[LR465 LR506 LR532 LR551]

The Committee on Health and Human Services met at 9:00 a.m. on Tuesday, October 16, 2012, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR506, LR551, LR532, and LR465. Senators present: Kathy Campbell, Chairperson; Mike Gloor, Vice Chairperson; Gwen Howard; Bob Krist. Senators absent: Dave Bloomfield; Tanya Cook; and R. Paul Lambert. Also present: Danielle Conrad; Annette Dubas; Paul Schumacher; and Kate Sullivan.

SENATOR CAMPBELL: (Recorder malfunction)...this morning. Senator Howard, we know, is coming, so when she comes we'll introduce her. I'm going to go through a few of the procedures. But first, I'm Kathy Campbell and I serve as the Chair for the Health and Human Services Committee. And I'm going to go through the procedures first, and then we'll have the senators introduce themselves. If you have a cell phone, would you please put it on silent or turn it off. It's very disconcerting when you're testifying and you're hearing a phone ring and ring behind you. Although handouts are not required, if you brought handouts of your testimony, we would like 15 copies, and if you need assistance, we can have one of the pages help you with that. Our page today is Deven Markley. Did I say that right, Deven?

DEVEN MARKLEY: Yes, you did.

SENATOR CAMPBELL: And Deven is from Nevada, Iowa. So thanks for coming in today. We appreciate that. If you are testifying, you will need to complete one of the bright orange sheets there, and please print very legibly. The orange sheets are used by the clerk as she follows along on the testimony that you have. If you are not testifying today, you do not need to complete one of the sheets. We would ask that when you come forward, you state your name for the record and spell it. Now you're saying, why should I have to spell it when I've already filled out one of those orange pieces of paper? It's because when the transcribers listen to the tape, it's much easier for them to

identify if you have spelled your name. So that's why we do two different types. This morning, we're going to have hearings on two legislative resolutions. But before we start on our usual agenda, I'm going to have the senators introduce themselves.

SENATOR GLOOR: Senator Mike Gloor, District 35, which is Grand Island.

SENATOR CAMPBELL: And I am Kathy Campbell from District 25 in east Lincoln.

MICHELLE CHAFFEE: And I'm Michelle Chaffee. I serve as the legal counsel to the committee.

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

SENATOR KRIST: I'm Bob Krist, District 10 in Omaha.

DIANE JOHNSON: Diane Johnson, the committee clerk.

SENATOR CAMPBELL: I think we have everyone. And if you do need something, get the clerk's or the page's attention and they will help you. We'll open the hearing this morning on LR506, which is Senator Sullivan's interim study to examine issues surrounding the moratorium on long-term care beds under the Nebraska Health Care Certification of Need. Good morning, Senator Sullivan. How are you? [LR506]

SENATOR SULLIVAN: Good morning, Senator Campbell. I'm just fine. [LR506]

SENATOR CAMPBELL: Good. [LR506]

SENATOR SULLIVAN: (Exhibits 1 and 2) And thank you so much for allowing me the opportunity to continue the discussion on a bill that I introduced last session. I am Senator Kate Sullivan, K-a-t-e S-u-l-l-i-v-a-n, representing District 41 in central

Nebraska. You know, it's often been said that hindsight is 20/20. I suggest to you that perhaps that's what we're looking at here. Perhaps we did not fully anticipate the unintended consequences of our vote in 2009 when we made it possible for owners of long-term care facilities to sell beds or transfer them to another facility owned by the same company. I believe it's now more important than ever that we revisit that decision and perhaps even consider taking a different course of action. You're going to hear some stories today of those unintended consequences, specifically to the community of Spalding. And just as importantly, you're also going to hear of what's going on in long-term care in rural Nebraska and why it's important that we take a second look. I wanted, for the record, to...I've asked several people to come testify today, and they are here, and in this order I'd like them to testify: Kurt Carraher and Tom Boyer, both from Spalding; Gary Van Meter from the Central Nebraska Economic Development District in Atkinson; Ron Ross, consultant; and Tim Groshans, director of nursing from the long-term care facility in Burwell. I'm asking you not to write off rural Nebraska, to actually think about what's going on in rural Nebraska, particularly with respect to long-term care. I wasn't in the Legislature and I don't think any of us...well, maybe you were, Senator Howard, when the moratorium on long-term care beds was put in place. I assume it was put in place because the thought was that there was an overabundance of beds, particularly maybe in Lincoln and Omaha. But was all of rural Nebraska put in the same spot, so to speak, as the urban areas? Was the aging baby boomer population and where they might be located fully taken into account? And was the assumption, faulty in my estimation, that aging parents in rural communities would leave those communities and enter a facility where their then-adult children were located or likely to be living? Well, I will tell you that the actions that we took in 2009 are exacting a toll on rural Nebraska. Citizens have been uprooted from their communities where they've lived all their lives. There's been an economic toll in jobs lost in those where a nursing home has been lost or is about to close. And when job growth is so important to stemming the downward tide of depopulation in rural Nebraska, we're losing jobs because of these closures. But you know what? In rural Nebraska, we're used to a fight. And communities have risen to the challenge and are trying to, and I'm here today trying

to make that path a little bit easier. But I did want to pass out an article that actually appeared in a utility newsletter by Corrinne Pedersen who typically writes community development articles, and she cites a couple of instances of what communities are doing when they're faced with this situation. As I said, hindsight is 20/20. And so what's the harm in rethinking a past decision? And to think that perhaps with further examination our decision might have been different and have a different outcome. I think it's also important to consider the current demographics and also the predictions. As I have talked with some of these nursing home long-term care facilities in my district, some of them have very deep waiting lists. So the need is there. And also if you look ahead to the predictions, I'm going to pass out another...actually, Senator Gloor, it was an article that was passed out at Legislative Planning, citing some predictions of nursing home long-term care facility populations in the years to come. And I've highlighted the page that I want to call to your attention. It cites some predictions. In 2010, there were 11,977 persons in Nebraska 65 and over in nursing homes. It's projected that in 2020, it's projected to have a 15.7 percent increase to a total of 13,858 people. And in 2030, there will be a 30 percent increase to over 18,000 people. In the years to come, it's fair to say that some of us, looking at each other, are going to be included in those projections; and I, for one, want to have a facility close to me where I currently live in rural Nebraska. Believe me, I think it's important that we revisit this issue. Because if we wait and these predictions become reality, if we wait, then it's going to be too late. I'm fighting for rural Nebraska, its citizens, and its economy. And I please...please consider rectifying and rewriting the future. Don't contribute to the downward spiral of job loss and weakening of the infrastructure in our communities, but rather uplift it and help the aging citizens where they are and will be in the future. I thank you for your consideration and I'll try to answer any questions. [LR506]

SENATOR CAMPBELL: Are there any questions? Senator Krist. [LR506]

SENATOR KRIST: Senator Sullivan, when you proposed this legislative study, interim study, as always happens there are people that come forward and say, yeah, but wait,

don't throw the baby out with the bath water, etcetera. Have you heard...I mean, you clearly are representing rural Nebraska, and that is your constituency and I understand that. Has there been pushback from Lincoln or Omaha on the other side of the industry or are we seeing the same thing happen...as a result of our legislation years ago, are we seeing the same thing happening in the metropolitan area and in the cities of the first class? [LR506]

SENATOR SULLIVAN: You know, Senator Krist, I can't really answer that. We can maybe get back to you with some additional...but I've not heard any pushback. I really don't know what's going on in Lincoln and Omaha. I can only cite what I know firsthand from my own district and from rural Nebraska. [LR506]

SENATOR KRIST: So is it your intent then as we focus on this, and I'm suggesting that there is a great reason to do that, but is it your intent then to say that we have differences in rural versus the metropolitan and cities of the first class and that we need to tweak the legislation to be able to adjust in that way? [LR506]

SENATOR SULLIVAN: You could make that assumption simply because we are seeing...we know where the population is moving... [LR506]

SENATOR KRIST: Right. [LR506]

SENATOR SULLIVAN: ...and it's not staying out in rural Nebraska, it's moving east. But then there are still people that live in rural Nebraska. Now I think that if we take a closer look at this, it does beg the question, we better look at what's happening across the board... [LR506]

SENATOR KRIST: Right. [LR506]

SENATOR SULLIVAN: ...in the urban areas as well as rural so that we can make a

more reasonable decision. I think in 2009 when we made that change, we made some assumptions that may not have been correct or just sort of, as I said, lumped everybody into the same pot. And I think it really does beg the question, let's pick this apart a little more specifically. [LR506]

SENATOR KRIST: Well, I thank you for bringing it forward. I don't think you're going to find anybody on this committee that doesn't realize, given what we've done the last couple of years, that there are decisive differences between Omaha and Scottsbluff, and we need to look at the whole spectrum. Thank you. [LR506]

SENATOR SULLIVAN: Thank you. [LR506]

SENATOR CAMPBELL: Senator Gloor. [LR506]

SENATOR GLOOR: Thank you. And allow me to make this more of a comment given the fact that I was the person that introduced the legislation that brought forward to address...let me say this, to address a problem, and as you nicely put it, created another problem in the process, and one that we hopefully through these hearings can get a start on trying to get an handle on. But the background on this goes back to the moratorium on additional beds, and from that point it gets complicated because we have the state chopped up into regions. And, again, I'm trying to recall all the specifics behind this and boil it down to something a little less complicated. You can move those beds around within the regions. You can't move them outside the regions. And so what the legislation attempted to do is be able to allow a movement of those beds from outside the region to another region to address population shifts and the fact that we did have regions that really needed additional beds. We also had regions that ran a low census in their beds. And so this provided a movement of beds from one region to another, which wasn't allowed in the past. Medicaid had an interest in this because an "overbeddedness" had an inflationary impact on Medicaid. I think that's an oversimplification, but it comes pretty close to hitting the mark. Unintended

consequence here is, so people closed down a nursing home in a small community to move those beds to operations they may have. We're talking about people who have multiple nursing homes across the state. And all of a sudden one of the larger employers in the community and perhaps in a community that feels that it can support, in terms of census, a nursing home, loses its beds and can't get them back because of the moratorium on additional beds. And so herein lies the conundrum of moving the beds is a good idea trying to address need across the state, but stripping away those beds from a community ends up being problematic for that community and perhaps for the region where they still feel a need for some of those long-term care beds. And my question to you I guess would be, after that wordy trying to lay out our challenges, has anybody come forward...it fits along the lines of Senator Krist's questioning, to say, you know, here may be a solution to this that allows the moratorium to stay in place but also addresses stripping those beds out of a community? Has anybody stepped forward and said, here's a pretty simple solution or maybe even a complicated solution, but giving us a grain of how we could start to build on rectifying this? [LR506]

SENATOR SULLIVAN: I actually think you're going to hear testimony today from the Nebraska Hospital Association that may give some alternatives. [LR506]

SENATOR GLOOR: Good, good. Thank you. [LR506]

SENATOR CAMPBELL: Senator Sullivan, one of the questions that I had, in your survey as you looked at the care facilities in rural Nebraska, do a number of them provide services to help people stay in their homes? I mean, are they making any transition providing in-home services? Do we know enough about that or is that something we need to look at? [LR506]

SENATOR SULLIVAN: It's a possibility. Speaking from my own personal experience, my own mother went through all three stages of having in-home care in the Ord area. Now granted, the company that we accessed did not reside even in Ord, but the

caregivers came from the area. And then she segued to an assisted living, and then into a long-term care facility for a short period of time. So we have those available. And you're also going to hear from another facility in District 41 that provides a variety of those kinds of services too. [LR506]

SENATOR CAMPBELL: Because it would seem to me that that might be some way that a part of the solution may be in terms of those care facilities also helping people, you know, make those kinds of natural transitions in their life. I agree. My own mother went through the same series of care, and we were very fortunate to have a lot offered because she was in Norfolk. [LR506]

SENATOR SULLIVAN: In the handout that I passed out, the white paper from UNO, it's interesting if you read the entire thing. I know I flagged the one that gives the projections of numbers in nursing homes, but this author goes on to talk about maybe we need to get a little more creative in some of the options that we can present in communities. And so your point is well-taken. [LR506]

SENATOR CAMPBELL: Okay. Any other questions from the senators? Senator Sullivan, we invite you to join us and hear the rest of the testimony for the interim. [LR506]

SENATOR SULLIVAN: Thank you. [LR506]

SENATOR CAMPBELL: We will start with the list that Senator Sullivan has provided to us. Mr. Kurt...I'm not going to say this right, am I...Carra... [LR506]

KURT CARRAHER: Carraher. Carraher. [LR506]

SENATOR CAMPBELL: We'll see if the transcribers can pick that up as you spell it for us. [LR506]

KURT CARRAHER: Thank you, Senator Sullivan, committee members, Senator Campbell. My name is Kurt Carraher, K-u-r-t C-a-r-r-a-h-e-r. I'm a registered pharmacist in the state of Nebraska, license 12862. I have the pleasure and good fortune to be able to work, interact, and be a part of an extremely progressive healthcare system located in central Nebraska. I'm the pharmacy manager at Spalding Pharmacy in Spalding, and also at Wells Drug located in Albion, Nebraska, so I have the opportunity to interact and be a part of the well-being of both communities. The community of Spalding needs my help and yours too. I would like to briefly touch on just a few points. We'll start with the financial impact. Two million dollars: that's the amount of income generated by our long-term care facility in its final year of operation. One million dollars: the salaries, wages, and benefits paid to the employees of that facility. The rule of thumb, $1 changes hands seven to ten times a year, and that equates to $7 million to $10 million of circulating currency gone in our community. I firmly believe that if your private enterprise lost $2 million last year you would take drastic measures to find and correct the problem. In Spalding's case, we understand the problem and are trying to correct it. The impact on some healthcare-related services. The local hospital nearest to Spalding has made it publicly known, has earmarked funds, and intends to construct a new medical complex in the community of Spalding when the current issue is resolved. They were just about to break ground when the announcement was made that the long-term care facility was being closed, so that's now on hold. As we mentioned at that last hearing, local families are under extreme duress as they struggle to try to take care of Mom and Dad at home when they really should be in a nursing home. Mom doesn't want to leave town. It's home. And where is the nursing home when we need it? It's been there for 50 years, people could always count on it. The nearest nursing home is 19 miles away in Albion and is at capacity of 60 residents, with 11 on the waiting list, and that's as of last week. Spouses continue to travel 20 to 35 miles daily to see their loved one living in a long-term care facility. It used to be only two blocks away. Baby boomers, they're retiring everyday. Yes, they don't need these types of facilities yet, but they will. They're moving back to the hometown communities for the lower cost of living

and to just be home. These are only a few of the reasons the community is working so hard to reestablish long-term care. The challenges that await are many. As the community continues to negotiate the purchase of the facility from the current owners, feasibility studies are in the final stages of completion. Preliminary figures are in the $1.5 million to $2 million range to renovate, sprinkle, purchase, license beds, equip, and provide operating capital for the facility. Licensed beds are the biggest ticket item on the list. The licensed bed commodity ranges from $10,000 to $14,000 per bed, and that's if you can find anyone that wants to part with them. In Spalding's case, 34 beds at $14,000 a bed equals $476,000. That could be a huge savings just by the swipe of your pen amending the current legislation. I think it's ironic that those who currently own the licensed bed commodity, as I term it, didn't pay a dime for it as it was created by the swipe of your pen. Thank you. Any questions, comments? [LR506]

SENATOR CAMPBELL: Are there any questions? Senator Sullivan, would you like to... [LR506]

SENATOR SULLIVAN: Thank you, Senator Campbell. Thank you, Kurt, for your comments. Can you expand a little bit more on the plans, was it Boone County Health Center that was going to have a new structure in town? [LR506]

KURT CARRAHER: That's correct. In conversation with the administrator in the last few months, they have earmarked funding to building a brand-new clinic. They've had that in the works for several years now. And they were actually very close to breaking ground, and then this announcement was made, so they've put that on hold for right now. But they still have earmarked the funds and they would like to move forward, but just because of the uncertainly they haven't done that yet. [LR506]

SENATOR SULLIVAN: Do they still have a physician coming there to a clinic right now? [LR506]

KURT CARRAHER: Several. [LR506]

SENATOR SULLIVAN: Okay. [LR506]

KURT CARRAHER: We have physicians and also PAs there Monday through Friday, five days a week. Some of those days the physician assistants are there half days, but it's possible to be seen by a physician assistant or doctor Monday through Friday. [LR506]

SENATOR SULLIVAN: Thank you. [LR506]

SENATOR CAMPBELL: Senator Krist. [LR506]

SENATOR KRIST: Bear with me, I'm just a pilot. I need to understand the concept here. You're saying that there was a facility that all those beds were taken away by the owner of that facility and consolidated somewhere else. [LR506]

KURT CARRAHER: Correct. [LR506]

SENATOR KRIST: And that the per-bed cost is going to be approximately $14,000 to restore them in the facility? [LR506]

KURT CARRAHER: Correct. To purchase the beds, you're at the mercy of whoever owns the beds. At one time, the beds went for $5,000; recently, $10,000; and today, the most accurate figures that I have, the latest ones that have sold are $14,000 now a bed. So anywhere from $10,000 to $14,000. It may be $20,000 by the time we're ready to purchase them. [LR506]

SENATOR KRIST: So are we saying that that company moved 30 beds, is that the right number... [LR506]

KURT CARRAHER: Thirty-three beds. [LR506]

SENATOR KRIST: ...moved 33 beds someplace else. And those beds are filled? [LR506]

KURT CARRAHER: That I don't know. They moved the 33 beds and closed the facility. I've heard rumor that they were building a new facility in a more urban area and they were going to use the beds there. But I'm not certain what's been done there. [LR506]

SENATOR KRIST: Yeah, I guess my point in asking the question, and I think this will probably come up and we can certainly delve into it later, but we on this committee hear daily that the number of beds are not being utilized across the state. So if a company is in essence selling a bed that it took away from a community to go back to the same community, then there's an underlying problem with the...I mean, it reminds me of the old days with liquor licenses, you know. It's incredible but there is some similarity there. Anything else you'd like to add on that subject? [LR506]

KURT CARRAHER: Not particularly. I mean, the initial research we've done, I mean, there will be facilities, hospitals, long-term care facilities that maybe have five beds for sale, they may have ten, they may have three. They may want to renovate a wing and they have a few extra beds they're willing to sell. So if Spalding were to purchase beds, we would more than likely have to purchase five here, three there, six here, maybe ten somewhere else at whatever price they named. We're at their mercy. [LR506]

SENATOR KRIST: Wow. Thank you. [LR506]

SENATOR CAMPBELL: Senator Gloor. [LR506]

SENATOR GLOOR: Yes, do you know what the census was of the facility before it was

closed down? [LR506]

KURT CARRAHER: Yes. [LR506]

SENATOR GLOOR: I mean, was it...how many beds...I guess my first question would be, how many beds did they have? [LR506]

KURT CARRAHER: Thirty-three licensed beds is what the facility was licensed for. In its final year of operation, it had 30 occupants or 30 residents. We've looked at the history from the last five years, and average it's been from 26 to 30 over the last five years. [LR506]

SENATOR GLOOR: Okay. Thank you. And maybe just in part this may save us some time in discussion in the past, in part to Senator Krist's question, these beds have always been a commodity that you could sell but it used to be that you could only sell those within a specific region. Well, if you didn't have the census to keep your beds filled in your region, there probably wasn't anybody else who had an interest in plugging those beds into that region also. Now that those beds can be moved from region to region, you've got something that's far more salable. And one of the reasons this legislation came up is we had a community that owned its own nursing home, wanted to sell it because it didn't have the census; nobody within their region had an interest in buying because nobody needed additional beds. And so an asset that they could have perhaps sold to another organization and used that money to do a number of things within their community, they weren't able to do so. And so those assets just ended up disappearing. That was one of the reasons that the legislation was put in place. But obviously other problems arise as a result of that. [LR506]

SENATOR CAMPBELL: My question has to do with, the feasibility study indicates that it's $1.5 million to start up, get everything in place to open the facility. Does the feasibility study talk about what is the annualized cost to run the facility? [LR506]

KURT CARRAHER: I don't know if the information is in there. Ron Ross, who will be testifying later, can possibly answer that for you. The community of Spalding has contracted with Ron to do the feasibility study, and maybe he can better answer that question for you. [LR506]

SENATOR CAMPBELL: When I served on the Lancaster County Board, we operated the largest nursing home other than the veterans and so forth in the state. And one of our problems was the annualized cost. It wasn't getting everything started, but it was the year-after-year cost. So I'll talk to Mr. Ross about that. Thank you very much for coming today. [LR506]

KURT CARRAHER: Okay. Thank you. [LR506]

SENATOR CAMPBELL: Our next testifier is Mr. Tom Boyer. Good morning, Mr. Boyer. [LR506]

TOM BOYER: Good morning. [LR506]

SENATOR CAMPBELL: You were here bright and early. [LR506]

TOM BOYER: I was. We were here ahead of everybody else. [LR506]

SENATOR CAMPBELL: I think you were. [LR506]

TOM BOYER: I like to be punctual. [LR506]

SENATOR CAMPBELL: Exactly. So would you state your name for the record and spell it for us please. [LR506]

TOM BOYER: (Exhibit 3) Yes. My name is Tom Boyer, it's T-o-m B-o-y-e-r, and I am a resident of Spalding. And I would like to thank you, Senator Campbell and the members of the Health and Human Services Committee. I've been a community banker for more than 40 years and I'm currently the community bank president of the Citizens State Bank of Spalding. But I've only been in Spalding for the last 18 months. And I come before you today to offer a historical perspective, albeit maybe a little bit narrow, of a municipally owned nursing home in Nebraska. I got out of the army in 1971, and started to work at the bank in Fairmont, Nebraska. And within 90 days, I was appointed to be the city clerk of Fairmont, Nebraska. In the fall of that same year, our privately owned nursing home in Fairmont was closed because the elderly couple that owned it decided that they could not afford to make the renovations that were being required at that time under the Health and Human Services regulations. And they were elderly, and so they closed the nursing home and they did in fact retire. The mayor of Fairmont at that time was a very visionary individual, and he immediately got some business people together to talk about the possibility of building a municipally owned nursing home. He got the chamber of commerce to set up committees to rally support from the area citizens, not only the immediate area of Fairmont but the surrounding communities, by having public meetings, presenting information to the public. We also had consultants at the time, providing options for people to consider. The upshot was, the election was held; it passed by a large margin. The general obligation bonds for the city of Fairmont were issued and sold, and construction started. In 1973, Fairview Manor opened its doors for residents as a 54-bed long-term care facility. In 2002, an assisted-living wing was built, adding nine units, a commons area and office space, and also a day-care center that was open 6 a.m. to 6 p.m. five days a week. In 2010, new dining/living combinations were added to each wing of the nursing home, and this was in keeping with the Eden Alternative. I don't know how many of you are familiar with that. That is basically a lifestyle for people in residential living. But each of the wings has since become like family for not only the residents but also the staff as was intended. Fairview Manor currently has 40 nursing home beds, nine assisted-living units, and a day-care center with a capacity of 30 children. As of yesterday, they had one open bed on the nursing

home side. Fairmont currently has a population of 500 people, which is almost identical to Spalding. The current administrator is a young lady by the name of Tami Scheil who has been the administrator for 17 years. She told me that at the time that she was hired, that the village board made it clear to her that they didn't care if they made any money, what they wanted was their residents taken care of and they did not want additional taxes put upon the taxpayers of the community. And having been the city clerk and done all of the necessary things to have that election come by, I guess I believe that the example of Fairmont shows that municipally owned nursing homes can and do thrive, and that money is not always the driving factor. My former community, the entire community, is proud of this facility as it's now preparing to celebrate its 40th birthday. The administrator specifically told me to invite anybody that had an interest in looking at a wonderful place for residents to live to please come to Fairmont and take a tour of Fairview Manor. I know this focus is a little bit narrow, but I come from the background of municipally owned homes and I am absolutely convinced that they work. I would like to encourage you as a committee to continue examining the issues surrounding the moratorium of long-term beds and the possibility of exempting a community-owned facility. I thank you for your time and interest. [LR506]

SENATOR CAMPBELL: Questions for Mr. Boyer? Senator Gloor. [LR506]

SENATOR GLOOR: Thank you, Mr. Boyer. Do you know, did...and if you mentioned it I missed it, I apologize. When the elderly couple sold, what kind of capital did the community have to pull together to buy that home? Do you know? [LR506]

TOM BOYER: To buy the one that was existing? [LR506]

SENATOR GLOOR: The existing. [LR506]

TOM BOYER: It wasn't even considered because the building was old. It was an old two-story and they just had a consultant walk through it and determined that the cost of

renovation would have exceeded new construction. [LR506]

SENATOR GLOOR: Was this before the moratorium on beds? [LR506]

TOM BOYER: This was 1971, in the fall of '71, so it should have been, right? [LR506]

SENATOR GLOOR: Yeah. Okay. Thank you. [LR506]

TOM BOYER: Um-hum. [LR506]

SENATOR CAMPBELL: Any other questions from the senators? Thank you, Mr. Boyer, very much. [LR506]

TOM BOYER: Thank you. [LR506]

SENATOR CAMPBELL: Our next testifier is Mr. Gary Van Meter. And while Mr. Van Meter is making his way forward, I should have noted for you all that we are using the light system. And what the light system does is that we can give a fair amount of time then to all testifiers. And the committee today has four public hearings and we expect to be here until later this afternoon, so we're trying to make sure that everybody gets a fair amount of time. So when the...the clerk will start the time when you start testifying, and you have five minutes and the light will be green; and then when you have a minute left, it'll go to yellow; and when you are to be completed, it'll go to red. Or if you look up and I'll be looking at little anxiously at you all. So we much appreciate, the first two speakers were perfect, so thank you. Good morning and welcome. [LR506]

GARY VAN METER: Good morning. And I can't type that fast, so this will be short. [LR506]

SENATOR CAMPBELL: Okay. Well, you go ahead and identify yourself for the record,

please. [LR506]

GARY VAN METER: (Exhibits 4 and 5) My name is Gary Van Meter, G-a-r-y V-a-n M-e-t-e-r. I live in Long Pine, Nebraska. I represent the Central Nebraska Economic Development District. I've only spent four years in Lincoln to go the university, four years in Omaha in corporate, and four years overseas. The rest of the time I was looking at a windmill like the one on the front cover of what you've got. Outstate Nebraska is where I live now again, after returning, and I represent 15 counties. It's geographically the largest economic development district in the state, one of the largest in the nations. It's also one of the least populated. It doesn't have a Walmart in it. It doesn't have a Lowe's or a Menards or an Olive Garden. It's a perfect place to grow a family and a business, if that's your wish. This is not so much of a finger-pointing today towards privately owned nursing homes as it is to point out for you the uniqueness of outstate Nebraska. If you were to open your folder, you'll find a note that looks like this on the front. This is from the National Association of Counties, delivered this year. And it speaks of three things: "The Role of County Hospitals," which in our state those that are owned by the state or counties or cities represent 44 percent in Nebraska. That's one of the higher numbers in the Union. You can go down to "County Owned Nursing Homes" at the bottom, and on the back you'll find Nebraska at 23 percent. There's a reason for that, because there's not many people out there, and they must be in some way, shape, or form, subsidized or promoted or provided for by cities and counties. And this trend has been historic in nature. Now there's one more figure here. If you drop down to "Key Physician Trends," you'll see that a great majority of doctors, residents in this case, 94 percent of them would prefer to practice in communities of 50,000 people or more. Now we get to the next number. Only 6 percent would prefer to practice in communities of 50,000 or less. And those, ladies and gentlemen, are the doctors we're going after. Those are the people that are as committed to these small-town areas as we are, and they don't even live there yet. Oh, they're growing, they're coming, but it takes time and it takes a population for them to administer to. One of the largest sections of our population demographics in outstate Nebraska of course are the older people, of which

we are all rapidly becoming. And there will be more of us in the future as the baby boomers eventually get through that chain of which, come to think of it, all of us are that I'm looking at, almost. Now the conclusion is this: In large states with remote populations, local nursing homes are a critical component of maintaining quality health by virtue of their ability to populate those remote areas with patients who comprise a growing percentage of our aging demographic population; largely prefer to remain close to home and family; and last, are more apt to utilize all components of healthcare--doctors, hospitals, assisted living, nursing homes, and hospice if they were available locally. In summary, metropolitan areas already siphon off the youth that we have in rural Nebraska. We send them off every year the university or a community college. The legislation that allows nursing home beds to be transferred to higher profit centers, meaning in more populated areas, removes the choice for the elderly and denies opportunity for rural communities to maintain their healthcare sustainability for doctor recruitment and hospital survival. Do we believe outstate Nebraska will grow? I guess you would want to ask the kids that I met yesterday in Cody, Nebraska, who are building their own grocery store. It's the only one on Highway 20, 90 miles between Valentine and Gordon. It's the only one and they're building it themselves. You might also wish to ask the mayor of the little town of Cody. He handed this to me yesterday. I didn't ask for him to have permission to give this to you, but I don't think he'd mind, John Johnson. Two things that he wrote down in here in his vision for the future of his town of 150: housing to include a retirement facility, and a satellite clinic. That's all they're asking for. So I will pass this on to you for the record and invite any questions you may have. Thanks for having me today. I was very happy to be here. I haven't seen the front of the north side since I was in fourth grade. The salvation of the state is in the watchfulness of the citizen, by...who was he?...Hartley Burr Alexander. [LR506]

SENATOR CAMPBELL: Thank you for coming and providing your testimony. If you want to wait just minute. Are there any questions from the senators? As you are serving this 15-county area, do you have a sufficient number of doctors in that area because you'd talked about the statistics? [LR506]

GARY VAN METER: There are never enough. They are oftentimes on what we call a hub-and-spoke method that was developed originally in northeast Nebraska. And a hospital as a base, with a clinic to support it, would send doctors out to neighboring communities on a morning basis, afternoon basis, instead of a three-days-a-week basis. And that's still being done in much of outstate Nebraska. So is that enough? I can't answer your question directly, but it works. [LR506]

SENATOR CAMPBELL: Okay. Thank you very much for your testimony and coming today. Our next testifier is Mr. Ron Ross. Good morning. [LR506]

RON ROSS: Good morning, Senators. How are you today? [LR506]

SENATOR CAMPBELL: Very good. [LR506]

RON ROSS: Thank you for having me and giving me an opportunity to visit with you about this important subject. My name is Ron Ross, R-o-s-s. I'm currently the president of Rural Health Development. We are a management consulting company dealing mostly with rural Nebraska. We do stretch into our neighboring states. We manage nursing homes and small hospitals. We're in 18 communities here in Nebraska. We manage the small nursing homes that are either government-owned, or they're nonprofit by the community put together, or they have a church sponsorship. I'll just read them off fast: Humboldt, Wilber, Laurel, David City, Stromsburg, Sutton, Beaver City, Bertrand, Stuart, Imperial, Benkelman, Genoa, Mitchell, Hemingford, Crawford. One urban, the Lutheran home in downtown Omaha; the chairman of the board is a friend of mine and needed some help. And two new ones: Wauneta and Callaway. I watched that legislation getting passed and I want you to know that some good things did come out of that. We used to manage the nursing home in Campbell, Nebraska, and years ago when the state offered assisted-living grants, that community did not take the state up on that. And we find that the assisted-living helps the nursing home, it kind of shares the

cost. They got to the point where the census did drop in all of the small towns around it, and there's a lot of small towns. And so the community was having a difficult time to see whether or not they could keep financing the operating loss. And it was becoming apparent that they couldn't. And I think every community has to make that decision. We had just done a feasibility study for the community of Wauneta. The for-profit operator had decided that they no longer were going to operate that facility, possibly transfer those beds to a larger community. And, you know, we were in that position of knowing a little of this and a little of that, and we were able to help the community of Campbell sell their beds to the community of Wauneta who needed to buy beds. And we were able to help them negotiate a price of just a little under $10,000 a bed, which was good for Campbell because they had accumulated quite a bit of debt trying to keep their nursing home going for quite a while. So they had a debt, and the selling of these beds did help them pay off the debt. Wauneta is alive and well. We took over managing that facility July 1. Their census is strong. I think it's around 33. They're not going to make a lot of money. These facilities can't make a lot of money. But they're not going to be a burden on their small community either. The village of Wauneta purchased that facility. Four businesses in town stepped up to the plate and each one of those businesses bought $125,000 worth of revenue bonds. The community kicked in a little over $200,000-some out of the people in the community. So that is a success story, and I believe that Wauneta will continue to thrive. The community of Gibbon, however, closed. They were operated by a nonprofit, large nursing home chain. Spalding, who we're here today for; Campbell closed; Callaway, we're just in the process of going to manage them the first of November. They were also a nonprofit organization who decided that they didn't want to be in the community any longer. Now we're actually now working with the community of Bridgeport to see if they can buy the facility from the for-profit operator. These aren't bad people. Okay? A lot of what's happened here recently in the last couple of years is the federal government has a mandate that all nursing homes in the United States will be sprinkled by July 31, 2013. You're either going to be sprinkled or you're done. There's no waiver. It's end of story. And so some of these small communities...any time you want me to stop I can, but... [LR506]

SENATOR CAMPBELL: We'll let you finish those thoughts. [LR506]

RON ROSS: Thank you. They're...you know, are you going to put $150,000 into the building as a for-profit? Or maybe you decide that's not a good business decision, and so you decide you don't want to do that. Okay. But maybe the community wants to step up to the plate and do it. This is very complicated, these small nursing homes. And as you well know and I well know from my years of working with the state, Medicaid is a huge budget issue. And less revenue coming into the state, you've got to look at everything, and Medicaid has not grown very much over the last few years. As a matter of fact, you know you've had to trim the budget back. The capital improvements is a big deal for these nursing home operators. Do they want to invest in it? Does it make sense? And maybe to them it doesn't, but maybe to the small community it does. And I don't know if I have a good solution, but I have some ideas for you I'm going to share today. And before I get to that, I'll answer the question about home care. These boards that we deal with, I looked into the future and said, you know, our small, rural communities need a good, professional home care company similar to what you have in the urban markets, and there's a bunch of them, good ones. But out there in rural, you know, you've got to think differently. You know, you've got to pioneer things a little differently. And so we started a home care company. And we're now taking care of people at home with the blessing of our boards out at David City and Stromsburg and those surrounding areas. And everyone of the communities that we're in, they're saying, Ron, put that out in our community, you know, bring that out to us because we want that for our folks too. Well, it's not just something you can snap to. It takes time, energy, and an investment that a lot of people wouldn't make because you're not going to get a very good return on that and it's going to take several years. [LR506]

SENATOR CAMPBELL: Mr. Ross, can I interrupt you for just a minute? [LR506]

RON ROSS: Sure. [LR506]

SENATOR CAMPBELL: Do you think that...you've talked a lot about many small communities here. Is this working because it's under a management company that can consolidate costs? I mean, it's not like they're all stand...they are stand-alone? [LR506]

RON ROSS: They are all stand-alone, Senator, and one of the things I suppose we bring to the table that a community on its own doesn't have, it doesn't have all the expertise in the different areas that they need. And, you know, our company has grown. You know, I started this company in 1990 in Nebraska. And so when a small community gets in trouble, we get a phone call. Here's a possible solution for you to think about. If I was sitting there in your chair, I would want to give some consideration to these small communities that go through a situation like this, and only those communities, an opportunity to have beds, but with an understanding in the legislation that they could not sell those beds in the future. Because the feasibility study shows for the folks in Spalding that while it's $1.5 million to do the renovation, to do the equipment, to do some cash flow, whenever you're a new provider in Medicare and Medicaid these days, it takes, six, seven, eight months to get your provider number. It is ridiculous. And I think one of the reasons why the feds do that is to keep providers, new providers, out of the system. And so that facility is going to have to cash flow their Medicare and Medicaid for six or seven months. Now they'll get the money at the end of that time because they'll go back to the date of the survey, but you still have to cash flow it. And so...but if the community wants to do that, they should have an opportunity to do that. [LR506]

SENATOR CAMPBELL: Senator Gloor. [LR506]

SENATOR GLOOR: Thank you, Senator Campbell. Ron, you bring a great perspective to this discussion given your past responsibilities, including being the enforcer of the moratorium on long-term care beds in your previous role. [LR506]

RON ROSS: Yes. [LR506]

SENATOR GLOOR: What you're proposing is getting rid of the moratorium, maybe not completely but at least for a segment of the state. [LR506]

RON ROSS: A small segment, and only those communities that are affected by their owners who have decided that that community, either because it's a capital infusion that they don't see it as a good business decision or, in some of the cases that I've talked about, they just didn't want to be there anymore. And that was their decision. But everyone of these communities...you know, I've done three feasibility studies in the last year for these small communities. And absent Campbell, which had fought the fight and they fought a good fight for a long time, but again you're right. You know, the census does...it moves. And when you're a little town and you've got a town on each side of you ten miles away, sometimes it just doesn't work, especially if you didn't get into the assisted-living market and understand that back in those days. But there are communities, and I don't know how many other rural communities that this could affect in the near future. But, you know, Lincoln and Omaha, they're in a different situation than these real small towns. You know, we're not talking Columbus or Norfolk or Scottsbluff. Those communities are large enough and there's enough nursing homes there that they can kind of make things work. But you take a Spalding where 35 or 40 employees is a big deal. It's huge. And I think they have a fighting chance. Now the community is going to have to step up to the plate and they're going to have to make an investment. But I've seen all these small towns make an investment, and they're going to have to manage it right. And I don't think it's your responsibility or my responsibility to fund things that aren't efficient. But they have a fighting chance. And so if the current operator just sees that that's not a good business decision, well, okay, that's their decision. The companies that I've been talking about, they're both good companies, they both give good care. There's nothing wrong them. It's just that they decided that they wanted a different business decision. But I can tell you that these folks here from Spalding and these other communities could benefit greatly, and maybe other communities I don't know about yet. And so if we could lift the moratorium on just those

communities that might get affected by that, but then don't let them sell the beds down the road. You know, if it doesn't work out for them, they shouldn't have an asset that you gave to them to sell at a later time. I don't think that would be right in my opinion. [LR506]

SENATOR GLOOR: But let me follow through with that. [LR506]

RON ROSS: Yeah. [LR506]

SENATOR GLOOR: You know, there's this concern of...and you clearly understand this, and Senator Campbell brought up the operating expense, that a community gets excited, pulls together the capital to make the purchase or to get started. They put in the sprinkler system, whatever is involved. But with the future we're looking at in healthcare, the future expenses may end up being an incredible burden on that community with the dollars going to support that long-term care facility being dollars that are no longer available to help the school or put in a new water system or ball fields or whatever it may be that that small community also needs. Maybe that's not our responsibility to watch out for that community. But on the other hand, we talk about unintended consequences having here at this hearing. I am concerned that the ongoing operational expense could be far more than most well-intentioned lay people understand may face them. And candidly, that's where you come in. I mean, part of what your organization does is come into communities that are struggling trying to operate a very complex financial operation. And you would understand this can be a challenge. [LR506]

RON ROSS: And it is a challenge. I mean, this industry is a challenge. I would just say that I'm more of a nongovernment-type person, always have been, even when I was doing this. And that is I think the community should make the decision and not somebody else in this. If they want to decide how they spend their money or how they tax themselves or anything like that, I think they should have that opportunity. And that's no different than many of the healthcare programs that are out there, but. I think they

have a right to try it. And I can show you in the feasibility study, and I've got all these other nursing homes, and when we took a look at their operating costs and the revenue that they're going to generate by their private-pay sources, by their Medicaid source, by their Medicare source, no, they're not going to make any money. But it shows that they can probably make, after depreciation and interest, you know, probably somewhere around $3,000, $4,000 a month. Well, that's after depreciation; so you do have that cash flow so they can put that back in there or they can make a bond payment, if that's what they decide to do. It's workable. It's workable. They just need some help. And I would also say, you know, as I'm looking at helping this other community and they're thinking about maybe purchasing the facility because the operator doesn't have a place to send those beds right now, what would that place be worth if they were to transfer those beds and legislation was there that would allow them to come back up. And I think that that's okay for the small community not to have to go out and buy beds, in their case a half a million dollars. [LR506]

SENATOR CAMPBELL: However, the community of Campbell was able to sell their beds to cover debt. And so then the concern becomes if you say, well, they can't sell them... [LR506]

RON ROSS: I would say only those communities that are going through this situation, and the legislation hopefully that you pass allows them to have beds to replace those, only those communities can't sell their beds. That would be my suggestion. [LR506]

SENATOR CAMPBELL: Okay. In light of your suggestion, would you also put a time limit in which the community has to avail itself of an opportunity, but it's not unlimited? [LR506]

RON ROSS: Oh, I agree. I would think that two-to-three-year time span. And the reason why I would suggest that is because one of the things the we see out there is there are some federal programs, some 90 percent loan guarantees for a nursing home, like from

USDA. And you've got to get into their time frame because, you know, they get budgeted. And so, you know, you've got to work with those agencies in order for you to get into their ability to do their allocation. [LR506]

SENATOR CAMPBELL: Right. [LR506]

RON ROSS: And I'd be more than happy to work with the committee here or anybody, you know, as you want to look at the legislation. [LR506]

SENATOR CAMPBELL: When you did the feasibility studies, what did you project as the yearly operating cost for the Spalding facility? [LR506]

RON ROSS: You know, the revenue was $2,160,000. I got it in my briefcase. I'm going over it with them when we get done today, so it's fresh in my mind. [LR506]

SENATOR CAMPBELL: That's okay. [LR506]

RON ROSS: And then the expenses, and this is including depreciation, is $2,130,000. So it allows them to retire a debt of about $950,000 over 15 years at 4 percent is the number that I came up with. [LR506]

SENATOR CAMPBELL: Yeah. Thank you. Senator Gloor. [LR506]

SENATOR GLOOR: Thank you, Senator Campbell. I'd be remiss if I didn't ask this question: So what's the inflationary impact on Medicaid as a result of this refinancing or an increase in depreciation? I mean, they're all...it's a pretty complicated calculation that goes into it. That's one of the reasons that we have a certificate of need in the first place I think. But is there much of an inflationary hit on Medicaid, do you think, as a result of operational expenses... [LR506]

RON ROSS: No, not... [LR506]

SENATOR GLOOR: ...that figure into the reimbursement amounts? [LR506]

RON ROSS: No. As a matter of fact I would say that as you transfer those beds to urban, the Medicaid costs are going up in this state because, (a) Medicaid pays a higher rate in the urban areas than they do the rural, and if your census isn't so hot out in a rural community, for instance Campbell. The good thing is those beds went to Wauneta, so that stayed in rural and it helps another rural community. But where did those beds go that were there? They went to a more urban area. [LR506]

SENATOR GLOOR: Well, yeah, but that assumes that we don't allow additional beds in the urban area. And I think as constituents start complaining to our urban friends, you'll find the eastern senators making requests for some lifting of the moratorium to meet demands in the eastern part of the state. I mean, if there's a demand, there's a demand. How we address it... [LR506]

RON ROSS: I would say that the Medicaid program would have to increase their fixed cost cap. Right now it's at $27 a patient-day. [LR506]

SENATOR GLOOR: Yeah. [LR506]

RON ROSS: And I don't know anybody that can build a facility and retire the debt at $27 a day. Now Nebraska is not the worst state when it comes to fixed cost reimbursement, but I couldn't make one work at $27 a day. And so I don't know how they'd want to go build. I mean, how could they get the loan? I think it would be pretty tough. And I don't see you all or any administration saying that they want to improve that cap, because we just got that lifted a little bit. Now, I do think there's some depreciation recapture that probably ought to be addressed, but that's another topic. [LR506]

SENATOR CAMPBELL: And we may have to review. The committee may have to spend some time talking to the department and just reviewing it, having some idea to answer Senator Gloor's question too. [LR506]

RON ROSS: Sure. And I'd be glad to help you with that. [LR506]

SENATOR CAMPBELL: Because we've been tracking through the Medicaid Reform Council costs on an annualized basis, and we need to take a look at that report. Any other questions? Oh, sorry, Senator Krist. [LR506]

SENATOR KRIST: That's all right. I apologize for having to leave momentarily. But if the question has been asked, then just tell me and I'll back off. We had a fixed number of beds; we had a moratorium. Back to my question a few testifiers ago, how many of those beds are actually being occupied in those that are being transferred? Do we have that number? [LR506]

RON ROSS: You know, I don't know the numbers. But I do believe that those beds that have been transferred have been transferred to a larger community, and probably in a community that would have more Medicare utilization. And so if you managed the Medicare business properly of long-term care, there's actually a profit to be made there where there really...not only is there not a profit on Medicaid, you're losing money on Medicaid. And so you're having to charge your private pay to make up the difference. [LR506]

SENATOR KRIST: So not only are we comparing apples to apples with beds going places, but we can't compare apples to apples because it's apples to oranges when it's used in a different format or process. [LR506]

RON ROSS: Exactly. [LR506]

SENATOR KRIST: Well, that complicates the issue, doesn't it? [LR506]

RON ROSS: Yeah. [LR506]

SENATOR KRIST: Thank you. [LR506]

RON ROSS: You're welcome. [LR506]

SENATOR CAMPBELL: Mr. Ross is just full of complications today. [LR506]

RON ROSS: Well... [LR506]

SENATOR CAMPBELL: But it is the nature of this business. [LR506]

RON ROSS: Yeah. [LR506]

SENATOR CAMPBELL: And it's far more complex than what people think it is. [LR506]

RON ROSS: You know, the percentage of elderly in rural is just going to stay a huge percentage, you know. [LR506]

SENATOR CAMPBELL: Yeah, exactly. Thank you, Mr. Ross, for testifying. Our last scheduled testifier is Mr. Tim Groshans from Burwell. Good morning. [LR506]

TIM GROSHANS: Good morning, and thank you. My name is Tim Groshans, T-i-m G-r-o-s-h-a-n-s. I am a licensed administrator in the state of Nebraska as well as a licensed registered nurse in the state of Nebraska. I also have a consulting company called Senior Insight, which is a relatively new company within its four years. I'm also the director of nursing service for the facility in Burwell, Nebraska. I actually was blessed to start in a rural facility when I was 18 years old as a nurses aide in Grant,

Nebraska. The furthest east facility I've ever operated was Columbus, furthest west is Scottsbluff, furthest north is O'Neill, and furthest south is Franklin. I've worked for the three major corporate entities in the state of Nebraska, whether it be for-profit or not-for-profit, in a role such as charge nurse all the way up to senior director of operations. Then I launched my own company and I'm enjoying working for not-for-profit entities in rural areas. Obviously a lot has changed in the profession since I started at 18 years old. Today, we're talking about the licensed beds, which is a new "phenom" that even caught me off guard, and it's really put a business curve to what we do. We've always been a caring industry. We've thought a lot with our hearts. Things have changed. We are a business and we have to think like a business. And what we're taking today is more business-related. The physical plant, while it is there, is worth very little if you do not have the revenue generating. The revenue generating is the licensed beds. It's very difficult to employ or to come up with new business in an empty skilled facility. The rural plants are old. If you don't have the operating beds, if you don't have the licensed beds, you're extremely limited with what you're able to do with those facilities. Nobody is purchasing long-term care beds in rural Nebraska, at least that I know of, without the beds. History shows us there have been many changes which have added to the decreased occupancy, but demographics are swinging our way. I think we will see an increase in occupancy in the rural areas. I want to talk specifically about the success at Burwell. I've actually only been with Burwell for four years. I essentially inherited a $650,000 debt. They were not able to float accounts payable. They were not able to make their payroll. We did have a gentleman in the community step up, go to a local bank, and they borrowed $650,000. We've actually been able to swing that facility $1.3 million in four years. We not only not owe anyone, anybody, we recently just did a $650,000 Medicare skilled-bed renovation which we were able to pay cash for. We are the largest employer in the community. We have an annual payroll of $1.9 million. We are full staffed. We have doubled our professional staff in the last 18 months. Our occupancy rate is 98 percent. We have been full for nine months and have turned away in excess of 40 residents in the last nine months. We just opened a new Medicare rehab wing on August 15. That filled in six days. We actually...that was rented space before

we were only receiving $3,000 a month for that. Obviously, with 15 units, with 10 of those 15 units being filled, we're generating revenue far in excess of what we were doing. We've developed in rural Nebraska essentially a four-phased facility. We have an aggressive Medicare skilled unit which has an average length of stay of about 32 days. Those residents will either go to a assisted-living home or a low level of care. We have a 22-bed long-term care facility which is at capacity. We have a 13-bed Alzheimer's dementia secured unit which is at capacity. We have a 13-bed assisted-living facility which is at capacity. We essentially just created an opportunity for inquiries to come from assisted living, from Alzheimer's dementia care, as well as skilled rehab. We have internal feeds for our long-term care. We really don't look for long-term care because we self-feed. In addition to that, we do offer services to the community. We do outpatient bathing, we do hospice services, and we do respite care; and we are interested in getting into the Medicaid chore services when it makes sense. A very aggressive, very progressive facility in rural Nebraska. We're very proud of it. The impact on the community has been great. We are taking great pride in giving back much money to the community. We're an integral part of the community. Our donations are up significantly. We recently bought for the volunteer fire department a Gator which in the rural part of the state, up where Burwell is, is much needed for rescues. We purchased that for them. We're really having a very good time. I know it's a challenge and I've heard about the challenges being drudgery. It's the coolest profession I've ever been in. I've been blessed to do it forever. It's all I know. I'm not very well-rounded. But I do believe they can flourish. I think it takes a special kind of management. I think it takes a key understanding of the clinical and quality indication, family expectations, but fiscal responsibility in doing this efficiently, both so you don't have to raise your private rates but at the same time you maximize your Medicaid in an efficient manner so that we're not taking more than our fair share. We were able to just recently bring a young couple to the community. We're in very, very need of construction and electrician-type people in Burwell. We were not able to get the certified electrician without an RN job. Fortunately, because of our growth, I was able to hire that RN at far more money than she currently makes in Fremont, Nebraska--another testimony to rural Nebraska and the impact we

can have. I guess I would wrap up in saying that I do think there is a big need for the facilities in rural Nebraska. The Sargent and Tilden and facilities both closed. They both ran under the black under my operations with corporate management fees. They can survive. It takes an interesting, unique type of management style. I find it interesting that when the facilities were purchased years ago, we had full occupancy. Revenue then was full beds. We would not have moved the revenue, but we would not have moved the revenue then, essentially residents. I find it interesting now that occupancy is low and we will currently move the revenue, which is the beds. We would not have made that decision at 100 percent occupancy. I think also we need to be calm and make sure we're willing to do that with the current assets for the small communities, which is the licensed beds. [LR506]

SENATOR CAMPBELL: Questions? Senator Krist. [LR506]

SENATOR KRIST: One of the things that's very difficult to do is not draw conclusions when you sit here on a short term, but to look at the results from interim studies and design a path. But I'm going to make a fatal mistake and draw a short-term conclusion. What I heard you say in combination is, with the right management, understanding the needs for the rural community as opposed to profiting by moving things in the larger facilities and buying beds and taking them to the metro or the city of the first class, you can make it in rural Nebraska. So without blowing your own horn, what you've told me is it takes a management style, it takes a contractual arrangement with the facility and an understanding of how to make it work in rural Nebraska, to make it work in rural Nebraska. So if we do...you're shaking your head, so I'm saying that you're agreeing. [LR506]

TIM GROSHANS: I agree. [LR506]

SENATOR KRIST: What one thing or two things or three things do we need to do as a result of this to guarantee that you have the opportunity to make things work in rural

Nebraska? [LR506]

TIM GROSHANS: Whether it be through loosening the moratorium or building a safety net in for rural facilities not to lose the licensed beds. Without licensed beds, you really have nothing. Number one, not only are you looking at the idea of some capital outlie, which is interesting because there is a direct pass-through through the state of Nebraska. So I can get an increase in my Medicaid rate through my capital expenditures. On the facility I was working with, it was running $7.25. They could never afford to renovate their facility. We just did a $650,000-plus renovation. We'll have increased our fixed cost. We won't come close to the cap, but we will see an increase in our Medicaid rates what will help us to pay for that. I think we have to have the beds to do it. If we don't have protection of some sort with the beds, it'll be difficult. The other thing is I think there is education out there between the corporate-owned and the communities. There has to be more communication, more transparency. If you're going to move our facility, let us know in advance, let us see if we can rally the troop. The community of Callaway, $240,000 in 24 hours. They were intent on keeping that nursing home. You know, I applaud them. I hope they can make it. I think they have an uphill battle. And, lastly, I think these small communities need to recognize, long-term care is no longer by the heart. It has to be there. We have to do it for all the right reasons. We have to take care of residents, but you better have some business sense behind you or find somebody with some business sense behind you to help them be successful. They are a business of caring, but they are a business. [LR506]

SENATOR KRIST: Thank you. [LR506]

SENATOR CAMPBELL: What percentage...and you may have said this and I missed it while I was taking notes. What percentage of your facility is private pay? [LR506]

TIM GROSHANS: We are 54 percent private pay. [LR506]

SENATOR CAMPBELL: Does...from your experience, and you've had extensive experience, does it need to be at and over 50 percent to make it? [LR506]

TIM GROSHANS: No. And I don't want to get into it too much. There's a real misnomer in how the state Medicaid figures their Medicaid rates. I will challenge you at some point, more inefficient facilities are actually rewarded under the state's Medicaid reimbursement system. If you're too efficient, you are penalized under the state's Medicaid, because I'm going to stack you up, I'm going to pick the mean, and that's where I'm going to grab my caps from with an inflationary factor. If you're over it, you're not going to get paid. But it doesn't necessarily incentivize you to come down. If you're way under it because you're efficient, your Medicaid rates are going to be very, very low. There are some facilities in the state of Nebraska that runs very, very high Medicaid rates because of inefficiency. So to say you have to have a certain private rate really depends on where you are. I have an experience with two facilities in Omaha located a block away from each other. You could have gone to one facility, have the exact same Medicaid rate resident discharge. This facility is going to charge the state taxpayer's money $30 more a day than this facility simply because this facility was more efficient. They were penalized under the Medicaid, but they were very taxpayer-friendly. [LR506]

SENATOR CAMPBELL: Thank you for that explanation. Any other questions? Thank you. Is there anyone in the hearing room who wishes to testify that had not been on the list? Just one person. Okay. Good morning. [LR506]

NICK FAUSTMAN: (Exhibit 6) Good morning. I'm Nick Faustman with the Nebraska Hospital Association, N-i-c-k F-a-u-s-t-m-a-n. On behalf of our 89-member hospitals and the 43,000 individuals that they employ, the Nebraska Hospital Association, the NHA, appreciates the opportunity to provide testimony regarding the importance of reexamining the long-term care bed moratorium. As the committee may recall, current law was devised in order to remedy problems that surfaced where some areas of the

state have more beds than are needed, whereas other areas simply do not have enough beds to serve a need within their communities. NHA hospitals currently own 28 nursing facilities, which account for 1,500 beds approximately within the state of Nebraska. Some member hospitals have sold beds to other facilities, but the number of such transactions is relatively small. Without an adequate supply and/or analysis, the NHA is not in a position to comment on whether a shortage of beds in an area of the state exists. The association does, however, understand that within the current law, there is potential for a negative, unintended consequences for some rural communities, as discussed during the hearings for LB1002 last year. Allowing a specific exception to the moratorium as provided in LB1002 may be one way to help prevent a community needing long-term care beds from permanently losing them. The NHA agrees that this would be a worthy option to explore, as long as there is a mechanism built into the language that would prevent a nonprofit or political subdivision from recreating beds with the sole intent of selling them to another facility. Doing so would turn the proposal into a revenue stream that may be attractive to government or nonprofit entities, especially when Medicaid funding continues to be reduced yet the demand for services continues to increase. The NHA would be supportive of a legislative proposal that amends the long-term care bed moratorium in such a manner and would willingly work with stakeholders in the development of such a revision. Thank you for allowing me to comment. [LR506]

SENATOR CAMPBELL: Questions? Senator Krist. [LR506]

SENATOR KRIST: Number of beds filled across the state based upon moratorium and after moratorium, do you guys have those statistics? [LR506]

NICK FAUSTMAN: I don't have an exact number this morning, but I know that we would be willing work with the Nebraska Health Care Association to get the precise number statewide. I know that of our 1,500 or 1,600 beds that we currently have, speaking with other staff and our association, I would guess that roughly 70-80 percent of those beds

are full right now. And that's just an educated guess really. [LR506]

SENATOR KRIST: Yeah. I'll tell you where I'm going with that. [LR506]

NICK FAUSTMAN: Okay. [LR506]

SENATOR KRIST: I'm going to ask the same thing of the department and then independently so we have some numbers to bounce against each other. [LR506]

NICK FAUSTMAN: Sure. [LR506]

SENATOR KRIST: I think that's always a prudent thing to do. But the other part of it is, as the population requiring this treatment increases and the number of beds stays the same, we're doing a disservice across the board. So that's my comparison, at least from where I am today. So is that on track? [LR506]

NICK FAUSTMAN: True. Understood. [LR506]

SENATOR KRIST: Does that mean that you're... [LR506]

NICK FAUSTMAN: Yeah, yeah. [LR506]

SENATOR KRIST: Okay. Great. If you could get us those numbers, that would be wonderful. [LR506]

NICK FAUSTMAN: Sure. [LR506]

SENATOR KRIST: Thank you. [LR506]

SENATOR CAMPBELL: Senator Gloor. [LR506]

SENATOR GLOOR: Thank you, Senator Campbell. Nick, again, it may be the long-term care associations that we need to ask this question, but do we know, and maybe Senator Sullivan knows, is there another community that this has happened to other than Spalding? I mean, we're talking about Spalding, we know it's happened there. But are we aware of any other communities that are faced with this same dilemma? [LR506]

NICK FAUSTMAN: I must admit I am not aware of another one. I mean, I know of communities that have sold their beds and currently do not have beds, but I...in those particular communities I'm not sure if the need is there. So Spalding is really the only example that I am aware of. [LR506]

SENATOR GLOOR: And Senator Sullivan reminds me, you have Callaway. [LR506]

NICK FAUSTMAN: Callaway. [LR506]

SENATOR GLOOR: We've heard that. And...but Wauneta I think addressed theirs by buying some. Okay. Thanks. [LR506]

SENATOR CAMPBELL: Thank you very much for your testimony today. [LR506]

NICK FAUSTMAN: Thank you. [LR506]

SENATOR CAMPBELL: Senator Sullivan, did you want to make any closing comments? [LR506]

SENATOR SULLIVAN: Just briefly. Well, first of all, I just wanted to say thank you for your time and attention on this because, as you know, it's something very near and dear to my heart. And I also wanted to thank all of the people who drove in today to testify, because I hope you'll see that not only do they have a vision for their future, they're

caring individuals, but they're also willing and eager to approach this from a good business management situation as well. And I hope you'll also see that one size doesn't fit all. We've got some challenges out in rural Nebraska, but we want to meet them. But we also, in some cases, need a leg up. So I again thank you for your attention. I'm certainly willing to work with you as we look at some alternatives to this situation. And I know the people that have testified stand willing and ready as well. So again, thank you. [LR506]

SENATOR CAMPBELL: Senator Sullivan, my guess is, is that we will need to follow up with some analysis of numbers, as Senator Gloor has asked for, from the Hospital Association, the long-term care. And I think we need to say to the department, you know, what numbers are they showing in that analysis. There is no one here today, just...there is no one in the audience from the department who wishes to testify. I just want to make sure. We'll follow up with you... [LR506]

SENATOR SULLIVAN: Okay. [LR506]

SENATOR CAMPBELL: ...I think, on that, because we do need some numbers. [LR506]

SENATOR SULLIVAN: Okay. Thank you very much. [LR506]

SENATOR CAMPBELL: (See also Exhibit 7) Thank you. With that, we will close the public hearing on LR506, and we will take a five-minute break to set up for the next hearing. [LR506]

BREAK

SENATOR CAMPBELL: Please find your chair. Good morning. We will start in just a minute on the interim study LR551. I just want to remind some people who may have joined us for this hearing, please silence your cell phones or turn them off. We ask that

if you're going to testify today that you fill out one of the orange sheets and give it to the page. Deven is over there and will gladly help you. If you do not plan to testify, you do not need to complete any of the sheets. As you come forward and plan to testify, please state your name for the record and spell it, both first and last, so that the transcribers get a very clear record of who you are. And we will be using the light system today. So that does not apply to the senator who's opening on this. But you have five minutes, you'll see a green light; at four minutes that have transpired, you have one minute left, you'll see the yellow; and then it will go to red. And please, because of the number of people who wish to testify on this, I would very much ask that you keep your comments to those five minutes because we have a number of people who need to testify today. So with those brief remarks and for the people, we have invited the two senators to sit with us: Senator Conrad and Senator Dubas; Senator Gloor; I'm Kathy Campbell; Michelle Chaffee, legal counsel; Senator Krist; and our clerk is Diane Johnson. So I think we've done all the preliminaries. With that, we'll officially open LR551, an interim study to assess the effectiveness of ACCESSNebraska for clients, community-based partners, and workers, using qualitative and quantitative analysis. And with that, welcome, Senator Conrad. [LR551]

SENATOR CONRAD: (Exhibits 8, 9, and 10) Good morning. Good morning, committee members. Thank you so much. Senator Campbell, members of the committee, my name is Danielle Conrad. For the record, that's D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d, and, as you know, I represent the "Fighting 46th" of north Lincoln. I am here today to introduce LR551, an interim study resolution I introduced to study the effectiveness of ACCESSNebraska for clients, community-based partners, and workers. Senators, I appreciate your time and attention to this issue. I've passed around my formal opening remarks to each of you. I'd ask that those be included in the record. But in the interest of time, I think it's best that we let the facts speak for themselves and we let the people speak for themselves. This is not a new issue for any of you or any of us in the body. In fact, this is our second interim study on this topic that generated at least three bills last session, two of which were passed in strong bipartisan fashion by our Legislature to

recognize the fact that ACCESSNebraska indeed is making progress in terms of serving our citizenry; but there is far, far, far more to do and our work is not done. I wish it was. I wish that there were an opportunity to focus on the many other issues before this body and that are important to our citizenry. But this is a significant issue. There's continual problems. There's systemic failure in many instances. And I know that we're going to hear today from a lot of our citizens who interface with the system and the community-based organizations that assist our citizens as well. I've asked for permission for just a sampling of the communications that my office has received recently on this topic. I've passed those around for you as well. From Susan Bond in Lincoln, a master social worker, "I'm very concerned about the long phone wait times and the lack of contact worker for clients. Even as a professional, I struggle with making contacts, getting information, and understanding where papers are being sent. The system is impersonal, ineffective, and not helpful." Sandra Carbaugh, a single mom from Senator Lambert's district, writes, "Up until the changeover to ACCESSNebraska, I encountered no problems. Since the start of ACCESSNebraska, it has been nothing but problems." Remember, these are communications just from this week. Willyne Dickey, a guardian and conservator for 13 disabled adults for over 16 years up in Omaha writes that she "recently got a worker who didn't know that Medicaid is handled through ACCESSNebraska." There isn't any accountability. "Scanned documents enter a black hole." Bernice Russell, retired HHS from Gurley, Nebraska, population 214, writes, "There's not a week that goes by that I don't have somebody asking me questions about the situation with HHS, whether it be applying for assistance, having problems getting people on the 800 line, getting automated machines, having to tell their story to a half dozen people, and transferred. Our people are not being served. I read a recent article in the Lincoln Journal Star about the call centers. The specific situation cited is not an exception but the norm." "The department is and has been for a number of years so heavy with administration, supervisors of supervisors," that citizens can't break through. And then, finally, for from Mary Parrish, a volunteer caseworker for the Falls City Ministerial Association, she writes, "The ACCESSNebraska system does not have a hint of recognizing a person's right to respect that they so desperately need when in a

situation that requires them to seek resources that they can't earn for themselves, and most of them would prefer not to." "Secondly, it has caused a great deal of frustration for those of us who work to fill in the gaps left by such system." So, Senators, I'll let you read the rest of those communications, but know that they're not unique but rather a representative sampling of the continued barriers and frustration sophisticated professionals and partners encounter with the system and everyday citizens encounter with the system. My hope is that today we will continue to stay focused on progress and solutions. And we're going to have to continue to focus on ways to improve ACCESSNebraska over this interim period and as we prepare additional legislation, if necessary, for next session. I'm happy to answer any additional questions at this point in time, but like I said, I want the facts to speak for themselves and I want the people to speak for themselves. In addition to these powerful communications from constituents, keep in mind that just this summer we learned that we've lost a food stamp bonus because of the problems with the system, which could have equated to hundreds of thousands, if not millions, of dollars of additional much-needed resources that now are off the table because of ACCESSNebraska's failures. I asked the department, who communicated with the Legislature at that point, for any sort of documentation that we anticipated that loss of federal funds, and that was an e-mail to Director Pristow in late July 2012. Here it is, mid-October, and I have yet to receive a response. So with that, I will close, and I look forward to a robust hearing this morning. [LR551]

SENATOR CAMPBELL: Okay. Thank you, Senator Conrad. If it's all right with my colleagues, we'll take questions for the senators at the end... [LR551]

SENATOR CONRAD: Great. Thank you. [LR551]

SENATOR CAMPBELL: ...because I know both of you want to make a statement at the close. So with that, we will start with the testifiers as scheduled. And, Anna? [LR551]

ANNA DONAHOO: Yes, ma'am. [LR551]

SENATOR CAMPBELL: Anna is a client. So, Anna, you can just give your orange sheet there to the clerk. Thank you. Good morning. [LR551]

ANNA DONAHOO: Good morning. [LR551]

SENATOR CAMPBELL: And for the record we need you to state your name and spell it. [LR551]

ANNA DONAHOO: Anna Donahoo, A-n-n-a D-o-n-a-h-o-o. [LR551]

SENATOR CAMPBELL: You go right ahead. [LR551]

ANNA DONAHOO: Okay. I'm here because I get food stamps from Health and Human Services, and Medicaid for my son. I had got a letter from them stating that I needed to reapply and I needed to have it turned in by September 1. I sent the application through the mail on August 25, they received it on August 27, and then I got another letter from them stating I had a phone interview on September 5 to call in. Well, I work full-time. And I called in. I waited on hold for 45 minutes and then finally did my interview. The guy did the interview. I had turned in the paycheck stubs they needed, everything they needed. The next day I did not receive my food stamps that I was supposed to because I had everything turned on time like they wanted. And I called back, again waiting another 45 minutes. The lady I talked to told me it could take up to 30 days before they reviewed my case because they closed my case out because they had set up the interview later than September 1. So I eventually got my food stamps 34 days later; still haven't received my Medicaid yet, and it's been past the 45-day mark. When I did receive my food stamps I called my card and I didn't have the normal amount that I usually receive, so I did call and talk to another worker, again waiting on hold for another 45 minutes to an hour. They told me that they had overpaid me in previous months. And I was like, there is no way; can I have one of your supervisors call me

back? Well, a day later a supervisor called me back. She said she had looked into my case and the guy that did my interview had messed my case up. He shouldn't have closed out my case, that I should have received my food stamps and that they'd never overpaid me and that she was going to go ahead and credit my card with the food stamps that I was supposed to receive. [LR551]

SENATOR CAMPBELL: And did that happen, Anna? [LR551]

ANNA DONAHOO: Yes. Yes, it did happen after I talked to her. [LR551]

SENATOR CAMPBELL: Okay. [LR551]

ANNA DONAHOO: She credited the card the next day. [LR551]

SENATOR CAMPBELL: Ah, okay. [LR551]

ANNA DONAHOO: Yes. But I am still waiting on my Medicaid for my son. He's missed his physical because of it, his doctor's appointments. He's been sick since I've been waiting, and I couldn't take him to the doctor because I couldn't afford it. [LR551]

SENATOR CAMPBELL: Questions from the senators? Senator Conrad. [LR551]

SENATOR CONRAD: Anna, thank you so much for coming down. It takes a lot of courage to speak out. Just a quick follow-up question. In that time period, you said it was about 34 days where you didn't have access to your nutritional benefits. What did that mean for your family? How did you guys survive during that time? [LR551]

ANNA DONAHOO: Oh, we struggled. [LR551]

SENATOR CONRAD: Could you tell the committee a little bit about how that impacts

you in your daily life and what measures you had to take... [LR551]

ANNA DONAHOO: Um-hum. [LR551]

SENATOR CONRAD: ...to meet your basic needs because of the department's lack of responsiveness and mistakes and how that hurt your family or impacted your family? [LR551]

ANNA DONAHOO: Yeah. Me and my son, we struggled that month. I had to go get food baskets, which meant that I had to take extra time off of work, because most food baskets are Monday through Friday from 8:00 to 4:30. Those are my hours. And, I mean, I had to get help from friends. And I actually called in and talked to one of the ladies at Health and Human Services, and she had stated to me that we don't supply you food stamps to feed your whole family, it's just to help you out through the month. And, I mean, we struggled really bad that month. [LR551]

SENATOR CONRAD: Um-hum. And could you tell the committee...you mentioned that you work. [LR551]

ANNA DONAHOO: Yes, ma'am. [LR551]

SENATOR CONRAD: You work full-time. [LR551]

ANNA DONAHOO: Yes, ma'am. [LR551]

SENATOR CONRAD: Where do you work at? [LR551]

ANNA DONAHOO: PCCW Teleservices. [LR551]

SENATOR CONRAD: Okay. And so you...these few extra work support programs, like

food stamps and Medicaid for your children, help you to continue working and be productive. Is that a fair assessment? [LR551]

ANNA DONAHOO: Yes, ma'am. I'm a single mom. I take care of my son on my own. I mean, his dad's been incarcerated all of his life, so I don't get any help from him. So yes, Health and Human Services does help my family out. [LR551]

SENATOR CONRAD: Great. And so when you have an interruption in your benefits, it impacts your ability to work? [LR551]

ANNA DONAHOO: Oh, yes. Oh, yes. [LR551]

SENATOR CONRAD: Okay. Thank you. [LR551]

SENATOR CAMPBELL: Thank you, Anna, for coming today and telling... [LR551]

SENATOR HOWARD: Kathy. [LR551]

SENATOR CAMPBELL: Oh, sorry, Senator Howard. I didn't see you. Sorry. [LR551]

SENATOR HOWARD: Thank you. Yeah, thank you. Thank you, Senator Campbell. I think one of the things that really strikes me with this, and I come from a background of working at Health and Human Services, is that it doesn't sound like you ever talked to the same person twice. [LR551]

ANNA DONAHOO: No, never. Never have I once talked to the same person twice. It's always somebody else, someone different that doesn't know nothing about my case or anything about me. [LR551]

SENATOR HOWARD: And it sounds like there's a lot of people saying, well, it's his

fault, it's their fault, it's somebody else's fault. [LR551]

ANNA DONAHOO: Yes. [LR551]

SENATOR HOWARD: And yet you're the one that really suffers from not having this handled correctly, to say nothing of all of us suffering from losing federal dollars that we've always gotten in years past. [LR551]

ANNA DONAHOO: Yes, ma'am. [LR551]

SENATOR HOWARD: I appreciate you coming in. Thank you. [LR551]

ANNA DONAHOO: Thank you. [LR551]

SENATOR CAMPBELL: Thank you, Anna, very much. [LR551]

ANNA DONAHOO: Thank you. [LR551]

SENATOR CAMPBELL: The next testifier is the department. Good morning. [LR551]

THOMAS PRISTOW: (Exhibit 11) Good morning, Senator. Good morning, Senator Campbell and members of the Health and Human Services Committee. My name is Thomas Pristow, T-h-o-m-a-s P-r-i-s-t-o-w. I'm the director of Children and Family Services for the Department of Health and Human Services. Before I begin my prepared testimony, just Senator Conrad, I'm pretty good at getting back folks that request something from me, so I apologize. You'll have something by Friday. If I lost it, that's my fault, so I'll get it back to you. I'll respond to your question or questions. [LR551]

SENATOR CONRAD: Okay. [LR551]

THOMAS PRISTOW: ACCESSNebraska has received a lot of attention in recent years. I began my job here in late March, and I want to assure you that we have made progress in addressing issues brought before this committee, and that we will continue to evaluate and make adjustments to further improve the system. It doesn't mean that there aren't individuals unhappy, as we heard earlier, about their experience with ACCESSNebraska or that we are entirely satisfied with our own progress. We will always strive to improve. However, we have made progress in improving the system, with dedicated employees who are doing their best to meet the needs of our clients. The key to developing our systems and increasing successes is employee training and experience. Before employees work full-time answering client phone calls, it's necessary that they receive 16 weeks of training. Not only are they instructed in customer service and operating the N-FOCUS software, but they are also prepared to respond to clients about the details of 16 complicated economic assistance programs. Of our employees in the four customer service centers, 70 percent have held their jobs less than 18 months, 26 percent have worked less than a year. Currently, 56 people are in training and will start their work between now and the end of December. Everyone reaches proficiency at a different pace, and we expect our employees to accomplish that no later than 24 months after completing training. We have been fully operational with all of the customer service centers for less than a year. I've been director of Children and Family Services for almost seven months, and in my travels about the state I've been meeting with employees and advocacy groups, working with ACCESSNebraska management, reviewing reports, and listening to concerns and opinions. I feel confident in saying that our technology and business structure system is the gold standard for delivery of public assistance across the country. I back my statements with supporting comments made in recent visits by the USDA, which is pushing states to move in this direction, the e-mails received from clients, their responses to an on-line poll that you have in your packet, my observations, and the history of other states engaged in implementing this approach to client service. Some states have failed in their attempt to do what we have accomplished so far, and that would be Indiana and Texas. Some states have partially implemented, and other states

haven't started down this path yet. Despite the fact that we did not receive a SNAP bonus this past year, USDA officials told us they support our work on ACCESSNebraska 100 percent. I want to point out that Nebraska's SNAP error rate was 3.15 percent, which is significantly below the national average of 8.3 percent, even with our transition from assigned caseloads to universal caseloads. In fact, only 13 of the 50 states and three territories received a bonus. We have received many positive comments and e-mails from our clients; some are attached to my testimony. I'd like to tell you about one. A mother in Minnesota contacted us needing assistance for her Medicaid-eligible son who earned a scholarship to a Nebraska college. He needed immediate assistance before trying out for a team or he would have lost his scholarship. Our employees responded to his need. His mother told us that dealing with ACCESSNebraska was a breeze compared to the Minnesota system. She said in Minnesota they would have needed to travel to an office, take a number, wait an hour or two with a hundred other people just to talk to someone. She appreciated everyone she spoke with at ACCESSNebraska, saying they were kind and helpful. I encourage you to read the other comments we've gathered. We all know that there are stories at the other end of the spectrum, and we address those as we become aware of them. For instance, a woman was quoted in the October 5 edition of the Lincoln Journal Star. Her case is complicated, and we are working directly with her and her family to resolve the situation. In addition, there are some cases that have been assigned to workers, for example, in both spousal improvement and refugee program, and in the nursing home cases staff are assigned. These cases can be complex, and we believe there is a benefit to having the continuity and experience of assigned workers. All conversations with clients are recorded. When complaints are received about workers, our system allows us to listen to those conversations. Reviews by management of the complaints we have received about employees are addressed and, if necessary, additional training is delivered. Employees are instilled with an attitude to provide better customer service and positive customer service, and we won't tolerate anything less. In our efforts to provide positive service, we also note the passage of LB825, which requires us to work with community-based organizations and place staff in local offices to help serve walk-in

clients. There was an article in the Grand Island Independent newspaper claiming that the department is ignoring parts of that bill, and that is not accurate. The department provided an estimate of the cost to implement LB825 to the Legislature, but we received less than half of that funding necessary to fully implement that bill. I'm certain a question you expect me to answer is: What could we have done better? In my review of ACCESSNebraska, I believe we could have done a better job communicating the impact of moving the many thousands of cases from individual workers to a universal caseload. It was a significant change for our clients and staff. Communication is a focus of our efforts. I send a weekly message to all employees in my division, and regular meetings are held with management staff. I have been a frequent visitor to the field offices to meet with staff. In fact, last week I traveled to Grand Island and Kearney, the week before to Scottsbluff and Gering. I know I'm over my time, Senator. I just...quickly. I will change... [LR551]

SENATOR CAMPBELL: Sure. [LR551]

THOMAS PRISTOW: One change I've made after receiving the feedback is eliminating the expectation of employees answering a target number of phone calls and work tasks. We average around 7,000 calls a day. In talking with staff and ACCESSNebraska management, we feel target goals push employees to rush through their phone calls, which can affect accuracy and relationships with our citizens. Instead, employee performance will focus on quality work, good customer service, and handling calls efficiently and effectively, among other measures. We would like for you to come out and see our staff in action and provide additional details about ACCESSNebraska. We invite you to tour our Lincoln Customer Service Center on November 28, and we will provide more details as that date comes up. I'd be very happy to answer any questions you may have. [LR551]

SENATOR CAMPBELL: Senator Krist. [LR551]

SENATOR KRIST: Did...I know the answer, but I'm going to ask it for the record. Do you do all your own analysis? Did you do all your own investigation into this, or did you contract out with someone to do some of the work for...? [LR551]

THOMAS PRISTOW: I'm not sure. You mean in the packet of material that I gave you? [LR551]

SENATOR KRIST: Yes. [LR551]

THOMAS PRISTOW: No, this is our own internal work, Senator. [LR551]

SENATOR KRIST: Okay. Has there been a contract issued for someone to take a look at ACCESSNebraska by the department? [LR551]

THOMAS PRISTOW: No, no. Well, there was something done right before I started this past March. There was a contract done for a consultant to come in--this was before I started--and there was a series of recommendations that came out of that contract, or came out of that consultant, and we've implemented many of her recommendations. [LR551]

SENATOR KRIST: What were the qualifications of the person or the company that was contracted at the time? Now I... [LR551]

THOMAS PRISTOW: Senator, I don't have that in front of me. I'm sorry. [LR551]

SENATOR KRIST: For the record, it happened before your time. But there were things that were implemented as a result of that study within the department. Is that true? [LR551]

THOMAS PRISTOW: Yes. Yes, Senator. [LR551]

SENATOR KRIST: Okay. And the money that was spent for that contractor to do the work...again, before your time... [LR551]

THOMAS PRISTOW: Right. [LR551]

SENATOR KRIST: But where was that allocation? How did that flow? [LR551]

THOMAS PRISTOW: That allocation came from my budget, and I believe the cost for that was about $12,000. [LR551]

SENATOR KRIST: Okay. [LR551]

THOMAS PRISTOW: I think it was either $12,000 or $20,000, but I'm not sure. One of the two. [LR551]

SENATOR KRIST: Okay. Thank you. [LR551]

SENATOR CAMPBELL: Senator Gloor. [LR551]

SENATOR GLOOR: Two questions. Is it unreasonable to think that we can't have one or two people designated as the key contact person for people who call in to ACCESSNebraska? I mean, I'm all in support of technology. I think it's a no-brainer that we're going to move in this direction. But the haphazard nature...you will recall last session the incredible frustration we had of letters that went out from the department that set up appointments. People were supposed to call in at a certain time. Well, everybody was supposed to call in at the same time. And I think you've rectified that problem...thank you. At least I don't get complaints about that anymore. But along those lines it would seem technology ought to allow us, by that same token, to take advantage of scheduling, and scheduling with a couple of key people, so that the inefficiencies for

both the department as well as the frustration and, in some cases, suffering that families go through or individuals go through, we ought to be able to rectify that, shouldn't we? [LR551]

THOMAS PRISTOW: Senator, the decision to go down this path to ACCESSNebraska was made many years ago. It went from a...and I have experience with the previous type of protocol we had in the state where there was individual case files and individual workers would...I will tell you that in my experience this system is a good process when we work out...we need to work out the issues that Senator Conrad had brought up and other issues that we are finding out in our operations. As I mentioned in my testimony, we do have specific types of cases that we are assigning workers to now. We've developed that over the past number of months that we didn't really know when we started. So we're tweaking it as we go. And also, with LB825 we are putting more folks out in the field offices to make sure that our folks that need help in those applications can have face-to-face help. [LR551]

SENATOR GLOOR: You know, I don't mind waiting...I shouldn't say that. I'll start out by saying I don't think any of us like to sit on the phone waiting for anything. [LR551]

THOMAS PRISTOW: No. [LR551]

SENATOR GLOOR: And if I have to wait more than a minute I start getting impatient. But if I know I'm talking to somebody who can help me, I'm far more patient and far more willing to wait periods of time, because I know the person on the other end of the line is going to be able to fix my refrigerator. I just know they're going to be able to fix my refrigerator or whatever I am on the line for. And it just seems to me that to the extent...and I understand you're going to take a more segmented look at slotting those people into people who can do good. But it seems to me that that would sure be a commonsense approach towards some of the inevitable problems you're going to have with calling in to talk to a stranger. [LR551]

THOMAS PRISTOW: Senator, if I may, the...I don't disagree with you. When I'm on hold for more than a minute or two, I mean, I get irritated. So I understand we have 15, 25...15-minute, 25-minute wait times. Here's what we're...here's the bottom line for me. Our wait times will come down. But as we go through that, at the very least everyone needs to be treated with respect and kindness. And then when they get off the phone I want them to be able to say thank you because they've been treated with respect and kindness. And that's not happening in all cases. The majority of them they are, but not in all. And I know when I wait with a call center and, you know, the time goes on and I'm building up...my irritation is getting high because of that, when I get someone on the phone who connects with me right away, that goes away. That goes away, mostly goes away. So as we go through this and we develop these protocols and address Senator Conrad's issues and as we make this a better system, the focus is to make sure that our customer service is excellent. [LR551]

SENATOR GLOOR: Do you think this would have gone even better if we'd have allocated an additional $2 million or $3 million last session? [LR551]

THOMAS PRISTOW: You mean the LB825 piece? [LR551]

SENATOR GLOOR: Yes. [LR551]

THOMAS PRISTOW: Well, I'm still in the middle of implementing LB825, so I think that when we...I know that when we did our fiscal note that it came out to about $6 million-something, and the legislative note came to $5.7 or $5.8 million, and we got allocated $3 million. So I'm implementing the best I can with what I have, and we'll do my utmost to make this successful. [LR551]

SENATOR GLOOR: Does that mean you're going to come in with a budget request for another $2 million to $3 million? [LR551]

THOMAS PRISTOW: Senator, I never hope to come in with requests for more additional dollars. [LR551]

SENATOR GLOOR: Okay. Thank you. [LR551]

SENATOR CAMPBELL: Mr. Pristow, you and I have had several conversations since the session ended about ACCESSNebraska. And I have to indicate to my colleagues that I had specifically asked that we have copies of this map, because you had shown it to me. [LR551]

THOMAS PRISTOW: Yes. [LR551]

SENATOR CAMPBELL: Because I think it's important for all of us to realize the numbers across the state. We tend to think that everybody who needs assistance is clustered at the eastern end of the state, and that's not true. And there's a number of people in the counties, and I think that we ought to share this also with our colleagues. So I appreciate you putting the map in. We allocated a certain amount for additional face-to-face staff. And have you filled those numbers? How does that now look in relation to LB825? [LR551]

THOMAS PRISTOW: We've filled about 25 of those positions new, and then we had a number of folks that were scheduled to be laid off that we then kept on-board that fit into that slot into that bill number. [LR551]

SENATOR CAMPBELL: Because one of the questions that I asked you is: Could the equipment that we are now using allow...you know, if there's a long wait time in Columbus and there's staff who are available to take calls in Lincoln, and they're not having as long a wait or they could help, does the equipment allow someone in Lincoln to answer the calls in Columbus? [LR551]

THOMAS PRISTOW: Well, Senator, that's a good question. And we're doing...I'm right in the middle of a review of our technology. It appears that when we bid this out, years ago when we did the RFP, a bid was accepted that didn't give us the type of equipment that we could expand with as we needed to perhaps. I mean, I'm right in the middle of this. But I know when I talk to my deputy director and the administrative staff and I say, well, why can't...let's tweak this phone system, let's do this, let's do that; well, we can't; it doesn't allow us to. So as far as I know, in the middle of my research on this, the equipment, for whatever reason, the way it was RFP'd and the way we accepted the bid didn't allow for all the expansion that we should have thought for in the subsequent number of years. [LR551]

SENATOR CAMPBELL: But that is a particular report that I'd like for you to bring back to the committee, because part of the issue is now we're trying to put people out there to have face to face, and I appreciate that we kept the positions that we were going to terminate and added new. But now we have to start dealing with the wait times. And I know you follow that data pretty closely because you're always bringing in this is where we are and we're not doing as well, because you're always telling me we've got a lot more to do on this. But I'm particularly concerned about the equipment and if there is a need for some appropriations at that point,... [LR551]

THOMAS PRISTOW: Right. Right. [LR551]

SENATOR CAMPBELL: ...because if somebody in Lincoln could take that backlog and shorten somebody's wait time, it would be worth the money. [LR551]

THOMAS PRISTOW: If I may, Senator. The other thing that I would say to that: I've asked my research team to look at the current numbers that we are currently seeing today, and looking at our staffing pattern in the customer service center, not in the field. And they did an analysis of whether we had enough staff based on the current work

tasks we had, and what was the methodology used back a number of years ago when they decided to look at...you know, when they made the determination of how many staff it would take. At the end of the day we're short a bit, based on the numbers that we have. We're short a bit because we have more programs that we're dealing with now than we originally had intended. My understanding, that when this first got designed, we had X number of programs that we were going to be doing applications for. Now we've increased those. We did not increase the FTEs on that, so there are some capacity issues. I'm working with my CEO and my deputy director to make sure we have good data before I go forward with all that. Technology capacity issues are important as we go through this. [LR551]

SENATOR CAMPBELL: Because I think it's just so frustrating for people to have to wait, I mean, we've addressed that issue, but also frustrating for people who need that face to face, if we can do it. [LR551]

THOMAS PRISTOW: Yes. [LR551]

SENATOR CAMPBELL: One of Senator Conrad's concerns that has been expressed is to whether we're maximizing and using the community organizations as was intended in LB825, if I skip through her testimony pretty quickly. Would you address that, how we're working with community people, community organizations, have we upped the number, are we paying them, that type of thing which was intended. [LR551]

THOMAS PRISTOW: We have longstanding relationships with about 600 community providers across the state of Nebraska. We did not...with LB825, I did not contract with any new ones. We've met with some providers, some larger providers, a number of months ago. They are providing access, kioskwise and phonewise, in their facilities to allow our citizens to go and apply for benefits through their doors. LB825 does not allow me the capacity, with the number of funds that I have right now, to be able to contract with more folks. And what I'm doing is utilizing the providers across the state that we

already have relationships with, strengthening those, and having our citizens...if they're in those areas they can use them. [LR551]

SENATOR CAMPBELL: And one last question before I go back to Senator Krist. On the attachment that you've given us here, and you go through all the communities, are these just the department's offices? [LR551]

THOMAS PRISTOW: Field offices, 43 that either have a kiosk, a staff person, or both. [LR551]

SENATOR CAMPBELL: Okay. But it doesn't...there's not a companion list. [LR551]

THOMAS PRISTOW: Of the 600 folks? [LR551]

SENATOR CAMPBELL: Providers and what they're doing. [LR551]

THOMAS PRISTOW: No. [LR551]

SENATOR CAMPBELL: Do we run some kind of a request, a monthly report from them as to how many people they're serving? [LR551]

THOMAS PRISTOW: I have not done that yet, but I could put that in the queue and see what we are looking at. [LR551]

SENATOR CAMPBELL: I think that would be really helpful if we're going to look at the intent of LB825. And as we move forward we're going to need to know whether we need more providers or how many they're serving and where. That would be really helpful. Senator Krist, I apologize. You've been waiting. [LR551]

SENATOR KRIST: No, I just...my point in asking the question before was we're

spending money within the program that has not been specifically allocated to go towards the program to do surveys and contracts and things, whether it's before your watch or not. There were plenty of pieces of legislation that were passed before I got here. I take ownership in where I'm at and what I can do for the citizens of Nebraska, so let's go off of that track. [LR551]

THOMAS PRISTOW: Yeah. I never said I didn't take ownership, Senator. [LR551]

SENATOR KRIST: Let's...I understand that, but I'm making the statement. [LR551]

THOMAS PRISTOW: Okay. [LR551]

SENATOR KRIST: We can't keep blaming the people before us for the problem that we have today. So philosophically, my point is this: When we stop spending money that's not allocated and not appropriated in different areas and we start spending money that is allocated or appropriated in different areas, we now start taking ownership for who we are today. And philosophically I have a real problem with you saying, in your testimony just a few minutes ago, I don't make a habit of coming back and asking for money. If you don't have enough money...I've gone on record several times in this committee and others in saying if the department needs money, legitimate money where it's not just a fiscal note that somebody throws up and says, I need two men, two years, and $2 million to solve the problem. Why? Show me the numbers. Nine times out of ten you can't get the numbers from the department. I'm sorry, but that's just my experience. Philosophically, if you need more money...we went through a biennium and we allocated and appropriated. Guess what happens in January? New pot of money, and we need to make the same decisions again and appropriate money. So if you don't have enough money and the need is legitimate, number one, you need to ask for it. You need to come back and say, this is what I need to make this program work, because it's not working. You're making progress. I have no critique on that. But it's not working. [LR551]

THOMAS PRISTOW: You're right, Senator. And I don't make a habit of it, but if it is legitimate I will go through my protocols to ask for more money. [LR551]

SENATOR KRIST: Good. Thank you. [LR551]

THOMAS PRISTOW: I mean, I hear you. [LR551]

SENATOR CAMPBELL: Senator Dubas. [LR551]

SENATOR DUBAS: Thank you, Senator Campbell. Thank you, Director Pristow. I'm going to follow up a little bit on the same line that Senator Campbell was asking about the community-based organizations. And I believe when ACCESS was originally implemented there were...there are eight full-time community support specialists. Is that correct? [LR551]

THOMAS PRISTOW: Correct. [LR551]

SENATOR DUBAS: And their job is to work with community-based organizations, is that correct? [LR551]

THOMAS PRISTOW: Correct. [LR551]

SENATOR DUBAS: What types of things do these support specialists do with the CBOs? [LR551]

THOMAS PRISTOW: They work with them to facilitate getting to ACCESSNebraska. If there's any bumps in the road they help smooth them out. They work closely with them to make sure that the citizens are getting the best access they can. [LR551]

SENATOR DUBAS: So we've had these eight support specialists in place since ACCESS was implemented. That's my understanding. [LR551]

THOMAS PRISTOW: At some level or another, yes, Senator. [LR551]

SENATOR DUBAS: Right. And, you know, I...historically, fiscal notes, you know, the administration comes in with their fiscal notes, the Legislature comes in with theirs, and rarely do they match up. That's just the way things go. But I know as I worked on LB825, I worked very, very closely with the stakeholders, many people who are directly involved with working with ACCESSNebraska, worked with our Fiscal Office. I'm not...you've mentioned the $5 million. My understanding was we've always worked with that $3 million figure, based on again what the Fiscal Office was telling us, based on what the stakeholders...so the intent of LB825 was to give your department flexibility to determine where additional people may be needed. [LR551]

THOMAS PRISTOW: Right. [LR551]

SENATOR DUBAS: Have you been able to, through current staff, make determinations about where you need to...? [LR551]

THOMAS PRISTOW: Yes, Senator, we have. We've used the SNAP numbers as an indicator of where we should increase our field staff, and that's where we're placing them, in the towns and communities where we have high SNAP numbers. [LR551]

SENATOR DUBAS: So that certainly was the intent. [LR551]

THOMAS PRISTOW: Yes. Yes, absolutely. [LR551]

SENATOR DUBAS: And you feel that that's working, you're getting people where they need to be to serve. [LR551]

THOMAS PRISTOW: Yes, Senator. I have no problem with that aspect at all. [LR551]

SENATOR DUBAS: One of the differing points on the two fiscal notes was the community support specialists. And since those people were already on-board, there was no intention to hire any more. Would you feel like you would be able to take that money that was in the administration's fiscal note and maybe put it into some negotiated contracts with the community-based organizations? [LR551]

THOMAS PRISTOW: What I want to be able to do is look at...I want to implement LB825 the best I can; see where it settles out, see where the gaps are, and see where I need to make inroads and where we need to put more dollars, more staff. I don't know where that's going to be right now because it's in process. Look, we're all on the same page. We want all this to work. All of us want this to work. [LR551]

SENATOR DUBAS: Absolutely. [LR551]

THOMAS PRISTOW: So we're just trying to figure out how to make it happen. I am very committed to this process, and when I get complaints about ACCESSNebraska or Protection and Safety, whatever, I take that very personally, and I do work really hard with my staff to...we respond right away. That's why I was so upset about Senator Conrad's...and I didn't...I missed it, and I apologize for that. But whether it's Senator Conrad or our citizens, it's the same response from me. We do work very hard to make sure that we do the best we can. We have only been in operation one year fully, and coming from the outside that's not a whole lot of time. But it's still, again, as I said to Senator Gloor, the issue for me is we're going to make mistakes, but is our attitude positive? Are we coming across? Are people feeling that they've been connected with on the other end of the line when they talk to us? Is there that social work connection? That's the...that's a big issue for me. That's why I removed the tasks and the quotas that we had. I got rid of them about two weeks ago because it was oppressive. It was too

much pressure. Supervisors are there anyway. They need to supervise, and that's what they're doing. We had those numbers on top, and it just was...it created a lot of pressure for staff. So we removed that. We're supporting our staff and supervisors to do the job, and they've been very responsive to that. [LR551]

SENATOR DUBAS: Well, what I've observed...I'm very impressed with the number of community-based organizations that you're working with. And my observation has been they can be an extremely effective tool to help you in delivering of your services. [LR551]

THOMAS PRISTOW: Right. [LR551]

SENATOR DUBAS: And I think they want to be able to. And again, I think LB825 hopefully is giving you that flexibility to negotiate contracts with these CBOs, how you can best use them, how they can really be of service to you and, in turn, be of service to all of our constituencies. So I hope that...I mean, I would agree with the comments Senator Krist and Senator Campbell have made. If we need to improve the technology and the way we deliver those services, that's definitely, in my mind, a legitimate expenditure, and one that you would be able to come in and say, this is specifically what we need and these are the specific amount of dollars. Oftentimes in fiscal notes we are dealing with some gray areas. [LR551]

THOMAS PRISTOW: Yes, ma'am. [LR551]

SENATOR DUBAS: But when we are talking about how we can better implement programs once they're in place, I think we can be very targeted with the money that is either already there or that may be requested in the future, and we can be assured that that money is going to go... [LR551]

THOMAS PRISTOW: To what you...yes. [LR551]

SENATOR DUBAS: ...where it needs to go. So thank you very much. [LR551]

SENATOR CAMPBELL: I have a couple of finishing questions here. One is: Are we ever going to get to the point where we have shorter surveys? (Laughter) [LR551]

THOMAS PRISTOW: Shorter surveys. (Laugh) [LR551]

SENATOR CAMPBELL: The reason I ask that question because every year I take this complaint from...and it's like the same people ask me this: You know, I just need food stamps; why do I need to fill out the whole thing? Are we ever going to get to that point? [LR551]

THOMAS PRISTOW: Look, I have a very dedicated staff that's trying to make this as easy as possible. We will get to where we can because...well, there's some federal regulations that keep us where we... [LR551]

SENATOR CAMPBELL: Yeah, I know. [LR551]

THOMAS PRISTOW: ...from doing all we may want. But I think there's a lot of room yet that we need...that we have yet to go with what we have. And look, I'm not...I am fully responsible for ACCESSNebraska. We are not where I want us to be. I've made significant changes in ACCESSNebraska, in probably every month since I've been here, to help move us to we are more customer friendly and that we have...and that my staff gets supported the way they need to be in order to do their job. [LR551]

SENATOR CAMPBELL: My second question is: On the Affordable Care Act will we utilize ACCESSNebraska? [LR551]

THOMAS PRISTOW: We are in talks with that right now, Senator, and we...it's kind of

moving fast. We have some options that I'm working with the CEO on, on how that plays out, and I'm very confident that we will come to a very successful conclusion on that. [LR551]

SENATOR CAMPBELL: That is one of the issues that, for my colleagues on the Health and Human Services Committee, that we'll probably try to follow up at when we meet on November 27 to take a look, to do a briefing on the Affordable Care Act. And we've not talked with you. We have talked to Director Chaumont about that. But it's an issue that I'd like to come back to at some point. [LR551]

THOMAS PRISTOW: Absolutely. [LR551]

SENATOR CAMPBELL: Okay. [LR551]

THOMAS PRISTOW: And it impacts Medicaid in what we do very greatly. [LR551]

SENATOR CAMPBELL: Absolutely. And so as we work through the problems that the two senators may be addressing in their interim study, I do want my colleagues on the committee to be very aware that ACCESSNebraska may be called in to duty for an even larger task, and that's where we're really going to have to pay attention. [LR551]

THOMAS PRISTOW: There are discussions underway that I think, as we go through them, that could have a healthy system at the end of the day,... [LR551]

SENATOR CAMPBELL: Yeah. [LR551]

THOMAS PRISTOW: ...when the ACA is implemented that...look, I don't want to overwhelm...we can't be overwhelmed and just sink ACCESSNebraska because of Medicaid. [LR551]

SENATOR CAMPBELL: Yeah. [LR551]

THOMAS PRISTOW: We need to be thoughtful about how we do this and, you know, we're working very strongly with the Medicaid director, Vivianne, and with the CEO to work this out. [LR551]

SENATOR CAMPBELL: Thanks for that update. Senator Howard. [LR551]

SENATOR HOWARD: Thank you, Senator Campbell. For years the department has touted receiving the federal bonus dollars for the lack of errors that they've had in the food stamp program. That's always been a really important issue with them. [LR551]

THOMAS PRISTOW: Yes. [LR551]

SENATOR HOWARD: And I can remember, way back when this started, how significant that was. And I know this is a new program and I know there have been changes, but it's got to be more than that. What do you attribute this current lack or the high number of errors, however you want to define it... [LR551]

THOMAS PRISTOW: The error rate we have is actually... [LR551]

SENATOR HOWARD: The error rate... [LR551]

THOMAS PRISTOW: ...not bad, considering...in comparison to the other states. [LR551]

SENATOR HOWARD: Well, apparently the feds thought it was not good. [LR551]

THOMAS PRISTOW: Well, no, you're...right, we didn't receive the bonus, Senator. Absolutely correct. My understanding is that as the criteria for how you qualify to get

that bonus, that's shifted over the past year. The game changed. And so we and other states, that's why all the other states there's such a low percentage of states across the country that did...13 out of 50 states and three territories only got the SNAP bonus this past year because there was some changes made in the criteria for that. Not an excuse; it's just a change. And so we are ramping up to address those changes and make sure that we can qualify next year. [LR551]

SENATOR HOWARD: Did you anticipate that? Did they notify you of the changes? [LR551]

THOMAS PRISTOW: I wasn't here when that happened. [LR551]

SENATOR HOWARD: Well, you did work in human services though. [LR551]

THOMAS PRISTOW: Right. [LR551]

SENATOR HOWARD: Had you been notified? Did you...were you aware of the changing requirements? [LR551]

THOMAS PRISTOW: In Virginia, where I was before, we were notified that the changes were coming, and I was right in the transition point at that time. So, I mean, yes. [LR551]

SENATOR HOWARD: Okay. [LR551]

THOMAS PRISTOW: But it's changing how we do our process, too, and so...and how it's evaluated. [LR551]

SENATOR HOWARD: And you're looking at this so that next year, hopefully, you'll be in a better position? [LR551]

THOMAS PRISTOW: Oh, absolutely. Yes. I am extraordinarily optimistic. [LR551]

SENATOR HOWARD: Well, that's good. [LR551]

SENATOR CAMPBELL: Senator Conrad. [LR551]

SENATOR CONRAD: Briefly, because I know we have a lot of ground to cover. But I think that the record has to be clear. Director Pristow, number one, I commend you for your appearance today. This is a vast improvement over our interim hearing last year, where HHS couldn't be bothered to show up; so there is progress on many fronts, I think. But I'm confused by your response attacking, or providing a different perspective, to Senator Dubas' and I's perspective that has been published in the media recently and that you reiterated in the course of your testimony. You say that the department is not ignoring parts of LB825 and to say otherwise would be inaccurate. But then I look at the report that the department filed with this Legislature in terms of implementation on LB825, and you say you are not contracting with any CBOs. I look at LB825, Section 5. It says, "The Department of Health and Human Services shall enter into contracts." Not may, shall. [LR551]

THOMAS PRISTOW: Um-hum. [LR551]

SENATOR CONRAD: That's not...that's a legal term of art. It's not a suggestion. It's state law. How did these inaccuracies and inconsistencies in your testimony square up with state law? [LR551]

THOMAS PRISTOW: I believe we have contracts with a majority of those 600 organizations, or letters of agreement, to help us with ACCESSNebraska. I'm not entirely positive about that but I'm pretty sure. [LR551]

SENATOR CONRAD: Finally, there was significant state appropriations included with LB825, which you say have been utilized in some part to retain workers. [LR551]

THOMAS PRISTOW: Retain workers that were going to be laid off. [LR551]

SENATOR CONRAD: Right. Isn't it true that the Department of Health and Human Services also came to the Appropriations Committee last session asking for a deficit appropriation to preserve those same jobs? [LR551]

THOMAS PRISTOW: I am not familiar with that, ma'am. [LR551]

SENATOR CONRAD: I am, because I serve on the Appropriations Committee. [LR551]

THOMAS PRISTOW: Okay. [LR551]

SENATOR CONRAD: So you can imagine that confusion and, I guess, disappointment when we're double counting dollars here. There's new money under LB825 to provide for more staff and to provide for support for community-based organizations. You're saying you don't have the money because you had to hold on to those other workers. We gave you the money for that. [LR551]

THOMAS PRISTOW: Hmm. [LR551]

SENATOR CONRAD: And HHS has never once had a problem finding money when they wanted to, have they? [LR551]

THOMAS PRISTOW: I'll be glad to respond to that when I can research it and get back to you on that. [LR551]

SENATOR CONRAD: Okay. [LR551]

THOMAS PRISTOW: I haven't...I'm not trying to be vague. I just...I can't respond to something I can't talk to. [LR551]

SENATOR CONRAD: Okay. Well, it would be helpful maybe before then you made claims in terms of the adequacy of appropriations if you investigated the appropriations that were provided. [LR551]

THOMAS PRISTOW: Well, I know that I don't have the money to do...we asked for $6 million to hire the number of folks that you...that the bill called for, and it was a $3 million appropriation. That's the math. [LR551]

SENATOR CONRAD: I'm going to...just one last question. Does the executive branch or the Department of Health and Human Services get to write fiscal notes or appropriate dollars? [LR551]

THOMAS PRISTOW: We write our...the department writes its fiscal note to accompany the A bill, as far as I understand, and I think we did that with a $6.2 million... [LR551]

SENATOR CONRAD: And the Legislature utilizes our figures from our nonpartisan Fiscal Office when we appropriate dollars. [LR551]

THOMAS PRISTOW: I agree, yes. [LR551]

SENATOR CONRAD: Okay. So the Legislature, in strong bipartisan support, said that this is the amount necessary to fulfill the terms of LB825, and now you're saying that you don't have the money. Isn't it true that the only option you have is to come forward with a deficit appropriation next year instead of just refusing to follow state law? [LR551]

THOMAS PRISTOW: I want to make sure that we can implement LB825 to its fullest,

and I will do everything I can to do that. And if it means going through the process of a supplemental, at the end of the day I want to make sure that we can implement LB825. [LR551]

SENATOR CONRAD: Great. I look forward to working with you on that if need be. But I also look forward to your follow-up to make sure that we aren't double counting these dollars. [LR551]

THOMAS PRISTOW: Right. [LR551]

SENATOR CONRAD: These are taxpayer dollars. [LR551]

THOMAS PRISTOW: I understand that. I'm very aware of that, and I don't want to double count either. [LR551]

SENATOR CONRAD: Thank you. [LR551]

SENATOR CAMPBELL: Thank you, Mr. Pristow. [LR551]

THOMAS PRISTOW: You're welcome. [LR551]

SENATOR CAMPBELL: Our next testifier is Nebraska Appleseed. Good morning. [LR551]

JAMES GODDARD: (Exhibits 12-14) Good morning. Good morning, Chairwoman, committee members. My name is James Goddard, that's G-o-d-d-a-r-d. I'm an associate director and staff attorney of the Low Income Economic Opportunity Program at Nebraska Appleseed. Appleseed is a nonprofit, nonpartisan legal advocacy organization that works for justice and opportunity on behalf of all Nebraskans. Today, just before I get started, oh, I'm handing out three things. One is the testimony, and that's put forth

not just by Appleseed but a number of advocacy organizations, so you can see their names listed. We're also giving you a summary of a survey that Senator Dubas' office did of community-based organizations. Approximately 33, I believe, responded, and I'll talk a little bit about that in my testimony. So as the committee is well aware, the department is responsible for managing public benefits systems, and three years ago service delivery was greatly altered and modernized through the ACCESSNebraska system. The committee will also recall that there were a series of listening sessions across the state last year where the public talked about concerns that they have about the system. We also had an interim study last year where we heard similar concerns. And I do want to say that we appreciate all of the work of Director Pristow in meeting with CBOs and advocates, as well as his staff. And although the department is making progress, some problems that are significant still remain, and there are many similar to the ones we heard last year. Specifically, clients still face challenges with getting accurate information, with communicating with call centers, and with having documents lost or unaccounted for. We know that there is an 11 percent abandonment rate on phone calls, so more than one out of ten people hang up before they actually get someone on the other line. We also know that components of LB825 that we've already discussed quite a bit have not yet been fully implemented, so that's a great concern. So today we would like to offer some ideas for improving the system. First and foremost would be the rapid and strong implementation of LB825. I just want to talk about two components of that, and one is we want to see a process created and promoted to ask for dedicated caseworkers. That's clearly contemplated in the bill; I believe it's in Section 3. And according to the survey, CBOs said that 60 percent of them said that that would be extremely helpful for their clients. My understanding is that has not yet happened. We'd also like to see relationships between the department and CBOs in a more formalized way. Sixty-seven percent of CBOs also said that they wanted a more formal relationship. Now I don't know if that has to be necessarily in a contract where money is appropriated to each CBO or whether it would be sufficient to have some sort of memorandum of understanding where duties and expectations are clearly outlined; but it's clear, from this survey and from all the CBOs I talked to, they want something

and need something more formal to know what sort of support that they can get from the department so that they help their clients. Second, we would encourage continuing collection of data related to service delivery. Two years ago the Appropriations Committee required several indicators to be collected, and this data already has been very helpful--that's where I got the abandonment rate percentage--but it's also told us at least a few things concerning...about benefit processing time frames that are required under federal law. For example, in SNAP or food stamps you have to process an application within 30 days. From what I...my understanding is that we're now at a 15 percent delay rate, where 15 percent of cases are done after 30 days. I believe that's a fairly significant increase over a few years ago. Third, we'd like to see ongoing investment in training and staff to retain experienced workers. These are complicated programs, and it takes a while to get to a place where you've mastered them. And the report that we were talking about earlier indicated that turnover is high. Approximately 70 percent of entry-level staff have been there 12 months or less, and you imagine that might contribute to problems that we're seeing. Finally, we would encourage streamlining administrative processes similar to a proposal from Senator Cook last year that could reduce paperwork, the paperwork burden on workers and clients. And just quickly, in closing, I would like to say we need a solid foundation for this system so that it can help people and so that we're ready for inevitable changes that come down the line, like healthcare reform and what effect that might have on ACCESSNebraska. So with that, I thank the committee and urge your continued oversight. Thank you. [LR551]

SENATOR CAMPBELL: Any questions from the senators? I think we're going to pretty much let the testimony be given so we make sure we get everybody in, so. [LR551]

JAMES GODDARD: Sure. [LR551]

SENATOR GLOOR: Senator Dubas. [LR551]

SENATOR CAMPBELL: Oh, sorry, Senator Dubas. [LR551]

SENATOR DUBAS: I do have one quick question. The director alluded to the...that he thought that were contracts between CBOs and the department. Are you aware of what those contracts may look like? [LR551]

JAMES GODDARD: You know, I'd only be guessing about what he's talking about. But it could be relationships that already exist where you have an organization that helps with Medicaid applications, and so they have a formal contract. Or there's the SNAP Outreach Program, and so they already have a formal contract and they are a CBO. Those are the contracts that I'm familiar with, and I don't think those are incredibly widespread. [LR551]

SENATOR DUBAS: Thank you. [LR551]

SENATOR CAMPBELL: Thank you, Mr. Goddard. And I apologize. I skipped over someone, and so I'm going to go back and pick that up in the list: Mr. Les (sic) Carr. [LR551]

LEE CARR: Lee. [LR551]

SENATOR CAMPBELL: Lee. Sorry. [LR551]

LEE CARR: That's all right. [LR551]

SENATOR CAMPBELL: I'm not reading my own handwriting very well here. (Laugh) Mr. Carr, I apologize. You were on the list, and... [LR551]

LEE CARR: That's all right. I've been left off before. (Laughter) [LR551]

SENATOR CAMPBELL: But I didn't leave you out. I eventually found you. [LR551]

SENATOR HOWARD: That's right. [LR551]

LEE CARR: I'm hard to miss. [LR551]

SENATOR HOWARD: Thank you. [LR551]

SENATOR CAMPBELL: Thank you. [LR551]

LEE CARR: Good morning. Thank you for taking your time. [LR551]

SENATOR CAMPBELL: Could you state your name for the record and spell it. [LR551]

LEE CARR: (Exhibit 15) Oh. Lee Carr, L-e-e C-a-r-r. And I gave you a little bit of outline. I'm 41 and I've been married 17 years and have three wonderful children with her. And about six years ago I ended up getting put on disability because of my past medical history. I'm a 40-year cancer survivor, and I've also had numerous surgeries, 12, in fact, in the last five years, and. Everything...I worked for the state in Health and Human Services; my wife did. She got injured and had to go to college. She graduates in July. During this time we're getting help with Medicaid for the kids, and myself now, and food stamps. Numerous times...I've never been put on hold less than 20 minutes on ACCESS. Never. In a two-day time, I spent 386 hours (sic--minutes) in two days talking to ACCESSNebraska because they messed something up because they didn't get it in the mail. I get a denial letter, so I called. The first time I called I was on hold 45 minutes and I got disconnected. I called back again. I was on hold for 52 minutes. I got someone. They said, well, we didn't get the paperwork. I said, well, I know I mailed it. So they said, well, we'll fax you it. So I wait and wait and wait, and at 4:00 I didn't get the fax, and I called the morning. So I called back. I was on hold. About a 4:45 I get a recording, after approximately 45 minutes, and the call said the office is closed now, and I was out of luck. So I called them back the next day and I was on hold 20-30

minutes at least, and they forgot to fax me the paper. They faxed me the paper. It was the wrong paper, so I had to call back again. I was on hold 30-40 minutes. They got me the right paper. So I faxed it back. I says, can you put a rush on it, because it wasn't my fault. It was their fault because the paperwork they sent me...I was supposed to have an interview, and the interview was the day before I got the mail. So, yeah, I couldn't even do the interview because I didn't know I was supposed to have one. So, you know, that was a big frustration. But I've called ten times and put on hold 30 minutes or better. I've never been told any resources that I could go to for help. There was an incident where I got someone in western Nebraska. They messed up our food stamps. It was a Friday. They said, well, we couldn't do anything until Monday. I asked, you know, how do you feed your children then? And the lady said, well, you've got to do whatever. And I said, well, I don't have any money, what am I supposed to do? And, you know, she goes, well, I don't know any resources because...I think it was Scottsbluff or North Platte she was from. And, you know, so, you know, luckily, you know, I had ramen noodles left. And, you know, but this is the things that I've dealt with month after month after month. And, you know, every time I call I have to tell the story from the beginning, because I never get the same person more than once. And that's very difficult because when it's the same story over and over, you get frustrated being put on hold that whole time. You know, right now, we had to make a choice with my healthcare or house payment; healthcare came first. So we're going to be...well, we're not going to be homeless, but we're going to be moving in with my father because of not having the resources to get medical attention because they don't know any. You know, I've asked. And it's a tough situation. Luckily, we've got a roof over our head no matter what, but it's just...it's difficult, and then you get put on hold this whole time and it just makes your day so much better, you know, sarcastically. (Laughter) But, you know, it's tough. And I have friends that's been through the same thing of being put on hold for numerous times. And there's been quite a few times I've been cut off, so it makes it difficult. [LR551]

SENATOR CAMPBELL: Mr. Carr, can I ask you a question? I'm not sure I heard...you talked that you had called in on the western part of the state, but you live now in

Wymore, is that... [LR551]

LEE CARR: No. [LR551]

SENATOR CAMPBELL: Am I saying that... [LR551]

LEE CARR: I'd called from Wymore, and I got someone from the western part of the state. [LR551]

SENATOR CAMPBELL: Oh, okay. Got it. Got it. [LR551]

LEE CARR: So...and...because she goes, well, I don't know any of the resources. I said, where are you from? I can't remember if she said Scottsbluff or North Platte, I'm thinking. [LR551]

SENATOR CAMPBELL: Right. [LR551]

LEE CARR: You know, I'm sure she don't know much in my area, you know, so. [LR551]

SENATOR CAMPBELL: So it's a question of whether there's a desk reference there for all the services across... [LR551]

LEE CARR: Yeah, well, you know, and, you know, I can't blame her because if you're in western Nebraska, chances are you don't know what's in southeast Nebraska. [LR551]

SENATOR CAMPBELL: Thank you, Mr. Carr, for your testimony. Senator Conrad. [LR551]

SENATOR CONRAD: I just wanted to say, Mr. Carr, thank you for your patience this

morning... [LR551]

LEE CARR: Yeah. [LR551]

SENATOR CONRAD: ...and for the courage to speak out and share your story this morning, and for your positive attitude. It sounds like your family has undergone a lot of difficulties, but you continue to persevere and we wish you good luck. [LR551]

LEE CARR: Sure. [LR551]

SENATOR CONRAD: But I hope that you're story will help us to make changes,... [LR551]

LEE CARR: Yeah. [LR551]

SENATOR CONRAD: ...so that others don't have to go through what you've had to go through. [LR551]

LEE CARR: Well, I just...I guess I'm disappointed when I hear someone say, we're getting better. Well, that doesn't serve the people either. [LR551]

SENATOR CONRAD: Yeah. Would agree or disagree with Director Pristow's comments that ACCESSNebraska is the gold standard? [LR551]

LEE CARR: I guess if you live in a foreign country, maybe. (Laugh) I mean, but, you know, when you're messing with people's food on their table, their healthcare, you know, one mistake is too many. [LR551]

SENATOR CONRAD: Yeah. [LR551]

LEE CARR: And I know we're not in a perfect society. [LR551]

SENATOR CONRAD: Yeah. [LR551]

LEE CARR: But, you know, like I said, I spent...I have TracFone at the time. I spent 386 minutes in two days. That's $180 that could have been on my electric bill or house payment or whatever. So, you know, it's...when you're needing help and then that's what you have to do, so... [LR551]

SENATOR CAMPBELL: Right, an additional expenditure you just don't need. [LR551]

LEE CARR: Yes, so. [LR551]

SENATOR CONRAD: Thank you. [LR551]

SENATOR CAMPBELL: Thank you, Mr. Carr. [LR551]

LEE CARR: All right. You're...thank you for your time. [LR551]

SENATOR CAMPBELL: And I'm glad we got him on the list here. The next person is OneWorld. Is there someone here from...? Good morning. [LR551]

EMILY SUTTON: Good morning. My name is Emily Sutton, E-m-i-l-y S-u-t-t-o-n. I'm a social worker here in Nebraska, and I'm also the outreach manager at OneWorld Community Health Centers. I want to thank you for having this hearing today. I'm here today to represent both my clients from OneWorld, as well as other community-based organizations that have struggled to work through the ACCESSNebraska system as it is today. Just to give you some history, OneWorld is one of the federally qualified health centers in Omaha, Nebraska, and we currently have an established Medicaid Outreach Program thanks to a CHIPRA grant that we received back in 2009. It has since expired,

but we recognize the need to continue providing the services that we provide, and so we do have a team of five outreach workers that continue to enroll children, disabled adults, and seniors into Medicaid services. During that time we were fortunate to build a relationship with the department, which greatly shortened the gap between here and there and served as a great communication tool to get the services that our clients need through the system and ACCESSNebraska. One of the things I would like to share with you is why it is necessary to give community-based organizations, like OneWorld and several of the other organizations that are part of this working group, the essential tools to best communicate directly with the state. Before OneWorld was an assigned community partner with the state, we were essentially filling out applications blindly, just like anybody else, filling out the forms by hand or going on-line and filling them out, really not understanding the policies and procedures that were going on, on the other side of the state. Through the first few months of our CHIPRA program we were averaging about 70 percent eligibility. We were able to monitor that with a database that we used the CHIPRA funds to create to better track some of the applications, all of the applications that were going through. To give you an example, back in May 2010 we completed 393 children's Medicaid applications and ended up having a 76.59 percent eligibility rate. When we acquired a community support specialist, which was in early 2011, and later we were assigned a social services worker back in late 2011, our eligibility rate significantly increased. In May of 2012, so two years later, we had a comparable 419 children's Medicaid applications, but we had a 97.14 percent eligibility rate. I personally credit my staff of dedicated caseworkers who really educated themselves on the policies and procedures of the state, and they were also able to bridge the communication gap and serve as a filter for the state; and really, with the education that we acquired during those two years, were able to serve as a frontline screener for those individuals who thought they may be eligible for Medicaid but in fact were not. And so we ended up saving the state, I don't have any statistics, but I would imagine a significant amount of time in processing applications unnecessarily that would eventually be denied. Although that's kind of from the side of the community-based organizations, I also am here to represent the clients that we continue to serve at

OneWorld and some of the issues that they continue to see. We last week had...we tested and had one of our outreach workers time the amount of time she was on hold for an interview that needed to be done over the phone, and she was on hold for 45 minutes. And when the caseworker answered they were unable to do the interview in Spanish, which was the client's language. And so when our caseworker asked them if we could get an interpreter, or would you prefer that I interpret for you, that caseworker, whose name was John (phonetic), stated, oh, our interpreter service is a nightmare, I'd rather you do it. And so our caseworker ended up serving as the interpreter as well. A lot of calls are falling off. We get difficulty getting documents where they need to go sometimes and getting verification that documents are in fact received. There are issues with verification requests being inaccurate, comments that are left in the bottom. Even though the verification is requested to be sent in the native language of that person they're still being sent in English, so the individual receives a verification but is unable to interpret it. Without us being there to do that for them, they would not understand what the next steps would be to continue their services. We are having difficulty with some of our clients calling in and getting updates on their SNAP cards or activating their food stamps because there's a requirement to provide a Social Security number. If this is a family where the children are receiving the benefits but the parent does not have an assigned Social Security number, then they are not able to do that over the telephone. As witness to the changes that have come with ACCESSNebraska implementation, I see the strides that have been made to make the system more efficient, but we do need better communication directly to caseworkers and administrators to this state, which has been a huge advantage to OneWorld and something that I hope that other community-based organizations can experience as well. Thank you. [LR551]

SENATOR CAMPBELL: Thank you for your testimony, Ms. Sutton. Any questions? Senator Krist. [LR551]

SENATOR KRIST: During a marathon hearing last year we heard group after group after group come up and say that they advocated for people who were having issues,

and obviously you're doing that very effectively. Was that as a result of changes in ACCESSNebraska, or have you pretty much pioneered your own? [LR551]

EMILY SUTTON: I think had we not received a federal grant, a CHIPRA grant, we would not be in the position that we are now. We would be essentially in the same position that most other community-based organizations are. OneWorld, being a federally qualified health center, does have...is a community partner of the state, but at the time we did not have a community support specialist and we did not have a lead social services worker to specifically process our cases. [LR551]

SENATOR KRIST: So this is an example, and I'm sorry that Thomas isn't here, but this is an example of how the community partnership with the state has helped and gone to the next level. [LR551]

EMILY SUTTON: Um-hum. Um-hum. [LR551]

SENATOR KRIST: Could you get...what's...I mean, give me a recommendation. How can we make this happen over and over again with others? And you say it's only the fact that you had the federal grant. How did that... [LR551]

EMILY SUTTON: I think that was how it was introduced to us from there. [LR551]

SENATOR KRIST: Okay. [LR551]

EMILY SUTTON: I think OneWorld is a very progressive advocate for our community. And so we don't have that funding any more, but we still continue...you know, we're here today. We continue to advocate for the needs of our clients with Medicaid. But I think one of the biggest issues is having, if not a community support specialist to specifically be assigned to that group, to have a lead worker, have a contact, be able to send an e-mail, be able to call a direct line. I know some of our community-based

organizations are the ones on the wait phone for 45 minutes and sometimes longer than that. And they have other jobs that they're doing on top of just trying to get an answer from the state, so. [LR551]

SENATOR KRIST: Thank you so much. [LR551]

EMILY SUTTON: Thank you. [LR551]

SENATOR CAMPBELL: Thank you, Ms. Sutton, very much for coming. [LR551]

EMILY SUTTON: Thank you. [LR551]

SENATOR CAMPBELL: Our next testifier is someone from the Good Neighbor Center. Good morning. [LR551]

MARVIN ALMY: (Exhibits 16 and 17) Morning. My name is Marvin Almy. I'm the chairman of the board of the Good Neighbor Community Center, which is located at 2617 Y Street here in Lincoln. And I'm also a resident of Waverly; so, Senator Campbell, I'm one of your constituents. [LR551]

SENATOR CAMPBELL: Good. We always like to see people from the 25th. [LR551]

MARVIN ALMY: (Laugh) Three years ago we became aware the state's intention to convert to the ACCESSNebraska system and close offices and eliminate personal caseworkers. State officials addressed a meeting of Lincoln's New Americans Task Force and told us of their plans. We immediately recognized the effect that conversion would have on clients of the Good Neighbor Community Center. GNCC is one of Lincoln's largest distribution points for emergency food, both perishable and nonperishable. Many of the clients that come to GNCC are also eligible for the Supplemental Nutrition Assistance Program--food stamps. We know that losing an

office to go to and a caseworker to assist and explain programs would put many of our clients at a disadvantage in accessing or maintaining governmental assistance programs. GNCC sought out additional financial support and was able to obtain a one-year grant from the Woods Charitable Fund in Lincoln to hire an employee to assist GNCC clients in applying for or providing verification for continuation of SNAP assistance. When clients come to GNCC for emergency food, they undergo an intake interview to determine eligibility for programs. We generally serve people at 140 percent or less of the federal poverty guidelines. Many of GNCC's clients are working poor. If we determine during the intake interview that clients are not receiving SNAP assistance, we ask if they would desire assistance in submitting an application. We schedule appointments for them to come back with the necessary information to submit an application on-line using the ACCESS system. GNCC serves many immigrants and refugee clients, and has staff or regular volunteers that can assist in many different languages. Two years ago Senator Tanya Cook introduced legislation to require the state of Nebraska to submit a SNAP outreach plan to the federal Department of Agriculture. Approved plans can receive 50 percent reimbursement for costs involved in providing SNAP outreach to eligible populations. The legislation mandated that the state of Nebraska not incur any cost in the execution of any plan, so the state receives 100 percent reimbursement before there are any funds available for the community outreach or the community partners. GNCC was the only community organization in Nebraska to participate in the SNAP outreach plan during the last fiscal year, because we had the availability of the funds from Woods to cover the rest of our cost. During the 12 months from October 2011 through September 2012, GNCC assisted 145 clients submit new applications and 81 clients provide eligibility verification under that outreach plan, with one 30-hour-a-week employee. Given typical family sizes of GNCC clients, over 1,000 individuals were able to obtain or maintain SNAP assistance due to our assistance. Today GNCC has received about $2,600 of reimbursement, with additional reimbursement expected. Additional CBOs have joined with GNCC in submitting a plan for fiscal year 2013, which has been submitted to the USDA. GNCC is listed as a community-based organization partner on the HHS Web site where individuals can

come for computer access or assistance with ACCESSNebraska programs. GNCC has a computer lab with 12 terminals which are available for public use. GNCC's SNAP outreach coordinator still reports problems with undue delays spent on hold when placing calls to the ACCESS system, problems with having files lost or fax transmissions not received, and problems with not being able to get to the right department. She also reports problems with obtaining language assistance when requested. GNCC supported LB825 and the improvements to the ACCESS system defined in that act. There is no doubt that some cost of providing customer support, awareness, and assistance with programs have been shifted by the state to CBOs such as GNCC. We're not opposed to the conversion to the ACCESSNebraska system. We're also taxpayers and want the state to utilize the most cost-effective and effective programs that are available with today's modern technology. But we also don't want to see any segment of the population disadvantaged by that conversion process, and we think we as community-based organizations can play a role in helping to prevent that. It would be helpful if there were funds available to us to reimburse us for some of the cost that we're incurring in providing that first source of access to the ACCESS system. We still think there's a need for legislative oversight to ensure that the conversion to the ACCESSNebraska program does not harm segments of the population that need assistance. We know that agencies such as GNCC can and will play a role in assisting their clients to obtain services. The more communication, training, funding, or password access to information that can be provided would be helpful in helping us fulfill that role. Thank you. Any questions? [LR551]

SENATOR CAMPBELL: Thank you, Mr. Almy. Any questions or comments? [LR551]

SENATOR CONRAD: I have one quick question. [LR551]

SENATOR CAMPBELL: Yes. [LR551]

SENATOR CONRAD: Mr. Almy, thank you for your testimony. A quick question: When

you're assisting clients in trying to access their nutritional benefits, for example, and there's a lag or a gap, what does that mean for those families that you're helping? What does that mean for their daily life? [LR551]

MARVIN ALMY: Well, it's a huge interruption, because, you know, we're working with a very diverse population, low-income populations. Most of them are not computer literate. Well, many of them are not...English is not their first language, and so we have all kinds of barriers that have to be overcome, and that's where I think there's segments of the population that still need face-to-face access with a human being to successfully complete those transactions. [LR551]

SENATOR CONRAD: Okay. Thank you. [LR551]

SENATOR CAMPBELL: Thank you, Mr. Almy, and for the service of the Good Neighbor Center. If you haven't toured that, Senators, that's a great place to go to. Thank you. Our next testifier is from NAPE/AFSCME. Good morning. [LR551]

JULIE DAKE ABEL: Good morning, Chairman Campbell and members of the committee. My name is Julie Dake Abel, that is J-u-l-i-e D-a-k-e A-b-e-l, and I'm the executive director of the Nebraska Association of Public Employees, otherwise known as NAPE/AFSCME. We represent the state employees that work in both the call centers and the local offices that deal with ACCESSNebraska. No doubt you have heard the concerns of this program, and I know the Legislature has heard from the workers, clients, and community for probably several years now. I would like to talk briefly about what was talked about, about quotas, vacancies and turnover, communication, and then also will in my testimony be talking about some survey results that we have just gotten in. As you may have heard Director Pristow talk about quotas, and that has been one of our biggest issues this year is employees that had quotas to meet that worked at the call centers and also at the local offices. We had employees, just so you know where they're coming from, that have been put on work improvement plans, extended work

improvement plans, and have been disciplined for not meeting quotas. We have several grievances going on at the moment related to employees not meeting those quotas, unfortunately, with ambiguous data from the agency that has shown--or not shown, shall we say--that the quotas are unobtainable. So we were actually very pleased to see that after we had filed grievances, done many discovery motions, when there was media coverage, and a week after our survey went out that the department decided to do away with quotas. And I was actually glad that they actually referred to it as quotas today, which is what it was. I do want to talk a little bit about communication. I did have a meeting, and I've debated about whether to talk about this or not, but I am going to touch on it briefly. I had a kind of a meet-and-greet meeting with Director Pristow this summer. Unfortunately, it did not go well--one of the worst meetings I've had with the agency. Hopefully, things will improve, but unfortunately here I sit again telling you I get no communication from the agency. The only communication I get is from the employees. While I won't go into specifics, let me just say that I felt the meeting got pretty disrespectful, and I had hoped that then the agency, and specifically Director Pristow, would come back and want to talk in a more reasonable, productive manner. To date that has not happened. I also want to bring that up because we have heard from employees about comments that have been made that were very disrespectful towards employees, comments made in the meeting at North Platte that processors aren't needed in local offices, we don't need employees in local offices. What the intent of that was, what the context of that had been said in, I don't know. But the impression gives employees that we are not trying to make positive change, and that's where the concern really lies--positive change for the employees, which also gives positive change for the people that they serve. It's been very, very hard on these people. Moving on, I would also like to talk about one of the things that we have recommended is additional training for employees, and actually hiring, keeping, and creating a productive work environment for the employees. They can only do so much. With the economy being very hard and so many more people needing assistance, there is more work now for less employees, as I'm sure you know. Clients and employees can only handle so much. I think as we continue to have conversations about dedicated case workers, I

think it's very important. I think oversight of the committee, continued oversight is very important, because we are at a crucial time where we have so many hands on a case that are touching it constantly. And the more hands you have on a case the worse it's going to be, because the accuracy will, no doubt, go down. It's a totally different experience when you have--and a more positive experience--when you have dedicated caseworkers and you have that relationship between the person you're trying to serve. I'll try not to go over and get very brief into the survey that we did. We are still getting results in on the survey that we did that was sent out to employees that work in the ACCESSNebraska program. Most of those are social service workers in local offices with also people that work in the call centers. We talked about training and asked related questions and had people rate things. Most of the employees believe that the training that they received from the state was adequate to less than adequate, with many comments that we had that talked about they had more adequate training years ago on the programs and on basic training, and since then it has gone downhill. Most believe the amount of training they continue to receive is less than adequate. Most believe the training they received regarding the phone and computer system was less than adequate. Training they continue to receive regarding the phone and computer system is less than adequate, with a close tie to adequate. Workers overwhelmingly believe they had too many tasks they were required to do. Again, they overwhelmingly believe they had less than enough time to complete their tasks, tasks meaning helping the individuals get the assistance they need in a timely manner. It was a close result to how they were evaluated from their supervisors, between meeting quotas, having their tasks completed, the quality of the work, and many not knowing how they were evaluated. About half of all employees surveyed that responded, and we've got a pretty good response rate so far, have been on work improvement plans. About half. Most believe more employees were needed to complete the tasks, followed by more and more time that they also needed to receive training. They rated the lowest rating in client satisfaction. This is a five-category survey, and they believed that client satisfaction...that clients were very dissatisfied with the services they receive, and I think that says a lot. We're still analyzing the survey. And I know I've run over. I apologize for

that, but I did want to get a little bit of that information to you that we have gathered at this time. [LR551]

SENATOR CAMPBELL: Could you provide us with a copy when you have it complete? [LR551]

JULIE DAKE ABEL: Our coalition worked on that. I don't see that being a problem. [LR551]

SENATOR CAMPBELL: Okay. That would be terrific. [LR551]

JULIE DAKE ABEL: Sure. [LR551]

SENATOR CAMPBELL: Questions? Senator Gloor. [LR551]

SENATOR GLOOR: Thank you, Senator Campbell. Thanks, Julie. Describe for me a work improvement plan. [LR551]

JULIE DAKE ABEL: A work improvement plan is basically when a supervisor gives an employee, saying we don't believe you're meeting these goals, we don't believe you're doing this; if you don't improve on this we're going to be disciplining you. And what we have found is that over the last probably year to two years, probably especially over the last year, those work improvement plans mean you either improve this or we're going to discipline you, have been related to employees not meeting quotas which, through the research that we have been able to do, were not obtainable quotas. [LR551]

SENATOR GLOOR: And I want to make sure I understand. A work improvement plan then is a negative... [LR551]

SENATOR CONRAD: Um-hum. [LR551]

SENATOR GLOOR: ...specifically a negative document. [LR551]

JULIE DAKE ABEL: Yes, it is. There's nothing positive about one. [LR551]

SENATOR CONRAD: You're in trouble with your job. [LR551]

SENATOR CAMPBELL: Right. [LR551]

JULIE DAKE ABEL: That's correct. [LR551]

SENATOR HOWARD: It's not good to get that. [LR551]

JULIE DAKE ABEL: No. (Laugh) [LR551]

SENATOR GLOOR: But, I mean, the reason I ask is a lot of employers have work improvement plans, but it may involve what can the employer do to make life better for you, and they're not... [LR551]

SENATOR CONRAD: Hmm. [LR551]

SENATOR GLOOR: But I understand. I want to make sure I understand clearly that this is a stick not a carrot. [LR551]

JULIE DAKE ABEL: Yes, that is correct. [LR551]

SENATOR CAMPBELL: Senator Howard. [LR551]

SENATOR HOWARD: Thank you, Senator Campbell. Thank you so much for coming in. I'm sorry that Mr. Pristow hasn't stayed in the hearing to hear what you had to say

and to learn more about how the employees are seeing this system. It's really so critical that the employees have input into how it's operating. You know that. [LR551]

JULIE DAKE ABEL: Um-hum. [LR551]

SENATOR HOWARD: I'm speaking to the choir here, as they say. Can you give me any idea, in terms of the turnover, what numbers you're seeing? We've always had a high turnover at Health and Human Services. But what's it looking to you like right now? [LR551]

JULIE DAKE ABEL: Well, I would like to answer that better than I could, but I don't have...I have little data from HHS. And unfortunately the data that we've been getting from the state has been a mess (laugh) the last few months. So I do know that Fremont, the Fremont call center probably has the highest amount of turnover. I do not have exact figures to be able to tell you at this point. [LR551]

SENATOR HOWARD: Okay. I think that's such a critical piece to the service that's delivered. I mean, obviously if you have people that are more familiar with the needs and the resources that are available, and have seniority and experience and have worked with people, they're going to be better equipped to handle the calls that come in. But if you've got a high rate of turnover, if you've always got a new person that's always learning and trying to figure out what piece of material or what piece of information do you need from the client in order to move forward, it's going to always be, as you would say, a mess. [LR551]

JULIE DAKE ABEL: And part of what's evolved from that, too, is, you know, I think several things. I think it's the turnover, but I think it's also, frankly, just not enough employees in general, because they had times this summer where they actually worked overtime--which is shocking; that's kind of unheard of--to get the work tasks done. And so they were trying to get those tasks done. And so as they worked overtime to try and

get these certain amount of tasks done, which I believe was mostly the SNAP program, because of course, you know, there's very stringent time lines, is that what happened is all the other tasks moved up. So then they had to run back and work on those tasks. So in the meantime, now the SNAP ones have gone back down. There just simply is not a good system with enough employees in place, our folks believe, to serve the clients that need assistance. [LR551]

SENATOR HOWARD: Well, I would really encourage you to work with our Chairman of our committee, who I think is great at getting people together and facilitating meetings and getting people working together, to see if you could set up a meeting with Mr. Pristow to hear this information and maybe get things on a better course. [LR551]

SENATOR CAMPBELL: Any other comments? [LR551]

SENATOR CONRAD: Just very quickly. [LR551]

SENATOR CAMPBELL: Senator. [LR551]

SENATOR CONRAD: Julie, thanks for sharing your information here today and for speaking out. I know that sometimes when there are emotional issues at stake and real people's lives are affected we have a tendency to demonstrate some emotion and passion. And we hear frequently from people with a different perspective that every time you head down this road you're not standing up for frontline workers; and I believe the opposite is true. I believe every time we bring attention to these issues we're trying to shine light and provide resources and provide support to those frontline workers who are doing a thankless job out there. And I know a lot of them contact our offices and are afraid to speak out because they fear retaliation from their job and an unsupportive administration. So I really thank you for coming forward, and I hope that we can have improved relations and communications, because it's the only way that we can meet our shared objectives. But when we draw attention to these issues, do you feel that it's from

a helpful or supportive posture or it's a negative posture? [LR551]

JULIE DAKE ABEL: I absolutely do. I think it helps. I think that helps the employees and also the clients know that there is somebody listening out there and that really cares. I mean, I know some of you have been working on this, you know, for quite a while. I know myself, I've been...our organization has been involved in this for, I think, well over three years now. [LR551]

SENATOR CONRAD: Yeah. [LR551]

JULIE DAKE ABEL: So I do think that that is very helpful, and I really appreciate all the work you guys are trying to do. Quite frankly, I don't think you should have to do this. I think the executive branch should be able to take care of that, but unfortunately that has not occurred. [LR551]

SENATOR CONRAD: There's checks and balances for a reason. Thank you. [LR551]

SENATOR CAMPBELL: Thank you very much for your testimony. [LR551]

JULIE DAKE ABEL: Thank you. [LR551]

SENATOR CAMPBELL: Our next testifier...and I just have an initial, so it's NHCA. [LR551]

SENATOR CONRAD: Health Care Association maybe. [LR551]

SENATOR CAMPBELL: While we are waiting to get set up here, how many other people plan to testify? Two? Okay. Excellent. [LR551]

HEATH BODDY: Good morning, Chairwoman... [LR551]

SENATOR CAMPBELL: And the reason I ask that is because we have a full afternoon of hearings. [LR551]

SENATOR HOWARD: Thank you. [LR551]

SENATOR CAMPBELL: So we're trying to be very cautious about the time. Please identify yourself and state your name for the record and spell it, please. [LR551]

HEATH BODDY: (Exhibit 18) I am Heath Boddy, H-e-a-t-h B-o-d-d-y. I'm the president and CEO of the Nebraska Health Care Association, here today representing long-term care, including assisted living and nursing homes. And in the interest of time I won't restate lots of the valid and important examples and comments that were given this morning. But I did just want to put a letter of testimony in to the committee and say that our members are experiencing many of the same issues that you have heard today. I was especially interested and a bit surprised to hear Director Pristow's comment this morning that nursing homes would be getting--let's see, the word was--assigned case workers, and I think that was a needed thing that could happen to help the nursing facilities. And remember, in the nursing facility it's not the facility that would receive...that would need the service, it's those social workers that are trying to help all the Nebraskans get the service that they need. So I was pleased and I appreciate Director Pristow's efforts and agree with most of the comments this morning that many more are likely needed. Again, our members are experiencing delays and call center issues and all of the things that you've heard about. So I would just like to say the Nebraska Health Care Association agrees with the ideas that the coalition that you've heard about this morning brings forward. And I really do appreciate your time and effort on this highly important issue to Nebraskans. I'd be glad to answer a question if there is. [LR551]

SENATOR CAMPBELL: Senator Gloor. [LR551]

SENATOR GLOOR: Thank you, Senator Campbell. Has there been any improvement at all in the Medicaid pending delays that are out there? [LR551]

HEATH BODDY: We are hearing less complaints. To be able to validate it from a quantitative standpoint, I wouldn't be able to give that to you very well. Three-and-a-half months ago we did an informal survey, as many people here, SurveyMonkey, with our members. And at that point the outstanding Medicaid dollar was about $17.5 million. I've had a couple of conversations with Director Chaumont, and I think they're making some changes in that way to try to help with the outstanding Medicaid dollars. Clearly, Nebraskans, if it's not a social worker in a facility, in assisted living, or a nursing home or, as you've heard from many other people that were here to help today, if they don't have that help and the people that know how to get through those channels, it can be very problematic. One great example is a social worker in a nursing home is allowed to deal with three cases at a time, three inquiries to see where things are at. So if you're trying to help some of the folks from your community, you only get three. So make them count, because you only get three. And that's pretty problematic, whether this...in our case those members are there trying to help Nebraskans get the services, so. [LR551]

SENATOR GLOOR: Well, then if they're appropriated in doing this, they pick up the phone and they call their legislator, because we can make unlimited phone calls, but. (Laughter) And we're happy to do that, but obviously then we get brought into the inefficiencies and the frustration also. So I'm glad to hear that there may be some improvement, but I have a suspicion that it still merits some monitoring. [LR551]

HEATH BODDY: And however we can support the committee as you move forward with this effort, please, we'd be glad to help. [LR551]

SENATOR CAMPBELL: Mr. Boddy, we may call upon you for that. And I particularly appreciate your providing a lot of information in your letter. That's helpful. So we may be

back in touch with you. Were you here for the earlier hearing with Senator Sullivan? [LR551]

HEATH BODDY: I was. I was. [LR551]

SENATOR CAMPBELL: So you know we're also going to be talking to you about that one. (Laughter) [LR551]

HEATH BODDY: I know. I am glad to help. [LR551]

SENATOR CAMPBELL: You've got to rev up all your data people on it because we'll be calling you. But thank you very much for coming today. It was good to see you. [LR551]

HEATH BODDY: Thank you. [LR551]

SENATOR CAMPBELL: Our next testifier. And I don't have anyone else left on the list, so. We always change over in the Capitol, and it takes about a week to change from air conditioning to heat. We are now in heat in the Capitol (laugh), and Mother Nature decided that we would rev up the heat outside. So if it seems stuffy in here that's the reason. Good morning. [LR551]

BETTY MAPES: Good morning. [LR551]

SENATOR CAMPBELL: State your name for the record, please. [LR551]

BETTY MAPES: Thank you for letting me testify. My name is Betty Mapes, B-e-t-t-y M-a-p-e-s. And I live in Fullerton, Nebraska, but I represent my mother who lives in Gordon, Nebraska. My mother, when she was 90 years old, two years ago, had a stroke and thought she had money enough to live out her life. Well, in October of 2011, I could tell that, no, we would not have enough money. And she's totally disabled. Her left side

does not work. And I had her at home, but...and that's where she would have preferred to stay, but because of Medicaid rules she had to go to the nursing home. And so I started in October of 2011, went along a couple of months. And I hate their computer system. As far as I'm concerned it tells you nothing. It would have her name, it would have a date pending. And then, after two months, all that was there was her name. And I waited and I kept calling her. Did you get a letter? No, I didn't get a letter. Finally, I called them and they said, well, she's been denied everything. Well, then a couple weeks later we get the letter. So we started over. And I kept asking them: I want to see what you're using for finances, I'd like to talk to somebody face-to-face, I'd like a caseworker. They kept telling me no. So finally, about six, eight calls into it I called Senator Dubas, who is my senator. And the next day I get a call that says, we have a must-call notice, what do you want? And I said, I want to see somebody face-to-face and I want to see the figures. Oh, yeah, you can do that. So my brother and I went to Columbus, and what a disaster. This woman is not a new worker. And she took us into a room that had a desk, a telephone, and a clock on the wall that did not work, five chairs that looked like they'd been shoved in the room out of the hallway so they could scrub the hallway, and it was cold in there. For two hours I wore my coat. We filled out that application. If she needed a paper off the computer she got up and left the room and would come back. She had a calculator with her that wouldn't work. Upside down and backwards my brother would tell her what figures she should write in there. So we went home. And the next day I remembered something, and wanted to call her back. Called her back, and got an answering machine. Six o'clock that evening she calls me, and I told her what I wanted. And then she stammered and stuttered and told me about moving papers on your desk. And finally she said: I shredded your papers, will you resend them? It's gone on and on and on. In February, a Joyce Schneider out of the Policy Department put a message on the computers that somebody with knowledge needs to talk to this woman. Two months later I get it in a part of another letter. I called my attorney. He called and talked to Joyce, who is very knowledgeable. We thought we had it all settled, but then they denied mom again with the thing...said that she'd given away resources. I called them up and I said, what resources did she give away? Well,

her house. I said, oh, it's funny, I've got it for sale right now. Oh, well, somebody made a mistake. I mean, it's just every time you got a letter, I had people put...I had an appointment with Roxie (phonetic) Skidmore in Chadron. They put down Central Standard Time. I assumed it was Mountain Time, because I'd just talked to them on the phone. And I get up there and I'm an hour late. The last couple of things: six months it took to get her a wheelchair. And I kept calling. I called everybody I could think of: the drugstore, the nursing home, Durable Equipment; and Durable Equipment quit taking my calls after a while. But finally my brother said, just ask them what we need to buy, we'll buy her one. Would you believe within two days the wheelchair orders were there, and two weeks later she got her wheelchair. They told her she's very lucky, because there's people that since January and March have not gotten their wheelchairs. I mean. After she got her approval to be on Medicaid, it's had it's...a thing in there that said in two weeks she'd get a Medicaid card. So the time went by and she said, Betty, I didn't get a card and I'm going to have to go to the doctor. So I called them up and they said, well, yeah, we'll issue one today; one was issued and we don't know what happened to it, so you'll get it in a couple weeks. So we waited another couple of weeks. And she called and she said, Betty, I'm going to have to go to the doctor next week, I don't have a card. So I thought, well, I'll call Chadron. And I called up there and they said, well, yeah, it says a Medicaid card isn't issued, I'll issue you one. So I thought, you know, she's going to have to go to the doctor, I'll call the nursing home. And the social worker said, Betty, if you live in a nursing home you don't have to...you never are issued a card. And I'm thinking, three people, and they didn't know that? On the other side of the table, I would hate to sit at that phone and have Betty Mapes call me on the phone (laughter), and she's angry and she's been doing this for a year. You know, those poor people...and I am the one that's going to have somebody help my mother. I have a caseworker assigned for her. I'm that person. But what about those other people that don't? The senior people in western Nebraska, a lot of them don't have computers, a lot of them don't know how to use computers if they have one, they don't know how to go get the access. You know, it's been a nightmare, and that's the only way I could describe it. I've been assured that it's going to get better, but you know the proof of the

pudding is in the eating, so we'll see. [LR551]

SENATOR CAMPBELL: Ms. Mapes, I'm really sorry that you've been through all this. And we hear these stories and we certainly sympathize with what you and your family have been through. Your mother is very fortunate to have a dedicated person... [LR551]

BETTY MAPES: Well,... [LR551]

SENATOR CAMPBELL: ...who perseveres beyond all patience. And I realize you were here very early, and you've been very patient in testifying, so. Comments? [LR551]

SENATOR CONRAD: Just one, very quickly. Mrs. Mapes, Betty, thank you so much for coming down and sharing your story and again speaking out. I appreciate that. Do you think it should take a phone call to your state senator or getting your story in the paper to get your casework right at HHS? [LR551]

BETTY MAPES: I absolutely don't. I think at least every senior person should have a caseworker assigned. They should be able to talk to that person as they needed to. Thank goodness for the Area on Aging. They were there to talk to me, to help me. [LR551]

SENATOR CONRAD: Right. Right. [LR551]

BETTY MAPES: When I came to the end of my rope they talked to me about things. But no, everyone of them should have a caseworker. [LR551]

SENATOR CONRAD: And do you think it's fair for the state just to throw their hands up and discount their obligation and responsibility to our seniors without providing any resources to our partners at Area Agencies on Aging to pick up the slack? [LR551]

BETTY MAPES: No, I don't. You know, those people tell me that there's nothing they can do outside of talk to you. [LR551]

SENATOR CONRAD: Yeah. [LR551]

BETTY MAPES: And I have gone and taken the SHIIP training now, and I will be helping as many people as I can in western Nebraska. But I just feel for all those people who aren't getting help. There's a lot of older people that aren't getting the help they need. [LR551]

SENATOR CONRAD: Thank you. [LR551]

SENATOR CAMPBELL: Senator Dubas. [LR551]

SENATOR DUBAS: Just quickly. Betty, how computer literate are you, and how familiar are you with government? [LR551]

BETTY MAPES: Well, I'm a retired postmaster. I worked for the Postal Service for 30 years. And the last 20 years of my life I used a computer in the post office, and I use one daily in my home. [LR551]

SENATOR CAMPBELL: Senator Gloor, and then Senator Krist. [LR551]

SENATOR GLOOR: I think I've about got an obligation to ask you a question, Betty,... [LR551]

BETTY MAPES: Okay. [LR551]

SENATOR GLOOR: ...given the amount of mail you've probably handled for my family over the years. [LR551]

BETTY MAPES: Yeah. (Laugh) [LR551]

SENATOR GLOOR: Senator Dubas asked one of my questions. My other would be: Who did you visit with down in Columbus when you went down to Columbus? Was it one of those community partners? I mean, the facilities... [LR551]

BETTY MAPES: No. Her name was Betty Nicolas, and she works for Health and Human Services. [LR551]

SENATOR GLOOR: And you were in Health and Human Services' offices, specifically in Columbus? [LR551]

BETTY MAPES: Yes, we were in Health and Human Services. She's not a new worker. Somebody told me she'd been there close to 30 years. [LR551]

SENATOR GLOOR: Okay. Thank you, and thanks for making the drive down. [LR551]

SENATOR CAMPBELL: Senator Krist. [LR551]

SENATOR KRIST: Could you...you said at the end that the person at the care facility that your mother is currently in knew the right answer. [LR551]

BETTY MAPES: Um-hum. [LR551]

SENATOR KRIST: We heard, before your testimony, that that is probably one of the good fixes involved here. Do you agree? [LR551]

BETTY MAPES: Yes, those people need to be able to... [LR551]

SENATOR KRIST: So having somebody from HHS that is immediately accessible, not getting on a wait line to the people in the senior centers and/or the care facilities is a reasonable fix in your mind? [LR551]

BETTY MAPES: I think it is. My mother's mind is as sharp as a whip. She tells me how to do things. But she could not stand...and she wouldn't understand waiting on that phone. [LR551]

SENATOR KRIST: Well, and my point in saying that and getting it on the record is, again, in marathon testimony last session we heard over and over and over again that there are people who advocate for those that necessarily couldn't advocate for themselves; that if they had a "dial 1 if you're a healthcare provider" option, some of those things would be handled more efficiently. [LR551]

SENATOR CAMPBELL: Right. [LR551]

SENATOR KRIST: And so I just wanted to make sure that we... [LR551]

BETTY MAPES: Yeah. That would help. [LR551]

SENATOR KRIST: Thank you so much. [LR551]

BETTY MAPES: Um-hum, and thank you. [LR551]

SENATOR CAMPBELL: Thank you, Ms. Mapes for coming and making the drive and your testimony... [LR551]

BETTY MAPES: Thank you. [LR551]

SENATOR CAMPBELL: ...and your service to the postal. Our last testifier. Good

afternoon. [LR551]

JILL SCHRECK: Good afternoon. It is afternoon. Thank you for letting me speak. My name is Jill Schreck, that's J-i-l-l S-c-h-r-e-c-k. I'm the deputy director for economic assistance with the Department of Health and Human Services. I want to let you know that Director Pristow did have to leave because we have several employees in our agency who are being recognized for years of service. And he definitely wants to take the time to recognize those folks, so he's traveling to Omaha this afternoon. So I'm here as his representation and have been listening and taking a lot of notes intently to the testimony. If there's any additional questions I'd be happy to respond. [LR551]

SENATOR CAMPBELL: One of the issues that we had talked about previously, as Senator Krist indicated in previous hearings, was having someone who is directly responsible for this, and that is you. [LR551]

JILL SCHRECK: Yes. [LR551]

SENATOR CAMPBELL: So before it was like, okay, who is taking the calls and who do we do over there? So at this point if we run into problems, we can contact you and... [LR551]

JILL SCHRECK: Absolutely. I believe I've been in contact with some of your aides in the past, and I was part of the tour of the customer service center last year where some of your folks maybe came. I've been in touch with the Ombudsman's Office, and I'm in touch with many entities across the state, including some advocacy groups that are here today. [LR551]

SENATOR CAMPBELL: Senator Gloor. [LR551]

SENATOR GLOOR: Thank you, Senator Campbell. I just want to make sure again for

the record. [LR551]

JILL SCHRECK: Sure. [LR551]

SENATOR GLOOR: Work improvement plans... [LR551]

JILL SCHRECK: Um-hum. [LR551]

SENATOR GLOOR: ...are a, for want of a better term, a negative. You've identified somebody with a problem and, therefore, they're on a work improvement plan, which can ultimately lead to disciplinary action. [LR551]

JILL SCHRECK: It can. But it's also an opportunity for us to identify areas of growth opportunities for that employee. So if we recognize that, you know...if there's something we need to do as management and leadership to help them, if they feel like they weren't accomplishing those goals based on some kind of training or something that we need to provide, it's also the opportunity for that conversation if it hasn't already occurred. [LR551]

SENATOR GLOOR: But if that's that case, why aren't 100 percent of employees on a work improvement plan, since that... [LR551]

JILL SCHRECK: Um-hum. [LR551]

SENATOR GLOOR: If it has a positive connotation... [LR551]

JILL SCHRECK: Yeah. [LR551]

SENATOR GLOOR: ...along with a negative, it would seem to me that it would be a requirement that everybody has a work improvement plan. [LR551]

JILL SCHRECK: We do performance evaluations, which isn't the same as a work improvement plan. But, as Director Pristow said in his testimony...and the reason he changed the removing of the number of calls per hour and work tasks completed is based on feedback that he and I both received as we were talking to staff, so that is why staff are telling us this is not working for us to be able to answer so many calls an hour and so many work tasks completed. We recognized that that was more of a burden to our staff and it was also limiting us in providing good customer service. And he recognized that right away when the information was brought back to him, and that's why he eliminated those. [LR551]

SENATOR GLOOR: Well, I'm still concerned that work improvement plans, you know... [LR551]

JILL SCHRECK: Yes. [LR551]

SENATOR GLOOR: Beauty is in the eye of the beholder. [LR551]

JILL SCHRECK: Yes. Um-hum. [LR551]

SENATOR GLOOR: So is punitive action. [LR551]

JILL SCHRECK: And we are working...I'm sorry. [LR551]

SENATOR GLOOR: Yeah, 50 percent... [LR551]

JILL SCHRECK: Yeah. We're working with our Human Resource...and part of his e-mail that went out to staff was stating that we'll be working with the Human Resource Offices to resource representatives to work with the management who had performance improvement plans and per the performance evaluation to determine if amendments

need to be made to those based on the change in the direction that he gave. [LR551]

SENATOR GLOOR: Okay. [LR551]

SENATOR CAMPBELL: That would be helpful. [LR551]

JILL SCHRECK: Yes. [LR551]

SENATOR CAMPBELL: Senator Howard. [LR551]

SENATOR HOWARD: Thank you, Senator Campbell. Isn't it true that a work evaluation, your annual review can lead into a work improvement plan? [LR551]

JILL SCHRECK: The work improvement plans...the performance evals are necessary as we determine, you know, the core competencies that the agency has to go over those information, to discuss general things. But our staff expectation of our supervisors is to meet with their staff on a regular basis, not to just discuss here's your areas you need to grow in. They should be having regular conversations with their staff to identify if there is a need, because we take responsibility as management to help our staff if they need training, and we want to be responsible for that. [LR551]

SENATOR HOWARD: That's not what I asked you. [LR551]

JILL SCHRECK: Okay. [LR551]

SENATOR HOWARD: What I asked you is the annual evaluation, the review of performance... [LR551]

JILL SCHRECK: Um-hum. [LR551]

SENATOR HOWARD: ...can lead into a work improvement plan? [LR551]

JILL SCHRECK: Typically, the work improvement plans are done in between performance evals. It's recognized somewhere along the way through watching their work performance. The performance eval is more over the year, not...the work improvement plans are kind of in between. [LR551]

SENATOR HOWARD: Well, let me ask you this in another way. [LR551]

JILL SCHRECK: Okay. [LR551]

SENATOR HOWARD: Has a work improvement plan ever been put in place for a person who is doing a good job or exceeding the job? [LR551]

JILL SCHRECK: Not that I'm aware of, no. [LR551]

SENATOR HOWARD: Well, I think that answers the question. [LR551]

SENATOR CAMPBELL: Senator Howard. Or, sorry, I'm thinking of Senator Howard's question. [LR551]

SENATOR CONRAD: That's a compliment. I will take that. That's a compliment. Jill, thanks for being here and batting cleanup. I know there's a lot of ground we've covered today. Were you with the department and in your role when this contract for evaluation of ACCESSNebraska was let last year in January or March, whatever it was? [LR551]

JILL SCHRECK: I'm sorry, the contract with ACCESSNebraska? [LR551]

SENATOR CONRAD: The contract for an outside consultant to look at ACCESSNebraska. [LR551]

JILL SCHRECK: Yes. Um-hum. Yes. [LR551]

SENATOR CONRAD: I think the consultant was called Customer Service Junkies. [LR551]

JILL SCHRECK: Yes. Yes, I was. [LR551]

SENATOR CONRAD: Okay, so you're familiar with that contract. [LR551]

JILL SCHRECK: Yes. Yes. [LR551]

SENATOR CONRAD: Okay. Can you tell me, do you remember coming to Appropriations and asking for funding to let a contract for a consultant in that regard? Because I don't remember that, and I'm trying to figure out where the department got that authorization. [LR551]

JILL SCHRECK: Well, I don't...I didn't come to testify myself, I can say that. [LR551]

SENATOR CONRAD: Sure. [LR551]

JILL SCHRECK: But the direction is we did meet with...or we did contract with this lady named Dee Kohler who...that's her business. [LR551]

SENATOR CONRAD: Um-hum. [LR551]

JILL SCHRECK: And we did contract. And I believe the question was asked, how much? It was $12,000. [LR551]

SENATOR CONRAD: Um-hum. [LR551]

JILL SCHRECK: And no, I don't remember that that was requested specifically for that contract, no. [LR551]

SENATOR CONRAD: Okay. And I read the report,... [LR551]

JILL SCHRECK: Um-hum. [LR551]

SENATOR CONRAD: ...and I think that there's some good conclusions in there. [LR551]

JILL SCHRECK: Um-hum. Yes. [LR551]

SENATOR CONRAD: I understand some of that is being implemented. But as a policymaker, I'm trying to evaluate the evaluation... [LR551]

JILL SCHRECK: Sure. [LR551]

SENATOR CONRAD: ...and to say, okay, where have these guys worked? Have they looked in other states? [LR551]

JILL SCHRECK: Um-hum. [LR551]

SENATOR CONRAD: Are there lessons we can learn there? [LR551]

JILL SCHRECK: Yes. [LR551]

SENATOR CONRAD: And I did a quick Google search and I find they don't even have a Web site, so we're contracting with an outside consultant to evaluate our Web site and call center,... [LR551]

JILL SCHRECK: Um-hum. [LR551]

SENATOR CONRAD: ...and they don't even have a Web site. Isn't that strange? [LR551]

JILL SCHRECK: Well, she did have experience. I believe it was with Blue Cross and Blue Shield that she,... [LR551]

SENATOR CONRAD: Okay. [LR551]

JILL SCHRECK: ...I think, even brought up that...their call center environment and even managed it, if I remember correctly. [LR551]

SENATOR CONRAD: Okay. [LR551]

JILL SCHRECK: I could be wrong, but I know she had experience with it in Omaha. [LR551]

SENATOR CONRAD: Okay. All right. But I think it would also be fair to say that there is a lot of differences in the private sector,... [LR551]

JILL SCHRECK: Um-hum. Um-hum. [LR551]

SENATOR CONRAD: ...what Blue Cross and Blue Shield might be doing, and the vulnerable clients that we're serving in HHS. [LR551]

JILL SCHRECK: Yes. Um-hum. [LR551]

SENATOR CONRAD: There might be some similarities. [LR551]

JILL SCHRECK: Um-hum. Sure. [LR551]

SENATOR CONRAD: But there's probably a lot of differences there, too, don't you think? [LR551]

JILL SCHRECK: Well, if I could elaborate a little bit? Through the study for moving to ACCESSNebraska, I've been with DHHS for three years. But the individuals who are involved, they did go to other states, and they also came to the Department of Labor Unemployment, which I worked and I ran the call centers for the Department of Labor Unemployment. So I, myself, am familiar with that call center environment and managing that work and serving the same clients. We have mutual clients, and so I...and I feel like that's one of the reasons I was hired is because of that experience. [LR551]

SENATOR CONRAD: Um-hum. [LR551]

JILL SCHRECK: But I do know through the work in research and building ACCESSNebraska they did go to many states to include Iowa and other private and state entities. [LR551]

SENATOR CONRAD: Okay. Thanks. [LR551]

JILL SCHRECK: Um-hum. [LR551]

SENATOR CAMPBELL: Senator Krist. [LR551]

SENATOR KRIST: Not a question, but I'm going to give you a tasking, if you don't mind. [LR551]

JILL SCHRECK: Sure. [LR551]

SENATOR KRIST: I'd like you to give us the detail on how the competitive bidding process went to contract with that outside agency, what the qualifications were in terms of awarding the contract, and the dollars and cents, and who initiated the contract and who signed the contract. [LR551]

JILL SCHRECK: Okay. Will do. [LR551]

SENATOR KRIST: Okay? Thank you. [LR551]

SENATOR CAMPBELL: Okay. Thank you, Ms. Schreck, for testifying today. [LR551]

JILL SCHRECK: Thank you, everybody. Thank you. [LR551]

SENATOR CAMPBELL: And that concludes our testifiers. Either of the senators wish to comment? [LR551]

SENATOR CONRAD: Two seconds. [LR551]

SENATOR CAMPBELL: I'm going to time you, Senator Conrad. (Laughter) [LR551]

SENATOR DUBAS: (Exhibit 19) I will be very quick because I know what it's like to sit on that side of the table. I am going to pass out to you just a kind of a clarification--it's been brought up in the media--about the fiscal note and money and etcetera, etcetera. So I'm going to...you know, the department has said that they can't implement the law because we didn't give them enough money. But hopefully this will clarify. You know, again, we worked very closely with the Legislative Fiscal Office and stakeholders in what is it you see that you need to move ACCESSNebraska forward, the number of people, where are they needed. And LB825 definitely was drafted to be...give the

department the flexibility to put the dollars where the dollars needed to go. There was no specific numbers in the Legislation saying, you need to hire 60 or 90 or whatever number of caseworkers. It was giving them that flexibility to do the evaluation and determine where the needs were and put that money there. And in talking about contracts with community-based organizations it did tell them, yes, you shall contract with these. But it didn't say the contracts have to be, you know, for this amount of money or...it wasn't specific. So these contracts could be, you know, a whole variety of forms, from just, you know, the simplest of services on up to things that would actually constitute financial resources. But again, it's giving the department that flexibility to do the work that they need to do. So I will pass these out. If you have any questions please let me know. And again, I appreciate your time and attention to this very important matter. [LR551]

SENATOR CAMPBELL: Thank you, Senator Dubas. Oh, sorry. Senator Krist. [LR551]

SENATOR KRIST: Just for the record, there was never an intent to stop the funding mechanism as we go from one fiscal year to the next. This was just an attempt to empower the department to do what they needed to do. [LR551]

SENATOR DUBAS: Absolutely. We saw what the problems were and where there was specific help as far as caseworkers. And the services at the community-based organizations, I think they're an integral part to the success of ACCESSNebraska, because they are out there, especially in the rural areas of the state where that's the only access many of the citizens have is through their Area Agency offices or senior centers or things like that. So again, it was... [LR551]

SENATOR KRIST: So my inference when we did this was that you're going to take the necessary steps you have with the amount of money that you have; and if it doesn't work, you're going to come back to us and we're going to renegotiate high or low or wherever it would be. As we all know, it's sometimes impossible to spend $6 million in

one year, therefore there's a carryover. So was that your inference as well? [LR551]

SENATOR DUBAS: Right. And as you get more into it, you certainly understand better where the dollars need to be spent and where the staff needs to be put. So, I mean, it would be impossible for the department really to fully understand where those needs are until the program is being implemented. And then just one quick, in no way is anything that I've said or the work that I do on ACCESS a negative reflection on the staff and the people that work in these call centers. Again, they're the ones that are taking the brunt of this, and I know they're trying to do the best that they can. And I hope...I'm encouraged to hear the department say that they're doing the things they need to do to support these workers, because if they aren't successful, nobody is. So I appreciate all of their hard work and diligence. So thank you. [LR551]

SENATOR CAMPBELL: Thank you, Senator Dubas. [LR551]

SENATOR CONRAD: Thank you, Chairman Campbell, members of the committee for your time and careful attention again on this topic. The facts speak for themselves. The citizens have spoken for themselves. The loss of federal funds speaks for itself. We can't let up. We have more work to do. We need all hands on deck for solutions that we're going to take up again next year. That includes renewal of the oversight language as part of the budget process, which is critical to understanding the related data on this topic. It means full implementation of LB825, whether that includes a resource component or not. It includes looking at other things, like streamline, that Senator Cook and others have brought forward in the past. We're happy to work with the department. We're happy to work with the private partners. We're happy to work with any citizen that comes to the table with ideas. But I think we can all agree that, while we've made progress, we have a long ways to go until we hit satisfaction for where we want to be as a government in terms of being responsive to our citizens. [LR551]

SENATOR CAMPBELL: (See also Exhibit 20.) Thank you, Senator Conrad. I would just

like to say that we will, as a committee, continue to pursue the issue and particularly pay attention to ACCESSNebraska should it become part of the Affordable Health Care enactment. That is a huge question that, in some respects, has really not been fully addressed, so we will be following up on that. With that, we will close the public hearing on LR551. And to my colleagues, you are due back here in exactly one hour. [LR551]

BREAK

SENATOR CAMPBELL: I think we'll go ahead. We are expecting Senator Howard to join us this afternoon. Senator Krist will not be here. He has been called in a court case, so the courts sort of trump a public hearing for us. So he's in Omaha with that. This afternoon we are going to have two interim study hearings. Before we do that we'll do some introductions and go over some basic fundamental procedures. I'm Kathy Campbell, and I serve as the Chair of the Health and Human Services Committee. And I am from District 25, which is east Lincoln and Lancaster County. Senator Gloor, would you like to? [LR532]

SENATOR GLOOR: Senator Mike Gloor, District 35, which is Grand Island. [LR532]

MICHELLE CHAFFEE: I'm Michelle Chaffee. I'm legal counsel to the committee. [LR532]

DIANE JOHNSON: And I'm Diane Johnson, the committee clerk. [LR532]

SENATOR CAMPBELL: And Deven is with us today as the clerk (sic--page). And Deven is from Nevada, Iowa, so we are pleased to have him with the...as the clerk (sic--page) today. If you brought with you a cell phone, I would remind you to either turn it off or put it on silent. It's very disconcerting to hear that ringing in your ear if you're the one testifying. If you are testifying today we ask you to complete one of the bright orange sheets. They're available on either side of the room. And fill it out, print your

name, and when you come forward you can just hand it to the clerk. If you are not testifying you don't have to complete anything today. If you are bringing with you handouts, we would like 15 of them. If you need some additional copies Deven can help you as the page over there. We do use the light system in the Health and Human Services Committee, and primarily so that everybody gets a fair time and not one person an hour and another person five minutes. So the lights will come on, and a green light says, you know, we're ready to go and I'm sure you're ready to go. And when it gets to...when you only have one minute left it will go to yellow. And then when the five minutes is up it goes to red. And you'll also look up, and I may be looking anxious and signaling for you to finish out. We don't have many testifiers, as many this afternoon, so we'll have a little leeway there. But we still will use the lights to give people a gauge where they are. Senator Howard has joined us from District... [LR532]

SENATOR HOWARD: Nine. [LR532]

SENATOR CAMPBELL: ...9, from District 9. [LR532]

SENATOR HOWARD: District 9 in Omaha. [LR532]

SENATOR CAMPBELL: Thank you, Senator Howard. [LR532]

SENATOR HOWARD: Thank you. [LR532]

SENATOR CAMPBELL: You'd think, as many times as I've heard her say that, I could remember her district. [LR532]

SENATOR HOWARD: You're pretty good at keeping track of all of those. [LR532]

SENATOR CAMPBELL: Yeah, well, sometimes. We'll open the hearings this afternoon with LR532, Senator Schumacher's interim study to assess mechanisms in place for

school districts to detect any cause and correlation of unusual health patterns among staff and students arising during construction, renovation, or other school projects in public school buildings. And, Senator, if you'd like to come forward, and if you'd like to give any opening remarks. Welcome. [LR532]

SENATOR SCHUMACHER: Thank you, Senator. [LR532]

SENATOR CAMPBELL: And we do need you to state your name and spell it for us. [LR532]

SENATOR SCHUMACHER: My name is Paul Schumacher, S-c-h-u-m-a-c-h-e-r. I'm the senator representing District 22 in the Legislature. Thank you, Senator Campbell and members of the committee, for your time today. This interim study arises out of me being contacted by a number of constituents describing a similar situation that occurred in the Columbus school system a few years ago, in which it was a construction project and there were various respiratory ailments affecting several of the students. That led to a question of whether or not, when something like that happens, how do we report that? How do we know whether that's a one-time incident that occurred in a one-time project or whether or not it is a common problem that occurs during construction projects or perhaps other projects? So kind of what is the cause and the correlation of any unusual health issues. Today Carl Munford will primarily testify. He had a daughter that he believes eventually passed away as a consequence of the construction work. And he's done a lot of investigation into the air quality and what might have caused that. And I know that he's anxious to share his observations with the committee in hopes of perhaps developing some public policy down the road that would address such issues. So thank you. [LR532]

SENATOR CAMPBELL: Thank you, Senator Schumacher. Feel free to join us here. We have a list of testifiers, and so we will open with Mr. Carl Munford. Mr. Munford, you can just give your orange sheet to the clerk and have a chair. And, as you could figure out,

we ask everyone to state their name for the record and spell it. And you'd say, well, she has the sheet, why can't she know? It's so the transcribers, as they listen to the tape, know very clearly who you are. So with that, would you open with your name. [LR532]

CARL MUNFORD: Thank you. My name is Carl Munford, last name is spelled M-u-n-f-o-r-d, first name is with a C. [LR532]

SENATOR CAMPBELL: Mr. Munford, you go right ahead. I think you've provided a packet for us. [LR532]

CARL MUNFORD: Yes, I have. [LR532]

SENATOR CAMPBELL: Okay. [LR532]

CARL MUNFORD: (Exhibit 21) The first item I'd like to call your attention to...and, by the way, thank you all very much for taking the time to hear me out and my witnesses. It's a beautiful day out there, and I'm sure everyone would much rather be doing other things. But I would like to call your attention to, on the left side of the folder as you're looking at it, the young lady in that picture, and that's something I feel everyone should remember. That is the young lady who, in my opinion, lost her life due to the pollutants in the air at Columbus Community High School when they were renovating that school. And my opinion is based on scientific knowledge of the issue, air samples taken from the school while it was being renovated, my own personal experience being exposed to chemicals and/or contaminants that would be considered life threatening. And on the right side I have provided a list of basically bullet-style types of evidence, if you will. And it just...these hit on...they don't go very far into depth. If they did, we could be here all day, and I don't think we want to do that. However, on the first...my first issue...the first piece of evidence I want to speak of is the MSDS sheets which, if you're not familiar, those are material safety data sheets. And, by federal law, they are required to accompany everything that we own, every chemical, cleaning supplies, wax. Even whiteout that you

use to correct a mistake has an MSDS. And it identifies any hazardous material. And the reason I picked these two particular items were that they were both used. The crystalline silica and the polyurethane style of paints and sealants were both used in the renovation of Columbus High School. And the very first warning message is: Reports have associated repeated and prolonged occupational overexposure to solvents with permanent brain and nervous system damage. And it goes on to speak of what particular subsystems or subcategory of your body is affected, i.e., central nervous system, respiratory system, lung, eye, skin, liver. This is bad. This is not real good stuff to be exposed to. And if you look at the whole sheet it tells you what you should be wearing when working with these types of materials. Unfortunately, the students, while this was all being done at Columbus Community High School, I never saw a student once--and believe me, I visited there many times--that was ever asked or forced to wear a respirator. They were always exposed. If you look at the points of contact or the...I'm sorry. If you look at the EPA sheets that I have right under...behind those...wow. The EPA speaks briefly about the additional sensitivity of children. And a definition of a child is: children, young adults, people who have not reached the age of, I want to say, 25. I think it is 25 is what they consider still a child, and the reason being is your organs have not developed completely. You are more susceptible to the type of damage that this is talking about. If you have a threshold of, say, -0.2 parts per million of silica as an adult, you can split that in half for a child. So if you have near threshold for an adult, you're over the threshold for a child. In other words, you're above the lethal amount that the child can be exposed to. When I was in the Marine Corps part of my collateral duties were dealing with hazardous materials, and I was very well schooled in what to look for, what could hurt you, what couldn't. And every time my daughter came home from Columbus Community High School I could tell she'd been exposed to something, and exposed to something that was not good. And this went on for months, and she continuously got worse. I have notes from the doctors that basically talks about her asthma, some of her other ailments, and it speaks that she should not be around any of this. I warned the school numerous times, and they said they have no law that protects children against the bad air in the schools. Rule 10, which is one of the Nebraska

codes, does not even begin to cover that. They do not talk about air in our schools whatsoever. Now we'll protect people, adults, up until their eighties in our bars--they can't smoke in there any more. But, by God, our kids can be exposed to anything, and that's too bad. And I'm not going to read this whole time line. I don't want to run into anyone else's time constraints. But I do have a time line that talked about Jennifer's worsening condition as the school year went on, and that's probably about the, oh, I'd say probably about the fifth or sixth letter back. And it starts with, "Events Time Line, Illnesses Caused by Construction, Case of Jennifer Munford, Student at Columbus High School." And I'll give everyone a few minutes to find that. And it talks about how things got progressively worse from day to day. [LR532]

SENATOR CAMPBELL: Do you want to finish out telling us what's in the packet, Mr. Munford? [LR532]

CARL MUNFORD: Certainly. I will. I realize it's turning red. [LR532]

SENATOR CAMPBELL: We're just following you along. [LR532]

CARL MUNFORD: Right, and I don't...okay. Now inside the packet also, there's also an IEA report in there, which is the report that...it was an independent agency the school hired to check the air quality and how things were being done in that school. And that was a company that was supposed to keep the school out of trouble, basically to say they're doing everything they were supposed to be; and they failed. They were told in this report that there was things they were not doing like they were supposed to be doing. They weren't using ventilation machines to create a negative atmosphere in the school. And what that does is if you're working in a room and you get a negative atmosphere, all the air will go into that room instead of everything in that room coming out among the general population of the students, and that's what that's there for. And IEA said that they should be doing that and they weren't. IEA found migration of silicone dust in the school. And it doesn't matter how much or how little, it's still dangerous. It's a

Group 1 carcinogen, just like asbestos. Okay, you have the OSHA report, which tells how much...the eight-hour threshold they found in that school. And this was after a week warning. These people knew that OSHA was coming for a week, and they still were at almost near the threshold, and that's for adults. So if they were near the threshold for adults at 0.7 and the threshold is 0.88, then they were over it for kids. Okay. You've got the air sampling from OSHA after that; you have the newspaper coverage of the lawsuits. We filed suit not to get rich but to get the contractors from stopping what they're doing, because my daughter wasn't the only one. There is statement in here from a young man. His name is George McCarthy. He acquired Kawasaki's disease. And that is a disease that you acquire from leftover building material, rat droppings, anything you would find when you're tearing a building apart. And his building was the only building that was...or the high school was the only building that he's been in that they were working on. And he got very sick. They were within that window to where they had two days where they almost lost him, because once you get to a certain point on that disease, there's no turning back. I've got statements from her band, and they're regretting that she can't go to their band ceremony. She'd been waiting for that for four years, and she's too ill to go. And statements, of course; statements and doctors' notes, statements from various students. George is one of them. Nebraska clean air regulations, that's one of the pieces of paperwork I have back here. It has to do with rule...it also deals with Rule 10, and it's basically nonexistent. And I'm trying to find that here for you. [LR532]

SENATOR CAMPBELL: Thank you, Mr. Munford. I think you've covered just about everything on your... [LR532]

CARL MUNFORD: I think I just about have. There's so much more I want to say. [LR532]

SENATOR CAMPBELL: ...on your list, right. [LR532]

CARL MUNFORD: It's just that I know I'm on a time constraint. [LR532]

SENATOR CAMPBELL: Mr. Munford, I appreciate you bringing all this information together, and we will certainly take a look at the hazards. She graduated in 2005, is that what...am I reading your time line correctly? [LR532]

CARL MUNFORD: She graduated in 2005. [LR532]

SENATOR CAMPBELL: Okay. But she had a severe asthma condition? [LR532]

CARL MUNFORD: She did have an asthma condition, that's correct. It was controlled. [LR532]

SENATOR CAMPBELL: Oh, okay. [LR532]

CARL MUNFORD: In other words, it wasn't something that she'd had a problem with until she was exposed to danger...something dangerous, something that caused a flareup. [LR532]

SENATOR CAMPBELL: Okay. Okay. So she had had it prior to, but it was a controlled condition at that point. [LR532]

CARL MUNFORD: Yes, it was controlled. And please bear in mind that George McCarthy was a healthy individual, had no problems whatsoever. [LR532]

SENATOR CAMPBELL: Okay. Questions from the senators for Mr. Munford? Any questions? I'm sure that if we come upon questions, Mr. Munford, as we go through all your material, we can certainly find you through the senator to provide more information to us. But thank you. A very thorough packet and very thorough information that you've given. Thank you. [LR532]

CARL MUNFORD: And thank you very much. [LR532]

SENATOR CAMPBELL: Uh-huh. We will go to the next testifier on our list, and that is Linda Munford. Okay. Good afternoon. [LR532]

LINDA MUNFORD: Hi. [LR532]

SENATOR CAMPBELL: And we'll have you identify yourself for the record and spell your name. [LR532]

LINDA MUNFORD: Okay. My name is Linda Munford, and the spelling is M-u-n-f-o-r-d. And I just want to tell you that Jenny graduated in 2005. And since she went to school, and with all the construction, she was very sick. She was out of school for a couple of months with a tutor. And Easter Sunday she came home, and that was her first seizure she had. She's never had any before. And then after that they just kept getting worse and worse. Her asthma attacks were worse. They were under control for the longest time, and five years she's had them seizures before she died. It was just terrible. She was just a sick person. [LR532]

SENATOR CAMPBELL: So after she left high school, her condition worsened... [LR532]

LINDA MUNFORD: Yes. [LR532]

SENATOR CAMPBELL: ...to a point where she did not attend additional school or work? [LR532]

LINDA MUNFORD: Yeah. She did attend school. [LR532]

SENATOR CAMPBELL: Oh, okay. [LR532]

LINDA MUNFORD: She went to college and everything. [LR532]

SENATOR CAMPBELL: And did she graduate from college in those five years, Ms. Munford? [LR532]

LINDA MUNFORD: Yeah. She got a diploma after she died. [LR532]

SENATOR CAMPBELL: Oh, okay. Thank you. Any questions from the senators? We have such good information in the packet your husband gave us that we probably don't have a lot of questions. [LR532]

LINDA MUNFORD: Okay. [LR532]

SENATOR CAMPBELL: But we appreciate your testimony. [LR532]

LINDA MUNFORD: Okay. Thank you. [LR532]

SENATOR CAMPBELL: Thank you very much. [LR532]

LINDA MUNFORD: Um-hum. [LR532]

SENATOR CAMPBELL: Our next testifier is Jillian Marie Valentine. And Jillian has a helper today. (Laugh) Would you go ahead and identify yourself and spell your name, please. [LR532]

JILL VALENTINE: My name is Jillian Valentine, V-a-l-e-n-t-i-n-e. I don't have much to say except for it would be really great if we had something in place, especially for the future of our children, so. [LR532]

SENATOR CAMPBELL: Exactly. [LR532]

JILL VALENTINE: I mean, because Jennifer was my sister and... [LR532]

SENATOR CAMPBELL: Oh, okay. That would have been my question. [LR532]

JILL VALENTINE: Yeah. Yeah. [LR532]

SENATOR CAMPBELL: So were you at the high school at the same time, Jillian? [LR532]

JILL VALENTINE: Not when the construction was going on, no. I had graduated in 2002. [LR532]

SENATOR CAMPBELL: Okay. [LR532]

JILL VALENTINE: So...and I know the school... [LR532]

SENATOR CAMPBELL: And your sister, up until that point, there had been no other construction in any of the schools that she'd gone to? [LR532]

JILL VALENTINE: No. Everything was not being just torn up. [LR532]

SENATOR CAMPBELL: Yeah, torn up. Exactly. [LR532]

JILL VALENTINE: She was fine. She was healthy. And then, you know, she got her, you know...found out she had asthma. [LR532]

SENATOR CAMPBELL: Okay. [LR532]

JILL VALENTINE: And she was...I mean, it didn't knock her down. And she...that wasn't what did it. I mean, it was the construction and the remodeling and... [LR532]

SENATOR CAMPBELL: Right. And I should have asked your parents this, but didn't...there's not been anyone else in the family affected by any asthma or breathing problems? [LR532]

JILL VALENTINE: No. She's the only one that had been affected with that. [LR532]

SENATOR CAMPBELL: Okay. Okay. And who is your helper today? [LR532]

JILL VALENTINE: This is Jenna (phonetic). [LR532]

SENATOR CAMPBELL: Jenna. And how old is Jenna? [LR532]

JILL VALENTINE: Nine months. [LR532]

SENATOR CAMPBELL: Darling. [LR532]

JILL VALENTINE: Thank you. [LR532]

SENATOR CAMPBELL: We like helpers. (Laughter) [LR532]

JILL VALENTINE: She's a good one. [LR532]

SENATOR CAMPBELL: Thanks for bringing her today. [LR532]

JILL VALENTINE: Thank you. [LR532]

SENATOR CAMPBELL: Uh-huh. And our next testifier is Jessica Ann Munford. Good

afternoon. [LR532]

JESSICA MUNFORD: Good afternoon. Hello. My name is Jessica Munford, M-u-n-f-o-r-d. Jenny was my sister, and I thought I would just tell the story of her first seizure. [LR532]

SENATOR CAMPBELL: Sure. [LR532]

JESSICA MUNFORD: It was Easter Sunday, and we were home--well, I was home. I graduated from Columbus High in 2000, and there wasn't any construction when I was there either. But Easter Sunday she was telling her boyfriend goodbye before he left to go to work, and I was in the kitchen washing a few dishes. And I could hear my mom call out her name, and then my mom called out for me to call 911. So I grabbed the phone and went in there and called 911, and she was on the floor convulsing. And that lasted for about a couple minutes, and then she was just still. But that was just...that was tough. You know, she had never done anything like that. Besides the asthma, she was perfectly healthy. And then she had many seizures after that. She couldn't drive after she had them, so it limited what she could do. [LR532]

SENATOR CAMPBELL: Did she take medication for the seizures? [LR532]

JESSICA MUNFORD: Yeah. She was on medication for...I think she had a little bit of medication for it, to kind of keep them in check. [LR532]

SENATOR CAMPBELL: Okay. Okay. [LR532]

JESSICA MUNFORD: But even with that they still came on. [LR532]

SENATOR CAMPBELL: And how frequent were they, Jessica? [LR532]

JESSICA MUNFORD: That would depend. I think after the first one...I mean, she could go...because I remember she wasn't able to drive for three months, and she wouldn't have one within that period. But then maybe a couple weeks after that she would have one. Maybe a month or two after that she might have another one, because I know she couldn't drive two or three different times due to having them. [LR532]

SENATOR CAMPBELL: Were you in the high school at the same time she was? [LR532]

JESSICA MUNFORD: No. I graduated in 2000. [LR532]

SENATOR CAMPBELL: Oh, okay. So you had already graduated,... [LR532]

JESSICA MUNFORD: Right. [LR532]

SENATOR CAMPBELL: ...in addition to your sister, who also had already graduated. [LR532]

JESSICA MUNFORD: Right. [LR532]

SENATOR CAMPBELL: Okay. Any questions from the senators? Thank you for coming. [LR532]

JESSICA MUNFORD: Thank you. [LR532]

SENATOR CAMPBELL: I was given a note that there is an additional person who wishes to testify, but I don't have that person's name; so just come forward, please. [LR532]

STACY LEU: Hello, and thank you for your time. My name is Stacy Leu, S-t-a-c-y L-e-u.

I'm a friend of the Munfords and have been for several years. Jenny was truly a strong person up until the construction. And she had a lot of problems. She was very strong. I just think, as being a mother of six and a grandmother of four, that this has to be something taken care of so we do not have to deal with this in the future of other children to, you know, have the proper things that are in line for our children to be educated and not have to worry about their safety and being able to breathe in our schools. You know, they are our future. And if we could fix this problem from happening again and having the families go through such turmoil and sadness because of these actions not being properly taken care of, that would be great. I would not want to see this go upon another family. I would not, you know...something has to be put in to make it better, not just for our children but for the educators that teach our children. There's a lot of children that don't come from clean homes or, you know, and...but they're going to education. They're there to learn. They should be able to feel safe and be able to be healthy while they're learning, and I think that's a big thing. And if you can't feel safe and be healthy while you're learning, you cannot progress. And if you can't progress, then you're not learning to be a better person in society to help yourself. And I think that's something very important. And Jenny was smart. She had a very big future to her, you know. She loved everybody and anything, you know. But when she got sick that's when it turned, and it shouldn't have even gotten to this point to where it made that effort to where she couldn't do things on her daily life. As for the family, they're a very good, strong-willing family. They have good, you know, priorities and things in their life, and they've always tried to do the right thing. But my hope is, is that I don't want to have to see anybody else, along with my grandchildren, have to go through this again, you know. She had asthma, yeah, but it wasn't affected as bad, and she didn't have the other problems until the problem in the school became aware. And that's something that we really need to consider; that's something important. [LR532]

SENATOR CAMPBELL: Okay. Any questions from the senators? Thank you for coming today and your testimony. [LR532]

STACY LEU: Thank you. [LR532]

SENATOR CAMPBELL: Is there anyone else in the hearing room who wishes to testify on--I have to always check the number--LR532? Okay. Senator, did you want to make any closing comments or...? [LR532]

SENATOR SCHUMACHER: I'll waive closing. [LR532]

SENATOR CAMPBELL: Okay. With that, we'll close the public hearing. And I would like to thank the Munford family for coming forward and sharing the story of your daughter. It's always difficult to share our personal stories, so we very much appreciate you coming today. Senator, you're welcome to stay with us for the next hearing or go back to your office. [LR532]

SENATOR SCHUMACHER: I might stay for the next one, if that's fine.

SENATOR CAMPBELL: All right. That's fine. Do we have everyone here? I don't see Lisa.

_____: Lisa is right there.

SENATOR CAMPBELL: Oh, there. Lisa is...there she is. We'll go ahead and open the public hearing on LR465, which is Senator Smith's interim study to examine the impact of the pulse oximetry procedure in testing for critical congenital heart disease in newborns. Thank you. For those who have joined us I'll just go over, real briefly, some of the procedures. If you have a cell phone, please put it on silent or turn it off, because it's very disconcerting to hear that. If you're planning to testify for this hearing we need you to complete one of the bright orange sheets on either side of the hearing room. And as you come forward you can give that sheet to the clerk. If you are not testifying you don't need to complete anything. We do use the light system here so that we give

people some gauge of where they are. So you start out at five minutes at green; when it goes to yellow you have one minute; and when it goes to red you should be wrapping up your testimony. And since we don't have as many people we'll give you a little leeway on the time. But it's meant to make sure that everybody has an equal amount of time. I'm going to go ahead. And Senator Schumacher is staying with us as a visitor to the Health Committee this afternoon. We're glad he's here. Senator Mike Gloor from Columbus (sic--Grand Island); I'm Kathy Campbell, District 25 in Lincoln; Michelle Chaffee, our legal counsel; Diane Johnson, the clerk, probably the most important person in the room, who keeps track of everything; and Deven Markley, who is here from Nevada, Iowa, is our page this afternoon. So I think I've covered all the bases. If you need any assistance with anything, Deven is more than happy to help you. And I know that Senator Smith cannot be here today, and so his legislative aide is going to open. So we'll let you state your name for the record and spell it, please. [LR465]

LISA JOHNS: (Exhibits 22-26) Okay. Good afternoon, Senator Campbell and members of the Health and Human Services Committee and Senator Schumacher. My name is Lisa Johns, J-o-h-n-s. I am the legislative aide for Senator Jim Smith, who represents the 14th Legislative District in Sarpy County. Senator Smith is very sorry he could not be here in person today to introduce LR465, but he does want the committee members to know that he is very committed to this issue and will remain so as we move forward, hopefully. I know time is limited, so I'm going to be very brief. We have a lot of...well, not a lot; but we have some individuals here who are very knowledgeable about this issue and would like to speak on it. Some individuals I said they couldn't speak because of our time limits. If we go under the hour, if they are here, may they come up and say a few words? [LR465]

SENATOR CAMPBELL: Sure. [LR465]

LISA JOHNS: Okay. LR465 calls for the study of the impact of the pulse oximetry procedure in testing newborns for critical congenital heart disease, or CCHD. This issue

came before some of you already in 2010 with the introduction of LB1067, which was a bill that mandated pulse oximetry testing for all newborns. The bill obviously did not advance, but since that time a lot has changed. I have given you at least three handouts, and then plus two others. The first one shows a map that at least six states have now adopted or are in the process of adopting requirements for CCHD screening. The American Heart Association anticipates that in the next year there is a potential of 30 or more states who may be taking similar action with adoption for CCHD screening and that it's anticipated this trend will continue. There is also in that packet a letter from the United States Secretary of Health, Kathleen Sebelius, recommending such screening for newborns, and an endorsement for that recommendation from the American Academy of Pediatrics. I've also included a letter from the American Heart Association and the March of Dimes, also advocating for such screening. In June, Senator Smith organized a meeting on LR465 and brought together a group of people that included medical professionals, hospitals, representatives of the insurance industry, and advocacy groups such as the Heart Association and March of Dimes. We know this is an interim study and feel it's important that the committee consider and hear from all groups and aspects with respect to this issue, and are hopeful that the information that is provided to you by the testimony will be comprehensive. On the testifier list I did include a representative from Blue Cross and Blue Shield. They are not able to make it, but I do know the committee has received a letter regarding their position. And also on your list, I believe Nick Faustman will be testifying on behalf of the Nebraska Hospital Association instead of Bruce Rieker. And that is all I have and would ask you to consider any questions for the following testifiers as they are more knowledgeable of the subject. [LR465]

SENATOR CAMPBELL: Sure. Absolutely. And if we have any questions at the end, why, we can certainly have you come forward. [LR465]

LISA JOHNS: Okay. Great. [LR465]

SENATOR CAMPBELL: And you're welcome to sit and listen with the committee, if you'd like. [LR465]

LISA JOHNS: I will sit over there with my notes. Thank you. [LR465]

SENATOR CAMPBELL: All right. We will open the testimony from others. And the list I've been given: Dr. Robert Spicer. Dr. Spicer is chief of Cardiology, joint division of Pediatric Cardiology at the University of Nebraska Med Center, Creighton University Med Center, and Children's. Did I get all of that correct, Dr. Spicer? [LR465]

ROBERT SPICER: You did, but you also stole my first paragraph of testimony, so. (Laughter) [LR465]

SENATOR CAMPBELL: Oh, well, we're just saving time here,... [LR465]

ROBERT L. SPICER: I'll try to skip over that. [LR465]

SENATOR CAMPBELL: ...just moving along. Well, thank you so much for being here today. [LR465]

ROBERT L. SPICER: My pleasure. [LR465]

SENATOR CAMPBELL: You go right ahead. [LR465]

ROBERT L. SPICER: First time in the Legislature. Thanks. [LR465]

SENATOR CAMPBELL: You have to state your name and spell it for the record, please. [LR465]

ROBERT L. SPICER: (Exhibit 27) My name is Dr. Robert L. Spicer, R-o-b-e-r-t

S-p-i-c-e-r, and I thank you again, Senator Campbell and members of the committee, for the opportunity to speak with you this afternoon. I am the chief of Cardiology for the joint division of Pediatric Cardiology at the University of Nebraska Medical Center, Creighton University Medical Center, and Children's Hospital and Medical Center. I will also be serving as the Nebraska American Heart Association board president for the year 2013 and 2014. Before coming to Omaha in the spring of 2012, I was the director of the cardiology fellowship program and the cardiac transplant program at Cincinnati Children's Hospital and Medical Center. My educational background, training, work, and interest are focused on the treatment and detection of congenital and acquired heart disease in children. My purpose in speaking this afternoon is to provide you with information on congenital heart defects, which I will refer to as CHD in this testimony, and pulse oximetry testing in newborns, the purpose of this test, and what it can and cannot do. In addition, I'll be happy to answer questions about the referral process for children suspected of having congenital heart disease. It may come as a surprise that CHD is the most common birth defect in newborns. Infants with CHD have an abnormal structure to their heart which creates abnormal blood flow patterns. Approximately eight of every 1,000 infants born in the United States each year have a form of congenital heart disease, some of which cause no or very few problems. But critical CHD can result in significant morbidity and mortality if not diagnosed soon after birth. Failing to detect severe CHD in the newborn period may lead to critical events such as cardiogenic shock or even death. Newborns diagnosed late are at greater risk for neurologic injury and subsequent developmental delay. Pulse oximetry does nothing in terms of correcting the structural defect of the heart. The purpose of pulse oximetry testing on newborns is to detect babies with certain types of defects, initiate intervention, and possibly prevent poor outcomes. Oximetry testing supplements the newborn physical examination. Pulse oximetry is simple. It's a noninvasive and painless test that measures the percentage of arterial hemoglobin oxygen saturation. It can also assess heart rate. It was discovered in the 1970s and is now widely used in operating rooms, intensive care units, delivery suites, emergency rooms, and outpatient units. I would venture to say that every hospital in Nebraska has a pulse oximeter. For our

purposes we are focusing on screening newborns. Obtaining a good pulse oximetry reading on a newborn is not difficult but does require skill and careful adherence to protocol. I have an example of the pulse oximetry unit here that if you would like to look it over, you can. If you've ever had a surgical procedure done on yourself, you might recognize this pulse oximetry unit. For adults it's the small, clothespin-like item that was clipped to your finger. On newborns, a small, sticky strip like a Band-Aid is placed on the fleshy part of either the foot or the hand. The probe has a small, red light. The probe is attached to a wire, which is attached to a special monitor that shows the pulse rate and the oximetry reading. The test takes a few minutes to perform. The probe does not puncture the skin, and the measurement can usually be read in 30-60 seconds. If a low pulse oximetry reading is identified, certain steps should be followed to validate the accuracy of the reading. Pulse oximetry testing in newborns is becoming the standard of care and has been endorsed by the U.S. Department of Health and Human Services and, as you heard previously, the American Academy of Pediatrics, the American College of Cardiology, and the American Heart Association as a screening test for critical congenital heart disease. While pulse oximetry is easy to perform, poor positioning of the probe, an improperly sized probe, a wiggly child, or one who is cold can all distort the readings. The success of reliable screenings is significantly improved by strict adherence to protocol. CHD cannot be ruled out by pulse oximetry alone. If a baby fails the screening process, it is recommended that the test be repeated at one-hour intervals. If the child fails a third screening test, a full clinical assessment, including echocardiography, should be undertaken. In our state, because pediatric echocardiography is highly specialized and available in relatively few cities, such as Lincoln and Omaha, this poses a special problem for rural communities. In planning for any large-scale pulse oximetry screening project, the availability of neonatal echocardiography is critical. In summary, pulse oximetry is a reliable, cost-effective way of screening for certain life-threatening forms of CHD, and it has the ability to detect babies with critical congenital heart disease who might otherwise be missed and could be harmed by the missed diagnosis. This test cannot detect all forms of congenital heart disease. False positives and negatives do occur. Although pulse oximetry testing is not

particularly costly, the greater costs can be incurred in follow-up testing, specifically by the echocardiogram, and by any costs associated with the transport of the neonate. There is little doubt that the advantage of this test far outweighs the disadvantages. We at Children's Hospital and Medical Center recognize the importance of reliable newborn screening for all babies in Nebraska and are willing to work with any parties to facilitate establishment of a coordinated screening and referral system. And I thank you for the opportunity to speak with you, and I'll be happy to answer any questions. [LR465]

SENATOR CAMPBELL: Questions? Senator Gloor. [LR465]

SENATOR GLOOR: Thank you, Senator Campbell. Thank you, Dr. Spicer, for taking time out of your busy day. False positives and negatives can occur. So in the grand scheme of all the diagnostic tests that we perform on adults and children, would you say that false positives are more likely to happen with pulse oximetry tests on infants? I mean, I'm trying to get a sense of are we going to be subjecting a large number of otherwise healthy babies to continued exams and their parents to continued expense because it's more likely to get false positives with oximetry? Is it in the hands of the operator? Is it...I'm trying to get my hands around a requirement that we do something and whether it's reasonable, given the nature of the act itself. [LR465]

ROBERT L. SPICER: As pulse oximetry has been around for quite a while, the utility of it, the reliability of it, the accuracy of it are not really in question. So a false positive would likely be the result of the things that I mentioned: operator error; placing it incorrectly; the baby just wasn't cooperative for it. And I think by strictly adhering to the protocol of requiring repeat measurements that do in fact confirm the abnormality, the likelihood of a false positive is quite low. False negatives is a different story because there are certain kinds of congenital heart disease that this does not pick up, this does not detect. What we're looking for is a less than normal oxygen level in the blood, and there are quite a number of heart defects that are not going to present with low oxygen. They tend not to be the critical forms, however. And that's the key to this screening is

that we are trying to detect a relatively small number of a relatively small number, those heart defects that are critical. [LR465]

SENATOR GLOOR: When this bill first came up several years ago, I talked to some pediatric nurses I knew, specifically, nursery nurses. And their comment was interesting, which is, we know when we're dealing with an infant that is struggling to get enough oxygen; we can see it in them. And then there was basically a "but," the lengths of stay for infants in nurseries has gotten so short that the opportunity to observe that child for two or three days is gone now and it's a matter of observing them perhaps for hours, and admitted that the short period of stay for your otherwise healthy newborn is such that it's a whole different ball game now. On the other hand, if the child is struggling in some ways and because of that has to be in for, you know, a couple of days or so, their comment was, we'll usually know that this child isn't oxygenating the way they ought to. Any comment about that reference? [LR465]

ROBERT L. SPICER: I think that those are not the ones that we're trying to detect. I agree with that completely, that the newborn physical exam, whether by a doctor or a nurse or even a parent, they can say, you know, he's not...she's blue, or he turned blue; and the nurse will identify it and call the doctor. It's not the patients who are profoundly blue, because they are the ones who we will be able to detect. These are subtle abnormalities. And one of the characteristics of the technique is that there should be no discrepancy of significance between the arm and the leg. And the reason that is, is rather complex; but it relates to the way the circulation for some of these critical kinds of heart disease where the body's blood supply is dependent on a structure that's present in utero but goes away usually a day, two, or three days of age. They aren't sick yet; they aren't struggling to breathe. They are the kind of baby who you look in the bassinet and say, looks perfect. But they might have an oxygen level of 95 in their arm and 85 in their leg which hasn't impacted the baby. You might not notice it unless you unwrapped it and looked at the legs. [LR465]

SENATOR GLOOR: So the oximetry is done not just on one appendage but on several appendage (inaudible). [LR465]

ROBERT L. SPICER: That's correct. It's done on the right arm and either leg. [LR465]

SENATOR GLOOR: Is oximetry a better measure than just doing an echocardiogram or just a traditional EKG? [LR465]

ROBERT L. SPICER: The EKG is very insensitive and nonspecific. The echocardiogram would be extremely specific and would probably be a good way to detect congenital heart disease, but it is not a good screening tool because of its expense. [LR465]

SENATOR GLOOR: Okay. Thank you. [LR465]

SENATOR CAMPBELL: Any other questions? Senator Schumacher. [LR465]

SENATOR SCHUMACHER: Thank you, Senator Campbell. Thank you, Doctor, for testifying today. What is it that you're asking the Legislature to do? It sounds like this would be a commonsense thing, a standard of care. The instrument doesn't look like it's terribly expensive. What's stopping it from just being done? Isn't that a medical decision? [LR465]

ROBERT L. SPICER: I think that, like many screening tests, requiring all hospitals to perform this for the good of the children is something that, by having it legislated, it makes sense to all of us. Having all hospitals get on board and having the state be able to support the potential added costs of this is, I think, what we are hoping to achieve with this, to make sure that everybody realizes how important it is and that there will be ways for the state to support the potential incurred costs with the implementation of this kind of testing. [LR465]

SENATOR SCHUMACHER: I mean, in looking at the little box there, it doesn't look like...I assume the box itself, the big thing that looks like an old-fashioned transistor radio (laugh), is usable over and over again, and I suspect the little Band-Aid thing is not. Is this a terribly expensive test? [LR465]

ROBERT L. SPICER: No. [LR465]

SENATOR SCHUMACHER: Hmm. [LR465]

ROBERT L. SPICER: No, it's not. And, as I say, they are present in every hospital, probably, in the state right now. As far as who gets the testing done, that's the distinction there. And there will be perfectly functional nurseries that have pulse oximetry in place but don't screen the normal newborns. They'll screen the premature babies or the babies who are having respiratory distress, and they'll have a pulse oximeter in there. It's the taking of the time, the taking of a normal baby and doing this screening test, just like the drops of blood that we take from their heels to screen for thyroid disorders or sickle cell disease or some of the other things that we screen. [LR465]

SENATOR SCHUMACHER: But if it's easy and it's cheap and it could save a very expensive thing down the road for this child, you know, there are these creatures out there called lawyers that say, look it, you should have done something easy and cheap, so why didn't you do it, and isn't that enough of an incentive? [LR465]

ROBERT L. SPICER: I think it is an incentive for many hospitals in this state that have already implemented screening and is part of the standard of care, but not everyone. [LR465]

SENATOR SCHUMACHER: Thank you, Doctor. [LR465]

SENATOR CAMPBELL: Doctor, once they do the test...I mean, I'm following up on Senator Schumacher's question. Once they do the test and they determine that there may be a problem, if you're in a smaller, rural hospital and you don't have then the next step, is that an impediment to why some hospitals wouldn't do it, because they wouldn't have the cardiac follow-up that would be necessary? Or do they then transport the child to another hospital? Do you understand my question? [LR465]

ROBERT L. SPICER: Yeah, I do, and I think it is in part dependent on the capabilities of that hospital. We have a fairly significant outreach program at the Children's Hospital, and we read echoes via telemedicine that are sent to us if the hospital has an echocardiogram machine that is usable on kids and if they have a sonographer who is capable of performing the kind of screening that would be required. But not everyone does. And if you don't have that kind of support, then because of the potential that this is a very serious and life-threatening heart condition, there will be patients who will be transported. [LR465]

SENATOR CAMPBELL: Okay. But part of the reason that you would mandate this in all hospitals is then to make sure that every child is checked, and if they are in need of more care then they're transported as soon as possible. Is that the goal here? [LR465]

ROBERT L. SPICER: That's correct. [LR465]

SENATOR CAMPBELL: Okay. Senator Gloor. [LR465]

SENATOR GLOOR: Thank you, Senator Campbell. Mine falls in the category of "yes but." From what you said earlier, a lot of these children aren't going to have a problem that's debilitating, requiring an ambulance transfer. I thought your comment was: A child that's obviously struggling, blue and whatnot, certainly is going to require some continuity of care, referral to a tertiary neonatal unit or something along those lines. But

I think what I heard you say is we're also trying to catch those children for whom it's not an overt...there's not an overt sign. They may not be struggling, in fact. And isn't it possible that these children, the parents might be told, you know, this oximetry test tells us that there is something going on here, we're going to discharge you, mom, and we're discharging the infant because he or she is healthy enough to go home; but you need to do a follow-up visit--to you or to whoever they decide needs to do the follow-up on this? I mean, I'm trying to get a scope of what... [LR465]

ROBERT L. SPICER: That's not what I meant to imply. [LR465]

SENATOR GLOOR: Okay. [LR465]

ROBERT L. SPICER: I think that the special conditions where subtle changes in pulse oximetry between the arm and the leg or those that are slightly abnormal are very likely critical congenital heart defects. [LR465]

SENATOR GLOOR: Okay. [LR465]

ROBERT L. SPICER: And those are the ones that we are trying to uncover, and that's the importance of the arm-leg measurement and noticing any discrepancy, because they can be healthy in one minute and critically ill in the next; and it's related to this blood vessel that is present in utero that goes away, usually in the first day, two, or three of life. And when that blood vessel goes away, the supply of blood to the body is interrupted and organs shut down, kidney failure occurs, brain injury occurs, and they can't be in a transport vehicle at the time. The kinds of things that we see are very, very serious, and they aren't things that are relatively common, like holes in the heart. A hole in the heart would not be detected by this. And the extremely blue patients, there is a condition called "blue babies." Those we will know without pulse oximetry. You look at them and you say, wow. This is a very unique category of patients, the patients with systemic or body blood flow that's dependent on this thing, this blood vessel called the

patent ductus arteriosus, that goes away. [LR465]

SENATOR GLOOR: Okay, so... [LR465]

ROBERT L. SPICER: So it's a unique and small group of patients. [LR465]

SENATOR GLOOR: Yeah, this is helpful, because in my own mind I'm thinking some of these infants would be discharged with a follow-up visit required to a specialist. And what you're saying is, no, it'll be a transfer. [LR465]

ROBERT L. SPICER: That's not going to help for these patients, yeah. [LR465]

SENATOR GLOOR: Yeah, it'll be a transfer. [LR465]

ROBERT L. SPICER: Yeah. [LR465]

SENATOR GLOOR: Are we talking about very many patients? [LR465]

ROBERT L. SPICER: No. [LR465]

SENATOR GLOOR: I mean, of...a year ago I could have told you the exact number of births in the state of Nebraska. It escapes me right now, but... [LR465]

ROBERT L. SPICER: We're thinking it's about 25,000 to 26,000 per year, and the incidence of eight per 1,000 of heart disease is way more than this number. And we were calculating that maybe 60 to 80 in the state per year, the majority of which will be in the major urban communities of Lincoln and Omaha. So our estimate would be 30 to 40 in the rural areas. It's not going to be a huge amount. [LR465]

SENATOR GLOOR: Okay. Thank you. [LR465]

SENATOR CAMPBELL: If I remember the testimony right from last year, it was... [LR465]

ROBERT L. SPICER: Uh-oh. [LR465]

SENATOR CAMPBELL: No. No, I mean if I remember the testimony from parents was that, you know, for all intents and purposes the child was fine, and then all of a sudden the child had serious complications or died. [LR465]

ROBERT L. SPICER: Yeah. [LR465]

SENATOR CAMPBELL: And it was like it so easily could have been detected by this test. Would that be right, Dr. Spicer? [LR465]

ROBERT L. SPICER: I think that's correct. Yeah. [LR465]

SENATOR CAMPBELL: A question that's been posed to me from the legal counsel: Are you aware of whether this procedure will be covered as a part of the preventative care or essential health benefit under the requirements of the Affordable Care Act? [LR465]

ROBERT L. SPICER: I am not. [LR465]

SENATOR CAMPBELL: I think that's probably something we are going to...we are paying very close attention, several of us on this body...well, all of the senators that you see sitting here. So we will check that out, but... [LR465]

ROBERT L. SPICER: As are we. [LR465]

SENATOR CAMPBELL: Yes, I'm sure you are. [LR465]

ROBERT L. SPICER: I just don't know the answer. [LR465]

SENATOR CAMPBELL: I'm sure you are. Any other questions for Dr. Spicer today? Thank you very much for your helpful testimony. [LR465]

ROBERT L. SPICER: Thanks. Thank you. [LR465]

SENATOR CAMPBELL: I am always amazed at the medical professionals that come to speak to us, those of you who are really able to boil this down for all of us to understand. It's very helpful, so thank you for taking time today. [LR465]

ROBERT L. SPICER: Thanks. Thank you very much. [LR465]

SENATOR CAMPBELL: Our next testifier this afternoon is Dr. Awad, and I bet I'm not saying that correctly. [LR465]

KHALID AWAD: Awad is good. [LR465]

SENATOR CAMPBELL: Oh, good...who is the medical director from the NICU unit of Methodist Women's Hospital, a member of the Newborn Screening Advisory Committee. And we, too, want to welcome you, Doctor. And for the record, state your name and spell it, please. [LR465]

KHALID AWAD: (Exhibit 28) Yes. My name is Khalid, K-h-a-l-i-d, Awad, A-w-a-d. And thank you, Chairman and committee members, for allowing me to speak this afternoon to everybody. My comments, my first page of comments, are essentially the same as Dr. Spicer's, and I will endorse every comment and every answer he gave to your questions. So I'm going to sort of skip to page 2 and save a little bit of time, and then I can answer other questions. And biographically, I am a certified pediatrician,

neonatologist. I'm a specialist in premature newborn infants. I am the medical director of the neonatal intensive care unit at Methodist Women's Hospital, and I have been a member of the advisory committee to the Nebraska Newborn Screening Program for the last nine years. There's no question at this point that the science of using pulse oximetry to screen for critical congenital heart disease is compelling. It works; there's no question about that. When consideration is given to pursuing newborn screening, two important issues are cost of testing and ease of testing. Fortunately this screening utilizes a common tool, as Dr. Spicer showed us, that is found in all hospitals: the pulse oximeter. In fact, it is frequently used on newborn infants at the time of delivery to help monitor the infant's transition to extrauterine life. The only additional cost for using a pulse oximeter for screening for critical congenital heart disease will be the expense of the probe that attaches to the patient. Single-use probes typically cost $10. Multiuse probes that are cleaned between patients would be even less expensive. And I would add that if a child were to have had a pulse oximeter used in the delivery room, that probe could be saved and then used two days later during the screening for critical congenital heart disease. The testing itself takes five minutes at most and can be easily done by the newborn nursery staff. The nurses that practice in the newborn nursery are already schooled in how to use pulse oximetry because it's a common tool. In fact, all hospitals in Lincoln, Nebraska, and some of the smaller rural hospitals have already begun screening their newborn infants. There is no doubt that this is a good screening test. It's cheap, easy, and effective. Another question to consider when screening for critical congenital heart disease is whether it has a place in a state-mandated screening program. Screening for rare conditions that result in profound injuries to newborn babies is what newborn screening programs are all about. The use of pulse oximetry to screen for critical congenital heart disease is similar to the original newborn screen, testing for a disease called phenylketonuria or PKU. PKU is a disorder in how the body utilizes amino acids at the cellular level. A deficiency in a specific enzyme results in toxic levels of phenylalanine and causes profound lifelong brain damage. Just like the cardiac defects that are screened for with pulse oximetry, PKU is a rare condition. PKU occurs about one in 25,000 deliveries, or one in 25,000 births. And to make matters worse, as was

already commented before, there are no outward indications that the newborn is at risk until it is too late. Screening for critical congenital heart disease is a perfect fit for a newborn screening program. Here in Nebraska we have an exceptional newborn screening program that serves as a model for other states. It has the expertise to manage and monitor a program that screens for critical congenital heart disease. I would like to recommend that the committee endorse legislation that adds screening for critical congenital heart disease to the authority of the Nebraska Newborn Screening Program. I would also like to propose the legislation include a modest increase in the fee charged by the program to cover the additional expense of the screening. Thank you. [LR465]

SENATOR CAMPBELL: Thank you. Questions? I think they're all perusing perhaps the first part of your testimony. Senator Gloor. [LR465]

SENATOR GLOOR: Thank you, Senator Campbell. Thank you, Dr. Awad for taking the time to visit with us also. Let me back you up to the incidence of PKU... [LR465]

KHALID AWAD: Sure. [LR465]

SENATOR GLOOR: ...versus this congenital abnormality we're talking about. What are the respective ratios would you guess of the two? If PKU is one out of every 25,000... [LR465]

KHALID AWAD: Right. [LR465]

SENATOR GLOOR: ...what would we be talking about with CCHD, critical congenital heart disease? [LR465]

KHALID AWAD: With critical congenital...well, as Dr. Spicer said, you know, heart defects of all sorts run about 8 percent of all live births. Some say 5, some say...I'm not

going to quibble, close enough and I'll defer to Dr. Spicer. So we're talking about a much smaller number than that, because as he said, there are many heart defects that are relatively inconsequential. Ventricular septal defect, a hole between the two pumping chambers, most of the time they close up on their own; it does not cause any acute problem. [LR465]

SENATOR GLOOR: I had a niece with that problem. [LR465]

KHALID AWAD: But we're talking probably in the state of Nebraska there would be 100-odd babies, or maybe less, a year that would have one of these conditions that would be picked up by screening with a pulse oximeter. Again, there are babies that are born who are clearly blue at birth who will not need a screening and will be immediately transferred to Children's Hospital for care. Okay? But there are babies who will appear to be normal, ready to go home at two or three days. The majority of them are born in Lincoln and Omaha, that's where about 80-odd percent of the births are, and it's about 26,000 births in Nebraska. And so the majority of those kids will have ready access to an echocardiogram either here in Lincoln or up in Omaha, and then we're only talking about, again, 30 babies, maybe, that will need to get transferred from outstate for the echocardiogram. [LR465]

SENATOR GLOOR: But I'm...this is helpful, but I want to make sure that I am correct in where my mind is drifting on this, and that is, we're requiring PKU... [LR465]

KHALID AWAD: Right. [LR465]

SENATOR GLOOR: ...but the incidence of PKU is far less... [LR465]

KHALID AWAD: Yes. [LR465]

SENATOR GLOOR: ...than the incidence of CCHD and which is not required at this

point in time. [LR465]

KHALID AWAD: Correct. This is a...heart defects are more common than inborn errors of metabolism, in particular PKU. And so, yes, we're requiring a test for a much rarer condition. And I think we should be adding the requirement for a test on a condition that is more common. [LR465]

SENATOR GLOOR: Thank you. [LR465]

KHALID AWAD: Yes, absolutely. [LR465]

SENATOR CAMPBELL: Senator Schumacher, did you have a question? [LR465]

SENATOR SCHUMACHER: Thank you for your testimony, Doctor. The cost of the PKU tests that we are requiring, what is that per...? [LR465]

KHALID AWAD: That's hard for me to answer. We screen for PKU as part of our entire newborn screen panel which is about 35 disorders that we screen for. And we have a contract with the lab to do the testing, so I don't actually know what the cost per test is, let alone the specific cost of that one. The Newborn Screening Program would have that number for you. [LR465]

SENATOR SCHUMACHER: Would it be more or less than this test with this little device? [LR465]

KHALID AWAD: The whole panel costs more than the $10 for the probe. [LR465]

SENATOR SCHUMACHER: Right, but just for the PKU? [LR465]

KHALID AWAD: No, no. For the whole panel. Again you're talking about 35 things that

sort of get tested all together. PKU is one of the 35, but it's a whole panel that gets done at once. [LR465]

SENATOR SCHUMACHER: Why would a doctor just not do this as a matter of course and...? [LR465]

KHALID AWAD: Well, with the evolution of the science showing that it works, they should do it as part of routine care. But it gets back to the point of, to make sure that every baby does get screened, that it doesn't get missed to maintain a standard of care. It's the whole point behind doing newborn screening. One of the other tests we do is for congenital hypothyroidism. It is...you could argue that, why do we need to have that mandated? We could simply just ask all the doctors in Nebraska, pediatricians and family practice docs, to order a thyroid function test. The system will work more effectively and more efficiently if there is oversight for quality control and to make sure everyone gets done. It would be most analogous to the hearing screen program we have in Nebraska that every baby before they leave the hospital gets their first hearing screen, and then we can track those babies. We would be able to monitor that all the hospitals are, in fact, doing the screening on all the kids. And if we find that a particular hospital is having problems with false positive rates, we can then go to the hospital and say, you know, you need to work on your staff, they're not doing a good job with how to use the technology. And let me add, in the published studies, the one out of Sweden which included tens of thousands of babies, the false positive rate is less than 0.01 percent. It's incredibly small, false positive rates. The test is very, very good and it's very straightforward. And then when you follow through the algorithm of the first screen, wait an hour, second screen, third screen, you virtually get no false positives. [LR465]

SENATOR SCHUMACHER: Then is it fair to say that this test, when it is not done, has nothing to do with the cost; that that is not a factor in the decision to say we're not going to do it? [LR465]

KHALID AWAD: I don't think that the cost is at all a factor. And, in fact, one of the hospitals in Seward is already doing it. They've just rolled it in. They don't worry about the cost of the pulse oximeter. It made sense to them to do it. But again, I think the important thing is setting a standard just like we do with all the other newborn screening tests that we do, that every baby is going to get screened, period, in the state of Nebraska, so no one gets missed. [LR465]

SENATOR SCHUMACHER: Thank you, Doctor. [LR465]

KHALID AWAD: Sure. [LR465]

SENATOR CAMPBELL: Senator Gloor. [LR465]

SENATOR GLOOR: I've had a memory flashback to... [LR465]

KHALID AWAD: Okay. [LR465]

SENATOR GLOOR: ...as a result of your great answers, to a couple of years ago on the discussion on this. There are a lot of things that we don't legislate when it comes to the practice of medicine or law or a lot of other areas. [LR465]

KHALID AWAD: Uh-huh. [LR465]

SENATOR GLOOR: And it's because the best system seems to be the standard of care determined by that profession. [LR465]

KHALID AWAD: Uh-huh. [LR465]

SENATOR GLOOR: So how close are we? Because once this becomes the standard of care, then the malpractice issue that Dr. Schumacher (sic) was talking about earlier

intervenes here and nobody legislates anything, it just becomes the way that the profession itself has determined that something needs to be done. And so how close are we to this becoming the standard of care that is an expectation to be provided? [LR465]

KHALID AWAD: Well, there are six states with passed legislation or pending legislation to implement this. There may be 30 in the next...I forget the exact time frame that Ms. Johns mentioned, and yet there are 50 United States. We're not even near halfway, maybe we'll be halfway. [LR465]

SENATOR GLOOR: Ah, but that's a state, that's not the American College of Pediatrics. [LR465]

KHALID AWAD: No, I understand, but when you say establishing standard of care, the fact that not everybody does it. I guess to me the main point would be...the big argument would be that we have an obligation, the state, the government, the citizenry has an obligation to protect children. That's why we do our metabolic panel on our dry blood spots. And I think this fits in that same expectation that every baby, we need to make sure they get screened as opposed to waiting for a standard of care and litigation to compel us to do things. I think that is sort of going at it the back way. Babies don't get to choose whether they get a test. We expect the parents to act on their behalf. We expect the state to intercede if the parents aren't acting on their behalf. I think for a newborn screening program, for a newborn infant, the best thing to do is for the state to set a minimum standard, and that would include dry blood spots for metabolic diseases and pulse oximetry for heart disease. [LR465]

SENATOR GLOOR: But does the American College of Pediatrics expect that this is something that is an appropriate standard of care? I mean, do we have the professional associations weighing in on this, saying this is the right thing to do and we consider it to be the appropriate...? [LR465]

KHALID AWAD: Yeah, we do; and they did it specifically by endorsing that it become a public health policy and rolled into the newborn screening panel. The Secretary of Health and Human Services Advisory Committee made that specific recommendation that it be included in newborn screening panels. [LR465]

SENATOR GLOOR: Okay. So it is becoming very quickly, at least from the profession's point of view, the standard of care. We may not have legislated it yet in all states but we're moving in the direction of it becoming standard. [LR465]

KHALID AWAD: We are. Absolutely. [LR465]

SENATOR GLOOR: Okay. [LR465]

SENATOR CAMPBELL: I think we probably need to take a look at one of the handouts Ms. Johns gave us which is from the American Academy of Pediatrics. The question I have, Doctor, is in the Nebraska Newborn Screening Program, are all of the screens the 35 now mandated by statute? [LR465]

KHALID AWAD: The...that's a real technical question. [LR465]

SENATOR CAMPBELL: Sorry. [LR465]

KHALID AWAD: And I would want to defer it to the director of the Newborn Screening Program whether they're mandated by legislation or by regulation. Not to be too picayune but there is legislation that requires newborn screening and there is a list of diseases that are included, but I believe our legislation allows the expansion of that as the Secretary of Health and Human Services adds diseases to their list of recommended screening tests. [LR465]

SENATOR CAMPBELL: So as a follow-up to this hearing, perhaps the committee needs to make a contact with Dr. Schaefer and the Public Health Department to say if the disease is covered in the screening, can you not by regulatory--it sort of follows up on Senator Gloor's--that by regulation this test become a part of that screening. And it seems to me that might be an important point that we would want to check on before we took legislation forward. [LR465]

KHALID AWAD: Yes, I think so. In fact, that was sort of the gist of my point is that I think we should empower the Newborn Screening Program...or I would ask you guys to empower the Newborn Screening Program to include that under their regulatory authority. [LR465]

SENATOR CAMPBELL: And it may be such the case that the department already has that regulatory authority. That's all I want to check. [LR465]

KHALID AWAD: Yes, and I would have to defer to Dr. Schaefer and the director of the screening program. [LR465]

SENATOR CAMPBELL: Right. Because at this point, if the state of Nebraska has the power at this point through regulation that it's covered, then you wouldn't need a piece of legislation. You would just be able to say to the department... [LR465]

KHALID AWAD: Go forth. [LR465]

SENATOR CAMPBELL: And if the department said, well, no, we would rather have a piece of legislation, then we know exactly a direction. [LR465]

KHALID AWAD: Right. [LR465]

SENATOR CAMPBELL: It's been very helpful to have your testimony with regard to the

Newborn Screening Program and the 35...I did not realize there were that many covered. [LR465]

KHALID AWAD: Yeah. [LR465]

SENATOR CAMPBELL: So, thank you very much for taking time from your practice to be with us this afternoon. [LR465]

KHALID AWAD: Thank you. [LR465]

SENATOR CAMPBELL: Our next testifier is Tiffany Mytty-Klein--and I'm probably not saying that right--who is a parent advocate. Good afternoon. [LR465]

TIFFANY MYTTY-KLEIN: (Exhibit 29) Good afternoon. [LR465]

SENATOR CAMPBELL: Good to see you again. [LR465]

TIFFANY MYTTY-KLEIN: Thank you. Yes, many of you I've seen two years ago when I was here. [LR465]

SENATOR CAMPBELL: Absolutely. [LR465]

TIFFANY MYTTY-KLEIN: So I thank you for your time. I appreciate it and I also want to extend my gratitude to Senator Smith for championing this cause and standing behind it. [LR465]

SENATOR CAMPBELL: Do you want to state your name for the record and spell it. [LR465]

TIFFANY MYTTY-KLEIN: Oh, yeah, it would probably be helpful. My name is Tiffany,

T-i-f-f-a-n-y. My last name is Mytty, M-y-t-t-y, Klein, K-l-e-i-n. [LR465]

SENATOR CAMPBELL: Thank you. Perfect. Go right ahead. [LR465]

TIFFANY MYTTY-KLEIN: Okay. Ten years ago on this day, my husband and I carried our 8-week-old son, Cole, into a hospital's after-hour urgent clinic. We were worried about the rapid pace of his breathing and how he seemed to gag on each coarse breath that we heard leave his mouth while he was sleeping. The doctor ordered a chest x-ray and began to examine our son. He detected a heart murmur but reassured us that it was quite loud and that was good. "The louder the murmur, the smaller the hole," he confidently explained. His thoughts regarding the murmur echoed our pediatrician's comments during Cole's newborn exam and each of the three well-baby physicals that followed, so we saw no reason to be concerned. Our son looked very much like a normal baby even if he didn't sound like one at that time. And it seemed reasonable to believe that if his heart was a concern, the doctors would have been able to tell. His chest x-ray was said to be normal on that day and his breathing was simply the result of a common virus that we would need to let run its course. A pulse ox had never been done on our son up to that point and it was not done that night. That evening, my husband slept on the couch in order to keep our son propped into an upright position and prevent him from choking on the fluids that seemed to be increasing with each breath that he tried to take. The next morning, Cole was admitted to the hospital, and nine hours later the diagnosis changed from a common virus to a critical congenital heart defect. We were informed that our son was in congestive heart failure and fighting for his life. We arrived at Children's Hospital on a medical life flight the following morning, and Cole spent the next six weeks at the hospital preparing and recovering from a surgery. Four of those weeks were spent specifically getting our son healthy enough to survive a surgery. He underwent his first open-heart surgery when he was 3 months old. Like 60 percent of the parents in the survey taken, our introduction to congenital heart defects began when our son was diagnosed. Congenital heart defects were not discussed in the pregnancy books we read or detailed in the books that gave

us the vital information we needed to know for our son's first year of life. The packet of information regarding the newborn testing that was done at his birth did not include information about signs or symptoms in the event that his murmur was not normal. We did not have any idea of all that could be wrong. We just believed we would have not been able to take our baby home if he had a life-threatening birth defect, especially a birth defect that is known to be the most common and one of the most deadly of birth defects if left untreated. Over 40 known congenital heart defects will affect 40,000 newborns each year in the United States. An estimated 4,000 of those babies will not live to see their first birthday and thousands more will die before they reach adulthood. It is the leading cause of infant death in our country and also one of the most unrecognized. Sadly, anywhere between 45-50 percent of congenital heart defects go undiagnosed before or at birth, and those babies are sent home without any intervention. Many common murmurs are left to reevaluation at the baby's one week well visit where an estimated 17 percent of the affected babies will leave undiagnosed. And whether it is days or weeks as the doctors had previously said, these undiagnosed babies can suffer from significant medical complications, developmental delays, learning disabilities, and/or physical disabilities related to the brain injury from the oxygen depravation. In worst-case scenarios, undiagnosed babies die. One specific UCLA study found that the median age of death for undiagnosed critical congenital heart defects was at 13.5 days. And I truly believe that a parent should never learn about their child's congenital heart defect from a coroner; even one parent is too many to have. Pulse oximetry provides an inexpensive and noninvasive method to screen newborns for critical congenital heart defects and it utilizes equipment already available in the hospitals throughout the state of Nebraska. The value of pulse oximetry for detecting congenital heart defects has gained favorable attention nationally since I testified in 2010. In the time that has passed, its importance has received an unprecedented show of support from multiple renowned organizations including the American Academy of Pediatrics, the National Centers for Disease Control, the National Institute of Health, the American Heart Association, the American College of Cardiology, as well as the March of Dimes. In addition, the Secretary of Health and Human Services

formally endorsed the inclusion of pulse oximetry to the Recommended Uniform Screening Panel on September 21, 2011. Using pulse oximetry to test newborns for congenital heart defects has been mandated, as has been mentioned, in six states, and my understanding through The Power of Moms that we can have, there are three states that have also passed it to it setting on the governor's desk. In addition, there are multiple others that have been initiated and are currently pending in other states throughout the United States. Routinely screening all Nebraska newborns for congenital heart defects can give many of our children a fighting chance and a chance that they should have and a chance they deserve. Thank you. [LR465]

SENATOR CAMPBELL: Ms. Klein, when you and I had a chance to visit...I can't remember if it was last summer maybe, or the... [LR465]

TIFFANY MYTTY-KLEIN: Right around the Christmas holiday, I believe. [LR465]

SENATOR CAMPBELL: Yeah. We had a chance to talk and we developed a whole list of people. And to your credit, you've gone around and talked to almost every one of those parties that we discussed. Have you had a chance to ask Dr. Schaefer the question that I was asking whether by regulation we could add this? Do you know whether...or should we follow up on that question? [LR465]

TIFFANY MYTTY-KLEIN: That would be probably better. I'll follow it up directly with them...that person. [LR465]

SENATOR CAMPBELL: Sure. And we can do that, because I just...boy, I don't know the answer to that. And I thought I had covered everything with you and neglected to even think of that one question. So you've done an enormous amount of work and I really appreciate that. Questions from either of the senators of Ms. Klein? Thank you. [LR465]

TIFFANY MYTTY-KLEIN: Thank you. [LR465]

SENATOR CAMPBELL: Our next testifier this afternoon is Jenifer Roberts-Johnson who is the chief administrator for community health, the Nebraska Department of Health and Human Services, and I bet she has the answer to my question, don't you think? If I had just looked down further on the list, I would have seen her name and went...(tapped desk). Good afternoon and welcome. [LR465]

JENIFER ROBERTS-JOHNSON: (Exhibits 30-31) Good afternoon. Thank you, Chairman Campbell and members of the Health and Human Services Committee, for the opportunity to provide you information. [LR465]

SENATOR CAMPBELL: And you want to state your name. [LR465]

JENIFER ROBERTS-JOHNSON: My name is Jenifer Roberts-Johnson. It's J-e-n-i-f-e-r, Roberts is R-o-b-e-r-t-s, hyphen, Johnson, J-o-h-n-s-o-n, and I'm the deputy director for the Division of Public Health, Community Health Section with the Nebraska Department of Health and Human Services. I wish to provide you with some information today, some data collected over the last several months by the department in response to recommendations made at the national level related to screening for congenital heart disease by pulse oximetry, which has been used to inform deliberations of the critical congenital heart disease expert subcommittee of the Nebraska Newborn Screening Advisory Committee. I would first refer you to the 2011 screening data handout. The first section of this handout presents recent data on the two existing legislated newborn screening systems that we have in Nebraska, which include the metabolic, which is the blood-spot screening, and newborn hearing screening. If you look at that section, you'll see that both of these programs have highly successful screening rates, but with considerable support from federal grants, particularly the Title V Maternal and Child Health Block Grant. The second section of the handout identifies the results of a survey of hospitals conducted between November 2011 and June 2012 to identify the screening practices related to the use of pulse oximetry in birthing facilities across

Nebraska. Of the hospitals surveyed, 70 percent or 43 of the 59 hospitals responded; and from this data we can see that approximately 72 percent of the 2011 births occurred in hospitals reporting that they now screen for CCHD using pulse oximetry. The third section identifies data on the eight lesions targeted by CCHD screening that have been reported to the Nebraska Birth Defects Registry. The numbers reported in 2010 appear to be a little bit of a statistical anomaly, which may be based on missed or underreporting of cases. However, those were the numbers that were reported to the registry. Before I move on, I want to clarify that the U.S. Department of Health and Human Services Secretary Sebelius acknowledged the need for further evaluation of the public health impact of the recommendation to add CCHD screening. This acknowledgement came after the recommendation was made by the Secretary's Advisory Committee on Heritable Diseases in Newborns and Children to add the CCHD screening to the recommended universal screening panel after their evidence-based review. The information that I am providing today will assist in identifying the public health impact in Nebraska if the recommendations of the CCHD subcommittee and the Nebraska Newborn Screening Advisory Committee are adopted in legislation. If legislation is introduced that requires the department to implement or have oversight of the screening, there will be associated new requirements from the Division of Public Health for additional fiscal and staff resources for these activities. Given the historical flat funding levels of the Title V Maternal and Child Health Block Grant and other federal grant sources that support the existing two newborn screening programs, the metabolic blood spot and hearing screening, and potential grant reductions, other state resources would be necessary to implement and/or maintain any new program requirements. At this time, the Division of Public Health has obviously not had an opportunity to review any potential or proposed legislation that may come about in relation to this issue, but would note that standard of care is difficult to regulate and educational offerings to the delivering hospitals may yield the desired results without the fiscal impact of a new program. [LR465]

SENATOR CAMPBELL: Okay. Questions? So at this point, the answer to my question

is... [LR465]

JENIFER ROBERTS-JOHNSON: You know, the answer to your question actually I believe...and Julie and I were talking about this, Julie Luedtke, who some of you may know, who works with our newborn screening program, that the actual wording that allows the department to add additional screenings actually says something to the effect: addition of metabolic screenings. So that is my answer for this moment but we can certainly confirm and get back with you on that. [LR465]

SENATOR CAMPBELL: I would very much appreciate...and I know Dr. Schaefer always sends us a letter and a response to that, but that would be particularly helpful I'm sure to Senator Smith's office also so that we know how we might want to proceed. But the inference in your letter is that if we add an additional, that there may be a cost, an additional cost in order to track... [LR465]

JENIFER ROBERTS-JOHNSON: Right. [LR465]

SENATOR CAMPBELL: ...this statistically and provide the data as you do on the other screenings. Would that be accurate? [LR465]

JENIFER ROBERTS-JOHNSON: And that's correct. The additional cost that I'm referencing is specifically the cost to the department to provide that oversight direction and the work with the data, or whatever other work would be necessary, to implement and oversee this type of a program. And we have some estimates out there about what we think that would be, but given that we don't know what exactly the responsibilities would be, we did not include those at this time. [LR465]

SENATOR CAMPBELL: I'm going to follow up before I go to Senator Gloor. Is it possible even on your estimates to be able to sit down with Senator Smith and his staff to kind of give him some idea of what that would be? I mean, are we talking hundreds of

thousands or 50,000 or 10,000? [LR465]

JENIFER ROBERTS-JOHNSON: Right, right. [LR465]

SENATOR CAMPBELL: I think even just some idea would give the senator some guidance there. [LR465]

JENIFER ROBERTS-JOHNSON: Yes, and we can certainly do that. [LR465]

SENATOR CAMPBELL: That would be great. Senator Gloor. [LR465]

SENATOR GLOOR: Thank you, Senator Campbell. And you know, my question about standard of care earlier, Jenifer, was right along those lines, which is if we're going to gravitate to this, then we can avoid whatever cost may be there to regulate it. But I have to think that there can't be a great cost in this if we're already set up to screen for PKU. I mean, there's some things we're already taking a look at and regulating. To have one more test entered there can't be moving the world to be able to do that. So I'd be interested in what cost, and would think it would be minimal if it were regulated. [LR465]

JENIFER ROBERTS-JOHNSON: Okay. [LR465]

SENATOR GLOOR: And I do understand that there is a cost involved in regulating it, but trying to get a handle on can it really be that much? [LR465]

JENIFER ROBERTS-JOHNSON: I think that really what we're looking at from the Division of Public Health perspective would be the implementation of the new program; any IT costs that may be associated with that, as there always are IT costs associated; and then also bringing on staff to actually implement and then oversee the program to make sure that it's running the way it needs to be. And, you know, I think our initial estimates are running somewhere around $150,000 to do that, which is pretty similar to

what it would be for the other programs that we have and are overseeing from my understanding. [LR465]

SENATOR GLOOR: How do we come up with $150,000? [LR465]

JENIFER ROBERTS-JOHNSON: Well, basically, that is going to be staff resources, and then the first year...and like I said, because we don't know what exactly we're going to be implementing if such a thing would come about, its estimates on IT work that would be roughly $50,000--it's a guesstimate--in the first year; and that would probably reduce in the following years. [LR465]

SENATOR GLOOR: Sure. [LR465]

JENIFER ROBERTS-JOHNSON: But to have the staff on and do the work necessary to oversee programs that are similar to this one that we oversee would run roughly around $100,000 a year. [LR465]

SENATOR GLOOR: So our expense wouldn't be for the 70 percent of the...whatever the number was... [LR465]

SENATOR CAMPBELL: Seventy-two. [LR465]

SENATOR GLOOR: ...72 percent of the institutions that appear to already be doing it. It would be for those small number of institutions that have yet to implement that themselves. [LR465]

JENIFER ROBERTS-JOHNSON: To the extent we have any oversight in relation to those other 70 percent, there would be some cost associated with that. But yes, those who have already implemented it, it should...would seem to be easier to... [LR465]

SENATOR GLOOR: Yeah. [LR465]

JENIFER ROBERTS-JOHNSON: ...to move on into that. Right. [LR465]

SENATOR GLOOR: Okay. Thank you, Jenifer. [LR465]

SENATOR CAMPBELL: Senator Schumacher, did you have a question? [LR465]

SENATOR SCHUMACHER: Thank you for your testimony today. Thank you, Chairman. Did I understand that would be $50,000 to $150,000 a year or just a one-time thing to set up? [LR465]

JENIFER ROBERTS-JOHNSON: The first year we believe would be more costly, probably nearer the $150,000, and then after that it would be just staff time and resources which would be probably nearer the $100,000. However, like I said, I'm just going to point out, we don't know what this looks like or what kind of cost we'd be incurring depending on what type of oversight would be requested. So those are just initial guesstimates. [LR465]

SENATOR CAMPBELL: So even if this could be done by regulation rather than legislation, you're still saying to us the caution that there would be a cost for it. [LR465]

JENIFER ROBERTS-JOHNSON: There would be a fiscal impact, correct. [LR465]

SENATOR CAMPBELL: So we're really kind of talking an A, B question here: Can we do it by regulation? If so, what's the cost? That type of thing. [LR465]

JENIFER ROBERTS-JOHNSON: Right. [LR465]

SENATOR CAMPBELL: Okay. I think that's helpful. Any other questions, Senators?

Okay. Thank you, Ms. Johnson, very much for coming. [LR465]

JENIFER ROBERTS-JOHNSON: All right. Thank you. [LR465]

SENATOR CAMPBELL: Our next testifier is from the Nebraska Medical Association, Mr. Buntain. Dare I say, is this one of the last duties that you have? [LR465]

DAVID BUNTAIN: Gosh, the reports of my demise are exaggerated. (Laughter) First of all, let me say, I'm David Buntain, B-u-n-t-a-i-n. I am the legal counsel and registered lobbyist for the Nebraska Medical Association. And what Senator Campbell was alluding to is I will no longer be the registered lobbyist at the end of this session, or at the end of this year, but I will continue to be counsel for the Nebraska Medical Association. [LR465]

SENATOR CAMPBELL: Excellent. [LR465]

DAVID BUNTAIN: I may be wearing a slightly different hat, but I...you haven't necessarily gotten rid of me yet, so. [LR465]

SENATOR CAMPBELL: And we can find you. [LR465]

DAVID BUNTAIN: That's right. [LR465]

SENATOR CAMPBELL: That's exactly correct. [LR465]

DAVID BUNTAIN: Exactly so. And I look forward to those opportunities. I will take just a few minutes. This issue, as you know, has been here for several years. When this was first brought to the Legislature's attention, I think there was one state that had a law that required mandatory screening. The concern that we raised then, and we still will bring it to your attention, is the issue of whether it makes sense for the Legislature to enact into

law what is in effect a standard of care for the practice of medicine. As Dr. Spicer and Dr. Awad have indicated, it's a very important test. It serves parents and newborn children well. It serves our public health system well. We're not taking any issue at all with that. The question is, to what extent do we expect the Legislature to enact into law what should be the standard of care for the practice of medicine? And we had this issue before you last year with a bill that would have required all healthcare practitioners to use the CDC safe injection practices. I submit to you, that is the standard of care whether the Legislature requires it or not. We had a mammography disclosure bill in the Banking, Commerce and Insurance Committee, the same thing. Now having said that, we do acknowledge this stands on a slightly different footing because of what we're talking about is doing screening of newborns at a time when it is possible to detect conditions that could be lifesaving for those children, and that's really what led us to have the newborn screening in the other areas. And so I would say that on the issue of whether to require it or not, like other physician groups, the Medical Association's position is in a state of evolution too. And we will have a legislative commission meeting and it is quite possible when Senator Smith brings the bill forward that we will be in support of the mandatory screening. We do have a concern about what the legislation says beyond that; and we would hope that what you would do if you enacted it would be to leave the specifics as to how the screening was done and the standards and those kinds of things to regulation rather than put those into the statute. Because again, the standard of care does evolve over time and we don't think it's appropriate to put that into the legislation. The other issue that you discussed, the last person who testified, was the cost involved. Clearly, just requiring the testing in and of itself, the cost of implementing that would be the department having to adopt the regulations I'm talking about. Where you start to have more cost would be if you're requiring the department to collect data and to evaluate that data. And our concern from a cost standpoint is you're also requiring physicians and/or hospitals to spend time inputting that data, so it has both a cost...there are two aspects to the cost. And so what really would have to be assessed would be, is there another further benefit from doing that to justify the cost that the state is going to incur or that the providers are going to incur to collect that data.

And again this issue of data collection is one we run into in a variety of areas. So we think we're on the right track. Obviously a lot of states are moving in this direction and we commend you for taking the time to look at the issue. I'd be happy to respond to any questions. [LR465]

SENATOR CAMPBELL: Senator Gloor. [LR465]

SENATOR GLOOR: Thank you, Senator Campbell. Dave, do you know, given your history, long history with the association, did the association support a mandate for PKU? [LR465]

DAVID BUNTAIN: Yes. I'm sure...actually that predates me. I mean we've had the metabolic testing for many years. And I...that reminds me, I did want to respond. I think you will have to enact a law to do this. I don't think the department can do it, can add this test through regulation. But I'm sure that the Medical Association would have been supportive of the metabolic screening. [LR465]

SENATOR GLOOR: But that also is a standard of care issue that the Legislature weighed in on that the association supported. [LR465]

DAVID BUNTAIN: Correct. [LR465]

SENATOR GLOOR: So one is okay but the other we should be (inaudible)? [LR465]

DAVID BUNTAIN: No. I mean it's...you'd have to go case by case, and that's why I'm saying we're looking at this one. But we are concerned any time the Legislature is telling...is willing to put into law what physicians should do and how they should practice medicine. I think it just is something we'd need to look at carefully. And Senator Schumacher is correct, a lot of that standard of care and the evolution of that is monitored through our medical liability system; and physicians and hospitals recognize

if they're not living up to the standard of care, not only are they not practicing their profession properly, but they're also opening themselves up to liability exposure. [LR465]

SENATOR GLOOR: Thank you. [LR465]

SENATOR CAMPBELL: Do we...and I should have asked and I'll follow up that question probably in a note to the department, but we don't obviously collect data on all 35 components then? Because you're saying, well, if you don't require the data and if 72 percent of the hospitals are already doing it, the cost is in that data collection. [LR465]

DAVID BUNTAIN: I am not the right person to ask but I do know that they periodically publish a report on screening, so I think there is data that is collected. [LR465]

SENATOR CAMPBELL: We'll track that one down. Thank you, Mr. Buntain. You are always welcome here. [LR465]

DAVID BUNTAIN: Thank you. [LR465]

SENATOR CAMPBELL: And we hope to see you again many times in whatever capacity. [LR465]

DAVID BUNTAIN: Well, it's been a pleasure. [LR465]

SENATOR CAMPBELL: Well, your history has just helped the committee enormously in the last couple of years, so thank you very much. [LR465]

DAVID BUNTAIN: Boy, when you thank someone for their history, you're telling them they're old. (Laughter) [LR465]

SENATOR CAMPBELL: Mr. Buntain, you and I are the same age. We are young at heart. Let's put it that way. [LR465]

DAVID BUNTAIN: That's right. Thank you. [LR465]

SENATOR CAMPBELL: Thank you. Okay, next testimony is from the Nebraska Hospital Association. Mr. Rieker is sort of handing off all his duties today, I think. Good afternoon. [LR465]

NICK FAUSTMAN: Good afternoon. [LR465]

SENATOR CAMPBELL: And boy, good morning, good afternoon. You've just covered the waterfront today. [LR465]

NICK FAUSTMAN: (Exhibit 32) That's right. I'm Nick Faustman, N-i-c-k F-a-u-s-t-m-a-n with the Nebraska Hospital Association. And on behalf of our 89 member hospitals and the 43,000 individuals that they employ, the Nebraska Hospital Association, the NHA, appreciates the opportunity to provide testimony regarding the importance of testing newborns for critical congenital heart disease or CCHD. Based upon member input, mandating the screening for CCHD would not be particularly burdensome for hospitals. Not all hospitals routinely screen newborns using pulse oximetry. They are capable, however, and have the proper resources for testing for CCHD by way of pulse oximeter; if not in the delivery room, the hospital would have this equipment in the emergency department. That said, not all hospitals have the specialized staff for treating a newborn or toddler who tests positive. Rural facilities would need to transfer these patients to larger hospitals that have pediatric cardiologists. There is value, of course, in screening all newborns for CCHD, and the NHA concurs with some of the recommendations of the subcommittee on newborn screening for critical congenital heart disease. With screening through pulse oximetry comes a fair number of false positives. Therefore, the NHA strongly suggests that explicit standards for quality and quality assurance be

developed, if at all possible. The NHA would offer its assistance in developing such standards. Should testing for CCHD be mandated, the NHA would favor codifying the screening method into administrative code rather than the statute, as the CCHD subcommittee recommends. This would allow for easier adoption of newer technology in the future. The NHA recommends that the Health and Human Services Committee revisit some of the recommendations made by the subcommittee. For instance, the recommendation that the department develop parent education materials for distribution to healthcare providers, that would be a wise policy. However, if legislation is introduced during the 2013 session, the NHA hopes that the committee clarifies that the costs associated with these materials be the ongoing responsibility of the department and not a future cost shift to healthcare providers. In addition, requiring physicians to follow and track individual cases but have only hospitals providing the electronic data to the department may, in practice, be problematic. It seems as though the system could be streamlined if both physicians and hospitals share the responsibility in providing the data to the state. Thank you for the opportunity to testify regarding the impact of the pulse oximetry procedure in testing for CCHD. The NHA looks forward to continuing to work with the Legislature, the department, and other stakeholders on this important issue. [LR465]

SENATOR CAMPBELL: Senator Gloor. [LR465]

SENATOR GLOOR: Thank you, Senator Campbell. Nick, would implementing...mandating this, and would implementing it and having trained staff on hand be so onerous for some small hospitals with a very small number of deliveries that they would no longer do deliveries? I mean, is this...? [LR465]

NICK FAUSTMAN: I don't think that we'd find hospitals that would say that. [LR465]

SENATOR GLOOR: I mean, I understand there are a lot of factors: malpractice coverage, decreased number of physicians who want to do deliveries, and so on and so

forth. [LR465]

NICK FAUSTMAN: I don't think that's a factor that would force them to... [LR465]

SENATOR GLOOR: Okay. The earlier hearing today that you were at obviously we dealt with unintended consequence, and I thought it worth at least asking to make sure that this isn't some sort of a death knell to some hospital that currently only does five or six deliveries and says, no, it's not worth it anymore. [LR465]

NICK FAUSTMAN: I don't think this is a large enough cost or concern. And based upon member feedback since last spring, I get the impression that that would not be a huge concern. [LR465]

SENATOR GLOOR: Okay. Thank you. [LR465]

SENATOR CAMPBELL: Nick, I'm going to ask you the question I asked the doctor earlier, and that is, do you have any knowledge of whether the essential health benefits of the Affordable Care Act would cover this screening or require it? I know you're following the law as closely as...I mean, your association is, obviously. Do you have any idea? [LR465]

NICK FAUSTMAN: To my knowledge, I don't believe it would. [LR465]

SENATOR CAMPBELL: Okay. We probably need to do some checking on that, but. I don't have any other questions. Senators? Thank you very much, Mr. Faustman, for being with us almost the entire day here. [LR465]

NICK FAUSTMAN: Thank you very much. [LR465]

SENATOR CAMPBELL: (See also Exhibit 33) That concludes the testifiers that I have

on the list. We do have written testimony from Michaela Valentin from Blue Cross Blue Shield. Is there anyone else in the hearing room who wishes to provide testimony? Okay. Ms. Johns, did you want to have any closing? Oh, there you are. I was looking for you. Did you want to add anything to a closing? You don't need to. Okay, she's going to waive closing. So with that we will close the LR465 hearing; and thank you all for coming and your very good testimony today. [LR465]