Emergency Medical Services and also for the Nebraska Emergency Medical Services Association. I'm here in support of the amendment. I want to make sure that is clear, that the bill, as presented, not necessarily in favor of, but the amendment. This amendment come about by a task force that involved members of the EMS board, the EMS Association, and the volunteer firefighters working with Senator Flood to come up with a workable solution to the problems that we've testified, since I think 2005, before this committee on. And that's the reoccurring theme of that we have huge problems for recruitment retention of volunteers and we have a mostly volunteer system in the state of Nebraska. So the EMS board at its meeting last Friday voted unanimously in support of this amendment as it stands. It gives some flexibility to the board to kind of follow some of what Senator Flood had in mind in the temporary licensure of people that have completed their coursework but yet have not completed their testing requirements. So that gives them a year's period of time. We feel that it's another tool in the tool box towards recruitment and retention. People working in the field tend to sharpen their skills, tend to maybe lock in some of that knowledge that they've learned in the classroom. It also allows their service some time to mentor them. So we hope that we will see that some of these people will be more successful when it comes to the testing. Nebraska does enjoy a fairly high rate, success rate on the test, around 80 percent, which is way above the national average on the testing. To answer Senator Gloor's question, yes, we do use the national registry test in Nebraska. That's our credentialing exam. Years back, Nebraska did have its own test. It was fraught with problems, lack of test security being probably one of the biggest one, and then the expense of maintaining a test bank and keeping it current, and having it be defensible test. The

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EMS board's primary goal is protection of the public. And that's probably one of the reasons why this issue has drug out so long because always going back to, how is the public best served and making sure that the people that respond do have the training and the knowledge that they will need, not only to take care of the patient, but so they're not put into the uncomfortable position of basically being in over their head with a patient. So we didn't want to put the providers in that situation and we didn't want to put the public in that situation. The temporary licensure I think is going to be a very useful tool on that. In Section 3 it talks about the National Scope of Practice Model. That model has been around for multiple years now. It's been discussed at NSVFA conventions. It has been discussed at EMS conventions. It has been on the EMS board's agenda for about two years. There has been a lot of discussion about the National Scope of Practice. Now scope of practice is what we do. That's the things that you can physically do in the field. The Scope of Practice National Model hasn't changed much from what it was in the past, just now that they've formalized it. So us adopting the National Scope of Practice Model only makes sense. The second part of that was the educational guidelines. And the educational guidelines replace what we used to have, we used to call the DOT curriculum. Well, the curriculum was pretty hard and fast. The guidelines are much more flexible. So depending on the setting, the region of the country, whether I'm teaching in metro Omaha or, you know, Cherry County, Nebraska, the guidelines can be somewhat flexible in how you present those classes. So I think that's also a good thing, is to have more of a guideline. And right after that, you'll see in the amendment, it says, "until modified by rule and regulation." Now that's not new. That was always in there. The EMS board has always had the opportunity to modify those educational guidelines or DOT curriculum based on the needs of the public. And so we have done that in the past to add advanced airways or IV monitoring or glucose monitoring as the public or the services wanted those skills. So while we would recognize those things in legislation and those would be the basis for our scope of practice and our education, they wouldn't be absolutes because the board can modify those by rule and regulation. So with that, I urge you to support this amendment. And if you have any questions, I'd love to answer them. [LB515]

SENATOR GAY: Thanks, Bruce. Any questions? I've got one for you. You said that was a unanimous vote by the board. Can you explain how many members are on the board and, quickly, the makeup of it? [LB515]

BRUCE BEINS: The EMS board, it's actually all in there too. There's 17 members of the EMS board. They are from all aspects of EMS. There's physicians, there's PAs, nurses, paramedics, EMTs, first responders, people that work with training agencies. There's public-spirited individuals also on that committee. So it is a pretty well-rounded group. And I tell you, their hearts and minds are in the right place. I was on that board for 11 years and I was continuously impressed by the dedication that they were providing, keeping that goal of protection of the public in mind. [LB515]



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SENATOR GAY: Okay. Thank you. Any other questions? I don't see any. Thank you.  
[LB515]

BRUCE BEINS: Thank you. [LB515]

JERRY STILMOCK: Good afternoon, Senators. My name is Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, lobbyist on behalf of the Nebraska State Volunteer Firefighters Association, testifying in support of the bill as presented in the amendment, AM498. Tom Hamernik, the gentleman that spoke to you, you may have recognized from this morning, he had a busy day. He was here this morning at an event. He had business to tend to, back an hour and a half and made it back home, and then came back to testify. And Tom is exemplary; a good example of what volunteers do and what happens. And I'd be remiss not to share a little bit with you. Even though if...with one of you as senators are from Lincoln or Omaha as you travel up and down I-80 from Lincoln to, from Omaha to Lincoln, you're going to encounter volunteer services. If you're heading west on I-80 you're going to encounter volunteer services. If you enjoy the state parks, Mahoney State Park, on the eastern end of the state or in the western end of the state, you're going to have the services provided by volunteers who leave their workplace or respond in the middle of the evening. And that's what a snippet of the amendment is discussing in this matter is to allow a little bit of flexibility in the EMS system as a whole because of the problems that we're having. The...I want to share a little bit is this, right now we're operating on the curricula from the Department of Transportation at the federal level, and that was adopted several years ago. After September 11 and the attacks, there was an effort put together to review and revise those efforts. And I want to take a moment to talk about what's happening in Section 3 and what I'm hearing from...trying to pay attention. A national spokesperson similar to the Health and Human Services director of Emergency Medical Services here in Nebraska, a gentleman from Vermont came in, in December, and spoke to a group of people interested in the EMS services in Nebraska. And he had some interesting items to share about why there's been a move to go to this language that appears in Section 3. The overview as I look at Section 3 is one of the things he said he thinks is so important in America is to make sure that if a person is trained as a emergency medical responder that they be able to travel to another state and have reciprocity between that state. So that was one of the very important reasons that he stressed, Mr. Manz stressed in why this new standard was happening. The other was, he asked a question, he said when you take, speaking to the members of the Emergency Medical Services, the volunteers, when you take people, patients into the rescue, the emergency facility, the emergency room at the hospital, are the rooms, are they packed, are you elbow to elbow. And, of course, in our setting which we're faced with, there weren't any hands or very few hands went up, and he said, I'm shocked, I'm surprised, I can't believe it. Well, here's a gentleman that comes from Vermont that's been involved in the practice of putting together the new standards, and he's dealing with and the people are dealing with an area that they're jammed up in emergency rooms. The next point he brought up was for those of you in

communities that aren't fortunate enough to have paramedics serving your communities, this would be a great thing because you can have EMTs intermediates, the next level down from a paramedic, the paramedic intermediate EMT and a basic EMT. And he said, what a great thing this is going to be to have EMT intermediates in rural places to be able to assist that couple between paramedics and EMT intermediates. And my mouth about dropped. I said, we're not looking for EMT intermediates; we're looking for EMTs. We're looking for people that can come and serve, and he's a rung above us, saying what a great thing this standard would have, this category would present. And I just bring that to you as a backdrop of this new language that appears in Section 3. Yes, it's been discussed. Other states are going to have to adopt it. Is this the right time for Nebraska to adopt it? I don't know but the only way that that new language in Section 3 was brought to the Legislature this year is through the amendment by Senator Flood. But the board of EMS didn't seek to have a bill introduced to have this new standard so I just question whether or not, is the time right for Section 3 to be advanced. If it is and the Legislature decides to advance the language in Section 3, then there's another technical question. Does it need to say that it's effective on September 1, 2010? And I think clearly that's...in my conversations with representatives from the board of EMS that they are looking at that as the effective date of September 1, 2010. The last piece is to keep the process moving. Nothing in what's presented in AM498 goes to the issue of what we started years ago in front of the committee of what happens when nobody answers the call that's an EMT. What happens when there's no one there. And I think it's important that what the EMS board...may I continue, Mr. Chairman? My red light is on. [LB515]

SENATOR GAY: Yeah, go ahead, Jerry. [LB515]

JERRY STILMOCK: Thank you. The...what the EMS board has started over on the rules and regulations part is a process to set up a stream of protocol, a list of guidelines to be followed if in the worst extreme situation up in Meadow Grove, Nebraska, if there's an emergency call and the only person available is a first responder, is there going to be some rules and regulations established? Beyond the Legislature, that's what is being discussed right now and I think it's important because of the efforts of Senator Flood and this committee to continue that process, and I have the assurance by the members of the EMS board that they're going to continue work on that process, because AM498 and LB515 will not answer that ultimate question. It pushes us off of dead center, but that conversation hopefully will continue. Senators, other than my comments on Section 3, my client supports the amendment wholeheartedly. [LB515]

SENATOR GAY: All right. Thank you. Any questions? Don't see any. Thank you. [LB515]

JERRY STILMOCK: Thank you, Senators. [LB515]

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SENATOR GAY: Other proponents who want to speak. [LB515]

KENDELL BRICHACEK: Hello, Senator Gay, Health and Human Service Committee. I'm Kendell Brichacek, K-e-n-d-e-l-l B-r-i-c-h-a-c-e-k. I'm glad there's some EMTs back there because I kind of feel my heart pounding out of my chest right now. (Laughter) [LB515]

SENATOR GAY: Relax. Relax. [LB515]

KENDELL BRICHACEK: It's the first time I've gotten up here in front of any of you guys, so. I am a member of the Nebraska State Volunteer Firefighters Association. I am the chair of their EMS committee. Our committee has followed this very strongly in the last few years and do believe this amendment is at least a step in the right direction. I know in our own department we...I'm on the department in Linwood and we just had, a year ago, a class of first responders go through and it was very tough for them to get to the national registry test because that test is offered during the same hours that most of us work. So I do think the temporary licensure, while those people can still help us out on the squad while they're trying to get time off of work to test, could be very beneficial. And lots of people learn a whole lot better with a hands-on. You know, get them on some calls. Let them learn it, see it, you know, real life, and that will help them pass that test. Also with the scope of practice, I just don't think we know enough about it yet. The hours thing is a real concern to everybody. You know, being on an association where our members are already on the fire department, we already have a lot of the training that they have in this scope of practice, such as HazMat training, emergency driving course, NIMS. We've already taken that just to be on the fire department, and the scope of practice has us taking that again in the EMT training. So I do believe that there are some things that we need to look at a lot closer with the scope of practice so that we don't add hours to these classes because, as they've all said, it's getting harder and harder to find these volunteers that are willing to do it and put the time into it, so. I'll keep it nice and short. I will answer any questions if you have any. [LB515]

SENATOR GAY: All right. Any questions? Senator Stuthman. [LB515]

SENATOR STUTHMAN: Thank you, Senator Gay. Thank you, Kendell for coming to testify. Really appreciate that. Do you feel that with this amendment you'll be able to attract, hopefully, additional volunteers for your department by the fact that, you know, that they don't have to go through the school and get tested before they can do anything? It's better? [LB515]

KENDELL BRICHACEK: I do believe it will take a little pressure off. I think some of them, they feel that, you know, they put all these hours into the class and then boom, they have the test. And if they just had that little bit of breathing room where they know, okay, you know, I can go on a few calls, I can ask a few more questions, I...you know.

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Right now, when we do test, we take the national registry test. If you do fail it the first time, you can retest up to three times. And I know on our last class of ten, we had two people that didn't pass it the first time. But I think they were able to come back and they knew what that test was about. They knew what kind of questions they needed help on or, you know, they came back from that test going, man, I need to look at my pediatric stuff more. So they could come back to some of us all in the department and we'd help them out a little extra on that, and I think this would just maybe give them a little more breathing room where they know, you know, they're not just going to sit on the sidelines; they're going to still be able to help us out and help their department out even though they don't have that license yet. [LB515]

SENATOR STUTHMAN: Okay. Thank you. [LB515]

SENATOR GAY: Any other questions? I don't see any. Thank you. [LB515]

KENDELL BRICHACEK: Thank you. [LB515]

SENATOR GAY: Any other proponents who would like to speak? Any opponents? [LB515]

JOANN SCHAEFER: (Exhibit 3) Good afternoon, Senator Gay and members of the Health and Human Services Committee. I am Joann Schaefer, J-o-a-n-n S-c-h-a-e-f-e-r. I'm the Chief Medical Officer and the director of the Division of Public Health and I'm here to oppose LB515, as written, but in very strong support of the amendment, AM498. A year ago--this issue has been around for many years--a year ago I came to the committee and asked you to give me a year's worth of time to take some personal ownership of this issue, work with community members, Senator Flood, his community, and the EMS board. And I'd like to personally thank the EMS board for putting so much time, particularly Bruce Beins, who has put just an inordinate amount of hours into trying to make a solution for this. My testimony has all of the reasons documented why the bill is written, why we have a problem with it, and I'm not going to read that to you. You have that there, but I do want to comment on the amendment and why we are supportive of this. We're willing to work and continue to work on this with Senator Flood and the EMS community to resolve any issues surrounding the bill. The department supports the following approaches in this amendment which we believe provide the most safe and effective delivery of emergency medical services in Nebraska: the adoption of the U.S. Department of Transportation National Highway Safety Administration and National EMS Education standards. It's good to be nationally hooked with a national test. Adherence to the use of national standard testings. You know if we did this at the state level it would make a tremendous cost. You've heard the information about why it was difficult to have a state-run test before. And then reciprocity issues are very important for people traveling between states, but also it clearly establishes the criteria on which a temporary license may be issued and places a limit on how long that

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they can have that license. This is really--you've heard this today--it's really good for people to have the ability to take what they've learned in class and apply it in the field. We have multiple models in medicine that do that: nursing, physicians, you name it. You get a chance to test your skills and be in the field and learn it from people who learn differently than out of a book, and then take a test. It gives you that time. I do think it takes some of the pressure off. This doesn't solve all the problems that we have in the EMS community but this is a huge step forward, so we are in strong support of the amendment as submitted. Be happy to answer any questions. [LB515]

SENATOR GAY: All right. Any questions? Senator Stuthman. [LB515]

SENATOR STUTHMAN: Thank you, Senator Gay. Dr. Schaefer, I know you realize that, you know, we've got a lot of work to do on this yet, because we've got areas in the state, what, you know, are farther out than what I call my rural area around the Columbus, Linwood, Schuyler area, like that, Norfolk, Pierce, and there. But we get farther out where, you know, there are very few people, very few volunteers, but we do have first responders. And I think we need to try to address something. And would you be agreeable or you're trying to work on something? [LB515]

JOANN SCHAEFER: Um-hum. You betcha. [LB515]

SENATOR STUTHMAN: You know, so that we just don't leave a person there waiting for someone to come. [LB515]

JOANN SCHAEFER: Absolutely. Absolutely. That to me is a tragedy if we ever left somebody at the scene. We have to make something workable. [LB515]

SENATOR STUTHMAN: Another question that I had is when these individuals complete their class, do they get some type of a certification or certificate so that, you know, that they can go? They haven't...I mean they haven't passed the test yet but they have completed the hours. Do they get something so that they can go on the calls and get the on-hands experience? [LB515]

JOANN SCHAEFER: Sure. That's what this amendment would do. It would allow them to have a temporary license. [LB515]

SENATOR STUTHMAN: Would allow them to do that. [LB515]

JOANN SCHAEFER: Yeah, while they're waiting in the hopper, so to speak, to take that test. [LB515]

SENATOR STUTHMAN: But they would have to have proof of a certificate or something. [LB515]

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JOANN SCHAEFER: Absolutely. [LB515]

SENATOR STUTHMAN: Okay. Thank you. [LB515]

SENATOR GAY: Senator Howard. [LB515]

SENATOR HOWARD: Thank you, Mr. Chairman. Dr. Schaefer, the issue of the duplication of the training. Is that something that you can look at and work to address? [LB515]

JOANN SCHAEFER: Oh, absolutely. You know, the EMS board has been very engaged in those national standards and guidelines. And actually the newer set will provide more flexibility, as you heard, as opposed to having very rigid guidelines, and they've been out now for quite a while. So yeah, they're very... [LB515]

SENATOR HOWARD: Good. Good. There doesn't seem to be any... [LB515]

JOANN SCHAEFER: Yeah, we never want to duplicate. It doesn't make sense. [LB515]

SENATOR HOWARD: Yeah, it doesn't seem to be any reason to duplicate training if you've already done the very same training. [LB515]

JOANN SCHAEFER: You bet. [LB515]

SENATOR HOWARD: And it sounds like there's plenty of hours anyway. [LB515]

JOANN SCHAEFER: Uh-huh. There are. [LB515]

SENATOR HOWARD: Thank you. [LB515]

SENATOR GAY: Any questions? I don't see any. Thank you, Dr. Schaefer. [LB515]

JOANN SCHAEFER: Okay. Thank you. [LB515]

SENATOR GAY: Any other opponents to the bill? Anyone neutral? All right. Then, Matt, you want to close? [LB515]

MATT BOEVER: I waive closing. [LB515]

SENATOR GAY: Okay. And then Senator Flood will waive closing and we'll end LB515. LB542, Senator Campbell. Whenever you're ready. [LB515]

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SENATOR CAMPBELL: Thank you, Chairman Gay and members of the Health and Human Services Committee. I am Senator Kathy Campbell, representing District 25. And before...I'm making very brief remarks because I think there's a number of people who want to testify on this bill. I want to thank the groups that I have worked with: the dentists, dental assistants, and the dental hygienists as we have gone through this. I am here today to introduce LB542 and was asked to do so by the Nebraska Dental Association. I convened two meetings of the representatives, not only from the Dental Association, but the dental assistants and the dental hygienists, in order to provide background information for me and to help clarify the focus of LB542. I want to frame, in particular, this bill for you, and want to quote from a letter from the AG's Office, January 30, 2009. And there has just been a number of meetings and clarifications through the years in terms of scope of practice for dental assistants, dental hygienists. But the reason that this bill is being put forward is that it is currently acceptable for the Board of Dentistry to provide a detailed list of duties for dental assistants but there was insufficient statutory authority for the training and education requirements in the proposed amendments. So today the framework of this bill is rather narrow. Now you may hear ancillary comments to that, but if you look at the intent language that is in your notebooks, if you look at the final paragraph it says LB542 is intended to give statutory authority to the Department of Health and Human Services with the recommendation of the Board of Dentistry to establish rules and regulations on education and training of dental assistants. They now can provide a list of duties. That was clarified by one letter of the AG. But this is the section that according to the AG has not been clarified in statutory language, and so that's primarily why LB542 was brought forward. There are a number of people that want to testify today, and I think if it's okay with all of you, will hold any questions for me until the end because I think a lot of what you may be thinking and questions in your mind, really the experts are here to answer. [LB542]

SENATOR GAY: Okay, that's no problem. We'll hold the questions then. I see the room got very full between the last couple of bills. How many people are going to be proponents speaking on this bill? How many opponents? So about seven or eight. So we've four in favor; seven or eight opposed. So we're sticking with the five minutes, but if we're not repetitive that's always very helpful to all parties, especially the senators listening, because it's always better testimony to add new information if you can, so. We'll start with the proponents. [LB542]

DAVID O'DOHERTY: (Exhibit 1) Good afternoon, Senators. My name is David O'Doherty, O'D-o-h-e-r-t-y. I'm the executive director of the Nebraska Dental Association, which represents 78 percent of the active licensed dentists in the state. As you've heard, the Board of Dentistry and the Board of Health asked the NDA to introduce this legislation, and we're very thankful for Senator Campbell for taking this on. It appeared to be a very simple issue and we believe it is a very simple issue, but when you start asking all the people who have an interest in this it becomes very confusing, but it is a very simple issue. As you heard, the Board of Dentistry believed

they had the ability to define education for a long time. This first document that's being passed out, in the mid-1980s the American Dental Association sent out a survey to all boards of dentistry across the nation, asking for their opinion, you know, what duties dental assistants could perform. Nebraska responded to that survey, and this document which has HHS letterhead on it was the Board of Dentistry's response in the mid-'80s, and the dental world was operating by this list of duties since that time. Until 2005, the Board of Dentistry brought a disciplinary case and found out, through the whole process, that this list of duties never made it into the regulations, so it had no effect of law. Once that discovery was made, all of the interested parties worked on a regulation to get that into statute and updating other current duties that were being performed in dental offices. That process went through two hearings, and that's when you heard about the Attorney General saying, you have the authority to do the list, you just don't have the authority to do the education. That's why we're here. The second document is a little time line, because this is not a scope of practice issue; this is just getting the statute consistent to what the board thought they could do all along, just for your reference. The third document I have is the recent 407 response from Dr. Schaefer, who was just here, by the dental assistants. And I would like just to have you look at the third page of that document where Dr. Schaefer states: Setting educational standards for dental assistants should be given to the Board of Dentistry, as it is consistent with their mission. And as you already heard, the current statute already gives the board the authority to list specific duties for dental assistants in the regulations. All this bill is doing is specifically giving them the authority to require, if necessary, the education and training that would go along with some of those duties. LB542 is very simple, but there will be opposition testimony that will probably try to make it a little more confusing, but I'd be happy to answer any questions. [LB542]

SENATOR GAY: Any questions from the committee? Senator Gloor. [LB542]

SENATOR GLOOR: Thank you, Chairman Gay. Would you repeat your last two sentences or your last sentence? All this bill is doing...would you say that one more time? [LB542]

DAVID O'DOHERTY: All this bill is doing is specifically granting the Board of Dentistry the authority to require certain education or training with specific duties that they might list in the regulations. Not all duties. They might come up with 2, 10, whatever; whatever duty that they think needs specific extra education and training, it would give them the authority to do that. In the last hearings that I mentioned, those duties...there were some duties in those regulations, and there was specific education and competency requirements in those regulations--already in there--just recently, until they found out they didn't have the authority to do that. [LB542]

SENATOR GLOOR: Okay. Thank you, Mr. O'Doherty. [LB542]



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SENATOR GAY: Any other questions? I don't see any. Thank you. [LB542]

DAVID O'DOHERTY: Thank you. [LB542]

SAM JACOBY: (Exhibit 2) Senator Gay, Senator Campbell, my name is Dr. Sam Jacoby, J-a-c-o-b-y. And I'm what used to be called a wet-fingered dentist, and now it's a wet-gloved dentist, from western Nebraska. Today I'm here representing the Board of Dentistry as their chairman. The board voted earlier this year to support this legislation, with 8 members voting for, 1 abstention, and 1 not present. It is the position of the Nebraska Board of Dentistry that LB542 merely represents the clarification of authority that the board has, and has had for some time. These handouts that I passed out, I just have highlighted the statutes that I want...that's in the text of my testimony. And then I also...I didn't know if you had the Nebraska Practice Act, which is the statute relating to dentistry, and also the regulations: Title 172, Chapter 53. So I think Mr. O'Doherty went through that pretty well. In addition to the statutes and regulations that are quoted there, I also included a letter from the Nebraska Board of Health confirming that this legislation is consistent with their recommendations; a letter from Attorney General Jon Bruning that you've already been aware of; also a 1999 district court decision upholding the validity of the coronal polishing procedure regulations that were approved by the Nebraska Board of Dentistry; and you've already received a copy of the Chief Medical Officer's and her statement that saying educational standards for dental assistants should be done by the Board of Dentistry. So with this information in mind, I want to say again that LB542 is really...we don't feel like it's a change in law; it's just a clarification of the law. Apparently, in the past, your peers and predecessors and attorneys general and the courts were comfortable with the Nebraska Board of Dentistry recommending to the state the educational requirements for dental assistants, but Jon Bruning is uncomfortable with the fact that it isn't written precisely in the law that way. So we feel like it's a matter of clarification. I wish the committee well in their deliberations and appreciate the opportunity to express my viewpoints. The Board of Dentistry would like to thank Senator Campbell and her staff for the fair and thorough way she researched this issue. And in the end, I hope you will agree that LB542 is a matter of clarification and you'll proceed without change or amendment to send this to the floor. [LB542]

SENATOR GAY: All right. Thank you. Any questions? Senator Gloor. [LB542]

SENATOR GLOOR: Thank you, Chairman Gay. And thank you for your testimony, Dr. Jacoby. To what extent is your license at risk for behavior of the people under your employ in your dental office? [LB542]

SAM JACOBY: Both dental hygienists and dental assistants, we are responsible for whatever they do. So even though dental hygienists hold a license and they have some responsibility and they can suffer some consequences, anything that is allowed by a dentist can go back on his license. [LB542]

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SENATOR GLOOR: And the same would be true of dental assistants, although they don't have... [LB542]

SAM JACOBY: With dental assistants, that's the only place that they have to go. [LB542]

SENATOR GLOOR: So you are at risk in both cases... [LB542]

SAM JACOBY: Right. [LB542]

SENATOR GLOOR: ...regardless of what happens on this. [LB542]

SAM JACOBY: Right. Regardless of the licensure status. [LB542]

SENATOR GLOOR: Just curious. In your practice history, have you known of any of your peers in the state who have gotten in trouble... [LB542]

SAM JACOBY: You know, I asked Mike Grutsch, who is the investigations...in charge of investigations for HHS, and he said...he gave me statistics and I have those statistics in my briefcase. But they have kept statistics on dentists that have had complaints and dental hygienists that have had complaints. He said that the complaints against dental assistants are so rare that they haven't kept track of them. [LB542]

SENATOR GLOOR: Okay. Thank you. [LB542]

SENATOR GAY: Thank you. Would that...so the liability, as well? Anybody working under you, you assume all the liability, as well then, and not just losing your license, but. [LB542]

SAM JACOBY: Right. Right. It's like a third hand. Whatever they would do is... [LB542]

SENATOR GAY: Right. That's what I assumed but I was...all right. Any other questions? I don't see any. Thank you. [LB542]

MARK HINRICHS: (Exhibit 3) I'm Mark Hinrichs, Mark with a k, H-i-n-r-i-c-h-s. I am the...I'm a board member for the Nebraska Board of Dentistry. I'm the chair of the subcommittee on dental assisting duties that has direct involvement in this issue. Most of my testimony has been already mentioned, but I did decide, since I printed it on my letterhead, I'd pass it out. I will not read it word for word, but I would like to say a few things and then I hope that I might be able to entertain some questions. Before I do that I'd like to thank Senator Gay and the senators on the committee, and especially Senator Campbell for her diligence in trying to understand all sides of this issue. I don't have

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privileged information as to what the opposition might possibly want to say, but I just appreciate her ability to look at both sides. I've been a board member for four years and a dental examiner for seven years. Most of our activity is done and the business of the board is spent in two ways: one, examining potential licensees, and secondly, with regulation. Traditionally, the board hasn't spent a whole lot of time creating regulation because we, in the past, thought we had that covered. So here we are today, after almost...well, at least two years' worth of work. We are currently working without a defined duties list. Some will call it a list; others just call it duties. Our concern, as a board, is that we like to regulate. And dentists, in general, like to color within the lines or at least know where the lines are, and so most dentists, if not...well, not all, but most dentists in our state took that list that is printed on Health and Human Services letterhead as the law. And we're here today because it wasn't properly promulgated and adopted. We did that. We held two public hearings. We asked for input from all interested parties, and we thought we had made a great deal of progress. And then we were told that everything was fine except for the fact that we don't have the authority to dictate what education is required for some of these duties. I do think the opposition might try to put this in terms of duties for assistants. I think it's almost different. We want to be able to tell the dentists what they can and cannot do with their assistants. That's, for me, the defining point. You know, assistants are traditionally employees, and I'm afraid that they will be under some influence to do what they're asked to do by their employer. And we want to regulate the dentists. We want to be able to tell dentists, if we think it's appropriate, that before you let your dental assistant do this procedure you need to have some sort of education verification. For instance, when you have a dental x-ray taken in the dental office, that is traditionally taken by a dental assistant. We have specific language for education. They have to qualify for that. We would be open...if the opposition thinks that we're not stern enough, we would be open...we just want to be able to regulate and we would be open to constructive criticism with our regulations. So in closing, thank you very much for your time. I can't believe the yellow light is on because I thought for sure I'd be done in about a minute. But do you have any questions for me? [LB542]

SENATOR GAY: I've got a question for you. In your letter here, I was reading through that, it's two public meetings. You had two hearings this summer. It looked like it was a technology subcommittee. And you had a hearing this summer, but it said the board of directors held public hearings to modify 172 NAC 53. And it says there was overwhelming sentiment that the board should require educational training for some of the duties. I mean, like exactly what? I mean, what would that be? What did you come up with, just at that meeting, because it's fairly recent. [LB542]

MARK HINRICHS: Well...yeah, there were some duties that specifically orthodontists across the country allow their assistants to do; it kind of goes directly to the reason we're sitting here today. But we felt like we needed to be fair to the orthodontic community to allow them to practice the way it's practiced globally, although, you know,

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with consideration. So, for instance, we felt an orthodontic assistant, if they are going to do some of these duties that required extra training, we thought that they should have that. Another example would be brush biopsies. Brush biopsies takes a, oh, like a modified toothbrush. It looks like a little small scrub brush and you scrape the inside of the cheek. I do it in my office now. About half the time I get the response from the lab that I needed to do it better, and I call them back and I say, you know, I gave you what you asked for; can you please reread my sample? And they do and then, lo and behold, it works. I don't know if they're trying to double-charge me or not, but...so we don't think all duties should have all the same level of education. We think it depends on what they're doing. And technology changes, so we felt that the list was 25 years old and it was time to at least look at what's actually relevant today. [LB542]

SENATOR GAY: All right. Thank you. Any other questions? I don't see any. Thank you. [LB542]

MARK HINRICHS: Thank you. [LB542]

ROBERT SANDSTROM: (Exhibit 4) Good afternoon, Senator Gay and members of the committee. My name is Robert Sandstrom, S-a-n-d-s-t-r-o-m, and I am here today representing the Nebraska State Board of Health. And the State Board of Health has taken a position to support LB542. We worked extensively in 2008 with the issues addressed by this bill, both in our regulations review and our credentialing review processes. In 2008, the board reviewed, tabled, and they rejected a set of regulations put forth by the Board of Dentistry that would have clarified the duties and responsibilities of dental assistants. I think you've heard that maybe...the story has already been presented to you, but those regulations were developed by a consensus at a prior stakeholders meeting arranged by the Board of Dentistry. But it was our understanding the consensus had included...had a small subset of three to four procedures that dental assistants could perform but that the board had determined required education, and that the board had wanted to include those educational standards but were prevented to do so because they lacked statutory authority. LB542 addresses this issue. In addition, our decision at that time was based in part by that we were conducting a 407 review process on the dental assistant proposal for formal regulation by the state, and we wanted to wait until that process was complete before we made a decision on those regulations. The 407 review was completed by the State Board of Health on November 17 and it was distributed to the committee last Friday. The dental assistant proposal did fail to meet all four statutory criterion, so we recommend that that not go any further. However, in the course of the review the board did conclude that there are certain procedures related to dental assistants that present a risk to the public for harm and that this harm should be addressed through regulation. We clearly heard and acknowledged the voice from a number of dentists that the supply of dental assistants from formal education programs in community colleges or elsewhere is inadequate for the needs of the public, and that dental assistants would be

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too expensive or too difficult to recruit or retain without an on-the-job training option. The board acknowledges and recognized that dentists in Nebraska have done an admirable job to date in training dental assistants based on individual practice programs. In our report on the 407, the Board of Health makes an ancillary recommendation that a statutory change be made to allow the Board of Dentistry and all interested parties, which we believe means the dental assistants and the dental hygienists, to come together to establish education and training provisions for dental assistants in Nebraska. This returns the issue to today's hearing because LB542 will allow the Department of Health and Human Services, on the advice of the Board of Dentistry, to establish those standards. After we made that recommendation at our November 17 meeting, the board did move the regulations off the table, discussed them, considered them, and then voted them down. So we have a problem, in that the regulations are stopped--either we've got a problem or somebody has got a problem--but the regulations are not moving forward even though...it's our understanding is, the education standards only apply to a very small subset of all the duties of dental assistants. In the course of the board review and the credentialing review process...committee process, the board heard on November 7 from Dr. Minarik, who I think at that time was the chair of the board, that the board had a case before it; that this needed to be defined, they needed to get this done. So from our perspective I think this is not a theoretical matter. This is something that does need action. I think we...we believe that the issues at hand are technical, and full understanding of the impact of regulation is best left to the body with the expertise and responsibility in state government to make those decisions and understand the effect of regulation on access and quality of dental care for all Nebraskans--and this is the Board of Dentistry. We believe the Board of Dentistry can use the best practices, that many dentists, dental hygienists, and dental assistants are currently using in individual office training programs, to develop a reasonable, statewide education standard to address the concerns related to a very few procedures performed by dental assistants in the office. We believe the Board of Dentistry has demonstrated a remarkable ability to develop consensus on a conflicted issue and it would not act in any way that would obstruct the professional judgment of individual dentists and would respect their patient/provider relationships and their local community conditions and needs. We also believe the Board of Dentistry has demonstrated the ability to acknowledge the contributions of current dental assistants and hygienists in establishing any regulation that would affect their important work with dentists. In conclusion, the board supports LB542 and encourages you to move the bill out of committee for action by the Legislature and Governor this year. [LB542]

SENATOR GAY: (Exhibits 10 and 11) Thank you. Any questions from the committee? I don't see any. Thank you. Any other proponents who want to speak? We did get a letter of support from the Department of Health and Human Services. And I'll go to opponents. Any opponents that want to speak on this? How many opponents want to speak? All right. You can just kind of take turns and come on up. And I do have a letter also, a letter of opposition from Dr. Timothy Adams. Put that in the record. Senator Pankonin

has rejoined the committee. Welcome back. [LB542]

CINDY DURLEY: (Exhibit 5) Good afternoon. My name is Cindy Durley; that's D-u-r-l-e-y. And for over 25 years I've worked in testing and measurement in the dental community, with the Academy of General Dentistry, at first, and now with Dental Assisting National Board, DANB. DANB is recognized by the American Dental Association as the national certification organization for dental assistants, and our mission is to promote the public good by providing testing and credentialing services to the dental community. I speak in favor of education and competency assessment for dental assistants but in opposition to LB542, because it will allow, but not require, the Nebraska Board of Dentistry to set educational and training requirements for dental assisting functions. Without a requirement for baseline education or competency assessment for most if not all the dental assisting functions currently allowed in Nebraska, there's little assurance that qualified and competent assistants will be performing these duties. It's well-known that there is a need for increased access to quality oral healthcare across the country. The American Dental Association has recognized that need by developing a proposal for two new workforce models for dental auxiliaries: oral prevention assistant and community dental health coordinator. Those workforce models have basic core dental assisting duties, but on top of that add five or six, depending on the model, expanded duties to the dental assisting duties allowed, proposed by the model. Of those six duties, three of them currently...or four of them are currently allowed in the state of Nebraska. Only one of them has education required. The other three are allowed to simply be delegated under either direct or general supervision. The ADA is recommending, however, that these workforce models, individuals who are going to perform these duties, complete formal education programs at Commission on Dental Accreditation accredited dental assisting schools, plus an additional three months of education. And state trends also follow that recommendation. The practice of dental assisting can cause harm to the public. There are federal standards for both radiology and infection control and hazardous material handling. And dental assistants, even at the entry level, expose radiographs and conduct infection control protocol. But Nebraska has education and examine requirements only for dental radiography and not for infection control, currently. There are over 70 functions currently delegated to dental assistants across the country. And in Nebraska, besides dental radiography, only coronal polish has mandatory education, and there's no competency testing required. Besides public protection enhancement, additional education requirements for dental assistants actually enhances job satisfaction and career longevity. It has been said sometimes that if you increase standards or requirements for a profession, you drive some folks away from that. And that is not the case, at least with this entry level profession. Dental Assisting National Board's research indicates that individuals who have become educated and passed certification examinations stay in the field for at least two years more than the noncertified, noneducated dental assistants, and their job satisfaction is increased. Analogously, ACT has done a study with certified nursing assistants and found the same thing. So again, I support education

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for dental assisting, but I support it from DANB's perspective: defined and required, at least at the baseline level, rather than the potential for not having any education or education for just a few functions that's possible under LB542. And I should just close in saying that the Dental Assisting National Board works closely with all state dental boards because our public protection mission is in alignment, and the only concern that DANB is speaking to has to do with the "may" statement rather than the "must." Thank you. Any questions? [LB542]

SENATOR GAY: All right. Thank you. Any questions? I don't see any. Thank you. [LB542]

CINDY DURLEY: Thank you. [LB542]

CRYSTAL STUHR: (Exhibit 6) Good afternoon, Senator Gay, and good afternoon, all of the Health and Human Services members here. I am nervous as well. [LB542]

SENATOR GAY: Relax. [LB542]

CRYSTAL STUHR: My name is Crystal Stuhr; last name is S-t-u-h-r. I'm a certified dental assistant and I'm an educator in the dental assisting field, and I'm also the president of the Nebraska Dental Assisting Association. I am here speaking in opposition to LB542. I feel that this bill is only introducing a very small part of the ancillary recommendations that were discussed and approved by the Nebraska Board of Health. The Nebraska Board of Health approved a total of six recommendations on November 17. Five of the six recommendations indicated that there was a need for consistent curriculum or training for the dental assistant, with competency testing to ensure public safety. The Board of Health also voted that, right now, in the state of Nebraska there is potential of harm to the public. Some of the discussion during the meeting from one of the board members even stated: Procedures performed by a dental assistant can cause harm if they are not adequately trained to perform them. This bill that is being presented today does not address the true concern: the safety of the public. Standardized education and competency testing for the dental assistant in the state of Nebraska would help us ensure that we are here protecting the public. I personally am from rural Nebraska and my family still resides in rural Nebraska, and I do understand the hardships that can occur in those areas, but I feel the value of a competent dental assistant by far outweighs the convenience of being able to hire just anyone to work in the dental office. I expect top-notch quality care from all members of the dental team, no matter where a person lives. Without standardized education and competency testing in dental assisting, we cannot assure individuals in rural communities that they are receiving the same quality of care that I'm receiving in the metropolitan area. Imagine an individual that is newly hired to work as an on-the-job trained dental assistant. This individual can be as little as 14 years of age in the state of Nebraska, to work. No formal training, no formal education, no knowledge in the field of

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dentistry, and they don't even have to have a high school diploma, but they can provide direct patient care to me, to you, and to your loved ones. They would learn everything on the job as a dental assistant. I feel that this risk is too high for the dental assistant themselves and for the patients that they're serving because there are so many basic vital details that could be missed with on-the-job training. Some examples are: How do you disinfect the room after a procedure is done? How do I monitor that the shelf life of my disinfectant is actually accurate? How do I utilize my disinfectant? Do I know my sterilizer is working properly? How do I handle contaminated items to make sure I'm safe and my patient is safe? It scares me to death to know that there could be a vital part missing for the uneducated dental assistant. The dental assistant has no knowledge about dentistry or infection control, only but what they've experienced on the job. Access to care in the rural community has always been a concern of many, and just think how a dental assistant that's had that standardized training and showed competency level of testing, how they could really enhance the office. They could actually complete delegated simpler duties by the dentist while the dentists themselves could be completing more difficult duties. This would allow the dental assistant, only the ones that have actually gone through and had the standardized training and competency training to be proficient in their duties, to be able to do these type of procedures, and we would be utilizing the American Dental Assisting Association accredited programs for testing. With technology today, I believe it is an excuse to say education is not available to the dental assistant. We have colleges from North Platte, Nebraska, to Omaha, Nebraska, that all have dental assisting programs available. On-line dental assisting programs are available or the dentist may train their dental assistant on the job without allowing them to have direct patient care. Whatever path they choose, the bottom line is they must pass a standardized test to prove that they can problem solve, perform chairside skills at the degree that they need to, to perform those direct patient care. If other professionals in the rural communities found a way to obtain that education, we can too. The health and safety of our patient is our main concern. I feel that LB542, today as it presently is, is not in the best interests of the public. We are willing to work as an association, still with Senator Campbell and all of the other interested parties, to hopefully find a way to try to help this out. Thank you. [LB542]

SENATOR GAY: All right. Thank you. Senator Stuthman. [LB542]

SENATOR STUTHMAN: Thank you, Senator Gay. Thank you, Crystal, for coming and testifying. Tell me the difference in the education requirements between a dental assistant and a dentist. [LB542]

CRYSTAL STUHR: Well, there's no education required to be a dental assistant. [LB542]

SENATOR STUTHMAN: There's no education. [LB542]



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CRYSTAL STUHR: There's no education required unless they are performing coronal polish or radiography. Right now, anybody could walk into a dental office and get hired to perform chairside duties. [LB542]

SENATOR STUTHMAN: Okay. Thank you. [LB542]

SENATOR GAY: Any other questions? I don't see any. Thank you. [LB542]

CRYSTAL STUHR: Thank you. [LB542]

CYNTHIA CRONICK: (Exhibit 7) Senator Gay, hello, and members of the Health and Human Services Committee. My name is Cynthia Cronick, C-r-o-n-i-c-k, and I began my career in dental assisting a long time ago as an on-the-job trained dental assistant. I am now a certified dental assistant, a dental assisting educator, and a member of the Nebraska Dental Assistants Association. I am speaking in opposition to LB542. The two main drawbacks that I see to this bill is, number one, that it does not establish a scope of practice for dental assisting, and secondly, that it would allow the Board of Dentistry, with board approval, to set educational and training requirements for dental assistants, but not require them. I feel what we need is a scope of practice and a standardized approach with baseline as the foundation to build from. As a model, the American Dental Association's Commission on Dental Accreditation, the accrediting body for all of dentistry, dental hygiene, and dental assisting, offers just such a comprehensive approach. It is the dentists' own organization that has set the scope and time needed for dental assisting training, and then set standards to ensure that there's knowledge with testing and laboratory practice with skill competency testing in place before clinical practice begins. On-the-job training often omits the steps of the knowledge testing and laboratory practice, and skips straight to the clinical practice. I feel that LB542 would allow this to continue. Without a scope of practice in place, as you've heard a dental assistant has no requirements. They could be a 14-year-old high school dropout performing infection control procedures and working with a variety of hazardous materials. Dental assisting has gone beyond just assisting while an operator performs the function, and we are being delegated duties that previously have only been performed, in many cases, by dentists and hygienists. With the access-to-care issue looming, I see this as a continuing trend and a possible viable solution, but in that case it's critical that we have standardized baseline criteria in place. In Nebraska, as you've heard, we only have two functions that require education--x-ray and coronal polish--and a dental assistant may take these without a prerequisite of any skill or knowledge level. Just for example, x-rays in Nebraska require 16 hours of instruction. In contrast, in a dental assisting accredited program for dental assistants, on average, 92 hours is spent on dental radiography. So this is quite a difference. I feel what is needed is a scope of practice and standardized training set out with baseline requirements to build from; not just function regulation on the higher level functions without that baseline in place. The public expects that the person wearing that uniform and working in their mouth is an

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educated, credentialed healthcare professional. In many cases, the dental assistant is performing her delegated duties with no minimal requirement, no standardized training, no credential to hold her accountable, and in some cases, without even the supervising dentist in the practice on presence. We call that general supervision. So I feel that LB542, in its current form, does not meet that expectation the public deserves. Thank you. [LB542]

SENATOR GAY: Thank you. Any questions? Senator Howard. [LB542]

SENATOR HOWARD: Thank you, Mr. Chairman. I just have a practical question. How do we know when we go to the dentist that the dental assistant is certified or...? [LB542]

CYNTHIA CRONICK: You don't unless you could ask that person. But you don't know. Some people who are certified will wear a name tag, and we proudly put our CDA behind our name. Some do not. What has happened in this state is many people who graduate from our accredited programs--and there's some information in my testimony about how many we have--may take that certification exam, and there's no requirement to do so in this state so they don't maintain the credential. Continuing education is required to maintain that credential. Proof that you are CPR certified is required. So we currently have, I think about 40 percent, it's estimated, of the assistants who are working in this state who have either taken that or taken portions of that, but because we don't track that there's no good way to measure that. [LB542]

SENATOR HOWARD: I'm going to find out what my dentist uses. Thank you. [LB542]

SENATOR GAY: Senator Gloor. [LB542]

SENATOR GLOOR: Thank you, Chairman Gay. Ms. Cronick, you started off by saying you were an on-the-job trained dental assistant and you appear to be very successful. So explain to me why you feel so adamantly about this, since on-the-job training seemed to be very successful for you. [LB542]

CYNTHIA CRONICK: I started as an on-the-job trained dental assistant, and I worked three months before I then went to an accredited dental assisting program, and I believe that my success is due to the education that I sought out. It made the whole profession more meaningful to me. When you're in an office where there is a dentist who's had 8 years of education and a hygienist with 2-4, and you are the only uneducated person in there, you feel that discrepancy in some cases, not in all, and I do not in any way regret my education. I hope that answers that. [LB542]

SENATOR GLOOR: Okay. Yes, thank you. [LB542]

SENATOR GAY: Senator Pankonin. [LB542]

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SENATOR PANKONIN: Thank you, Chairman Gay. Ms. Cronick, thanks for coming today. [LB542]

CYNTHIA CRONICK: Thank you. [LB542]

SENATOR PANKONIN: And just a question on...since you are an educator at Metro Community College, do some dental offices--kind of a takeoff from Senator Howard's question--but do some just really like to have folks that have had the training? Is it...I mean, do you have kind of a path for people that graduate from your program to go to, or how do you...? [LB542]

CYNTHIA CRONICK: Job placement is excellent and the graduates are being placed and sought after. We have many dental offices that we use as clinic sites that will only hire certified dental assistants or dental assistants that have been through a program. I don't see anyone as seeking out to hire the most unqualified person that they can. Right now, there's no requirement to go to an accredited school. If there was a requirement, probably enrollments would go right up. But we have six programs in the state, one of which is on-line, and good enrollment. So that's encouraging, that people are voluntarily seeking that education. We are not trying to advocate that this is the only route to go. I am just presenting this as a model probably, to work from or try to guide what we're doing. Instead of inventing the wheel, this is in place. It's accrediting. In the same manner, for dentists, hygienists, assistants, it's offering some consistency. I'm not advocating that this is the only choice or this has to be, but it is a model to look at. [LB542]

SENATOR PANKONIN: Thank you. [LB542]

SENATOR GAY: Thank you. Any other questions? I don't see any. Thank you. [LB542]

CYNTHIA CRONICK: Thank you. [LB542]

ANNETTE BYMAN: (Exhibit 8) Good afternoon. My name is Annette Byman. I am a dental hygienist. I am the individual that was appointed by Dr. Joann Schaefer to represent dental hygiene on the technical review committee for dental assistants. I am also the individual that was appointed by the Nebraska Dental Hygienists Association to a working group committee in collaboration with dentists and dental assistants to help establish a scope of practice. I want to make it clear that I'm speaking today on behalf of dental hygiene and not as a representative of the 407 committee. I come before you today because we believe if this bill were to pass it would create a double standard within our healthcare system and our legislative system, and it would jeopardize the health, safety, and welfare of the citizens of our state. There is a lot of history that has brought us to where we are today, and I'd like to just touch upon a couple points.

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Approximately 3-4 years ago the Board of Dentistry charged us three dental associations to begin working together to establish a scope of practice for dental assistants. That working group did begin, but it became a very frustrating process and it became very clear to us and to the assistants that dentistry had their own agenda. And when things did not go according to their plan, our committee work was terminated. Dentistry has worked very hard through the Board of Dentistry to encourage them to promulgate rules and regulations for dental assistants through Chapter 53, and to this point in time they've been unsuccessful. We are very concerned with the fact that at one time the Board of Dentistry said that education was very important and attached to a number of those duties that they originally wanted to promulgate. When they were unsuccessful the very first time, they came back and said, what do we need to do to get this to pass? If it means we need to pull out the educational requirements, then that is what we need to do. And that is what they did. We feel a very strong message was sent by that action, and that is this: We do not feel the Board of Dentistry has demonstrated commitment to the educational requirements that are needed to safeguard the citizens of our state. If you take a look at the list of duties that they have tried to promulgate, a great percentage of them are either scope of duties for dentists or scope of duties for dental hygienists. We have a scope of practice that you, our legislators, have established in law as to what we need to accomplish in order to provide any of those duties. We feel the exact same thing needs to happen for dental assisting. There needs to be a scope of practice and it needs to be determined by our legislators, not by a board of examiners. I'd like to also touch upon the 407 process. You're all familiar with that. Criterion 1 speaks to unregulated practice can harm or endanger the public, and that that harm is easily recognizable. Both the 407 committee and the Board of Health's committee supported Criterion 1 and said, absolutely, if dental assistants are allowed to perform some of these procedures without any type of education or training, harm is clearly identifiable to our public. As we took a look at the medical profession and looked at individuals that are providing direct patient care services, they all have a scope of practice in law that has been determined by our legislators. If we look outside the medical profession and look to individuals such as nail technicians, cosmetologists, tattoo artists--even veterinarian technicians, the people that are taking care of our animals' teeth, has a scope of practice that is established in law. We have been opposed to the Board of Examiners having the ability to promulgate rules and regulations without there being a scope of practice put in place for dental assistants. It's interesting to note that the group of individuals that we're talking about here today, the assistants, want a scope of practice, and they understand the importance of having a scope of practice to safeguard the public. We commend them. We support them and will continue to work with them to accomplish that. And so in closing, on behalf of dental hygiene we would like to ask each of you to defeat this bill; not allow it to go out of committee; prohibit dentistry from usurping the legislator's power, because the citizens of our state deserve to have our legislators, each of you, deciding our laws, not a board of examiners. Thank you and I'd be willing to answer any questions. [LB542]

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SENATOR GAY: Thank you. Are there any questions? I don't see any. Thank you.  
[LB542]

ANNETTE BYMAN: Thank you. [LB542]

MARY HEWITT: (Exhibit 9) Good afternoon. My name is Mary Hewitt and I'm an attorney from Omaha. I've been asked to provide testimony on behalf of the Nebraska Dental Hygienists Association in opposition to this amendment to two statutes in the Dental Practice Act. We have three basic objections. Some of those are going to be repetitive of what other people said. I'm going to just skim those so that I'm not taking up your precious time. One of those is that we think the bill inappropriately delegates authority to the board without providing them sufficient guidelines and standards, and I think you've heard already that in the Dentistry Practice Act all the department has been told is that you can define the duties of a dental assistant. There is no scope of practice in the statute. Zero. And there is nothing in there currently that says about education and standards. That was intentional, if you ask me. Primarily, if you look at the department was also given the discretion to do additional duties by rules and regulations. And I apologize. I used the term duties because that's not what the Legislature said before. You can provide additional procedures and services and functions of a dental hygienist. When it came to a dental assistant, all they said is you can define duties. That was intentional. Those words were chosen intentionally. Services, procedures. Those imply direct patient care. Those imply education and training. Duties do not. Anyway, the beauty of looking at this bill right now is that we know the rules and regulations the department already wants to pass. And I have provided to you--and it's these lovely colored charts. These are not all the duties that are by rule or regulation the department is trying to push through if this bill is passed. I mean, these are waiting in the wings to go through if you give them educational standards. The only ones I put on this chart are those ones that the Legislature has said, by statute, are within the scope of practice of a dentist. Six of them are dentist scope of practice procedures. Ten of them are legislative-defined scope of practice procedures for a dental hygienist. Do you see the ones with the little star? Those are billable procedures. You see the ones with the 1 behind it, the footnote 1? Those are procedures that they're saying a dental assistant can do without the dentist being present. They don't even have to be in the building. And then in the very final column, you'll see what education they've already decided a dental assistant needs to do when they're performing procedures a dentist must do with 8 years of education from an accredited school, passing both Phase 1 and Phase 2 of the practical exam. They have to take a jurisprudence exam. They have to get approval of good moral character in front of the board. They have to get a recommendation and licensure from the department. And what does a dental assistant need to do outside the presence of a dentist to do some of those same functions? Nothing. They don't have to graduate from high school. They don't even have to be...they just have to be legal age to work. And if you look on there, there's only two procedures that a dentist or a dental hygienist has to

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have all those education standards for before they can do it, that there's any educational requirements for a dental assistant. Just two. There's one other third procedure that what's the education requirement that they have to have? A CPR course. And what's that for? Monitoring nitrous oxide, and the dentist doesn't even have to be in the room. All they have to be is a 14-year-old with a CPR course, and they can monitor nitrous oxide. This is what is in the wings if this bill is passed. And all that held them back is a technical assistance letter. It's not an AG's Opinion. It's a technical assistance letter saying, you know, you can't pass these rules and regulations because you're missing some of the regulatory authority from the Legislature. That's all that held it up. If you pass this when there's no scope of practice for a dental assistant in the statute to give them educational requirements, this is what they intend to do. Now there is this mysterious floating list that they say is on the letterhead of a Health and Human Service somewhere. Nobody knows where it came from. Nobody knows when it came out. But it was never in Nebraska's regulations. And if you look back to 1971, the year that the statute was drafted that said the Department of Health and Human Services can by rule and regulation define, quote, duties of a dental assistant, the traditional function at that time was a chairside assistant who handed instruments to a dentist or they did clinic-related duties like sterilizing instruments, preparing charts. They did not do direct patient care, which is exactly what they want them to do now. And like I pointed out, anything with a star, that's a billable procedure, and they can do those billable procedures, some of them outside the presence of a dentist. And so anyway, now if you want to go back to the rest of mine, I'm out of time and I apologize. [LB542]

SENATOR GAY: Thank you. No problem. Any questions? I don't see any. Thank you. [LB542]

MARY HEWITT: Sure. [LB542]

SENATOR GAY: Other opponents who want to speak? How many more opponents do we have? Looks like you're the last one. Anyone that's going to talk neutral on this? Okay. Go ahead. [LB542]

DARLENE CARRITT: Good afternoon. My name is Darlene Carritt, C-a-r-r-i-t-t, and I've just been taking some notes this afternoon and felt I needed to bring up some points. I've been a dental hygienist for 30 years, and served on the Board of Examiners that the current Board of Examiners talked about from 1990 to 2000. And every year before us came a list of dental assistant duties that we would have to look at and approve, understanding that it was just by authority; not legislated. And we struggled with that because I think the dentists on the board at the time did not want to do the tremendous undertaking that the current board is undertaking. However, I think because of the changes in healthcare with infection control, alone, and the vast pace of changes in healthcare, I think it is necessary that some changes be seen. And dental assistants have been asking for these changes for several years. But I think this bill, statutorily the

safeguards are ignored by this bill. If you look at the original intent of a dental assistant defined in statute, it said a dental assistant assists the dentist. And so that list that we looked at every year were functions that the dental assistant did to assist the dentist and did not require the board to promulgate any more rules and regs, any more education. It fit what's in current statutes. However, you heard about the proposed list by the Chapter 53 regulations that the current board is proposing, and again, over ten of those proposed scope changes are currently in the scopes of practice of dental hygienists and dentists. That changes the intent of the definition of a dental assistant. No longer would the dental assistant be assisting the dentist; they would be a direct care provider. That's a huge paradigm shift and not addressed in statutes. Again, this bill does not address that paradigm shift. The next thing I notice on being a board member is that this bill does not address supervision levels, and you've heard a little bit about supervision levels. In Nebraska, dental hygienists and dental assistants practice under general supervision and indirect supervision. General supervision means that I can practice as a dental hygienist with the authority of the dentist but nothing in writing. They can be on a vacation; they can be in Cancun; they can be anywhere. I can still practice as a dental hygienist by virtue of my license without the dentist being present. The dental assistant also can practice without the dentist being present currently for the functions that they can currently do. Only two things I cannot do when the dentist is required to be present, and that is monitor nitrous oxide and administer local anesthesia. They have to physically be on the premises but they do not have to check my work. Again, this bill does not address supervision levels for any of the proposed changes that they're proposing for the dental assistant. Will they ask them to be checked by the dentist? Will the dentist have to physically be present? Or will they exist under general supervision with nobody present, as it stands now? The problem of having a dental assistant with no credential we experienced when I was on the board too. The current board member said that there's nothing or very little information about dental assistants that have been, I don't want to say prosecuted, but there's no list of what dental assistants have done wrong. That's because the Board of Dentistry has no authority over dental assistants. The only authority the Board of Examiners has is over dental hygienists and dentists. Okay? So any dental assistant that does anything wrong, the Board of Examiners cannot go after that dental assistant. There is no information about it because, number one, the dental assistant probably didn't realize that they were doing anything by breaking statute, and number two, we can only go after people that are licensed and credentialed. So again, dental assistants, by virtue of needing to change their scope, need a credential, be it registration, be it certification. Give the Board of Examiners, in a different type of a bill, authority over the dental assistants by giving them a credential. Number four, the educational requirements proposed...educational requirements, as you heard, for dentists and dental hygienists are listed in the statutes by your legislative authority. When dental hygienists, in the '90s, wanted to expand their scope of practice regarding getting to administer local anesthesia, we were told at that time that we had to go to the Legislature and propose any educational changes to the Legislature with legislative authority. The only authority that the Board of Examiners had then was to

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promulgate rules and regulations to enhance the authority that the Legislature already gave with the educational requirements. Thank you for your time. Any questions?  
[LB542]

SENATOR GAY: Thank you. Any questions? I don't see any. Thank you. That would be the last of the opponents and there's no one...no one wants to speak neutral? Senator Campbell, will you close? [LB542]

SENATOR CAMPBELL: I won't take long. I would just encourage the members of the Health and Human Services Committee to take a look at all the information, obviously that's been given to you today, but also to take a look at Dr. Schaefer's letter regarding the 407 review, because I think it kind of frames some of the issues that you've heard. As you look at the material and you have any questions, please let me know, because this is an area of expertise that probably none of us sitting here have, and we'd be glad to get the questions answered for you. [LB542]

SENATOR GAY: Okay. Any questions for Senator Campbell at all? I don't see any.  
[LB542]

SENATOR CAMPBELL: Thank you very much. [LB542]

SENATOR GAY: Thank you, Senator. All right. Thank you all for coming on LB542, and we'll go patiently waiting on LB609. Actually we're moving along pretty well. Thank you for being patient and waiting around for LB609. We'll let Senator Mello introduce. Welcome. [LB542]

SENATOR MELLO: (Exhibit 1, 2, and 3) Good afternoon, Chairman Gay and members of the Health and Human Services Committee. My name is Health Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District. I introduced LB609 because Nebraska ranks fiftieth in the nation in the level of eligibility we require for working families to qualify for childcare work support. Childcare is the number one work support that keeps parents in the work force and off of full public assistance. The current childcare subsidy rate, up to 120 percent of the federal poverty level, is too low, making the goal of self-sufficiency next to impossible. The goal of LB609 is to keep parents in the work force, progressing toward self-sufficiency, and to ensure that children served are receiving quality care. There are three components to this bill. The first is a gradual increase over four years in the threshold of eligibility up to 185 percent of poverty. The current level is an obstacle to the ultimate goal of self-sufficiency. Parents are forced with a difficult decision of taking a raise and losing childcare or turning down a raise to stay in the work force. A small raise at work can be enough to make someone ineligible to receive the subsidy but not enough to cover the cost of childcare. LB609 would gradually increase the threshold from 120 percent back to 185 percent in four years, keeping more parents in the work force, progressing toward self-sufficiency. The second



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aspect of this bill would allow for continuous eligibility. LB609 would reinstate a period of 12 months of continuous eligibility so that as long as the family does not have any income or household changes that would make them ineligible, a stable relationship can be built between parents, children, and the childcare provider. This stable relationship is ideal for a child's development. Redetermining eligibility on a monthly basis makes it very difficult for both the provider and the family to keep children in the same care arrangement. Research has shown that moving between many providers can cause harmful amounts of stress on a child's brain development. Continuous eligibility does not mean that families are eligible regardless of income or household changes. All families are required to report any and all income or household changes to their caseworker within ten days of the change in case a redetermination of eligibility needs, needs to be made. The third aspect of LB609 is that it would require the Department of Health and Human Services to offer both voucher and contracted slots for childcare. This aspect of LB609 has led to some misunderstanding. Currently, Nebraska allows families to access the childcare subsidy only through a voucher system. LB609 would not take away this voucher system but would rather expand the subsidy to include both vouchers and contracts. The exclusive reliance on vouchers is not the most effective way to encourage the development and stabilization of high-quality childcare in this state. Contracts would purchase a certain number of slots for children on the subsidy in quality programs, thus giving more at-risk children the kind of solid early childhood foundation they need to start school on par with their more advantaged peers. When we use state money, we have a responsibility to use that money in the most effective way possible. With the contract option, we have an opportunity to direct state dollars to providers that meet the highest federal accreditation standards. When we can invest in quality early childhood education, the state will see substantial benefits 18-20 years down the road when that child finishes school and enters the work force. The contract option would not change the amount currently paid to subsidy providers but it would help stabilize the childcare provider's budget, encouraging them to serve greater numbers of at-risk children. After introducing this bill, I've heard from childcare providers who regretfully turned down the childcare subsidy because the voucher system is not practical for their business practices. Many childcare providers run at-home childcare and are small businesses. The current voucher system is not always practical for these small businesses. I have submitted a letter to the committee from one of these childcare providers who can outline better than I the hardships the current voucher system places on childcare providers. Making this change to allow for both contracted slots and the current voucher practice will encourage more childcare providers to take the subsidy, thus providing more parental choice. LB609 values work and will keep parents in the workplace on the path to self-sufficiency. This bill recognizes that by helping working parents with childcare assistance, we also have an opportunity to help children access high-quality care that can set the foundation for success in school and later in life. In these current economic times, it is important to keep families in the work force and keep those that need help on the path to self-sufficiency. By allowing more parental choice and creating more opportunities to access high-quality childcare through contracts, we

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are investing long-term in the children served by this subsidy. As I'm sure this committee has seen when we invest in early childhood education, we see the benefits as those children grow into high-achieving adults. As a member of the Appropriations Committee and as someone who has been following the American Reinvestment and Recovery Act on a daily basis, it is my understanding that some of the Medicaid funding is directed towards childcare assistance. While the ARRA funding is only a one-time event, I would like to work with the committee to see if we can find a use for those dollars in this legislation. One of the main goals of the American Recovery and Reinvestment Act is to keep people in the work force. Increasing the threshold to 185 percent of poverty will do exactly that. It will keep parents in the work place, off of full public assistance, and on a path toward self-sufficiency. With that I would like to answer any questions from the committee, but I'd also like to draw to your attention two letters of support: one from the Nebraska Chapter of the National Association of Social Workers and from Nebraska Appleseed. [LB609]

SENATOR GAY: (Exhibits 1 and 4) And while you're doing that, I'd also mention we have one from the Center for People in Need; Erika Felt from The Kids' Spot, as well, so we did receive those two. [LB609]

SENATOR MELLO: As well as I believe one from Michael Yanney. [LB609]

SENATOR GAY: We've probably got it in here. I didn't see that one. Did you see that, Jeff? I don't think we have that yet. We might get it later, so. All right, we have a question. Senator Stuthman. [LB609]

SENATOR STUTHMAN: Thank you, Senator Gay. Thank you for your presentation, Senator Mello. As far as the qualified licensed childcare providers, in your bill that stays the same as what's in existence at the present time. [LB609]

SENATOR MELLO: Yes. [LB609]

SENATOR STUTHMAN: There's no additional qualifications or needs for these licensed childcare providers to attain any type of a certificate or anything like that. [LB609]

SENATOR MELLO: No. Not to my understanding, no. [LB609]

SENATOR STUTHMAN: Okay. Thank you. [LB609]

SENATOR GAY: Senator Gloor. [LB609]

SENATOR GLOOR: Thank you, Chairman Gay. Senator Mello, can you tell me which letter from a childcare provider that was going to speak to the challenges of the voucher system should I be looking for? [LB609]

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SENATOR MELLO: The...Erika Felt, The Kids' Spot letter. [LB609]

SENATOR GLOOR: Okay. Thank you. [LB609]

SENATOR GAY: Any other questions? Senator Mello, I get...on the fiscal note, you just received it yesterday, but it says \$11.8 million probably is going to be dedicated to this cause. And is that over the next two years, do you think, or is that...? Is it spread over two years or annually? [LB609]

SENATOR MELLO: I think the fiscal note from the Fiscal Office probably gives a more accurate portrayal of the fiscal impact of this bill in discussing it with them, and I actually see where the Health and Human Services Department arrived at their numbers, which is by moving towards the contracted option with the state dollars over a course of four years, they made the assumption that the state would be paying for contracted slots where children may not be in attendance. So it would be full 8-hour days, so to speak, where the current voucher system breaks it down by half-hour segments. So I think there is an opportunity to discuss that with the committee in regards to making amendments to the bill to ensure that we set appropriate policy guideposts for Health and Human Services, to make sure that when, if this bill was passed, they could arrange the contract so that the state would not be paying for unused childcare slots under those contracts. And that's why you see, I think, the significant discrepancy between the Fiscal Office and HHS. [LB609]

SENATOR GAY: All right, but I guess...well, on the bottom it says...it says childcare allocate...it's estimated to be \$11.8 million under the American Recovery and Reinvestment Act. I guess what I want to know, that \$11.8 million, do you know...I mean it's still early. That's over a biennium. [LB609]

SENATOR MELLO: That's an additional fund. [LB609]

SENATOR GAY: That's two years. [LB609]

SENATOR MELLO: Yeah. Those are additional funds over the next 2-3 years from the American Recovery and Reinvestment Act that could be used to... [LB609]

SENATOR GAY: To supplement though, but not supplant, it says here. Okay. [LB609]

SENATOR MELLO: Not to supplant but to support an expansion or current aspects of the program. [LB609]

SENATOR GAY: And then, yeah, and would look into that as we discuss this more then. All right. Senator Campbell. [LB609]

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SENATOR CAMPBELL: Thank you, Senator Gay. Senator Mello, just a quick point and you may have covered this and I may have missed it. On the new contract system, that's paying for the time whether the child is there or not? [LB609]

SENATOR MELLO: That is where...and where the Health and Human Services Department, in their fiscal note, that is what their assumption was. And I think that aspect of the bill would have to be cleaned up a little bit in regards to giving better direction to HHS so that the state in no way did we believe or want to give the assumption or the thought that we want to pay for unused slots where the state is paying dollars where children are not being served. And I think that is something that would be able to be negotiated. The contract portion simply is a better business practice for the childcare provider so that they can rely on a consistent basis, knowing that they will have, for an example, 20 days out of the month they can plan on that on a regular basis. So it's a better business practice but it also allows the state to invest the state dollars--not necessarily the federal dollars--but the state dollars we put in this program towards high-quality childcare. [LB609]

SENATOR CAMPBELL: So whether the child is...if the child is ill, the provider would still be being paid then under the contract? [LB609]

SENATOR MELLO: That is where we would have to find...we would have to find some cleanup language within the committee, probably, to make sure that that would not be the case, and that's where HHS got their large fiscal note, is they made that assumption the way the bill is written. [LB609]

SENATOR GAY: All right. Anything else? Senator Howard. [LB609]

SENATOR HOWARD: Well, thank you, Mr. Chairman. You know, I think we had this discussion a few days ago when we had a provider come in, and I asked that specific question. If...because originally the department did pay for days when the child wasn't there because the day care would say they have to hold a spot anyway and pay staff. But I remember asking that question, maybe it was last week, if that rings a bell with you, and the department said, no, they don't pay for days when the child is not in attendance. So I wouldn't factor that into their financial note. [LB609]

SENATOR MELLO: I think they factored that though, Senator Howard, into the fiscal note, because of the way I think the bill was written. HHS has a tendency sometimes to review bills very literally, and I think they reviewed this bill in that sense, thus saying the state would...the way the bill is written, that the state would pay for those unused slots, as well. [LB609]

SENATOR HOWARD: I think what they may be doing is just factoring in and figuring the

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child is there every day; not necessarily a sick day. [LB609]

SENATOR GAY: Well, we can find out, because I'm sure Liz Hruska probably wrote both of those fiscal notes. That's how they usually do it, their areas of expertise. So we'll find that out. Yeah, we've had several...of course, you know this, on fiscal notes. You can argue those a lot, I suppose, but. All right, any other questions? Senator Mello, how many people are going to be proponents on this bill that are going to speak? So about 7 or 8? Any opponents? We've got some opponents. Oh, about even opponents. And then do you mind...I see Senator Council is here. Okay, Senator, do you want to come up and speak. We'll hear from proponents...or opponents, I'm sorry. [LB609]

SENATOR COUNCIL: Good afternoon, Chairman Gay and members of the committee. My name is Brenda Council and I'm the senator representing the 11th Legislative District in Omaha, Nebraska, and I'm here in support of LB609. And I want to discuss with you the basis for my support. I've had the privilege of serving for nearly the last two years on the North Omaha Development Project which is a collaborative effort with the Omaha Chamber of Commerce and north Omaha leadership to improve the economic conditions in north Omaha, which basically comprises the district that I represent. One of the task forces under that development project is a workforce development task force. I've had the privilege of chairing and cochairing that task force for the last 18 months. During the course of the task force work, one of the things we did was to identify barriers to employment in the north Omaha area. And one of the principal barriers to employment is childcare and the ability for people to obtain and retain childcare. Many of the families are able to obtain childcare when they first enter the job force, the labor force, but as Senator Mello referred to, slight incremental increases in pay can place them in a position where they're no longer eligible to receive the childcare subsidy assistance; and as a result, they're forced into making a decision as to whether or not to continue the employment or to stay at home to provide care for their children. With the legislation that is presented, it is a gradual increase of the amount of available subsidy. And in terms of the poverty rate, the people are eligible to continue to receive subsidy, it kind of goes on a continuum, assuming that over the course of time that families, as they begin to stabilize themselves, will be provided an opportunity to continue to receive childcare subsidies. I do have one concern with regard to the language of the bill as presently drafted, and I have discussed that with the proponents. I did not have a chance to discuss it with Senator Mello. But with regard to the contract issue, quite a significant percentage of the day-care childcare providers in the district that I represent currently meet the standard for the voucher system. It will be some time, and we are urging and hopeful that they will meet the standards set forth in this bill for the contract services, for contracted services, but until that time they have to rely upon the voucher system to receive reimbursement for the childcare that they provide. The way the bill is written, if you turn to page 4, for example, subparagraph (3), it speaks to, during fiscal year 2011-12, the department would spend not less than 75 percent of its general fund appropriations for the childcare subsidy program, which is the contracted

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side. Now, I understand that it's the intent of the legislation that that only be the state funds that go into the childcare subsidy program, but unfortunately all of the funds, both federal and state funds for childcare, are included under the general fund appropriation. So if the committee--and I hope that they do--votes to advance this piece of legislation, an amendment would be necessary to make it clear that with regard to the contract section, that it's only the percentage of the general fund budget that are state dollars; that the federal funds, all of the federal funds, are still available for the voucher system. And I hope I haven't confused the situation, but as it reads, general fund appropriation, and if it's left that way could arguably foreclose the childcare providers who don't meet the standard for a contract from receiving the opportunity to provide day care under the voucher system. So as long as that is corrected to reflect what I understand the intent of the legislation is, and that's just for the state funds to be used for the contracted services, and that the voucher, the federal funds will continue to be available to be used to reimburse childcare providers under the voucher system. [LB609]

SENATOR GAY: Okay. Senator, the one that needs to understand that, since he'll be writing the amendment, would be Jeff Santema. Jeff, you've got that, don't you? [LB609]

SENATOR COUNCIL: Okay. Jeff, you've got it? [LB609]

SENATOR GAY: Okay, technically that's...all right. And then Senator Wallman. [LB609]

SENATOR WALLMAN: Thank you, Chairman Gay. Yes, thank you for testifying, Senator Council. This also concerns me because I have a letter here also. If you're going to demand cutting contract services with children, is that going to put a hardship on contractors, you know? And if the state dollars, you think that would be okay then if you...federal plus state, we wouldn't be a hardship on contractors? [LB609]

SENATOR COUNCIL: No, because as the program is to operate, it would only be the childcare providers who meet the standards of being held to be a qualified licensed childcare provider. So if you meet that standard, then you're eligible to enter into these longer term contractual arrangements as opposed to the voucher system. [LB609]

SENATOR WALLMAN: Okay. Thank you. [LB609]

SENATOR GAY: Senator Gloor. [LB609]

SENATOR GLOOR: Thank you, Chairman Gay. Senator Council, with the redevelopment effort that you've been involved in, have there been private monies, organizations, corporations, who have been involved in helping come up with money, and especially as it relates to some of the childcare solutions? [LB609]

SENATOR COUNCIL: At this point, Senator Gloor, the money that has been raised to

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date has been raised principally to allow for the development effort itself in terms of conducting the studies, providing monies for training, for example. And it's not unrelated to this issue, but one of the projects under the workforce development program is dealing with offender reentry, and some of the private money that has been raised has allowed us to provide training for individuals to work with ex-offenders in reentering. So the bulk of the money hasn't gone directly to development initiatives or to providing grants at this stage, but it's then principally expended for studies, training, infrastructure development... [LB609]

SENATOR GLOOR: But you're running up against the same issue with all of those, and that is a problem with appropriate childcare for the people involved. [LB609]

SENATOR COUNCIL: On the workforce development side, yes, sir. [LB609]

SENATOR GLOOR: Especially. Yes, thank you. [LB609]

SENATOR GAY: Any other questions? [LB609]

SENATOR COUNCIL: And I'd like to thank the committee for its time. [LB609]

SENATOR GAY: Oh, no, thank you. All right, other proponents who would like to speak. [LB609]

JEN HERNANDEZ: (Exhibit 6) Good afternoon, Mr. Chairman, members of the committee. My name is Jen Hernandez, H-e-r-n-a-n-d-e-z. I am here representing the Nebraska Children and Families Foundation, testifying in support of LB609. Last week, as you might remember, I came to testify on another childcare bill and promised I would be back to introduce to you a new concept for your consideration. I want to thank Senator Mello and also his staff for their hard work on this bill and on this issue. When my employer offers me a raise, I do not think twice about accepting that; but for a parent receiving childcare assistance, they do, particularly if their income would go up \$200, meaning they would become ineligible for childcare assistance and see their childcare expense go up \$500 that month. There are a number of challenges in the childcare subsidy system. I'm not going to go over those but those are in the written testimony that you have in front of you. But as a quick review I just want to mention that the childcare subsidy is a work support for low-income families who are either working or in some cases attending school. The assistance is paid directly to the licensed childcare provider the month after care is provided. Eligibility is determined initially for a six-month period, and then monthly after that, and that eligibility is determined based on the need for service, again meaning that the parents have to be either working or in some cases in school, and also based on income; and based on that income, there is a copayment that goes along with their assistance that they received. Last year, parents paid over \$2.6 million in copays into the childcare subsidy program. As this committee looks for

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ways to make the current systems more efficient and effective, this bill is particularly important. We're in difficult economic times and resources are limited, and we certainly want the best return on investment for the public dollars that are spent. It's why we're here today. The childcare piece is part of a bigger picture. The science tells us that 90 percent of a child's core brain structure is formed in the first five years of life, and those first five years of life are a critical window of opportunity for kids to have the experiences and particularly the interactions that they need to have with whoever is taking care of them. And those experiences and interactions lay the groundwork for the child's physical health, for their mental health, for their behavioral health, and also for their cognition. Seventy-five percent of all of the children in the state who are birth to 5 have all of their available parents in the work force. We consistently rank in the top five states for that statistic, and we're also consistently in the top five for all children, 0 to 5, who have their mothers working. Thirty-five percent of all of Nebraska children, birth to 5, are at risk of not having the kinds of interactions that they need that give them those experiences in that critical window--the first five years, and these kids are at risk of failing in school and later in life. So the question that we asked and are attempting to answer is this: Is there a way we can use limited dollars so that more at-risk children have access to the kinds of environments that support their healthy development during the critical first five years? And the answer is yes. This bill increases eligibility so that we can reach more of those at-risk children; it allows for continuous eligibility to encourage families and providers to build a stable relationship; and it requires the department to offer both vouchers and contracts. And Senator Mello mentioned in his introduction--I just want to spend 20 seconds on the contract idea--as he said, it does not remove the voucher system. It actually expands parental choice by giving access to some high-quality programs the parents do not have access to right now. It stabilizes the childcare provider's budget and it encourages them to serve greater numbers of at-risk children. The bill proposes three ways that a provider can be eligible to enter into a contract, and at the end of that contract they have to meet one of three standards of accountability. If we could redesign a system, not just a childcare system but THE system, we would put more dollars at the front end in things like education and healthcare, because research shows this is where we'll get the biggest bang for our dollar. It's why the Legislature in its wisdom created the Early Childhood Endowment Fund, focusing on birth to 3-year-olds who are at risk, to make sure that they get a good start in life that sets them on the path to success in school. Out of a billion dollars spent on education funding, 1 percent should be targeted at the first five years, saving enormous amounts of money in all areas of government. This bill is not that plan to redesign the system, but LB609 is an important piece that will help us move in the direction of accountability, so that we buy what we know works for children and for their families. You have a lot more details in front of you but I think I will stop there, so thank you for your time. [LB609]

SENATOR GAY: Thank you. Any questions? I don't see any. Thank you. [LB609]



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TOM CASADY: Good afternoon, Senators. I'm Tom Casady, the police chief here in Lincoln, testifying on behalf of the city of Lincoln. I am a, I guess you would say a seasoned police chief. I'm one of the more seasoned police chiefs in the United States these days. The tenure in this job tends to be rather short. But this is my thirty-fifth year as a police officer here in the city of Lincoln. I started in 1974. And my rookie officers are now chasing around after the grandkids of the youngsters that I was chasing around after in the mid-1970s. From my perspective as a long-serving law enforcement officer, I can tell you that I've seen with my own two eyes the importance of good high-quality childcare and caregiving for kids, particularly the young children ages birth through 5. It's just an absolutely critical time, and I'm not alone in believing this. And the reason the police chief is here to testify in support of this bill is because I think anything we can do as a state to increase the availability of high-quality childcare to families in Nebraska, and particularly families that might not otherwise be able to engage or afford that childcare, helps us all in a variety of different ways. Primarily, you've heard about employment and employment stability. I'm concerned, of course, about crime and safety. You know, last week, about six blocks away from where we are right now, Officer Jason Wesch, at 2:00 in the morning, arrested a 14-year-old in a stolen car. He cleared up a number of auto thefts and other crimes that this boy had been involved in. It was the eleventh time that this 14-year-old has been arrested by the Lincoln Police Department. We've spent an awful lot of resources on him. I've seen this pattern over and over and over again with people that I've known pretty much all of my adult life. And I think a very, very common scenario that I've seen is kids that were basically unbonded infants. They never really had a caregiver that had a stable enough relationship that they were able to enjoy the kinds of supports that are really necessary for a toddler to have. So I think anything you can do that helps make childcare, quality childcare, available to people who might not otherwise be able to afford it and retain it, is going to help a great deal in the long run, and I would encourage you to give strong consideration to LB609. [LB609]

SENATOR GAY: Thank you. Any questions? Senator Stuthman. [LB609]

SENATOR STUTHMAN: Mr. Casady, in listening to the discussion this morning on where we are at on the budget and everything like that, and the possible news that we're going to get tomorrow of it getting a lot worse, I'm very supportive of childcare and good childcare. I'm also very much concerned about the children are in the hands of the parents, you know, the 12, 16 hours, where they're in the childcare the 8 hours. You know, maybe there should be some more emphasis put on parenting and stuff like this, because children, you know they're at a day care, you know just a portion of the day, but the majority of their life they're still with their parent. Yes, there's some time where they're sleeping, but I think that's a time too. But I'm very...I just have a problem with how we can work this all together with the limited resources and trying to accomplish the getting good day care and I'm very supportive of that. But do you feel we need more emphasis on parenting and the raising of children? [LB609]

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TOM CASADY: A lot of things that we need to do, Senator. Obviously, the quality of parenting factors hugely into outcomes for kids, but we also have to deal with the reality that the previous testifier mentioned, and that is that about three-fourths of our kids are going to be spending those first five years before they start in school in some kind of a day-care setting. And it's just a pretty critical time. I will tell you this: We're also...you know, I have to do a budget every year. This is the fifteenth budget that I have prepared for the police department, and I'm looking at the looming potential of cutting police officers and employees and services to the public. And whenever you're in that situation you always look at what your core mission is and you reduce the things that contribute the least to your core mission. And I guess why I'm here to testify is to tell you that raising good kids is our core mission. I mean, that's really important in this state. And we're building a \$64 million jail down the street and it just makes me sick as a taxpayer. It makes me sick as a citizen in this community to think that we're spending \$64 million on a jail, and I wonder if we had made an investment 20 years ago in doing some of the more preventative things, if maybe we'd be building a \$47 million jail instead. [LB609]

SENATOR STUTHMAN: I would sooner spend \$50 million on investment of kids from the first five years than investing in the jail. [LB609]

TOM CASADY: Amen. [LB609]

SENATOR STUTHMAN: Thank you. [LB609]

SENATOR GAY: Senator Campbell. [LB609]

SENATOR CAMPBELL: Thank you, Senator Gay. I just want to say that I've known Tom for, oh golly, 30 years, 35 maybe. He's a lifelong advocate for children and women, and we're really lucky to have him. [LB609]

TOM CASADY: Thank you, Kathy. And thank you very much, Senators. I appreciate your time. [LB609]

SENATOR STUTHMAN: Thank you. [LB609]

SENATOR GAY: You bet. Thank you. We'll hear from more proponents. [LB609]

CINDY MIZNER: (Exhibit 7) Chairman Gay and members of the Health and Human Services Committee, my name is Cindy Mizner, spelled M-i-z-n-e-r, and I'm a kindergarten teacher at Knickrehm Elementary School in Grand Island, Nebraska. I have taught for 27 years in this school, which is 80 percent free and reduced lunch rate; 44 percent English language learners; 10 percent special education; and a 14 percent mobility rate. This year my classroom has 22 students. Seven students had no

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preschool; 5 are English language learners; and 3 have special needs. I am here to tell you why the LB609 bill is so important and ask you to advance it. Each year, it has been very evident, even as early as the first few days of school, which children have had exposure to readiness activities prior to kindergarten, and which children have not. Those who lack readiness skills struggle not only in kindergarten, but first grade, middle school, and yes, even high school. In my career as a kindergarten teacher, this is what I've noticed: Children without social readiness skills tend to play along, watch other children, cry easily, and hover close to me. Others find it difficult to share, take turns, and are quick to argue and fight when things don't go their way. Children without fine motor opportunities, like using pencils, scissors, crayons, and glue, have difficulty performing tasks successfully. They become easily frustrated and tend to give up when they can't keep up with their peers. They require a lot of one-on-one help to complete activities. I've also noticed that children without reading readiness skills have difficulty just sitting through an entire story. Often they are restless and easily distracted, interrupting by talking or bothering those around them. This requires me to stop the story and redirect their attention. More importantly, comprehension and story retell skills are weak. Another thing I've noticed is that children who have not practiced listening and following directions prior to kindergarten quickly fall behind others and seem stressed at school. As a result, I notice these students become withdrawn and participate less in class than their peers. Obviously, school isn't fun when everything is difficult. Children without rich life experiences and language skills lack the ability to draw meaning from what is read, and it carries over to their ability to write. I continue to be amazed that some children live five years and come to school not knowing their colors, names of basic fruit, animals, or common objects. Hasn't anyone talked to them? What have they been doing for the first five years of life? In the fall each year, my students take an assessment called DIBELS, and this looks at their reading readiness skills as they enter school. This year I found that six of those seven children that did not have preschool before coming scored at the 20th percentile or below. These are extremely low readiness skills and strong indicators of the need we have for preschool. Senators, I want to make it clear that I do not advocate for highly academic preschools but I am passionate in my support for environments that expose preschool children to appropriate activities which will develop the many skills I just discussed. These skills are necessary for children to hit the ground running in kindergarten and build a strong foundation in their uphill climb in education. This bill will mean more children who are at risk of failing in school and later in life will have access to the kinds of quality environments they deserve but cannot afford. Not only will children receive a better start in school, but I believe they will be more successful throughout their education career, and this will lead to a higher graduation rate. LB609 can have a huge impact on education, I know this. Thank you for your time and for considering my input on this important matter, and again I just hope you will advance LB609. [LB609]

SENATOR GAY: Okay. Thank you. Senator Wallman. [LB609]

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SENATOR WALLMAN: Thank you, Chairman Gay. Thank you, Cindy, for coming down here to your house here. In kindergarten, what is your average age? Do you know, roughly, your median? [LB609]

CINDY MIZNER: Oh, I'm glad you brought that up. That's my passion. Most of them are...like this year, I have five that started as 4-year-olds; most of them are 5; four turned 6 soon after entry. [LB609]

SENATOR WALLMAN: Is that too big an age difference, do you think? [LB609]

CINDY MIZNER: Absolutely. That's what I thought I was going to talk about today. So that's my next time I come back here. [LB609]

SENATOR WALLMAN: Okay. Yeah, I'm for early childhood education. We used to have it at our school where I was on the school board, and we took it away because of financial constraints. But our ACT scores was highest at the preschool level and it did take a long time to get them back there. [LB609]

CINDY MIZNER: Um-hum. Yes. [LB609]

SENATOR GAY: Senator Gloor. [LB609]

SENATOR GLOOR: Thank you, Chairman Gay. Cindy, thanks for coming down. I'm assuming that you took a professional day or a personal day to do this... [LB609]

CINDY MIZNER: Yes. [LB609]

SENATOR GLOOR: ...so that's a commitment also and shows your passion about this. And you did a great job in front of the senators, although if you can handle a room full of kindergartners, you can handle this. (Laughter) You should see the floor debate. It would remind you of recess duty, I'm sure. Great testimony, especially given your years of service in Grand Island, but I'm going to ask you another question that taps into your experience, and that is: Have you seen a change in where parents go to get childcare over the period of time that you have been teaching? [LB609]

CINDY MIZNER: They...in my school...the thing is, the more education a child's parents have, the more they want the best. And I don't mean that in a negative way, but they are reading the newspapers, they've got journals in their homes. They have access to information. A lot of the parents in my homes don't have newspapers, magazines, that type of thing, and so I don't think they are as aware of what's out there that they really do...there are different levels of preschool facilities that really do have higher standards. [LB609]

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SENATOR GLOOR: And I think that's kind of what I'm getting to is that those parents...would those parents be more likely to seek preschool and some of the more intellectually stimulating opportunities for their kids versus...and are those opportunities still out there to an extent that they were 20 years ago or 25 years ago? [LB609]

CINDY MIZNER: Yes, I think so. We've got good facilities in Grand Island. [LB609]

SENATOR GLOOR: Okay. Thank you. [LB609]

SENATOR GAY: Any other questions? Thank you for coming. [LB609]

CINDY MIZNER: Thank you. [LB609]

MICHON BROWN: Mr. Chairman, members of the committee, my name is Michon Brown, spelled M-i-c-h-o-n B-r-o-w-n. I am the mother of two: son Brendon (phonetic), 7; and daughter Shandon (phonetic), 4 years old, and I would like to share with you my personal experience utilizing the childcare work subsidy and ask you to support LB609. Back in 2004, I began to utilize the childcare subsidy. At that time I was working two part-time jobs and attending school. With time, I was offered a full-time position with another company. In accepting that new position, my monthly income increased, causing my childcare subsidy to have an overwhelmingly high copay for six months, then later, terminated. Senators, I understand the cost of childcare is difficult for any parent; however, it is extremely complicated for low-income parents that utilize this subsidy who are working hard to make life better for themselves and their children, to maintain the subsidy. There are three main points about this bill I would like to bring to your attention that will give parents who have the ability to receive the childcare subsidy a strong chance in career advancement, continuous eligibility, and the opportunity to receive quality childcare. First, this bill eliminates the disincentive from working harder and advancing. Once a family of three, like mine, earns \$1,760.01 per month, their childcare subsidy is terminated. If a parent is near the income guideline and receives a \$200 monthly increase, their childcare subsidy is removed and will incur childcare costs up to \$600 per month, depending on the age of the child and what type of quality care they want their child to receive. I was recently placed in this predicament and had to make the difficult decision to quit my employment and to continue my education. In no form do I want to be dependent of governmental assistance, however I was financially overwhelmed with the costs that I had incurred. With the strain of worrying about how to pay for my childcare, I was unable to focus on my education and being a good parent. I am extremely saddened that I had to revert going back on assistance instead of being on the steady path of being self-sufficient. The second thing this bill allows is for 12 months of continuous eligibility. Professionals who understand a child's brain development, tell me that moving my child from one childcare provider to another is not a good idea. They say that it can cause lots of stress for children and hinder the healthy relationship that I want my childcare provider to have with my child. But it is also hard to

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find a childcare provider who is willing to take a child on the subsidy when they know their eligibility is determined on a month-to-month basis. If children were eligible for one year at a time, providers will be more than willing to take care of those children. I know some people might be afraid that a child may qualify for one month and won't qualify the next month; hence, their spot will no longer be available. There are reasonable ways to keep that from happening. Parents should still be expected to report their income changes to their caseworkers to determine eligibility more frequently, if necessary. I also want to assure that low-income parents do not see their monthly income change drastically. I know that personally is hard, going up the corporate ladder. Third, the bill expands parental choice in finding good, healthy care for their children. On the subsidy, you can go to whatever childcare provider that accepts this form of payment, but those aren't necessarily the kind of places that I want my children to be in care of. I have the luxury of having my children...well, currently I only have one child in day care and she attends Educare of Omaha. And I love Educare. They have taught my child so much. She has been there since birth, and she is only 4 but she's able to write her name, recognize all letters, capital or lower case. She knows all her numbers. She is learning how to add, already at the age of 4. But not all parents are as fortunate as I am to have that quality of care with a provider who understands child development and knows how to offer experiences to get the child ready for school, as I've done with my children. They have limited choices and sometimes have to settle for a provider who is willing to take the subsidy but doesn't have any background on educating our children. The idea of Health and Human Services contracting with providers who meet a certain standard of quality means parents have greater access to programs that will take good care of our children and help them get ready for success in school. Throughout recent studies, it has shown that the brain does most of its development from birth to 5 years. This shows how important it is for our future leaders and decision makers to receive quality care. I strongly encourage you to support LB609. Thank you so much for your time, Senators, and I'm happy to answer any questions that you have. [LB609]

SENATOR GAY: Thank you. Are there any questions? Senator Stuthman. [LB609]

SENATOR STUTHMAN: Thank you, Senator Gay. Thank you for your testimony. I've been a very strong advocate of the situations that a lot of people are going through, just like yourself. If you earn a little bit more money they take that much away from the other end, and I think that's not in the right direction, because I feel that individuals like yourself, individuals that are in low-rent housing that earn \$50 more and they take \$45 of that away for their rent. It's no incentive to improve yourself. And I think if we could help a little bit more to make people like yourself--and I'm very proud of you and your child going to that day care, learning all that stuff at such a young age. Your family will be an asset in the future and not a liability. [LB609]

MICHON BROWN: Right. [LB609]

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SENATOR STUTHMAN: Thank you. [LB609]

MICHON BROWN: Thanks. [LB609]

SENATOR GAY: Any other questions? I don't see any. Thank you. Other proponents? [LB609]

SHERI CASTELLANOS: (Exhibit 8) Good afternoon. My name is Sheri Castellanos; it's C-a-s-t-e-l-l-a-n-o-s. I'm a mother of four grown children that are all self-sufficient. I have remarried after the loss of my first husband, have three additional children, and recently have been divorced. I moved from Nevada to Nebraska because years ago I lived in Nebraska and the children have wonderful schooling here. When I got here I had no job. I had prepaid everything three months in advance so that my feet were solid when I arrived, and went on to ADC. Because of being on ADC, I was able to get childcare. Now, the numbers that are here I don't wish to announce across the board, but it's very difficult--and I'm not a pity person. I'm very proud of getting ahead. And there's so many of us that struggle and struggle, even dual family incomes where it's taking so much to put one child in day care. Coming from Nevada, I made really nice money; coming into Nebraska, you go back into a Nebraska rule--town, city, state, lower income, even though I work for the state--but the day care expenses are nearly the same as I paid in Nevada with the children. Another concern is that the state, when my 24-month transition period came up, they said to me, well, it's your choice. You can quit your job and go back on ADC; it will take 30-90 days to get you if you're in the (inaudible) benefit for \$435 a month. Four hundred and thirty-five dollars a month. Has that taught my children to get up and go to work every day? No. While we're needing them to have day care, we also need to show them a responsibility of getting up, going to work, holding a job, continuing in life. Now, I've been at the same job for the last two and a half years, and in that time I got a 4 cent increase while I was getting childcare subsidies. All of sudden, I'm paying a copay. Over 4 cents. Two hundred and fifty dollars--um, a little different--well, you deal with it. Then you get another increase of 2 percent, which was another 22 cents. Great. Now I pay \$450. I still am able to do that. But now I'm off ADC for 24 months in one day, and I have no day care at all. It took almost...it took my whole income and it took my son's, part of his SSI, to keep my children in day care, showing that I can get up and go to work and be happy about it. And having \$300 a month to just pay all the bills. It didn't work. But my landlord held out, the utility companies took what they could. We've done without. We're okay; we're happy. There's food pantries. We've learned a lot and it's all good, but also at the same point of having the state say, hey, quit your job and go back on ADC; then you'll have this subsidy. I shouldn't have to have that choice. It was a very hard decision and very tough time getting through. My children have been extended into what's called the rec center. It's a before-and-after school program. There's over 100 children. The day-care provider, there was 12 children in those two older kids' class. Big difference. My 6-year-old is now becoming a wild monster. Okay, we'll restructure; we'll get him some more help outside--social help.

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I think day care is a very good thing. The rec center, I need it so that I can afford to pay less for the older children. Another thing that nobody has talked about is I have a special needs child and I know a lot of people do. What happens when these children become teenagers and they still need day care, full-time day services besides school? So I think that's something we should also be addressing while we're addressing day care. And that would be all, so sorry. [LB609]

SENATOR GAY: All right. Thank you. Any questions? I don't see any. Thank you. [LB609]

SHERI CASTELLANOS: Thank you. [LB609]

SENATOR GAY: How more proponents do we have? How many proponents want to speak still? Just one more after her? All right. [LB609]

DEBRA NARED: Hello, Mr. Chairman and members of the committee. My name is Debra Nared, N-a-r-e-d. I am the director of Nared's Pee Wee Palace and I've been caring for children of low- and middle-income families for 30 years, and I am in support of LB609. In my opinion, this bill will allow providers to bill for contracted slots, which will enable the provider to put together a budget that can afford teachers educated in the early childhood field. At this time, we must send teachers home when enrollment is low, forcing quality teachers to look elsewhere for employment. Studies show children from birth to 3 depend on consistency. They have the need to see the same face in the same place each day. This bill not only helps low-income children; it will also benefit middle-income families by raising the bar of quality. All children will begin school ready to learn. I'm not accredited at this time, but it is my goal to achieve my accreditation in the next two years. Thank you. [LB609]

SENATOR GAY: Thank you. Any questions? Senator Gloor. [LB609]

SENATOR GLOOR: Thank you, Chairman Gay. How much will it cost you to get accredited? Is there a cost with being accredited? [LB609]

DEBRA NARED: Yes, there is. [LB609]

SENATOR GLOOR: And do you know how much that is? [LB609]

DEBRA NARED: Right now, the total package looks like about \$3,000, but there are some grants out there that are willing to pay half of it, so we're looking into that. [LB609]

SENATOR GLOOR: That's a lot of money. [LB609]

DEBRA NARED: Yes, it is. [LB609]



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SENATOR GAY: Any other questions? I don't see any. Thank you. [LB609]

JESSIE RASMUSSEN: (Exhibit 9) Chairman Gay and members of the Health and Human Services Committee, my name is Jessie Rasmussen; that's R-a-s-m-u-s-s-e-n, and I am here today to testify in support of LB609 on behalf of the Building Bright Futures initiative in Douglas and Sarpy Counties, specifically representing the work of the Bright Futures Early Childhood Task Force which I chair. You've heard just about everything you need to hear, so let's just talk about my two beautiful grandchildren. I have a 4-year-old, Ellie (phonetic), and 2-year-old, Mack (phonetic), and I know already that when they arrive at kindergarten they are going to have vocabularies of 5,000-7,000 words, and they are going to be speaking in complex 15-word sentences. They will be self-confident. They will be inquisitive and eager to learn about everything. They will be able to take turns, listen, pay attention to adults, participate in group activities, manage their feelings appropriately, and make friends. I know this, not just because I'm a proud grandma, but because the research says this is likely the way it will be simply because Ellie and Mack were born into a family with resources; parents who are professionals; parents who have sufficient income, knowledge, and access to resources in the community. The same research also suggests that at least 5-7 of Ellie and Mack's classmates are going to come to school with only 500-word vocabularies and be speaking in only simple 3- to 5-word sentences. As Cindy pointed out to you, these children arrive at school without the kinds of social-emotional skills that enable them to learn. In fact, the science would show us that many of these children begin kindergarten a full year behind their peers, and not because of their age. And unfortunately, the research also shows that they are likely to stay behind in spite of costly intensive, time-consuming interventions. Does it have to be this way for Ellie and Mack's classmates? Certainly, genetics is part of this story, but for families with very limited resources, environment is much more of the story. As you heard earlier, not all parents understand that they should be talking with their children from the moment they are born. They may not understand that crying is the first form of communication. It is not something babies do intentionally to irritate their parents. They may not understand that regular routines of eating, playing, and sleeping are an integral part of children developing an internal sense of self-control, and they may not fully understand that the foundation of math, reading, and writing begins in the earliest years of life. And the same set of parents don't always have access to programs that do know what should be happening in the first five years of life. The Bright Futures Early Childhood Task Force was asked to identify specific actions that could be taken to ensure that every child born at-risk in the Omaha area would be set up for success in school. They came up with five overriding goals, but I'm only going to talk about one today. Interesting enough, the task force did not recommend that we go out and start a whole bunch of new early learning programs. In fact, they concluded that wherever children are: at home, with grandma, or in a formal early care and education program, they should have safe, nurturing, and stimulating environments. The task force also recognized that a significant number of

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the 18,000 children in the Omaha area who are under the age of 5 and at-risk are in childcare because their parents work. And half-day programs don't work very well for those families because they are working. They need full-time, year-round care. Thus, one of the key strategies recommended by the Bright Futures Task Force is to offer support to existing providers to help them improve the quality of their programs. It's really old-world thinking to view childcare as simply watching children while their parents work, and that learning only occurs in so-called early childhood education programs. In fact, early care and education can and should happen in the same place, in the same program. The task force met with providers across three meetings. Over 80 providers attending those meetings. We were attempting to find out what they perceived to be their needs; what would help them do an even better job than what they are doing today. They get it. They understand the important role they play in setting children up to be successful in school. They're eager for support and help. And however, I think the sound in the room went up about 10 decibels when they started talking about the childcare subsidy system. You've heard some of the problems, and I don't need to go through those again, but bottom line, the task force would strongly support both increasing the eligibility for families so more children and families can access the childcare subsidy and to give children the opportunity to participate in high-quality programs. You've heard there's been some confusion. I just want to reiterate again this is about the voucher program continuing, only with a couple new benefits, and that would be more children would be eligible for it and there would be the 12 months continuous eligibility. There then would be the option for providers to choose to work through a contract, providing they meet the high standards of qualities that are set. I urge you to support LB609. It's an important first step and an important piece of improving the lives of all of our children. If you have any questions, I'd be happy to answer them. [LB609]

SENATOR GAY: Thank you. Any questions? Senator Gloor. [LB609]

SENATOR GLOOR: Thank you, Chairman Gay. Ms. Rasmussen, Bright Futures has a great reputation with quite the organization, and I think the other senators would join me in thanking Ms. Buffett for her level of contribution to our children, if I remember my histories right on programs. But that gets back to a question I was talking to Senator Council about earlier. Is there considerable private money that's being invested into children's futures, I guess in the Omaha community? But Bright Futures obviously goes beyond the Omaha community. [LB609]

JESSIE RASMUSSEN: Right. I can speak more specifically about the investment in the Omaha area, but even to a certain extent to the state. I could tell you that probably already \$40 million has been committed; \$20 million dollars to the Early Childhood Endowment that Jen referenced earlier comes from the private community. About \$15 million was contributed by private people to build two state-of-the-art early childhood centers: one in north Omaha and another one under construction in south Omaha. They

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are buildings that are close to what the corporate world offers for their families, like at First National or Gallup or UP. And probably another \$5 million in the last five years has gone to things like scholarships to programs of high quality to make up the difference between what childcare subsidy or what families can afford and what quality actually costs. Also to support the TEACH program, which is a scholarship program for people working in early childhood programs to help them get their AA degrees or their bachelor's degrees in early childhood. And there's also been funds going to something called the Kid Squad which is a mental health consultation that's available for programs. In addition to those monies that have already been spent, I think there is that, at a minimum, a \$3 million to \$5 million commitment across the next several years to continue to expand the system of supports for existing early care and education programs to help them raise the quality of the programs. [LB609]

SENATOR GLOOR: Well, I asked the question because I think it helps us, as senators, have an understanding of the kind of monies we may be looking at from a state standpoint. If private money has been invested to that extent in Omaha, there's a sizable amount of money that we need to be taking a look at, at the state level, if we're going to be talking about trying to help provide early childhood services. So I appreciate knowing what some dollar amounts were. [LB609]

JESSIE RASMUSSEN: Well, and I appreciate that. There are many people in the private community. I've been in the early childhood field most of my life. Was a direct provider for over 20 years. And I have loved coming back to this field and finding that there are new champions that I call the unusual suspects. They are not early childhood people like me, but they are economists who have run the numbers and said there is no smarter use of public dollars than investing in the first five years. It is business people who say, I want a different work force, and the only way I can really get it is to make sure kids get a good, solid foundation in the first five years. So that's much of what Bright Futures is about, too, is really expanding and understanding the importance of the first five years. [LB609]

SENATOR GLOOR: Thank you. [LB609]

SENATOR GAY: Thank you. Any other questions? I don't see any. Thank you. All right, that was the last of the proponents that I saw. We'll go with opponents. How many opponents want to speak? There's no opponents. Oh, we've got one back there...two. If you want to speak, opponents start working your way up. [LB609]

TODD LANDRY: (Exhibit 10) Good afternoon, Senator Gay and members of the Health and Human Services Committee. 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 within the Department of Health and Human Services, and I'm here to testify in opposition to LB609. You have already heard testimony that details what LB609 would do. This is reiterated in my written

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testimony, but the hour is getting late so I will not reiterate that. The goal of LB609 is or appears to be to allow low-income families access to high-quality childcare. This is a worthy goal. However, without substantial increases in appropriations it could result in concentrating all the funds on a small group of families, and essentially eliminating eligibility for many others. In my written testimony we outline a number of technical and procedural concerns that we have with the bill. We'll let you read that at your own time and leisure. We also outline a number of cost concerns related to the bill, and again I will let you read those at your time and leisure versus taking your time today. I would like to say though that I recognize and that what you've heard today is correct, that Nebraska now ranks fiftieth in the nation with regard to setting eligibility for low-income families at 120 percent of the federal poverty level. This equates to \$25,440 for a family of four that would be eligible without a time limitation so long as they remain at that level of income. You have also heard, and it is correct that Nebraska also allows for a family a 24-month transitional period following TANF assistance to be covered under the childcare subsidy up to 185 percent of the federal poverty level, which is \$39,228 for a family of four. Raising the eligibility level from these points will require a sustained increase in appropriation. Without the substantial additional appropriation, a state can certainly raise the level of eligibility but then will only be able to serve a finite number of families, and this would therefore require utilizing a waiting list for eligible families or periodically freezing any new intakes for families seeking assistance until the budget could accommodate them. To meet all of the requirements of LB609, an estimated increase in state general funds of \$9.3 million is needed in fiscal year '09-10, and \$18 million dollars in fiscal year '10-11. As you have heard, the fiscal note specifies what a possible use of the federal ARRA bill would be. I would like to point out that this is one-time money. It is one-time money that if used for this purpose is going to be attempting to fund an ongoing obligation set by the Legislature. Even with the use of all the \$11 million that could be designated for Nebraska under this area, that would still leave, in the next biennium, a gap of \$16 million, and that would further increase in the next biennium as the eligibility level is continuously raised in accordance with the bill. I'd also like to just briefly point out that when HHS provides a fiscal note, we are obligated to do that and look at the green copy of the bill very literally. If we, in turn, begin to make assumptions about the bill or guesses about the intent of the bill, we run a very, very dangerous risk for you as the Legislature. It could result in unintended consequences, and unintended consequence, as all of you very well know, can be very dangerous; could lead to, as the current Kenny Chesney song says, where you go home at 2 with a ten, and wake up at 10 with a two. Nonetheless...(laughter). At least I woke everybody back up. Come on. [LB609]

SENATOR CAMPBELL: It's a good thing it's five after five. [LB609]

\_\_\_\_\_: I'm glad that's on the transcript. [LB609]

SENATOR CAMPBELL: We'll note it was five after five when you said that. [LB609]

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TODD LANDRY: Please do. Lastly, I'd just like to point out the technical issues that are included in this bill, are included in my testimony, I believe should be very carefully assessed, and I hope that you will consider those even though I did not go through them very specifically in my oral testimony today. Thank you, Senators. Be happy to answer any questions. [LB609]

SENATOR GAY: Thank you. Senator Howard. [LB609]

SENATOR HOWARD: Thank you, Mr. Chairman. I see in here you've got this specifically spelled out there. To quote: If a child attends for 20 hours a week, the department pays for 20 hours a week. [LB609]

TODD LANDRY: Currently, that is true. [LB609]

SENATOR HOWARD: We had that discussion earlier, and I think... [LB609]

TODD LANDRY: That is absolutely true. Currently, based on our literal interpretation of LB609, that would change for a certain percentage of the number of childcare providers under this bill, and we specify that out. Again, you've already heard the testimony about vouchers versus contracted slots as provided in LB609. I think that is further detailed in my technical concerns and technical comments to the bill that hopefully will answer those questions for you. [LB609]

SENATOR HOWARD: Well, that really answered a question...--and I think we talked about this a week or so ago, too. I remember the conversation. The other question I had: Do you know if there would be any funds in the relief package, the federal relief package that will apply to the day-care program? I know it's fuzzy. I know there are not a lot of specific details. [LB609]

TODD LANDRY: Right, and we are working very hard to deal with a myriad of issues that are in the ARRA federal bill. But certainly it is not part of the Medicaid program. I want to emphasize that. This is really part of the Child Care and Development Block Grant that is addressed in the ARRA. It, on a nationwide level, allocates about \$2 billion to the states for Child Care Development Block Grant. Nebraska could receive approximately \$11.8 million in one-time funds. It is not an ongoing commitment of dollars. In fact, it very specifically states it will only be one-time funds. And I think we do have to be very careful about using one-time funds to attempt to address an ongoing concern. I do want to address a question I think someone asked about how you draw those dollars down and fund those. This is very preliminary information, but it appears that these funds must be allocated the year after receipt, and expended the next year. So we technically would have, from this point, approximately three years, starting...three years to expend the dollars. So that is my understanding right now. Again, we're getting

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daily information now from the federal Administration for Children and Families in interpreting the ARRA, so that could change, but that's my understanding of it right now. [LB609]

SENATOR HOWARD: Well, I appreciate that. The challenge is how to get the biggest bang for the buck without committing ourselves to a long-range (inaudible). [LB609]

TODD LANDRY: That's exactly right. And you know, as you, Senator Stuthman, maybe it was Senator Wallman indicated, you know, I don't know what the revenue board is going to come out with tomorrow. I'm as concerned as everyone is about what it could say. And so that's a big concern and I think it's a big challenge for you in the Legislature, particularly this session. [LB609]

SENATOR HOWARD: Thank you. [LB609]

SENATOR GAY: Senator Pankonin. [LB609]

SENATOR PANKONIN: Thank you, Chairman Gay. Mr. Landry, just as a follow-up to Senator Howard's question, on that 11.8 over three years. I mean, what potentially could happen? I mean, not...you're going to be gone anyway, but (inaudible) what do you think would happen, could happen with that? What would you...how would a program be designed? I mean, would it be...could it be designed for a temporary, knowing that we have this time frame, and knowing...and not making any commitments for a longer term? Is there ways to do that? I mean, obviously would hope that we can utilize the money. [LB609]

TODD LANDRY: Well, certainly I think we will want to try to utilize those monies for the specific provisions outlined in the federal law. One thing that we know for sure is these funds cannot supplant current general state general funds. That is an absolute that we have heard over and over again. We cannot supplant what we're already paying for, so it would have to be additional dollars. But it could be used, for example, if our childcare rolls increase significantly beyond budget, it could be used to cover that gap without an increase in state general funds. We understand that it could be used for one-time increases, for example, in certain scholarship programs, as you heard about the TEACH program. It potentially certainly could be used to assist in raising an eligibility level, with the state recognizing that they're going to have to do something when that money runs out. Either you would have to go back and say we're going to bring it back down to this level--and you can imagine how that might be interpreted by some of your constituents and taxpayers--or a commitment that you're going to find other ways to continue to fund it and commit future legislatures to do that. Again, those are very difficult issues and I think that's why we have to be very careful, and I think the Governor has been very clear about saying how careful we need to be as a state to make sure that we're using this money wisely, as it was intended, without potentially committing ourselves to a

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future situation that your successors or for some of you who are serving a longer period of time are going to have to deal with. So it's a big challenge. [LB609]

SENATOR PANKONIN: Thank you. [LB609]

SENATOR GAY: Senator Campbell. [LB609]

SENATOR CAMPBELL: Thank you, Senator Gay. Just a follow-up to that, Mr. Landry, given the situation for some of the providers, though, I mean...and this is what we talked about and I kept trying to find the bill that we looked at, in terms of losing slots. I mean, if the provider says I can't make it if you're only paying me for the days that the child is here and they're not here without a consistent pattern, therefore I am no longer going to provide those slots. Could the money be used to at least keep us even with the slots? [LB609]

TODD LANDRY: It would depend upon how that would be interpreted, because it goes back to not being able to supplant current general funds, and so that's where I think we have to be very careful. We all want to make sure, certainly I do, want to make sure we're not violating any federal law as we go about doing this. So I think, you know, is that a possibility? Maybe. It still then does raise the question, what do you do two years down the road, when you no longer have those dollars? [LB609]

SENATOR CAMPBELL: Right. I understand. But I think we're in jeopardy of that is all I'm saying. I'm just raising a warning that I think we are. [LB609]

TODD LANDRY: And certainly our obligation in accordance to what Governor Heineman has laid out, we are going to be providing information to Gerry Oligmueller, who the Governor has designated as the point person on this, as to what the rules and regulations and stipulations are with regard to the dollars; what some of the options or the options could be to utilize those dollars. And then I believe he has committed to cooperate with the Appropriations Committee to address those. [LB609]

SENATOR CAMPBELL: Thank you. [LB609]

SENATOR GAY: Thank you. Any other questions? Thank you. [LB609]

TODD LANDRY: Thank you. [LB609]

SENATOR GAY: Other opponents? [LB609]

DAEMON STEVENSON: Chairman Gay, Senators, my name is Daemon Stevenson. I'm the administrator for Life Changers Academy in Omaha, Nebraska. I am here submitting my thought process that I'm opposed to it in the way that it is written, for it is a big

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ambiguous, and also I think that it's looking at two things and I don't think the providers understand, from our point of view, what it is saying and what it is lining out for us. Number one, I believe that is a good thing, on the top side, for it to deal with the purpose of raising the levels of income on the parents. It's the hardest thing under the sun for a provider to tell a parent that your childcare is gone for the simple fact that you've made one more penny than they allow you to, and they don't even allow copays. There's not an incremental way to take the parents off, giving them a copay opportunity so that they can stay on. But that's a good provision of this bill. Another component is, is it is an attempt to help in a multiple of different areas to require us to do more. But I submit that this bill also needs to be considerate of that we need the parents to do more. We need to be asking the question as to how can we help the parents become better at what they are supposed to do, and then in turn of helping them, it helps us. Now, we have a day-care center. We have over 80 kids, and my sister day-care centers have over 100, and in all of our day-care centers we're giving quality childcare. Our children have the propensity, and a number of them have went on to go to kindergarten and are ready to go to first grade because of the excellent teachers that we have. Now let me be clear: Our teachers do not all have a degree nor do they all have their associate's. The problem is, is that I want to give them more and I want to train them at a greater level, but simply we don't have the funding either. And the question is, is that with this new system that is being set up here, there is a double standard. There should be a level where both sides are getting the equal amount of money in consideration of what's being done. In other words, if you want them to be licensed, that's understandable. But accreditation is a lot more than \$3,000. Accreditation also requires that, according to the way this is set up, even me as myself, if I have a business degree that's not good enough. I'm required to have a childcare degree, as well, and that all of my teachers must have childcare degrees upon the end of it to even get the contractual side. The competitiveness of this particular law comes into question. And then it should be a fixed rate across the board. And if the fixed rate is across the board, it helps all of us come up to the level that you're asking us to come to. I believe, just like Senator Stuthman has said, that we should have the best. From the time they are born till the time that they graduate, we all should be working together to give our children the best. But we must take into consideration how to give them the best. And that means that we should have a level playing field. I believe that in all of the discussions that we've had and all the proponents, that a lot of them are blinded by the thought that if we get this licensed childcare, that we're going to get a set rate all the time, whether they're there or not, based upon enrollment and not attendance. But then when we look at the fiscal responsibility that goes with it, we're saying, well no, you're not really going to be able to do that. And this bill does not clearly define whether or not we're going to get the enrollment or the attendance. It does not define what are the standards that are being set for at-risk. It does not define that, you know, I as a childcare center am trying to do the best that I can based upon the budget that I have, but as they use the (inaudible) Educare, Educare has a higher budget than I do. Also they had an influx of private funding that built their building, so they're not even having to deal with the financial



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constraints that we're dealing with on the onset, because their money is primarily directed toward the care. Mine is directed toward the overall functioning of the business. I'm concerned that we move a bill that is conducive to everything, covering all areas that we need to deal with. Number one, making sure that all childcare centers get the same rate of pay; that we all have the same requirements, whether they're on vouchers on entitlement. And then when we're dealing with the budget, which we have discussed earlier, what happens when the voucher system runs out? And then we've also already have a list that the entitlement money is for only those centers that are licensed under the program. What happens then? What we need help with is being more competitive, it being blanketed, and we being helped with training and accreditation so that we can all come up to a certain level. I think that we're all wanting to have our teachers licensed. We're all wanting them to be accredited, but when we can only pay them minimum wage based upon the amount of money that we're getting, it's kind of hard to expect us to say that you have your teacher's degree, you go from minimum wage to \$12 an hour, but the state is only paying me so much. Those things have to be taken into question, and I'm asking that you not move a bill quickly, nor even make small adjustments, when the major adjustments need to be made from the Health and Human Services point of view. How do we tend to the needs of the parents and then attend to the needs of the providers so that we can take it up to another level, collectively, and not just looking at one component, but all the components together. And that the way that it is written right now--and I'm pretty educated; I went to school--it kind of is showing me that we're saying one thing in the content...I mean, in the intent, but the content of the bill itself reads differently. [LB609]

SENATOR GAY: Thank you. Any questions? Senator Pankonin. [LB609]

SENATOR PANKONIN: Chairman Gay. Thank you for testifying. You did a great job and I appreciate your comments, too, about helping parents to be the best they can be, and that's definitely an important part of it. What usually happens in this process, I don't think you have to be real concerned about this bill just going right out. [LB609]

DAEMON STEVENSON: Well, of course. [LB609]

SENATOR PANKONIN: And I think, first of all, you establish...Senator Mello might like that but we're not going (inaudible). (Laughter). But first of all, I think there's probably general agreement that having good early childhood is...you know, there's no question that's important. So then this committee takes your testimony and some of the other things, obviously the gentleman from the state government from the Department of Health and Human Services. We have to read and study all that. But this will all be important as we go ahead, and this may...and sometimes these things take multiyears to get done even though we'd like to see this all happen very quickly. But your testimony will be important and I'm sure glad you took the time to come down and be part of the process. Thank you. [LB609]

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DAEMON STEVENSON: Thank you. [LB609]

SENATOR GAY: Any other questions? I agree. Thank you very much. [LB609]

DAEMON STEVENSON: Thank you. [LB609]

KRIS JENKINS: Hi. My name is Kris Jenkins, and it's J-e-n-k-i-n-s. I am the director of St. Mark's Preschool and Kidzone here in Lincoln, and I am also the president of the Nebraska Child Care Directors Association. I come opposed to the way its written, but yet I'm somewhat neutral. I am opposed because I need a clarification on what the higher standards wording of the bill means. I run about an average daily attendance of about 125 kids every single day. I have 39 staff, 80 percent which have either an associate's or a bachelor's. My standards, I feel and my parents feel, are very high. I have a 14-page waiting list, and I do accept Title XX. I can tell you right now, if you are to take this bill the way it's written, my Title XX would...I would not accept it anymore. I am not an advocate for accreditation. It is a very, very expensive process to go through; not only the cost to get the packet. It is extremely emotional on the director. It's extremely emotional on my staff. My parents have to go through a study. It's very, very time-consuming. So given the fact that I have maintained my capacity at 99 percent since I've been director, and that I do have a 14-page waiting list, I think says a lot about the standards. What I need clearer in this bill is the wording. I have very few Title XX children but I do accept Title XX. Like I said, given the fact that the bill is accepted the way it's written, I will not be accepting Title XX anymore, which I think is very sad to those children that are in my center right now. So I'm very quick; I know it's getting late so I just...that's how I feel. [LB609]

SENATOR GAY: All right. Senator Campbell. [LB609]

SENATOR CAMPBELL: Thank you, Senator Gay. I only have one question and that is: Ms. Jenkins did you...would you say that because of the ratio that's in the bill or the reimbursement that's in the bill? [LB609]

KRIS JENKINS: It's the ratio and them saying either we need to meet the requirements of the endowment or we need to meet the requirements of accreditation. It's both, but I will admit it's mostly the ratio. Yes. [LB609]

SENATOR CAMPBELL: Okay. Thank you. [LB609]

SENATOR GAY: Senator Wallman. [LB609]

SENATOR WALLMAN: Thank you, Chairman Gay. Yes, thanks for coming. [LB609]

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KRIS JENKINS: Sure. [LB609]

SENATOR WALLMAN: Also, are you inspected regularly by the state ever? [LB609]

KRIS JENKINS: Absolutely, and I have not been written up on any of my inspections for four years. [LB609]

SENATOR WALLMAN: Okay. Thank you. [LB609]

SENATOR GAY: Senator Howard. [LB609]

SENATOR HOWARD: Thank you, Mr. Chairman. Are you inspected annually or how often? And the only reason I ask... [LB609]

KRIS JENKINS: Yearly, by several different groups. We're inspected by Health and Human Services, the city/county on sanitation and, you know, cleanliness and stuff like that, and as well as the fire department. [LB609]

SENATOR HOWARD: Okay. And I understand the Health and Human Services regs actually require an inspection every five years? [LB609]

KRIS JENKINS: Every year. [LB609]

SENATOR HOWARD: It's every year. [LB609]

KRIS JENKINS: Every year. [LB609]

SENATOR HOWARD: Okay. Thank you. [LB609]

KRIS JENKINS: I get inspected once a year. I am very passionate about my kids and my job. [LB609]

SENATOR HOWARD: They're on it. Thank you. [LB609]

KRIS JENKINS: You are certainly welcome. Thank you. [LB609]

SENATOR GAY: Okay. Any other questions? I don't see any. Thank you. Anyone else as an opponent? All right. Any opponents that want to speak? All right, anyone neutral? All right, Senator Mello, you want to quickly close? Oh, we've got a neutral. All right. You get the patience award though. To be neutral on this bill. [LB609]

TERESA SCHMIDT: (Exhibit 11) This is hard because I...I'm Teresa Schmidt. I am the owner of Aspen Child Development Center here in Lincoln. I think we're one of the

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newest child development centers in town. And I am going to be brief, too, because we all want to go home. I support LB609. I would love to see it fly out the door and move forward. That would be the best thing I think that could happen for families and children in the state of Nebraska. But what I want to get to is I'm opposed--and everyone has spoken I think to a lot of the points, but I want to let you know just what I've gone through this week, and it's Attachment A. Again, it's the standards and guidelines for centers to receive the contract as opposed to receiving the voucher. I would love to, by 2012, when 100 percent of the state's part of this money goes to supporting contracts, I would love to say, as a center, I could get there. I've been running numbers this week, as a businesswoman, and I can't do it. Based on these standards that are right now attached with this bill, I would run a 25-35 percent increase in my staffing costs and a 33 percent decrease in the money coming in. I can't do it. I can't get the numbers to work so that I could be a contracted site within four years. We're a new business. We have huge expenses right away just, starting off. The economy is so lovely, that's helping us right away too. I have tried. I can't get there. To make my testimony and my talk very short, I hope you carefully look at these standards. I hate having double standards for the vouchers and for the contracts. If we're following state guidelines and state laws, which we do to the best of our ability. We're checked constantly, as you said. We're doing a good job. I hope that in...as you look at this bill, and I hope as this bill zooms out of this committee and move on, that you make it an equitable standard for all childcare providers, because many of us simply won't make it in four years with the way things are. Thank you. [LB609]

SENATOR GAY: Thank you. Any questions? Senator Gloor. [LB609]

SENATOR GLOOR: Thank you, Chairman Gay. Actually my question would be, it's not that I don't trust you but it would be nice to have those numbers in the record, and that may be something you're not comfortable sharing because it relates to your personal business and I think we'd all understand that, but it does make a better case when we've got some things to hang our hat on. [LB609]

TERESA SCHMIDT: Well, I could just show you, even if you look...do you have Attachment A? [LB609]

SENATOR GAY: Well, we've got them. They're in the record. [LB609]

TERESA SCHMIDT: No, that's it. You don't have this. But on Attachment A, the main thing is the ratio. You have...instead of...you have one teacher to four infants right now and one teacher to six toddlers. [LB609]

SENATOR GLOOR: I'm sorry, I'm talking about your personal... [LB609]

TERESA SCHMIDT: Oh, my business expenses. [LB609]

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SENATOR GLOOR: Your business. [LB609]

TERESA SCHMIDT: Oh, yeah. Well...(laugh). I know. [LB609]

SENATOR GLOOR: Okay. [LB609]

SENATOR GAY: All right. Any other questions? I don't see any. Thank you. [LB609]

TERESA SCHMIDT: Thank you. [LB609]

SENATOR GAY: Any other neutral? Senator Mello, do you want to close? [LB609]

SENATOR MELLO: I will try to be very brief and just to clear up a couple items. The bill does state, when you read the fiscal note and the bill on page 3 describes the contract portion, and I want to apologize to Senator Stuthman. I should reclarify what the bill says in regards to the accreditation component which says that all contracts...the contracts will be qualified licensed childcare providers in addition to the current voucher system, qualified licensed childcare providers defined as a childcare provider who (1) is or will be accredited by the National Association for Family Child Care or the National Association for the Education of Young Children by the end of the initial contract period, or (2) has met or will meet the quality indicators developed by the Early Childhood Education Endowment Fund by the end of the initial contract period, and is working toward improved levels of quality according to such indicators. One component that I think everyone, even those...mostly those who still were in opposition, agree that the first two components of the bill are very crucial: the increased eligibility and the continuous eligibility components. The third component of developing the contracts is a new idea and it's a reform idea. It's reforming the way we currently do business as a state. And with all new ideas there will be some challenges and there will need to be some compromises, and I look forward to working with the committee to try to deal with those, because ultimately the question at hand is, with our state dollars what kind of value are we getting? And with state dollars it should be our responsibility to try to get the best value for the taxpayers, and that best value, in my opinion, is high-quality childcare through contracts. That might not be everyone else's opinion and that's fine, but that's where the intent of this bill really lies. And I want to thank Senator Council for coming in, in support of the bill, and bringing up a good question, which we were just talking about. The language is vague to some extent in regards to the general fund appropriation competent which would need to be tweaked. The idea is the state portion of the childcare subsidy. Right now, it's \$37 million and we get \$32 million in federal dollars, per federal dollars. That is the equivalent of 53 percent of the total amount is from state general funds; 47 percent from federal funds. I imagine that would be the percentage that the amount we're looking at as we would phase in the contract. So at the end of four years, right now it would list 53 percent of all funds, which would be the

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general fund portion allocated by the Legislature would go in the contract portion; 47 percent of all funds, which would be the federal dollars, would go into the existing voucher program. So to clear up a little language, I know one of the last testifiers was concerned that she wouldn't be able to take any more; she wouldn't be able to take any Title XX children. That hopefully would not be the case because there still would be a significant amount of funds available for the existing voucher program. But with that, I'd like to thank the committee for your patience and for your willingness to listen to all sides of the testimony, and I look forward to working with the committee and HHS to find a solution to this very troubling problem that's facing not only my district, not only the greater Omaha area, but the entire state. Thank you so much. [LB609]

SENATOR GAY: Thank you. Any questions of Senator Mello? I don't see any. Thank you for your patience today, too. Thank you all for sticking around and appreciate you coming down. (See also Exhibit 5) [LB609]

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Disposition of Bills:

LB515 - Placed on General File with amendments.

LB542 - Placed on General File.

LB592 - Held in committee.

LB599 - Placed on General File.

LB609 - Held in committee.

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Chairperson

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Committee Clerk