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Health and Human Services Committee
January 23, 2014

[LB690 LB695 LB711 LB843]

The Committee on Health and Human Services met at 1:30 p.m. on Thursday, January 23, 2014, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB711, LB690, LB843, and LB695. Senators present: Kathy Campbell, Chairperson; Tanya Cook; Sue Crawford; Mike Gloor; Sara Howard; and Dan Watermeier. Senators absent: Bob Krist, Vice Chairperson.

SENATOR CAMPBELL: (Recorder malfunction) ...open the hearings this afternoon for the Health and Human Services Committee. I'm Kathy Campbell and I serve District 25 from Lincoln and as the Chair for the committee. We're glad to see all of you today in spite of the cold. You all look like you're pretty warmly dressed. If you get cold, you're free to put your coats back on. I'll go through the little announcements. First, I would remind you to please turn off your cell phone or at least silence it. I'd also like to remind you that if you have an iPad or some tablet with you, turn that down, too, because there are times when we can hear things happening, and you may not think that but we do pick up a lot of sound here. If you're planning to testify today, please complete the orange, bright orange sheets that are on either side, print legibly, and bring them with you and give to the clerk. The copies, if you're planning to give us copies, we'd like 15 copies. If you need assistance with that, the pages can help you. We do run a light system in the committee. You have five minutes. You'll be on green for four and then yellow for one and we'd ask you to sort of get to the end when you get the red light. And I think that's all my announcements. We will do self-introductions. So senator.

SENATOR WATERMEIER: Senator Dan Watermeier from Syracuse representing District 1, southeast corner.

SENATOR HOWARD: Senator Sara Howard. I represent District 9 in midtown Omaha.

SENATOR COOK: And I'm Senator Tanya Cook from Legislative District 13 in Omaha.

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

SENATOR GLOOR: Mike Gloor, District 35, Grand Island.

SENATOR CRAWFORD: Sue Crawford, District 45, east Sarpy County, Bellevue, and Offutt.

BRENNEN MILLER: I'm Brennen Miller. I'm committee clerk.

SENATOR CAMPBELL: And we have two pages with us today. Emily Schilz (phonetic). Is that...am I saying that right, Emily?

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EMILY SCHILTZ: It's Schiltz.

SENATOR CAMPBELL: Huh. It looks...sorry.

EMILY SCHILTZ: It's okay.

SENATOR CAMPBELL: Got that pronunciation wrong there. Emily is at the University of Nebraska-Lincoln and her hometown is Sioux Falls, South Dakota. And then Stuart Sucha is with us, also at the University in Lincoln studying English, and his hometown is Lincoln. So we're awfully glad to have the pages with us today. And with that, I think we'll go ahead and start with the first bill. We changed the order a little bit because Senator Watermeier assured me that he did not have 100 testifiers (laughter), so. We'll open the hearing on LB711 to change provisions relating to contamination of property by clandestine drug labs. [LB711]

SENATOR WATERMEIER: Good afternoon, Senator Campbell, members of the Health and Human Services Committee. I am Senator Dan Watermeier, spelled W-a-t-e-r-m-e-i-e-r, representing District 1 in southeast Nebraska and I am here today to introduce LB711. LB711 updates current law to address a lack of due process. Under current law, once law enforcement discovers a clandestine drug lab at a location, the owner or owners of the contaminated property shall not permit the human habitation or use of such property until the rehabilitation of such property has been completed and the property has been released. An owner who knowingly violates this subsection may be subject to a civil penalty not to exceed \$1,000. Current law makes no provision for a hearing. LB711 will allow an owner to request an administrative hearing before the Department of Health and Human Services to dispute a mistake in fact--an error in the reporting as to the ownership of the property, an error in the determination that the property was the site of a clandestine drug lab, or an error in the determination that the property needs rehabilitation. The following is an example of why the bill is necessary. An owner did not clean up the methamphetamine contamination at the site of a drug manufacturing bust but rented the property to a single mother and her children. The program wanted to fine the owner \$1,000 for not decontaminating the property before allowing new tenants to occupy the home. Although current statute allows for a civil penalty for noncompliance, legal advice was given that there might be a perceived lack of due process for the example of the proof of methamphetamine contamination. The current statutes do not provide a mechanism for an owner of a property to request a hearing to dispute a finding of the fact. The department conducted a small sampling trial of five properties and found that none had been decontaminated although all were above the decontamination levels requiring regulations. Several had been setting vacant, secure and posted for a significant period of time. LB711 will allow the department to proceed with the process of fining property owners if the property is rented prior to the completion of the decontamination process. I urge your favorable

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consideration of LB711. I believe I have testimony following me here that will certainly be more qualified to answer any questions, but I would try to answer them now but I would defer the questions to the following testimony. [LB711]

SENATOR CAMPBELL: Okay. That would be fine. All right. Thank you, Senator Watermeier. We'll go ahead and proceed to the first proponent for LB711. Good afternoon. [LB711]

JOSEPH ACIERNO: (Exhibit 1) Good afternoon, Senators. Good afternoon, Senator Campbell and members of the Health and Human Services Committee. My name is Dr. Joseph Acierno, that's J-o-s-e-p-h A-c-i-e-r-n-o. I'm the Chief Medical Officer and Director of the Division of Public Health for the Nebraska Department of Health and Human Services. I'm here today to testify in support of LB711 which updates the clandestine drug lab statute to address a point of due process. The current statute provides that a methamphetamine-contaminated site may not be used for human habitation until the site has been cleaned up. A property owner who allows a contaminated site to be inhabited before the site is cleaned up can be subject to a \$1,000 fine. The current statute though has no provision for the owner to dispute a determination. The hearing before the department will decide if an error was made. For instance, if the police department said the property was owned by a Jim Smith and in fact he didn't own the property, Jim Smith could ask for a hearing before the department and prove that he's not the owner of the property. LB711 will provide an owner the opportunity to have a hearing before the Department of Health and Human Services to contest three possible errors. First, an error as to the ownership of the property; (2) as to an error that the property was the site of the drug lab; (3) an error in the determination that the property needs rehabilitation. Methamphetamine labs covered by this statute are first discovered by law enforcement. The discovery of the lab and the accompanying chemicals, equipment, and paraphernalia is what determines a site to be contaminated. LB711 will clarify when a lab has been reported by law enforcement or a property owner to Nebraska State Patrol the site of that lab is considered contaminated. The contamination from the lab chemicals is sticky; it adheres to all the surfaces--walls, carpets, soft furnishings, ventilation systems, and more. Inhabiting a contaminated site before it has been cleaned up exposes people to the effects of these chemicals and the methamphetamine that has been left behind. In many cases, these are tenants who are not aware of the contamination. Health effects caused by exposure to methamphetamine lab chemicals which enter the body by either being breathed, eaten, absorbed through the skin will depend on the lab process, the chemicals used, the length of exposure, the age and health of the person exposed. Children are especially vulnerable to those detrimental effects due to their contact with contaminated surfaces and hand-to-mouth behavior. I believe this legislation provides property owners the opportunity to dispute a finding of fact and at the same time protects them and possible tenants from exposure to methamphetamine and related chemicals. With that, I'd be happy to answer any questions you might have. [LB711]

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SENATOR CAMPBELL: Thank you, Dr. Acierno. [LB711]

JOSEPH ACIERNO: Sure. [LB711]

SENATOR CAMPBELL: Questions from the senators? Senator Gloor. [LB711]

SENATOR GLOOR: Thank you, Senator Campbell. Thank you, Dr. Acierno, for the testimony. [LB711]

JOSEPH ACIERNO: Sure. [LB711]

SENATOR GLOOR: I'm going to assume that the department has a process already in place that makes transitioning into some sort of a hearing accommodating this a pretty seamless thing for the department. [LB711]

JOSEPH ACIERNO: It will be considering we do hearings on various things that would just go into that format with the hearing office and it would just flow like any other hearing would it be put on schedule. [LB711]

SENATOR GLOOR: Okay. Thank you. [LB711]

SENATOR CAMPBELL: Any other questions? Thank you, Dr. Acierno. [LB711]

JOSEPH ACIERNO: I think there's one more. [LB711]

SENATOR CAMPBELL: Oh, sorry. [LB711]

SENATOR CRAWFORD: That's all right. That's all right. Thank you. [LB711]

SENATOR CAMPBELL: Senator Crawford. Did not see you. Thank you. [LB711]

SENATOR CRAWFORD: Thank you, Senator Campbell. And thank you. [LB711]

JOSEPH ACIERNO: Sure. [LB711]

SENATOR CRAWFORD: I appreciate the effort to add this due process process here. Just trying to understand the date. And we're talking about the owner, it must be postmarked within 15 calendar days of the date of the report. And just talking about where the date of the report starts. And so are we thinking about the...because Nebraska State Patrol is promptly forwarding a copy of the report, so. And we can work on that later. [LB711]

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JOSEPH ACIERNO: Sure. [LB711]

SENATOR CRAWFORD: I was just wanting to make sure we're very clear about when those 15 days started because I wouldn't want a report to be... [LB711]

JOSEPH ACIERNO: Sure. [LB711]

SENATOR CRAWFORD: ...sitting somewhere clicking days... [LB711]

JOSEPH ACIERNO: That's correct. [LB711]

SENATOR CRAWFORD: ...make sure that the owner for sure has those 15 days. [LB711]

JOSEPH ACIERNO: Right. It would be unfair to any owner if... [LB711]

SENATOR CRAWFORD: Right. [LB711]

JOSEPH ACIERNO: ...we're sitting out, it'd call 15 days and they have like an hour and a half... [LB711]

SENATOR CRAWFORD: Right. [LB711]

JOSEPH ACIERNO: ...to put in their hearing. So we'll look at that and make sure that's... [LB711]

SENATOR CRAWFORD: I just wanted to be attentive to that to make sure you deal with that. [LB711]

JOSEPH ACIERNO: ...we'll make sure that's clear. [LB711]

SENATOR CRAWFORD: Absolutely. Thank you. [LB711]

JOSEPH ACIERNO: And we could answer whatever question and get back with you regarding that. [LB711]

SENATOR CRAWFORD: Sure. Thank you. [LB711]

SENATOR CAMPBELL: That would be great. Seeing no other questions, thank you, Dr. Acierno. [LB711]

JOSEPH ACIERNO: Thank you. [LB711]

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SENATOR CAMPBELL: Our next proponent. Good afternoon. [LB711]

KAY OESTMANN: (Exhibit 2) Good afternoon. Chairman Campbell and members of the Health and Human Services Committee, my name is Kay Oestmann, K-a-y O-e-s-t-m-a-n-n, and I'm here representing Friends of Public Health and the local health departments in Nebraska. And I'm testifying in support of LB711. The public health laws that define the powers and duties of law enforcement, property owners, and State Patrol, and local health have in response is the...it shows the duties that these people have in response to clandestine drug lab. This bill further defines the duties of DHHS and gives property owners the right to a hearing. Friends of Public Health support this bill. Local public health has worked with law enforcement and property owners to monitor rehabilitation of property in our districts. This bill will enable us to better enforce the law while giving the property owner the right to a hearing. Clandestine drug labs continue to be present throughout Nebraska. Many of the properties are rented or leased by absentee landlords. The hearing process will benefit our enforcement of rehabilitation of the contaminated property. We encourage you to move this bill out of committee. Questions? [LB711]

SENATOR CAMPBELL: Thank you, Ms. Oestmann. Questions? Senator Cook. [LB711]

SENATOR COOK: Thank you, Madam Chair. And thank you for testifying. Just for my own educational purposes, what are the public health outcomes from a family or a person moving into a house that has not been properly abated of clandestine drug activity? [LB711]

KAY OESTMANN: Health problems. Doctor Acierno talked about some of them. And, you know, it's...some of them are vague and they don't know. You know, they'll have respiratory problems, they'll have headaches, they'll have maybe even some things like inflammatory diseases like, you know, arthritis and that kind of thing that are caused from just being in the environment. It sticks to everything and, you know, if they don't remove the carpet, if they don't test to see that it's been removed, it can be in a rental property that somebody moves into. And while this bill takes care of clandestine labs, we have no authority as far as people that have used meth in a house. You know, that's the next step. [LB711]

SENATOR COOK: Okay. [LB711]

KAY OESTMANN: But it's hard to identify. So this takes care of the labs. This takes care of the cookers. This takes care of the houses where people have been arrested for making meth while they're living there. [LB711]

SENATOR COOK: Okay. Thank you. [LB711]

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SENATOR CAMPBELL: Any other questions, Senator? Thank you very much. [LB711]

KAY OESTMANN: Thank you. [LB711]

SENATOR CAMPBELL: Our next proponent. Good afternoon. [LB711]

KORBY GILBERTSON: Good afternoon, Chairwoman Campbell, members of the committee. For the record, my name is Korby Gilbertson, it's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing today as a registered lobbyist on behalf of the Nebraska Realtors Association in support of LB711. I have to say when I first read the one liner for this bill, my heart sank because back in 2006 I had the honor of working on the original legislation, LB915 for those...since none of you were around then, it was quite the battle to get everything done and get the rules and regs published by Health and Human Services, and we did a lot of work on it. And Senator Gloor's staff member, Margaret, was involved very much in it, so she can tell you lots of stories. But we're very much supportive of this. We do want to comment about Senator Crawford's comments about making sure that the owner has actual notice before the 15 days starts running because that was one of the issues when the original bill was drafted because of the number of absentee property owners to make sure that a notice doesn't go out and they don't have it or that it sits on a desk somewhere and they don't actually have it. So with that, I'd be happy to try to answer any questions. [LB711]

SENATOR CAMPBELL: Any questions from the senators? Senator Crawford. [LB711]

SENATOR CRAWFORD: Thank you, Senator Campbell. Do you have any suggestions to make sure or how to clarify that the owner had...that we made a good-faith effort or that there's a good chance the owner would get that notice in the cases that you're mentioning? [LB711]

KORBY GILBERTSON: Well, I think when we talk about...I can talk with them after the hearing, but I would...one idea would be to change it from being 15 days from the report to 15 days of notice of the report being filed, something like that. [LB711]

SENATOR CRAWFORD: Right. Okay. [LB711]

SENATOR CAMPBELL: Okay. Any other questions? Thank you very much. [LB711]

KORBY GILBERTSON: Okay. Thank you. [LB711]

SENATOR CAMPBELL: Our next proponent? Is there anyone in the hearing room who wishes to testify in opposition to LB711? In a neutral position? Senator Watermeier, you're welcome to close. He waives closing. So we will close the hearing this afternoon on LB711. And move, and I'm looking...is Senator Bolz here? [LB711]

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ELISABETH HURST: I'm going to go grab her. She's in the Appropriations Committee.

SENATOR CAMPBELL: Okay. All right. How many people, while we're waiting for Senator Bolz to come, want to testify on LB690? One, two, three, four. Okay. Great. We'll wait just a minute for the senator to come. You are free to talk among yourselves really. When you get settled, Senator Bolz, go right ahead and start.

SENATOR BOLZ: (Exhibit 3) Good afternoon, Senator Campbell and members of the Health and Human Services Committee. Glad to be here with you this afternoon. As we look towards our future responsibilities, we all recognize that Nebraska's population is aging. Between 2010 and 2030, the population of persons aged 65 and over is expected to grow by a whopping 74 percent in Nebraska. The key question I think that is at the heart of our conversation today is what kind of system of care do we want for Nebraska's aging population and should we take advantage of federal opportunities to make shifts in changes towards home and community-based care. And I do believe that that's a choice we should make for two reasons. First, a survey conducted by AARP indicates that 89 percent of Nebraskans aged 50 and older want to stay home as long as possible. So this is something our constituents want. And, second, home and community-based care options are a cost-effective strategy for meeting the needs of senior citizens. It's particularly significant because thousands of aging Nebraskans are at or near Medicaid eligibility, meaning that if they enter a nursing home care they are likely to become Medicaid eligible in less than a year. The average cost of Medicaid nursing home care is over \$56,000 a year. The Legislature's own Legislative Planning Committee report puts it this way. First, the most effective way to save costs in the Nebraska Medicaid program is to delay or eliminate the need for nursing home placement. Second, the most effective way to delay or eliminate nursing home placement is to develop alternatives with home and community-based services. LB690 has two main parts that focus Nebraska's energy on home and community-based care for our aging population. First, it requires submission of a grant proposal to the Balancing and Incentive Payments Program. And, second, it requires the creation of an Aging Nebraskans Task Force. I understand that some members of the committee haven't considered the Balancing and Incentive Payments Program before. And I have Senator Cook to thank for her previous work on this idea. But I believe that this program is worth our consideration again in 2014. Here's why: The program provides an opportunity to develop best practices in home and community-based care with incentives and technical assistance from the federal level. It helps move our infrastructure and investment in aging services to home and community-based options. Let me give you one statistic about why this is so essential. For every 100 person chain in the aged Medicaid category, total annual Medicaid expenditures will decrease by nearly \$2 million. That's according to the long-term planning report that we all received from our own committee, and because staying in our homes is our preference as we get older. I realize that you might all feel like you're aging right now. (Laughter) And my

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long-windedness might be giving you some gray hairs. But hang with you me just for couple of technicalities. First, there's a question about the timing. And I would just note for you that the program has over a billion dollars still available to us and the time frames are such that we can apply and receive these funds. Second, there are some structural requirements that the program requires the states. We're well on our way to those requirements. We have to take a few more steps, but it will help us incentivize and assist in doing so. Those are things like standardized assessments for people who might need some assistance and are at the beginning of that process. Financial requirements. The program requires that state Medicaid programs reach 50 percent of home and community-based expenditures. As of 2010, we're at 42.9 percent. So we're close. And importantly, colleagues, the federal program does not have any penalties if we do not achieve that goal. We do need to make sufficient progress towards the goal, but there are no penalties. I want to address a few brief things about the fiscal note, and this is perhaps the crux of the decision making from a policy perspective. There is some difference of opinion about whether or not current participants in the Personal Assistance Services or PAS program would have to receive managed care, case management...sorry, case management to be correct under this program. I've provided to you the information from the Balancing and Incentives Payments Program memo, an exchange we had with the technical assistance providers, as well as a analysis that has been contracted out by AARP. Each of those sources says that it is not a requirement of the Balancing and Incentives Payment Program to provide additional case management to the population that is referenced in the fiscal note. That said, if there are ways that we can work together to clear all that out I'd be happy to facilitate conversations with their very robust technical assistance provision providers. Last but not least I would say that we are looking towards managed care for our aging population in Nebraska. I think that's a reasonable thing for us to be doing and thinking about in a cost-effective way. I do believe that the best practices in the Balancing and Incentive Payment Program initiative line up very well not only with our goals and intentions with managed care, but also with some of the requirements and some the recommendations of CMS in managed care. So last but not least, I'll just mention that we have passed around a technical amendment that changes a date and clarifies that the aging task force will be a legislative initiative just to address the separation of powers issue. So in as quick form as I could provide to you, I know your time is valuable, that's an overview of the idea that we bring to you today. And I'm happy to answer questions now or to turn it over to those who want to testify. [LB690]

SENATOR CAMPBELL: Any questions from the senators? Senator Crawford. [LB690]

SENATOR CRAWFORD: Thank you, Senator Campbell. And thank you, Senator Bolz. Could you speak just briefly, you said that the BIPPs process is consistent with long-term care. Could you just speak to how that's so? I mean, how do you see those two fitting together? [LB690]

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SENATOR BOLZ: Sure, sure. I have a report that I can share with you from the National Senior Citizens Law Center that identifies some of the best practices that they see in case management, and I think you'll be able to crosswalk some of these ideas pretty directly with the Balancing... [LB690]

SENATOR CRAWFORD: To managed care or the way we're moving in managed care currently. [LB690]

SENATOR BOLZ: Um-hum. But to be more specific, there are two pieces: conflict-free case management and standardized assessments that both the Senior Citizens Law Center and CMS point to as recommendations and requirements. And the ideas there are just that if someone is providing a service to you, they shouldn't be the person who's trying to sway you or inform you one way or another about those services. Right. There's a potential for bias there, especially with an aging population. And the other piece is the standardized assessments which just helps a multiplicity of service providers speak the same language in terms of the needs of population of aging people. [LB690]

SENATOR CRAWFORD: Do you...have you been in discussions with any of the people who are working on the long-term care, managed care idea, and are those best practices ideas they're currently discussing in the process? [LB690]

SENATOR BOLZ: Yeah, I have. And I think home and community-based care is something that is a big part of the managed care discussion, and I think that there are discussions about conflict-free case management and standardized assessments. However, the RFP doesn't come out until the summer, so they're still in the formulation process. So nothing is defined yet. [LB690]

SENATOR CRAWFORD: I have another question if you want it. The other question is, how does the advisory group fit with the grant application? Is that in addition to the grant application or is that...are those ideas tied together? [LB690]

SENATOR BOLZ: They go hand in hand, and that's a great question. My understanding is that some of the funds from the BIPP grant might be able to cover some of the costs of staffing the aging task force or getting reports or modeling or those kinds of things. Further, I think that the Aging Task Force can provide recommendations about not just should there be a standardized assessment tool but which one. And I think it takes us down this path towards promoting home and community-based care in a long-term vision. A lot of other states, including a lot of Midwestern states, have a ten-year, long-term plan for aging populations. Iowa is a good model. And I think this conversation is the start of a conversation about serving that population. And why not do it when we have technical assistance available for us. [LB690]

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SENATOR CRAWFORD: Would you anticipate that the task force ends at the report? I wasn't clear about when the task force ends or if it continues going. So there's a report date but would the...is that really the function of the task force and at that point it disappears? [LB690]

SENATOR BOLZ: Yeah. Good question. We have a fairly quick turnaround in terms of recommendations. I think that, you know, we're all aging right now, right? (Laugh) So the recommendations are fairly quick. We put into the language about a two-year time frame. And forgive me with the effective dates and the application dates, I don't have it off the top of my head. But the idea is that after two years, the Legislature would have an opportunity to articulate whether or not that task force is still useful and necessary or whether they've done their work in terms of developing a plan that we can move forward with. [LB690]

SENATOR CRAWFORD: One more question. What would your expectations be about necessary staffing for that task force? [LB690]

SENATOR BOLZ: Oh, that's a good question. I think articulating it as a legislative task force, it could be...function much like some of the other task...the water task force or the Tax Modernization Commission. And I think we've been able to handle those task forces in a fairly streamlined manner. But I think because home and community-based services and Medicaid are fairly technical areas, I wouldn't dispute that there would need to be some staffing from the Department of Health and Human Services. [LB690]

SENATOR CRAWFORD: Thank you. [LB690]

SENATOR CAMPBELL: Other questions? Senator Bolz, in your research in working, do the area on aging folks have advisory committees do them already? [LB690]

SENATOR BOLZ: That's a good question. My understanding is that they do, but June Pederson I believe is here with me and she can maybe... [LB690]

SENATOR CAMPBELL: Okay. [LB690]

SENATOR BOLZ: ...speak more specifically to those advisory committees and how they work. [LB690]

SENATOR CAMPBELL: Oh good. Because if they do, it would seem to me that it might be a good use of an existing committees rather than maybe starting all over with some of the advisory folks. Okay. Any other questions? Thanks, Senator Bolz. Will you be staying to close? [LB690]

SENATOR BOLZ: I'll stick around. [LB690]

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SENATOR CAMPBELL: Okay. Our first proponent for the bill. Good afternoon. [LB690]

MARK INTERMILL: (Exhibit 4) Good afternoon, Senator Campbell and members of the Health and Human Services Committee. My name is Mark Intermill, M-a-r-k I-n-t-e-r-m-i-l-l, and I'm here today representing AARP. We strongly support LB690. Our members have an interest in long-term care as recipients, as caregivers, and as taxpayers. And we think all three of those interests would be well-served by establishing the type of planning process that LB690 envisions. I've provided you with some information about the change in the population of Nebraskans over the age of 75. I think it's important to recognize that in the decade from the 2020s essentially, we're going to pick up about 52,000 75-year-olds in the state of Nebraska. I've also attached a report from AARP that shows that by 2060 the 80-plus population will be three times what it is today. These changes have consequences. One of the things that we need to do is to be prepared for the demographic shift, especially in terms of providing long-term care. If the nursing home population had grown at the same rate as the 75-plus population, we would have had 20,000 nursing home residents in 2010. And projecting forward, we would have had 31,000 by 2030. But the nursing home population stopped growing. Back in about 1989 it stabilized, and then in the...around 2000 it began to decline. And I think the reason for that was Nebraska engaged in a planning process back in the late 1990s. I have a copy of the report that was developed back in 1997 that laid the foundation for some changes that really have resulted in reduction of the numbers of nursing home residents. We peaked at about 17,000. We're currently at about 12,000. As a result of that, our Medicaid expenditures for people over the age of 65 have...are basically the same this last year as they were in 2002. They are starting to creep up again though, and I think this is an opportune time to revisit some of those issues that were addressed...additional issues that need to be addressed as we look at the aging of the population. Looking at things like the work force that is available to provider long-term care services. There are parts of the state where we have a serious shortage of workers. Looking at support for caregivers who are the backbone of the system and how can we assure that they are able to continue to provide the services that they provide. So we are very supportive of this process. We think this will stand the state well in terms of bringing together all of the interests related to long-term care services and making sure that we have a good approach for moving forward and being able to provide services efficiently and effectively in the future. [LB690]

SENATOR CAMPBELL: Questions? Senator Crawford. [LB690]

SENATOR CRAWFORD: Thank you, Senator Campbell, and thank you, Mark. And as a relatively new senator I really appreciate the history here of what's happened in the past on this issue. Are you involved in the LR22 process? [LB690]

MARK INTERMILL: Remind me what the... [LB690]

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SENATOR CRAWFORD: Oh, I'm sorry. That was the health planning in general. I was just wondering if you were involved in that process if you had a sense of how these two pieces fit together. [LB690]

MARK INTERMILL: Well, I think this is a specialized aspect of the entire healthcare planning...health planning process. I think that long-term care services are different than healthcare services, than acute-care services. We're really looking at compensating for loss of function as opposed to fixing something that will restore somebody to their previous function. Long-term care is an ongoing compensatory type of service. So it's hard to compare the acute and the long-term care I think. [LB690]

SENATOR CRAWFORD: Okay. Thank you. [LB690]

SENATOR CAMPBELL: Mark, one of the comments that's in the department's letter to the committee on LB690 talks about the money follows the person program. From your perspective, how well has that worked? [LB690]

MARK INTERMILL: I think it has worked for some individuals. You know, here we get into the question of upstream diversion and downstream diversion, and money follows the person is an attempt to help somebody to live outside of a nursing home after they have been admitted, which doesn't work as well as if you do it before they're admitted. So it's a very challenging circumstance to try to provide that type of change. But there have been some individuals who have been able to move out of the nursing home. Some of the research we have shows that we still have a fairly high proportion of nursing home residents who are considered to be high functioning. So there may be some additional work that could be done to identify others who might be willing and able to live outside of a nursing facility. [LB690]

SENATOR CAMPBELL: I always thought that it would be difficult, and I don't have the statistics, I mean, I just remember talking about this at the Medicaid reform council. But, you know, it always seemed to me that a lot of people have a spend down in order to get into a nursing care facility, and then, you know, they get rid of possessions and everything else, their home or whatever. And then we have a program that says we're going to help you move out of that. But they've already really disposed of a lot of the resources that they had. And so sometimes I think it's difficult. I know we have used that program, money follows the person, to try to help folks who are developmentally disabled or intellectually challenged to perhaps get out of an institution and move back. But I just wondered what your thoughts were. [LB690]

MARK INTERMILL: And I believe one of the innovations that came with the money follows the person was that there were funds made available to help with that transition, to, you know, make it so that a person could find a place and have a workable

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environment to live in. [LB690]

SENATOR CAMPBELL: The other program from the department's perspective, and I don't think it's mentioned in the letter--I was trying to glance real quickly--was the PACE program. And how do you see that kind of dovetailing with what this effort would do? [LB690]

MARK INTERMILL: I have...I'm a big proponent of the PACE program where it can work. It's application or applicability to Nebraska I think is limited because you have to have a core group of individuals who meet the qualifications which are dual eligible and nursing facility level of care within a geographic area that the PACE project can operate. Personally I would say the Omaha metro area is probably about the only place in Nebraska that the PACE project is workable, my opinion. In talking to researchers associated with the PACE project, they've kind of confirmed that. The PACE project is a great delivery system where it's workable. But I'm not sure it's workable in Benkelman. [LB690]

SENATOR CAMPBELL: That's understandable. Thank you. [LB690]

MARK INTERMILL: Sure. [LB690]

SENATOR CAMPBELL: Any other questions? Thanks, Mr. Intermill. [LB690]

MARK INTERMILL: Thank you. [LB690]

SENATOR CAMPBELL: Our next proponent. Good afternoon. [LB690]

JUNE PEDERSON: (Exhibit 5) Good afternoon, Senator Campbell. I'm June Pederson, J-u-n-e P-e-d-e-r-s-o-n. I am the director of Aging Partners, which is an area agency on aging located with headquarters in Lincoln. I'm also currently the chair of the Nebraska Association of Area Agencies on Aging. I come today to support LB690. I want to tell you that I endorse what Mark has suggested and what the senator suggested about the BIPP program. I think that's money we've left on the table and we should try to get some of that. I'm also here to support the Aging Nebraskans Task Force and their role in developing a strategic plan. I have provided you with lots of stuff and I'm going to go through it very quickly. I've provided a map of all of the area agencies on aging. And on the back you'll see some additional information about who chairs that particular advisory board, Senator Campbell. [LB690]

SENATOR CAMPBELL: Thank you. [LB690]

JUNE PEDERSON: Then I want to show you the document that I brought that's long and length but it's really interesting. This is a picture of what's happened in Nebraska's

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population aged 55 and older between the year 2000 and the year 2010. It's broken down by area agencies on aging. So that's why I gave you the map. Senator Watermeier will be looking at the third page, which I believe is Blue Rivers. Those of you from Omaha will look at the ENOA pages. Senator Gloor will be looking at Midlands. Senator Crawford will also be looking at ENOA. Because Aging Partners is on top, I'm going to walk through that and allow you to do the rest of it on your own. I want to describe how this is laid out because I think you'll find this interesting as you think about your own legislative district and what's happened in that district in that ten-year period. If you're looking at the first page, Aging Partners has eight counties in our service area. All of those counties are listed along the left side, and then a service area total, and then a Nebraska total. So for the year 2000 you see the population, the total population, not just 55 and older but the total population for each of those counties in the year 2000, each of those counties in the year 2010, and then a total for the service area in 2000. And for Aging Partners, it was 336,000 people; and it was 370,000 in 2010, for an increase of 10 percent of total population. And you see the totals along the bottom. As you move across the page, at the top you see two columns that are identified 55 to 64 for the year 2000 and the year 2010. And then all of you have a blue column that was identified because those are the boomers. That's the bulge that's going to be moving through our aging population. And you see a percentage, how much of an increase every one of your counties had in that 55 to 64 age group. Significant. And then it moves on in ten-year groupings. The 65 to 74 and the percentage increase or decrease in that county; 75 to 84; and then we go to 85 and up. And there are percentages for each one of those and then a total on the left side. Of all of the people who fit that category for the year 2000, age 55 and up for the year 2000 and the year 2010, for Aging Partners, all of our counties gained population and overall our service area increased by 32 percent of people who are 55 and older. In ten years we increased 32 percent. The state of Nebraska, and that line is consistent through all of your charts, the state of Nebraska increased the numbers of people who are 55 and older by 23 percent. So the point that I'm making and that I hope you will take the time to look at is that Nebraska is aging. You knew that. We all feel that. And we have not yet spent time thinking about what this aging process needs. My agency spends a lot of time working with people who we call providers. Sometimes they're family members, sometimes they're people who are willing to go into a home and work, sometimes they're actual agencies that we've contracted with who go into a home and help with all kinds of services, bathing, medicines, sometimes dressing. It's harder and harder to get people in the rural areas to do that. It's even difficult sometimes in the more metropolitan areas. And as that population grows that needs those services we have to think about the caregivers and the providers of those services. I believe this task force is important and that was what I was trying to stress to you. I believe it's a group of thoughtful people who will look at this issue and I'm anxious to help. [LB690]

SENATOR CAMPBELL: Questions for Ms. Pederson? Thank you very much for the statistics. [LB690]

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JUNE PEDERSON: You asked about area...or advisory groups. Everyone has an advisory council, every eight...each of the eight agencies has an advisory council. For those that are not the Lincoln, the area Aging Partners, that advisory council is made up of county commissioners from each of the counties that are represented in the service area. They have a board. They are the decision makers. In Lincoln because of our unusual structure, the city council and the county commissioners serve as a quasi group. And we have people who come in from the counties, lay people, who represent. Lincoln has nine; there are two from all of the other counties. So those are not elected, they're appointed. [LB690]

SENATOR CAMPBELL: Thanks. I knew we were different at some point. My memory, anyway. [LB690]

JUNE PEDERSON: Yes, we are. Thank you. [LB690]

SENATOR CAMPBELL: Thank you. Our next proponent. Good afternoon. [LB690]

MICHAELA VALENTIN: Good afternoon, Chairperson Campbell and members of the Health and Human Services Committee. My name is Michaela Valentin, spelled M-i-c-h-a-e-l-a V-a-l-e-n-t-i-n. I am a registered lobbyist for Homestead Senior Care, Inc., and I'm here this afternoon to testify in support of LB690 and specifically regarding the proposed Aging Nebraskans Task Force. As each of you well know, Nebraska faces challenges of an aging population. Finding solutions to many of these challenges will require the wide collaboration that is spelled out in Senator Bolz's bill, the collaboration among the state, local, community, public, and private stakeholders. And we appreciate Senator Bolz for advancing this idea. Homestead Senior Care, which was founded in Omaha in 1994 by Paul and Lori Hogan, is world leader in providing nonmedical home care services for seniors. Homestead just recently opened its 1,000th franchise in our global network and we are in 18 countries. We have ten independently owned and operated franchises right here in Nebraska in Scottsbluff, North Platte, Hastings, Beatrice, Bellevue, Lincoln, Omaha, Fremont, and Norfolk. Our international network employs nearly 65,000 trained caregivers who provide over 50 million hours of elder care services annually, such as doing light housekeeping chores, preparing meals, and, most importantly, offering moral support and companionship to older adults. Homestead has a place on the healthcare continuum. We work regularly with more than 100,000 professionals, including social workers, hospital discharge planners, care facility managers, and geriatric care managers who offer a variety of services and care options for seniors. We understand that many different options for care are available to seniors as they age. It is from this perspective that we believe there is much to be gained from the free exchange of information and ideas between all of the stakeholders that could potentially be involved with this legislation. We believe we can share with this committee and the task force the knowledge and expertise of our 20 years as an international

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thought leader on senior care. Recently, our CEO Roger Baumgart was invited to the GA dementia summit to submit comments on home and community-based health, supporting family caregivers, and modifications to public policy, and the care continuum. Roger was also invited to speak at this event about Homestead Senior Care national...excuse me, innovative network care model. We are the industry leader in nonmedical senior care and we can help you solve for issues in this bill, particularly those related to the promotion of independent living and the development of a process for evaluating the quality of home and community-based long-term care and support. Thank you for your time. I'm happy to take any questions. [LB690]

SENATOR CAMPBELL: Thank you, Ms. Valentin. Questions from the senators? Thanks for your testimony. [LB690]

MICHAELA VALENTIN: Thank you. [LB690]

SENATOR CAMPBELL: Our next proponent. Good afternoon. [LB690]

JAMES SUMMERFELT: (Exhibit 6) Good afternoon. Thank you, Senator Campbell and committee members. My name is James Summerfelt, J-a-m-e-s S-u-m-m-e-r-f-e-l-t, and I'm the president and CEO of the Visiting Nurse Association and Easter Seals Nebraska. I'm here representing the VNA in support of LB690, assuring that the Department of Health and Human Services applies for a grant under the State Balancing and Incentive Payment Program to develop a comprehensive and coordinated system of home and community-based long-term care services. VNA has been providing community-based services in the Omaha area for almost 118 years now. Our mission is to deliver community-based care that provides peace of mind, quality of life, and independence. We deliver healthcare wherever people reside. We found that people want to stay in their homes as long as possible where they're most comfortable, surrounded by familiar surroundings, people, and objects that they've grown up with. The literature tells us that people are healthier and more independent and actually live longer when they're supported in their home. In their own home, they are more comfortable and not exposed to unnecessary risks or other diseases and germs. It also saves money to the state systems. Often people need skilled and supportive services to stay independent and safe in their home. And this may come in the form of nursing care, physical therapy, medical social work, medication management, telemonitoring, assistance with bathing, and simple food preparation, changing and washing bed linens, for example. These are both medically necessary and basic needs that may or may not currently be funded but if provided actually help keep people from moving unnecessarily to more expensive facility-based care. Nebraska ranks eighth in the nation in percentage of people aged 85 and older and 18th in the nation of percentage of persons aged 65 years old and older. And so the data, and you've heard other statistics that supports the need to prepare for this emergency. This grant provides for the funding for the structure, support of long-term budgeting, and sound fiscal management so

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Nebraska will be able to meet the increasing demands for long-term care services as a growing portion of the state's population reaches ages 80 years old. This grant also helped for creating a work force development program specific to the needs in response to Nebraska's growing aging population and oversight for a statewide plan to promote greater access to home and community-based long-term services and support for our state. The goals of the plan support individuals to live independently in settings of their choice. This grant would provide expertise in evaluating long term state budgeting for long-term care services and support that is necessary to sustain an efficient and effective system of care. The aging of the Nebraska population, rural locations, the demand on acute care, health providers, the prevalence of chronic disease, and the rapidly rising costs of healthcare gives you the sense of urgency for finding innovative, cost-effective solutions that improve health, independence, and well-being of our seniors in Nebraska. There are other home healthcare providers across the state like the VNA who have expertise and experience to provide the kinds of care and services that would be effective in the home. LB690 is an opportunity and a positive step in the right direction for Nebraska to take a proactive, forward-thinking approach to dealing with the looming problems of Nebraska's aging population. With proper planning, the state of Nebraska and working with the many Nebraska healthcare providers, we can ensure that our citizens can maintain a more cost-effective method for keeping this population safe, independent, for as long as possible in their homes. So with that, I'll take any questions you might have. [LB690]

SENATOR CAMPBELL: Thank you. Questions from senators? Thank you very much for coming today. [LB690]

JAMES SUMMERFELT: Thank you for your time. [LB690]

SENATOR CAMPBELL: Our next proponent. [LB690]

NICK FAUSTMAN: Good afternoon. [LB690]

SENATOR CRAWFORD: Good afternoon. [LB690]

SENATOR CAMPBELL: Good afternoon. [LB690]

NICK FAUSTMAN: (Exhibit 7) I'm Nick Faustman, that's spelled F-a-u-s-t-m-a-n, and I'm with Nebraska Health Care Association, which is the parent association to a family of entities including the state's largest association for nursing facilities, which is the Nebraska Nursing Facility Association otherwise known as NNFA, and the state's only association dedicated specifically to assisted living facilities, the Nebraska Assisted Living Association or NALA. Both NNFA and NALA represent nonproprietary, proprietary, and governmental long-term care facilities. NNFA and NALA support the intent of LB690, specifically the creation of the Aging Nebraskans Task Force. It is

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possible that such an entity could aid the state with designing an effective system for managed care for long-term services and support, which in itself will bring the most significant change in decades for reimbursement policy in long-term care in our state. Naturally, our members are extremely concerned that if the design and implementation of this managed-care system is rushed or if there is not ample research and input from stakeholders, we will experience the same setbacks that other states are experiencing right now. Therefore, we respectfully request that Senator Bolz and the Health and Human Services Committee consider amending LB690 in a way that assures representation of Nebraska's nursing and assisted living facilities on the task force. [LB690]

SENATOR CAMPBELL: Questions? Thanks very much for your testimony today. [LB690]

NICK FAUSTMAN: Thank you. [LB690]

SENATOR CAMPBELL: Our next proponent. Senator, always good to see you. [LB690]

KENT ROBERT: Good afternoon. My name is Kent Rogert, R-o-g-e-r-t, and I'm here today representing Leading Age Nebraska, which is an association of about 45 nonprofit and government-owned nursing home and assisted living facilities in the state. And we will just mirror the testimony running before us, especially with Mr. Faustman. Our concerns are on the managed-care roll out and we definitely want to be a part of the conversation of all issues involving aging services in Nebraska moving forward. [LB690]

SENATOR CAMPBELL: Questions? Mr. Rogert, are all the members of Leading Age--I just want to clarify--are they all assisted living? [LB690]

KENT ROBERT: No, no. [LB690]

SENATOR CAMPBELL: Oh, okay. [LB690]

KENT ROBERT: Some are both. Some are nursing facilities and some have both on there. Yeah. [LB690]

SENATOR CAMPBELL: Oh, okay. Are they located...because I see the association and we certainly contacted the association when we did LR22 I know, but are they located like in a geographic area or statewide? [LB690]

KENT ROBERT: They're statewide. The difference between ours and some of the others, all of ours are nonprofit. [LB690]

SENATOR CAMPBELL: Ah! Okay. I miss... [LB690]

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KENT ROBERT: Owned by government entities or religious organizations. [LB690]

SENATOR CAMPBELL: Okay. [LB690]

KENT ROBERT: Thanks. [LB690]

SENATOR CAMPBELL: Good thing I asked. I didn't know that. [LB690]

KENT ROBERT: That's right. [LB690]

SENATOR CAMPBELL: Thank you. Good afternoon. [LB690]

LANA WOOD: (Exhibit 8) Hello. Senator Campbell and members of the Health and Human Services Committee, I'm Lana Wood, L-a-n-a W-o-o-d, and I am the director of Patient Care for FirstCare Home Health here in Lincoln. And I'm also representing members of the Nebraska Association of Home and Community Health Agencies, or NAHCHA, as their government affairs chair. First, I'd like to provide some background information about the current Nebraska home healthcare industry. The elderly are generally the largest population of patients that we see in Nebraska home care. Traditionally, about two-thirds of those patients we see are Medicare recipients. The other third are made up from Medicaid and private pay. Nebraska has approximately 70 licensed home healthcare agencies, and our state's home care agencies provide a variety of different services to citizens from complex, 24-hour ventilator nursing cases to people who simply need two hours a week to ensure that they've been bathed, that they have clean clothes to put, they have clear pathways, and food in the refrigerator. But there are Nebraskans who are falling into gaps. We have Medicare that offers short-term, temporary care for acute episodes, that they are rehabable goals and a skilled need and that they are homebound. So Medicare does not care for patients long term. And as we know, Medicaid only applies to the very low-income, low-resource Nebraskans. So folks that don't have other options like private insurance or long-term care insurance may not be eligible for home care because they simply cannot pay for it privately. We see patients often who come out of the hospital. We see them under Medicare for four to eight weeks. We stabilize them. They meet their goals. They are at their rehab maximum potential, and then we need to leave them. We do teaching so that they will be maintained or can maintain, but oftentimes we see them slide down and in another two to three months they're back in the hospital. They come home. We see them for home care. We get them back to that main level, and then they slide down. So it's really important if there was some type of affordable services that could be put in for these long-term, chronically ill patients to maintain them so it's not the cycle of hospital, home care, return to the hospital. As you examine strategies to provide for long-term care services for older Nebraskans, we note from the 2013 Nebraska Medicaid draft annual report, "Home and community-based care for individuals with chronic or ongoing

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healthcare needs is less expensive and offers greater independence for our citizens." The report indicates that efforts need to be made to encourage home and community-based alternatives in order to gradually rebalance long-term care expenditures. NAHCHA strongly supports participation in federally funded programs, like the BIPP program, so that funds may be used to develop comprehensive and coordinated systems of home and community-based long-term care services for Nebraskans. Funding available through this federal programs would bring home and community-based care to a greater number of our state's elderly and increase the chances of enhanced rebalancing, which would reduce cost of our state as elderlies receive more affordable care in their homes. NAHCHA supports LB690's focus on home independent living through provisions of long-term services and support as it has proven to be less costly, less restrictive, and more supportive of Nebraskans's civil rights and enables individuals to live in the setting of their choice. NAHCHA has in the past and would like to continue to work with legislative bills which would examine, identify, and create methods of keeping elderly Nebraskans safe in their homes so that they can receive high-quality care and support. It's important not only for our city areas but also our rural areas. I, just as a NAHCHA representative, want to quickly mention Diana Lecher who is the director of home care out in Chadron wanted to be here today, but she had an unexpected death in her family, but just wanted to convey that deeply this is an important bill to them in the rural areas. They are constantly looking at ways to reach further in their rural areas and to provide more services to their constituents as well. [LB690]

SENATOR CAMPBELL: Thank you, Ms. Wood. Questions? I have one question and maybe it's...I understand the different associations, but would there be people who belong to a number of them or are they pretty much separate? [LB690]

LANA WOOD: Pretty much all Home Health Care Agencies would belong to this NAHCHA organization. [LB690]

SENATOR CAMPBELL: Okay. All right. Thank you very much for your testimony. Our next proponent. Anyone who wishes to testify in opposition to the bill? Anyone in a neutral position? Senator Bolz, would you like to close on your bill? [LB690]

SENATOR BOLZ: I'll be brief. But I will say pick your cliché. You know, a penny saved is a penny earned. Proper preparation prevents poor performance. An ounce of prevention is worth a pound of cure. I mean, that's the core idea here. And I'm happy to work with the committee to work out any technicalities to make any adjustments that are necessary for us to take advantage of this opportunity, this funding, this technical resource, and this needed service to citizens of Nebraska to plan ahead. I also want to mention very briefly just a technical piece that our understanding is that the program will spend out the full \$3 billion. And so you might see some information about an end date for the program, but they have no intention of stopping payments. They are just going to

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keep spending through the end date as long as they have dollars to allocate. So that's what I have to share. [LB690]

SENATOR CAMPBELL: Just a couple of questions, Senator Bolz, just to make sure. Do you have a copy of the department's letter? Okay. And I'm assuming that you'll follow up and talk to them. I must say that Senator Krist and Ms. Chaffee and I had a meeting over the noonhour, totally different topic, with Mr. Winterer and Courtney Miller, and she was particularly helpful. So I look for them to, you know, try to respond to your bill that way. [LB690]

SENATOR BOLZ: Sure. [LB690]

SENATOR CAMPBELL: And the other thing is, any comments that you want to make about this isn't...the January 21 fiscal note is the most recent and accurate, am I saying that right? There's only one...I think I probably have two copies of it. But the fiscal note is the latest, greatest, and any comments you want to make about it? [LB690]

SENATOR BOLZ: I'm not sure exactly the version you have in your hands versus the one that I've seen, but one comment I'll make is that we should have three additional months of reimbursement through this program due to the date change in the amendment that came around. [LB690]

SENATOR CAMPBELL: Oh, okay. [LB690]

SENATOR BOLZ: So that's actually better dollars signs for us. The other comment I would make about the fiscal note is that whether the personal assistance program population must have case management or not, the fundamental conversation here is do we want to serve this population in up-front, community-based care? And it may not be necessary for that population to receive case management under this bill, which would significantly impact the fiscal note. However, if it should be the case that that population does need case management, our own long-term planning committee has identified additional and expanded case management as a recommendation coming out of their work this year. So I think both potential pathways for this kind of work only save us dollars in the end. [LB690]

SENATOR CAMPBELL: Okay. Senator Gloor. [LB690]

SENATOR GLOOR: Thank you, Senator Campbell. Thank you for bringing this forward, Senator Bolz. What is the intent behind the BIP program? [LB690]

SENATOR BOLZ: In simple terms it's called balancing for a reason. They want to rebalance the population of aging individuals across the country and balance them over into home and community-based care and away from nursing home care, and my

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fantastic colleagues who represent Leading Age and the Nebraska Health Care Association, we think they do great work. But the simplest intent here is to keep people out of nursing homes. [LB690]

SENATOR GLOOR: There's been some testimony here about long-term care, managed care reimbursement. And so I'm not making that connection between this bill and the task force and the roll out of managed care and long-term care. Can you help me with that? [LB690]

SENATOR BOLZ: Perhaps. There are some intersections with the intent of the Balancing and Incentive Payments Program and Medicaid managed care. But I think that the ultimate goals are in line, things about standardized assessments and conflict through the case management. So I think the goals of managed care and the goals of the BIPP program are very much in line. Here's what I understand as concerns from my constituents in my conversations with people who are involved in the aging field. One is that there is some concern about how quickly managed care is moving forward, and I think it's, you know, incumbent upon the department to make sure that they get the input that they need and line all those things up. I think that's important. I think there's also some concern about how different entities under managed care will be reimbursed and what gets wrapped into managed care and what doesn't get wrapped into managed care. That is my simplistic understanding of some of the concerns that are out there. But frankly I think the process of the Balancing and Incentive Payment Program done well and done in a way that I think our department has the capacity to do could help us prepared and line up for a positively implemented managed care program. So I hope that sort of answers your question. [LB690]

SENATOR GLOOR: It does, although from a timing standpoint by the time you get your committee organized, by the time you're up and running I wonder if the train isn't a long way down the tracks in terms of the ability to address the managed care roll out. A just probably comment, but you're welcome to respond to it if you want to it. [LB690]

SENATOR BOLZ: Sure, sure. Certainly the timing is something we'll have to manage carefully. But I do know that the technical assistance providers share our common goal of promoting home and community-based care, and in that way I think they would be willing to work with us. [LB690]

SENATOR GLOOR: Okay. Thank you. [LB690]

SENATOR CAMPBELL: Senator Crawford. [LB690]

SENATOR CRAWFORD: Thank you, Senator Campbell. Thank you, Senator Bolz. I just have one more question to clarify in my own mind. Is the BIPPs funding for like the task force and this planning or is it funding for services but we need to make sure we're

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coordinating and planning to get the funding for the services? [LB690]

SENATOR BOLZ: So the heart and soul of the funding under the BIP grant is an enhanced FMAP. So we would get an additional 2 percent FMAP. [LB690]

SENATOR CRAWFORD: Okay. [LB690]

SENATOR BOLZ: And I'm assuming that this committee understands what that means and that that would have some significant fiscal impacts. [LB690]

SENATOR CRAWFORD: Okay. [LB690]

SENATOR BOLZ: However, my understanding is that some but not all of the administrative processes can be covered under the BIP grant as well. [LB690]

SENATOR CRAWFORD: Thanks. [LB690]

SENATOR CAMPBELL: Did that help? Senator Watermeier. [LB690]

SENATOR WATERMEIER: Thank you, Chairman. I know, Senator Bolz, you and I visited about this this morning briefly, but I didn't quite get the history behind the BIP program. As I read the fiscal, it says it started in 2010. So we didn't look...I mean, didn't have a chance to use it up until now. Or, I mean, we got to have a mechanism in place. [LB690]

SENATOR BOLZ: Yeah, yeah. Senator Cook actually brought this idea to the committee previously and, you know, I wasn't in the body at that time. But I think...and I'll own this, I think there might have been some questions around its funding source which was related to the Affordable Care Act. And so if there was concern about whether or not that was going to be maintained at the time of the original hearing, that may have caused some hesitation in terms of moving forward with the application. But like I said, I was not in the body, I was not here. That's just my guess at what one of the hesitations might have been. [LB690]

SENATOR WATERMEIER: Yeah. I can see that concern. But then I failed to ask you this morning, we talked about it, maybe just get a history of it. And so I'll talk to you in the future about it. But I see as reading the fiscal, you cannot use it for administrative costs. At least it says it's restricted to not using that. [LB690]

SENATOR BOLZ: Yeah, and I think there are some distinction between what exactly those administrative costs are... [LB690]

SENATOR WATERMEIER: Sure. [LB690]

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SENATOR BOLZ: ...and what is planning and what is administrative. [LB690]

SENATOR WATERMEIER: Well, maybe you and I can visit about the history of that a little bit. [LB690]

SENATOR BOLZ: Sure. [LB690]

SENATOR CAMPBELL: Thanks for clarifying that. Senator Gloor, I think there is a separate bill that would... [LB690]

SENATOR GLOOR: Delay. [LB690]

SENATOR CAMPBELL: ...delay the implementation of managed care for long-term care. But I was working on a totally different area, but a number of states certainly do look at managed care for long-term care. So we're not out of the mainstream there, but the question is are we ready to move forward. Any other questions, comments? Thanks, Senator Bolz, very much. [LB690]

SENATOR BOLZ: Thanks for your attention. [LB690]

SENATOR CAMPBELL: All right. We will close the public hearing then on LB690 and proceed. If you are leaving, try to leave as quietly as you can. And we will proceed. Senator Johnson is here. We'll take just a minute. So if you have a conversation, I'm going to ask you to take it all outside because we want to give Senator Johnson due here. Absolutely. All right. This is your first visit, Senator Johnson? [LB690]

SENATOR JOHNSON: First visit to this committee.

SENATOR CAMPBELL: We are the friendliest committee you will find. (Laughter) Really, we are.

SENATOR JOHNSON: I am not threatened.

SENATOR GLOOR: Sharpen the axes.

SENATOR CAMPBELL: Now don't say that yet. Okay. We will open the public hearing on LB843, Senator Johnson's bill to change provisions relating to membership on the Board of Veterinary Medicine and Surgery. Senator Johnson, welcome, and please go ahead. [LB843]

SENATOR JOHNSON: Thank you. Thank you, Chairman Campbell and members of the committee. This is my first time. I bring you a bill that's one page. I hope you

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appreciate that. It's pretty straightforward and it's brought to us by a constituent. The bill deals with the state Board of Veterinary Medicine and Surgery. Currently, the board consists of five members appointed by the State Board of Health. Three members are to be licensed veterinarians, one licensed veterinary tech, and one member from the public. The intention of LB843 is to ensure that no two or more members of the board are employed by the same employer. I'm not suggesting that there's been anything illegal in this activity, but I think it would be easy to see that the bill could prevent even an appearance of undue influence with 40 percent of the vote being under one direction. It could be inserted by a single individual or an organization. So a couple of questions that have been thought about and have been asked of me. What is the pool to make sure that we have enough veterinarians that would be available? As of December of 2013, there were 845 licensed veterinarians with a Nebraska license, and 458 licensed veterinary techs with Nebraska licenses. Now there's more than that if you include vets from other states that practice in Nebraska. The pool of qualified professionals is there; it's a relatively large number. And I feel this will help spread out the representation maybe of this board by eliminating the fact that there could be more than one board member working for an employee. So that's my opening. Any questions, comments?
[LB843]

SENATOR CAMPBELL: Questions from the senators? Senator Gloor. [LB843]

SENATOR JOHNSON: Yes. [LB843]

SENATOR GLOOR: Thank you, Senator Campbell. I don't remember whether, Senator Johnson, you and I visited about this, but I've had this conversation a couple of different times with individuals about this bill, which is pretty straightforward. But I think my first question fits into the category of isn't this probably unique situation that you've got two people who have the same employer? I mean, I'm not necessarily opposed to the bill. I'm just thinking is it likely this would ever happen again. If one of these members went off, would there be much chance that the next vet who came on has got the same employer? [LB843]

SENATOR JOHNSON: Well, I think there's a possibility that it could be the same because it has happened. So I think there's a possibility. My feeling is this by the numbers, there's more...there's two categories probably that we look at. There's veterinarians that are large animal and there's small animal. I don't think we're seeing in the large animal area a lot of what you might call organizations, corporations where one owner would have several vets under them. I think it's a little bit different than the small animal area, and I think that's where maybe where we could see the possibility of this happening. [LB843]

SENATOR GLOOR: Yeah, and I think that might be where you and I visited a little bit was if you take a look at, you know, healthcare for people, some of the roll up in

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consolidation that's beginning may in ten years have most hospital employees, most physicians, and physician office employees working for one of four or five large employers or corporations across the state. So something similar as relates to the Board of Health as an example might long term really limit our pool of people to call on. But I could see where that's probably not likely to happen when it comes to veterinary medicine. First of all, you're not talking about the same scope of acute care piece, a primary care piece, and so on and so forth, so. [LB843]

SENATOR JOHNSON: Right, right. Very true. Yeah, I don't see this happening very quick in this industry. I've had some questions. Should this be broader than veterinary? And I said I don't think so right now. I'd have to have to start looking at all of them, you know, because I think that's very true that we could have situations where...and it might be in a biggest enough organization that there...they're more independent, too, you know, when working for a area... [LB843]

SENATOR GLOOR: That's exactly...yeah. [LB843]

SENATOR JOHNSON: ...cluster of hospitals or something like that. So I think this is appropriate for the vet, veterinary board. I've also had some questions about...and I understand why it's in front of this committee and I have no problem with it, but most of the senators that have cosigned on this are ag senators and wondering why it's not in front of the Ag Committee. But I understand health, so...and I'm fine with that. [LB843]

SENATOR CAMPBELL: We get anyone who is licensed or certification. I think we've even had architects and engineers. And really where we first became aware that we dealt with the Board of Veterinary Science was when we the bovine implant bill. And then for those continuing senators who have been around, that was a great education for us I thought because it wasn't a topic that I think very many of us knew anything about and yet it was very helpful because we had a lot of good education from the vets and the vet techs actually. Senator Johnson and I talked a little bit about this whole idea of whether this should be carried over into other boards and we decided no, just stay with this. But I would encourage the Health Committee members, we are supposed to meet with the Board of Health I believe next Monday. And I'm looking at Dr. Acierno. I think it's next Monday in which they release their annual report, and they're having a lunch here in the Capitol. It may be a topic that we would want to mention to them. I think they're going to say no, not at this point, because I bet very few people have really looked at the issue on other boards. But I did tell Senator Johnson that we would bring up the topic. [LB843]

SENATOR JOHNSON: That's fine. And I have no problem with it being in front of this committee. I understand that totally. [LB843]

SENATOR CAMPBELL: We get educated in all kinds of things. [LB843]

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SENATOR JOHNSON: That's right. Okay. [LB843]

SENATOR CAMPBELL: Any other questions? Senator Johnson, are you staying to close? [LB843]

SENATOR JOHNSON: I can. Yes. [LB843]

SENATOR CAMPBELL: Okay. That would be great. Our first proponent for the bill, LB843. Good afternoon. Do you have one of the orange...ah, you are way ahead of us, sir. [LB843]

GERALD DOBESH: I'm ready to go. [LB843]

SENATOR CAMPBELL: You are. Go right ahead and introduce yourself. [LB843]

GERALD DOBESH: Well, good afternoon, Senator Campbell and other members of the committee here. I am Dr. Gerald Dobesh, a practicing veterinarian, it's D-o-b-e-s-h. [LB843]

SENATOR CAMPBELL: Okay. [LB843]

GERALD DOBESH: Hi. I'm here to ask you for the support of LB843 whereas Senator Johnson had mentioned basically two members of the veterinarian board should not have the same employer. From what I understand, years and years ago the veterinarian board was originally created as a consumer protection agency and at the same time try to be fair to veterinarians in doing that. It was not created from what I understand to be a veterinarian advocacy group. For that, we have the NVMA. It certainly was not created to be a...the Veterinarian Board of Surgery, in my opinion, certainly was not created to be an advocacy group for one veterinary clinic or one veterinarian. Yeah, you know, why do we, in my opinion anyway, need LB483...843. Essentially these veterinarian board members, before they vote I would think that they would take into consideration the sensitivity of who their employer is. Well, if that employer has two of his employees on the board, what essentially may happen is that one employer who is not even a board member here is by proxy in fear of retribution casting two votes on the board. I'm not saying it has happened. I'm saying that it may have happened. Okay. Then now today unfortunately there are...there's one employer that does have two employees on the veterinarian board. So it has happened. You know, the danger here is that if this one employer takes control of the board, then they can really do damage to their competition. And so, you know, personally I would like the assurance that the veterinarian board is being fair to everybody and to other veterinarians too. So this afternoon once again I ask you for support of LB843. Thank you. Oh, questions? Yes. [LB843]

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SENATOR CAMPBELL: Any questions? Senator Crawford. [LB843]

SENATOR CRAWFORD: Thank you, Senator Campbell. And thank you for coming to testify. [LB843]

GERALD DOBESH: Why, thank you. [LB843]

SENATOR CRAWFORD: I'm not very familiar with this specific board in terms of the kinds of decisions that it makes, so could you help us understand when you say you're worried about the danger that could happen when one employer takes control of the board. Just give some examples of the kinds of decisions that might...this board might make that are the kinds of dangers that you're concerned about. [LB843]

GERALD DOBESH: Okay. I would give you a specific example. As you may know, the veterinary board is responsible for disciplinary issues. [LB843]

SENATOR CRAWFORD: Okay. [LB843]

GERALD DOBESH: And, for example, if the veterinarian on probation is two days late in finding a probation monitor, that employer might say, okay, let's really thump him. And you two board members, you two employee board members, you make sure you thump that person, otherwise it's your job maybe if you don't. And these votes are public. So there...I'm not saying it happened but I saying it may have happened. [LB843]

SENATOR CRAWFORD: Okay. Thank you. So disciplinary... [LB843]

GERALD DOBESH: And a lot of these disciplinary... [LB843]

SENATOR CRAWFORD: So one is disciplinary and... [LB843]

GERALD DOBESH: What's that? [LB843]

SENATOR CRAWFORD: So that's one good example, disciplinary, disciplinary discussions, disciplinary decisions is what you're saying is one example. [LB843]

GERALD DOBESH: Yes. And a lot of them are subjective, what you're going to do with the person. [LB843]

SENATOR CRAWFORD: Okay. [LB843]

SENATOR CAMPBELL: Other questions? Doctor, where are you from? Where do you practice? [LB843]

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GERALD DOBESH: I practice in 11 different cities throughout the state of Nebraska. [LB843]

SENATOR CAMPBELL: Wow! [LB843]

GERALD DOBESH: I have a mobile clinic. I do rotational clinics. [LB843]

SENATOR CAMPBELL: Really? [LB843]

GERALD DOBESH: I practice in Omaha, Lincoln, Grand Island, Hastings, Kearney, Sioux City, Fremont, and there's probably a couple of others I forgot. First clinic of its kind ever in the state of Nebraska. [LB843]

SENATOR CAMPBELL: Large animal or small? [LB843]

GERALD DOBESH: Small, exclusive, yes, Senator. [LB843]

SENATOR CAMPBELL: Let me see you afterward. I have a couple of questions about my dog. (Laughter) [LB843]

GERALD DOBESH: Oh! I would be very glad to help you out. [LB843]

SENATOR CAMPBELL: I'm just kidding. I'm just kidding. But there are days. [LB843]

GERALD DOBESH: I will get, I will take new clients no matter how I can get them. (Laughter) [LB843]

SENATOR CAMPBELL: Okay. I hear you there. Other questions from the senators? Any other...Senator Crawford. Oh, sorry, Senator Cook. [LB843]

SENATOR COOK: Thank you, Madam Chair. [LB843]

GERALD DOBESH: Senator Cook [LB843]

SENATOR COOK: Yes. Yes, Dr. Dobesh. Hi. [LB843]

GERALD DOBESH: Hi. [LB843]

SENATOR COOK: I have a question because I'm remembering the testimony that was offered during the bovine implant hearing where I seemed to recall that there is a shortage of veterinarians and perhaps vet techs in certain parts of the state. And I wonder as we are looking at a measure like this to what degree we might be impacting

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geographic diversity represented on the board. Do you have any thoughts about that? Am I remembering that correctly that there are parts of the state just like with human medical services that there might be inadequate veterinarians or vet techs. [LB843]

GERALD DOBESH: There is. It is hard to get veterinarians to go out to the Sandhills. Maybe it's not as profitable out there, you know. [LB843]

SENATOR COOK: Okay. [LB843]

GERALD DOBESH: So as far as diversity, yes, I think, Senator, there's a problem there. [LB843]

SENATOR COOK: Okay. [LB843]

GERALD DOBESH: I don't know what the solution to that is. [LB843]

SENATOR COOK: And that's not the idea behind the proposal, but that's just something I wanted to hear from a practitioner what your perspective might be, so thank you. [LB843]

GERALD DOBESH: Well, thank you. [LB843]

SENATOR CAMPBELL: Other questions from the senators? Thank you, Doctor, for coming to testify today. [LB843]

GERALD DOBESH: I sure appreciate it. [LB843]

SENATOR CAMPBELL: Thank you. Our next proponent. Good afternoon. [LB843]

KATIE ZULKOSKI: Good afternoon. Members of the Health Committee, my name is Katie Zulkoski, Z-u-l-k-o-s-k-i, representing the Nebraska Veterinarian Medical Association today in support of the bill. I'd like to thank Senator Johnson and his staff for their attention to this and working with our association and keeping us in the loop as they discuss this issue. The association certainly feels that there have not been instances of impropriety, but as far as the public image this bill does go in the direction of making sure it doesn't look like there would ever be a chance for impropriety in the area. And so for that reason the association feels like this is good policy. And I'd be happy to answer any questions as well. [LB843]

SENATOR CAMPBELL: Ms. Zulkoski, would you like to address Senator Cook's question in terms of whether there's a shortage some places? [LB843]

KATIE ZULKOSKI: Absolutely. [LB843]

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SENATOR CAMPBELL: Because I do remember that conversation. [LB843]

KATIE ZULKOSKI: That certainly is a challenge that the veterinarians are facing recruitment like many other businesses recruitment to the rural areas of the state. There just are fewer large animal vets across the state. But I do think for the most part that's a great question and one that we have not discussed specifically. But for the most part, large animal vets are...own their own business, and so I don't think as of now, as Senator Johnson addressed, it doesn't look to create a problem now but certainly in the future as healthcare moves in different directions, is always moving in different directions, I think that is...that could become a concern. [LB843]

SENATOR COOK: Okay. Thank you. [LB843]

SENATOR CAMPBELL: Any other questions, Senators? Thank you very much. [LB843]

KATIE ZULKOSKI: Thank you. [LB843]

SENATOR CAMPBELL: Our next proponent. Okay. Anyone who wishes to testify in opposition to LB843? In a neutral position? Good afternoon again. [LB843]

JOSEPH ACIERNO: Good afternoon again, Senators. My name again is Joseph Acierno, J-o-s-e-p-h, Acierno, A-c-i-e-r-n-o. I'm the Chief Medical Officer and Director of the Division of Public Health, and I'm here in a neutral capacity. I don't have anything prepared. I just determined it would probably be best just to give you a little bit of an outline of really this board, the boards generally, and how they interact the Board of Health in their appointments. The Board of Health has the duty to appoint all board members. And there are mechanism regulatorywise for any act of impropriety, any conflict, anything that goes on in I think it's 172 NAC e (3) I believe is the citation to it, and has it listed how the board is supposed to conduct business. And if there is a failure to do that, there is a mechanism involved for removal of that board member. So those things are taken care of. So rules and regulations govern the conduct of board members. By the way, you're seeing this because they're regulated under the Uniform Credentialing Act. That's why. And they operate like any other board that's under...within the Division of Public Health, the many boards we have. So any failure to conduct themselves appropriately would then be reviewed, investigated potentially, and acted upon by the Board of Health. It is the Board of Health's responsibility to make sure how they configure these boards as well. They have that power to configure them as they see best. As to the power of boards, and this is to go towards what Senator Crawford was asking, the boards themselves will look at practice issues that are before them. They will also be involved in disciplinary issues. But their discipline is limited. They're only in the role of an advisor and they make a recommendation to the Attorney General's Office who then prosecutes the case. After prosecution of the case, I'm the

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judge. The Chief Medical Officer is the judge. The board does not decide the discipline. I do that. For better or for worse, I'm the guy who does that. (Laughter) So the only area that they may have...they have some...a little bit of independent power is on a denial and a reinstatement potentially. And that has appeal potential through the Administrative Procedural Act that they are able to appeal that. So nobody is left at the position only at the mercy of a board here. It's either going to come to me for discipline or they can appeal in another venue. Today, we've had no issue with any of the boards frankly regarding conduct of board members that has been acted on in my time with the department. So we've had no recent incidence. And we're always looking for good members of the boards regardless of who they're employed by. So I wanted to give you a little bit of that background. And by the way, on the disciplinary issues, these are not public votes. This is done in closed session as to not...and that's by statute, and that is to protect that licensee's reputation. Should it amount to nothing you don't want their name out there. First of all, the complaint is the complainant is protected. That's confidential. We don't talk about complaints. It is done in closed session where it's discussed and a recommendation is made to the Attorney General's Office. It becomes public only at the time of a petition being filed. Then at that point it continues. It can go to hearing. It could resolve in an agreed settlement or some other form. But then I sign off on that too. And once it becomes public in hearing, well, then obviously that's a public matter and then it comes to me for eventual decision. But I just wanted to give you a little bit of background on the boards. I don't mean to insult any of your intelligence but just to kind of give you a frame work that we're working under within the department. And so you can kind of put that all together as you're determining how to handle this bill. If you have any questions I'd be glad to entertain them. [LB843]

SENATOR CAMPBELL: That's helpful. How many people serve on the Veterinary Board? [LB843]

JOSEPH ACIERNO: Oh, I have the exact configuration. I think it's...yeah, I think it's five. [LB843]

SENATOR CAMPBELL: Five? Okay. [LB843]

JOSEPH ACIERNO: Three veterinarians, one licensed vet tech, and one public member. [LB843]

SENATOR CAMPBELL: Thank you. I thought we should have that in the record for the hearing. Senator Gloor, did you want to follow up with a question? [LB843]

SENATOR GLOOR: Yes. Thank you, Senator Campbell. Thank you, Dr. Acierno, for being here. [LB843]

JOSEPH ACIERNO: Sure. [LB843]

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SENATOR GLOOR: Yeah, you know, I mean, I understand the bill. I really don't have any concerns about it except, you know, there's a part of me that says unless employment changed for these vets after they came on the board, the Board of Health was well aware the appointment process made it clear that there was this potential conflict of interest yet they were appointed anyway. So, you know, I mean, I'm wrestling with that issue. And I'm also thinking about other boards. I'm thinking about the Board of Health where you could certainly make the argument that, well, there are more hospital staff on the board who are going to pick on the doctors, the doctors...there's more doctors who are going to take advantage of the nurses, the more nurses who are...I mean, I'm trying to decide where that conflict begins and ends. It certainly doesn't have to just be employers that may be the issue. [LB843]

JOSEPH ACIERNO: I understand. [LB843]

SENATOR GLOOR: It may be professions that can be problematic when it comes to board membership. And so I want to make sure we're to starting down a slippery slope here of what's the right mix and that we make our decisions here. That may be getting a little far into the weeds. [LB843]

JOSEPH ACIERNO: Sure. [LB843]

SENATOR GLOOR: I'm not saying that's the case with this. I'm just...it's part of what I'm weighing on all of this. [LB843]

JOSEPH ACIERNO: I understand that. [LB843]

SENATOR CAMPBELL: Senator Crawford. [LB843]

SENATOR CRAWFORD: Thank you, Senator Campbell. So just to clarify in the process, so if a complaint goes and the board hears the complaint, you said the vote on the disciplinary complaint is not public. [LB843]

JOSEPH ACIERNO: That's correct. [LB843]

SENATOR CRAWFORD: Not public that each person voted or like the count isn't even public? [LB843]

JOSEPH ACIERNO: Period. When it goes, it's investigated by the Division of Public Health and license...or the investigations unit. It is then taken to the board, whichever board, but in this case it would be the vet board. That case is presented to them. The Attorney General is present as well. Whatever case is made they determine in closed session what, if anything, could be done with the case. If there's a recommendation

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made to file a petition against that licensee and the Attorney General then makes that determination whether there's enough evidence. And then they would file a petition. They could at that point say we don't see anything there, we're going to let the case go. We'll just dismiss that case against them. There is no vote taken. This is closed session. So it's not...it's just not public. It is known within how they want to see that, but that is only for the board members and the Attorney General to decide how that recommendation...what that recommendation is. But the Attorney General then has freedom to prosecute the cases they see fit. They're not under strict direction of the board. The board makes recommendation. They do not mete out any punishment. They are not the jury, they're not anything other than a recommending body. [LB843]

SENATOR CRAWFORD: Thank you. [LB843]

JOSEPH ACIERNO: I hope that made sense. [LB843]

SENATOR CRAWFORD: Oh, it does. Thank you. Appreciate your clarification. [LB843]

SENATOR CAMPBELL: Dr. Acierno, is there anything in the rules and regs like this bill in that the Board of Health has established itself and said, you know, in terms of conflict or...? [LB843]

JOSEPH ACIERNO: Well, the board...I mean, their power is given to them as far as in the statute. But through the regulatory process it's how the board members themselves on the professional boards conduct themselves. [LB843]

SENATOR CAMPBELL: Okay. [LB843]

JOSEPH ACIERNO: And then if there's an issue, they are supposed to adhere to those rules and regulations. If they choose not to and there is some act that needs to be acted against, there are provisions in the regulations to...how to handle that and potentially bring that up to the Board of Health for execution on whatever it might be. So it's all laid out. [LB843]

SENATOR CAMPBELL: You talked about that the members of the boards are...they're...for instance, if Senator Cook was going to be on one of the boards, doesn't the Governor put forth that nomination? [LB843]

JOSEPH ACIERNO: The Board of Health is as far as the Governor goes, but the... [LB843]

SENATOR CAMPBELL: Okay, but the rest aren't. [LB843]

JOSEPH ACIERNO: ...the professional boards are appointed by the Board of Health.

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[LB843]

SENATOR CAMPBELL: Okay. [LB843]

JOSEPH ACIERNO: Those members are appointed by the Board of Health. [LB843]

SENATOR CAMPBELL: So they would review Senator Cook's resume... [LB843]

JOSEPH ACIERNO: Absolutely. [LB843]

SENATOR CAMPBELL: ...to figure out that... [LB843]

JOSEPH ACIERNO: Yes. [LB843]

SENATOR CAMPBELL: ...that Senator Cook is employed by Senator Watermeier.
[LB843]

JOSEPH ACIERNO: Correct. [LB843]

SENATOR CAMPBELL: So you would see that on the application do you think? [LB843]

JOSEPH ACIERNO: They would. I assume that application, I can't say that I read the applications because I don't, that's not my power to appoint those individuals. So I imagine on the application it probably has all those items on it. [LB843]

SENATOR CAMPBELL: Okay. [LB843]

JOSEPH ACIERNO: So they could see their background, what makes them qualified to be now sitting on a professional board. [LB843]

SENATOR CAMPBELL: So most likely they're going to be taking a look at do they fit the particular slot on the board as, you know,... [LB843]

JOSEPH ACIERNO: Correct. [LB843]

SENATOR CAMPBELL: ...a veterinarian or a vet tech or... [LB843]

JOSEPH ACIERNO: Or the public member. [LB843]

SENATOR CAMPBELL: Got it. [LB843]

JOSEPH ACIERNO: Correct. That's their job. [LB843]

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SENATOR CAMPBELL: Okay. So they would review the resume, and unless that ownership was not known to people, and I suppose that could happen. [LB843]

JOSEPH ACIERNO: I guess in a general sense whatever somebody chooses not to disclose wouldn't be disclosed. You know, that would... [LB843]

SENATOR CAMPBELL: Well, I understand that, that part of it. But there could be a silent owner, you know, who owns another of these. [LB843]

JOSEPH ACIERNO: Yeah. I guess that's possible but I hate to speculate what people put on their applications. But I'm just trying to give you an overview procedurally of how it all works. [LB843]

SENATOR CAMPBELL: No, I think that's very helpful to us because we're very knowledgeable at the appointments that come to us. I mean, we spend time and review all those. But how this generally operates within your sphere we probably aren't as aware. [LB843]

JOSEPH ACIERNO: That's fine. That's why I'm here. [LB843]

SENATOR CAMPBELL: But we'll have a chance to also ask and talk to the Board of Health... [LB843]

JOSEPH ACIERNO: Right. [LB843]

SENATOR CAMPBELL: ...on Monday. [LB843]

JOSEPH ACIERNO: I guess we'll see you then on Monday. [LB843]

SENATOR CAMPBELL: Yes, absolutely. [LB843]

JOSEPH ACIERNO: Okay. [LB843]

SENATOR CAMPBELL: Any other questions? Thank you very much, Dr. Acierno. [LB843]

JOSEPH ACIERNO: Thank you. Have a good afternoon. [LB843]

SENATOR CAMPBELL: Anyone else in the hearing room who wishes to provide testimony in a neutral position? Senator Johnson, you may close on your bill. [LB843]

SENATOR JOHNSON: It'll be very brief. Really don't have a closing. I think I've said everything. I think it's been a good process. We've all learned a little bit. If you have any

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questions moving forward, you know, we'll sure work on something if you can see to move this to General File. And I'll close with that unless there's any other questions. [LB843]

SENATOR CAMPBELL: Okay. Any follow-up questions for Senator Johnson? Thanks very much. [LB843]

SENATOR JOHNSON: You bet. Thank you. [LB843]

SENATOR CAMPBELL: We always appreciate quick closing. (Laughter) Have a good afternoon. [LB843]

SENATOR JOHNSON: You bet. [LB843]

SENATOR CAMPBELL: All right. That closes the public hearing on LB843. Senators, do you need a break? Everybody just proceed. I don't think that Senator Haar has a cast of hundreds out here, so. You never know though. [LB843]

SENATOR HAAR: You never know. (Laughter)

SENATOR CAMPBELL: You never know, do you? All right. We will go ahead and open the public hearing on LB695, Senator Haar's bill to require an affidavit relating to radon levels at a childcare location. Welcome, Senator Haar. [LB695]

SENATOR HAAR: (Exhibits 9 and 10) Well, thank you very much. In my next term in the Legislature I want to serve on this...wait, I'm being...I won't have a next term. (Laughter) Chairwoman Campbell and members of the Health Committee, it's colorless, it's odorless, it will make you sick, and you should be concerned. What I'm talking about today is radon. And what my bill would do is to require licensed day cares that often have children using the basement where radon tends to accumulate, would require them to test and then notify the parents of the students at their day care if that center has an elevated level of radon. The level which is set in our law I believe is four picocuries per liter of air. And you don't have to know what that means but you can find that out if you get a testing kit. It's a relatively simple, inexpensive test. You take this...because I've done it on my basement, you take this stuff out of a little package that's sealed, hang it for a week if it's the short-term one, and then send it in and it will be evaluated for radon. Now we're not saying what has to happen in day cares if you score above four, but simply that you would have to inform parents. So this is really a transparency bill I believe so that parents can make a choice. I think it would also..if I were a parent with my kids in a day care, it would also make me feel better if it was reported that the radon level was not above four. Now we've had some exposure to this this year already. Senator Krist has LB13 which we discussed earlier in the session, and I passed out the map again. But the red areas are...most likely have radon and so on.

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Nebraska is blessed with the highest rate of radon in the nation because we have uranium in the ground. And if...we also passed out, and this is put out by, it's called "Nebraskan's Guide to Radon". And if you notice, this put out by Health and Human Services. Radon contributes to thousands of deaths per year, more than drunk driving, drownings, fires, or airline crashes. Now this is nationwide data, but the point is, again, it's something we don't see, we don't smell, but it can be there to hurt. The other thing I learned working with green schools and so on is that children breathe more air than adults because they're growing. And so I consider this especially important when we're talking about children. It's one of those things to protect children. In terms of the specifics and the technical questions, we have somebody who's going to talk about that and you can ask any questions you might have. Again, this requires testing. It doesn't require mitigation. It simply requires testing, and then if you're over the limit to inform parents and the state of that fact. So... [LB695]

SENATOR CAMPBELL: Questions? Senator Gloor. [LB695]

SENATOR GLOOR: Thank you, Senator Campbell. Thanks for bringing this forward, Senator Haar. It seems to me that I recall that some of the discussion about radon has been not that we've discovered that it's problematic but that as we've made houses tighter and more energy efficient they don't breathe the way they used to and, therefore, we end up with the radon that's given out more likely to be trapped in higher concentrations than it used to be. So energy-efficient senators like you are really to blame for it. (Laughter) [LB695]

SENATOR HAAR: Right, and I have tested my house and so if I were to live in the crawl space, the level is too high. (Laughter) You're exactly right there. [LB695]

SENATOR GLOOR: But that is true, isn't it, that we really...we've...it's a good thing that our houses are more energy efficient for ourselves and for the environment. But I believe I've heard not only radon but there are a number of pollutants that we inhale in our homes that used to be nonissues for us because we had leaky homes. [LB695]

SENATOR HAAR: Exactly, exactly. Yeah. And you're exactly right in the fact that the solution, the mitigation if the radon level is too high is simply to circulate air. And Senator Krist's bill which is the cheapest way to deal with it up-front as a preventative is to actually capture it below the level of your basement floor and exhaust it. That's the best solution. But it can be mitigated even if you have an old house. Yeah. [LB695]

SENATOR CAMPBELL: Senator Crawford. [LB695]

SENATOR CRAWFORD: Thank you, Senator Campbell. And thank you, Senator Haar. You mentioned that you had tested in your own home. I don't see any specific language about particular type of test that has to be done. So is it your intent that home kinds of

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kits are what we have in mind and do you have any idea how much those kinds of kits cost? [LB695]

SENATOR HAAR: You could. And we have someone here who's going to talk about various testing. You can have it done professionally and so on. But, yeah, the testing kits are relatively inexpensive. I think \$10 was the one I had. [LB695]

SENATOR CRAWFORD: And in your view, that would be perfectly fine. You're not...you're not...if a home day-care center bought one of these kits, that would be sufficient in determining... [LB695]

SENATOR HAAR: This does not require professional testing. [LB695]

SENATOR CRAWFORD: Okay. [LB695]

SENATOR HAAR: As a parent, I think I might ask that question though of the day-care provider. [LB695]

SENATOR CAMPBELL: Other questions, senators? Senator Cook. [LB695]

SENATOR COOK: Thank you. And I'm just kind of skimming this. [LB695]

SENATOR HAAR: Sure. [LB695]

SENATOR COOK: But this if for any and all licensed childcare centers, including homes. [LB695]

SENATOR HAAR: That's correct, that's correct. Yes. [LB695]

SENATOR COOK: Thank you. [LB695]

SENATOR CAMPBELL: Any other questions, senators, before we go on? Oh, sorry, Senator Watermeier. [LB695]

SENATOR WATERMEIER: Thank you, Chairman. Senator, was there...maybe you'll get it to it with the other testimony, but the level of four parts per--whatever it's called--per liter, is that the number that's magical? [LB695]

SENATOR HAAR: Yes. [LB695]

SENATOR WATERMEIER: I mean, how did you come up with that or what...? [LB695]

SENATOR HAAR: Not magical but it's been determined by the EPA to be the... [LB695]

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SENATOR WATERMEIER: Okay. [LB695]

SENATOR HAAR: ...you know. As with anything that can eventually exacerbate cancer, cause it, there's no absolutely safe level. But they're saying four, this four picocuries per liter of air is the standard. [LB695]

SENATOR WATERMEIER: There's a standard for another residence or another...just for a standard of safety as far as EPA is concerned. [LB695]

SENATOR HAAR: That's correct, that's correct. [LB695]

SENATOR WATERMEIER: Okay. [LB695]

SENATOR HAAR: Yes. [LB695]

SENATOR CAMPBELL: I appreciate you bringing this because I had always assumed that you should be testing in your basement, but this says if you do not spend time there you should be testing where you do spend time. And I never go in the basement. I doubt...I mean, we probably go down, get packages out of storage but not very often. We don't use it. So I ought to test upstairs then. [LB695]

SENATOR HAAR: You should. And the testifier to follow will tell you where you can get these kits from as well or where you can get professional testing. [LB695]

SENATOR CAMPBELL: Okay. Great. Senator Howard. [LB695]

SENATOR HOWARD: Thank you, Chairwoman Campbell. I have question, Senator Haar, about why did you choose to have them submit an affidavit? [LB695]

SENATOR HAAR: Well, it's an official way of notifying people. [LB695]

SENATOR HOWARD: Sure. Are you concerned at all that it would open them up to any legal liability in case the children were harmed? Is that what you were looking for in terms of the affidavit and the use of the affidavit? [LB695]

SENATOR HAAR: No. And in fact the harm caused by radon, my understanding is it's one of those slow things that you would probably not catch it in a kit. I mean, this is something that I might...that might result finally in a cancer in somebody who's 70 years old. But, no, I don't think you'd see any kind of claim, you know, for children themselves. [LB695]

SENATOR HOWARD: Okay. Thank you. [LB695]

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SENATOR HAAR: Yes. Good question though and I'll run that by my legal person.
[LB695]

SENATOR CAMPBELL: Okay. Any other questions? Thank you, Senator Haar. Are you going to stay to close today? [LB695]

SENATOR HAAR: You bet. I will. Yep. [LB695]

SENATOR CAMPBELL: Okay. Our first proponent. Good afternoon. [LB695]

CURTIS DREW: Good afternoon. [LB695]

SENATOR CAMPBELL: Do you have an orange sheet? [LB695]

CURTIS DREW: Oh, you know what, I do not. [LB695]

SENATOR CAMPBELL: That's okay. [LB695]

CURTIS DREW: Forgot about that process. [LB695]

SENATOR CAMPBELL: We will get one for you... [LB695]

CURTIS DREW: Okay. Thank you. [LB695]

SENATOR CAMPBELL: ...and you can complete it after you testify. [LB695]

CURTIS DREW: Okay. [LB695]

SENATOR CAMPBELL: But you do need it now? [LB695]

BRENNEN MILLER: Spell your name very slowly. [LB695]

CURTIS DREW: Okay. (Laughter) It's a tough one. Okay. So...Curtis Drew, so Curtis, C-u-r-t-i-s, and Drew is D-r-e-w. [LB695]

SENATOR CAMPBELL: Okay. [LB695]

CURTIS DREW: I've actually done this before so I should have remembered that.
[LB695]

SENATOR CAMPBELL: That's okay. We just need to make sure that we're getting all the spelling correctly for people who hear it and write it, so. Go ahead, Mr. Drew.

[LB695]

CURTIS DREW: Yeah. I understand. Okay. Like I said, I'm Curtis Drew. I'm the president of National Radon Defense. We're based in Omaha, Nebraska, and we're a network of radon testing and mitigation companies based out of Omaha. We basically train and support companies that do radon testing and mitigation work throughout North America. And so I guess I have a little bit of expertise in this area. And so I'm happy to answer any questions you have about radon. A couple of things I just want to point out while I got the floor here. The four picocuries was discussed and I think there's some questions about why four picocuries, what's the significance of that. And Senator Haar was correct when he said that it's not exactly the safe level; it's really just that line in the sand, if you will, that the EPA has put forward as the code to say if you're actually above that level you should fix your home. If you're between two and four, you should consider fixing your home or building. And below two is...now you're getting to a very lower level. The reason that they use four picocuries is because it's an achievable level. Okay. So we know through our techniques of reducing radon that we can reduce 98 percent of all buildings and homes below four picocuries with our...the way that we do it, radon mitigation system. If we were to set the level at a two picocurie or one picocurie, a lower level, it would be very difficult to achieve that on many homes. So that's why it's set at four because it's achievable. One other thing I wanted to mention is just...I'll discuss with you the different ways we can test for radon. One method is to use a test kit. Those are available in hardware stores, also from the Department of Health in Nebraska you can get kits. And what these are are...it's a carbon tray or a carbon envelop that you would expose to the air and the carbon absorbs the alpha and gamma rays from this radiation which is radon. And so you expose this test kit for a minimum of two days up to five days, and then you take that kit and mail into a laboratory and they mail you results. And it's a very accurate way to test and do it yourself for very economically around \$10. That's correct. Now the EPA does state that you need to do two of those tests to have an actual result. So there are some specs on that. So you really need to do two and then average the results. If they are close in average, then you have an accurate result. So there's things that the individual needs to understand about those kits in doing so, doing their tests. Now there's also requirements on where you set that kit. Radon is coming from deep in the soil. It's coming...uranium is the cause of radon. It's an off gas of radon...of uranium, excuse me, and it's coming up from the soil. So it's coming from deep in the earth and then it hits a hole and it gets drawn in through the concrete slab of the home or through the crawl space if there's a crawl space. So it's very concentrated right on the concrete floor. So if you were to put the kit on the floor, your radon levels are going to be a lot higher. Or if you were to put it in a different area, you could actually manipulate the kit by putting it in a different area. And so I just want to point that out that you may want to consider having professionals do the radon testing because the individual might be able to manipulate the results by putting the kit in a different area of the home and, you know, potentially showing, hey, I don't have a high radon level, maybe put it high up in the second, third story of the house or something

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like that instead of putting it in the lowest area or lowest livable area. I notice the yellow light came on. Is that a question? [LB695]

SENATOR CAMPBELL: It just means you have a minute left. [LB695]

CURTIS DREW: Oh, I'm rambling. Okay. So the professional radon testing community can do a radon test as well. And so we have a licensing requirement in the state of Nebraska that a company has to get licensed to test for radon. They use a monitor to do that. And those monitors are set in a house for the same amount of time but they give you an actionable result right away. And then the licensed company has to follow a quality assurance plan for those monitors. So it's a very accurate way to test, and that's another option that you could consider. [LB695]

SENATOR CAMPBELL: How much would a professional test cost, Mr. Drew, on average? [LB695]

CURTIS DREW: On average around \$125. [LB695]

SENATOR CAMPBELL: Okay. [LB695]

CURTIS DREW: Yep. [LB695]

SENATOR CAMPBELL: All right. Questions from the senators? So, Mr. Drew, you're going to get my question. I seldom go to the basement, nor does my... [LB695]

CURTIS DREW: Okay. [LB695]

SENATOR CAMPBELL: You know, we don't...we used to have all kinds of activity when our kids were home and they were in the basement and that kind of thing... [LB695]

CURTIS DREW: Right. [LB695]

SENATOR CAMPBELL: ...and they've all moved away. So the living area really, the lowest living area is the first floor. So I should be testing on that floor rather than the basement if I've read this correctly. [LB695]

CURTIS DREW: Correctly. Really there is two scenarios in testing your house. If it's for your own health, okay, so you're not moving. Okay. I'm staying here forever and I want to know what the radon is where I'm spending my time, you want to test in the lowest living area. [LB695]

SENATOR CAMPBELL: Okay. [LB695]

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CURTIS DREW: Okay. Where you're spending your time. Now if you are to sell your house, let's say seven years from now I want to move, what's going to happen then is a different requirement. The...usually a home inspector is going to come in and do this test, and they're going to test in the lowest potential living area. So if that basement could be finished and the new buyer could come in and finish the basement, that's where they're going to test. And that's what the...and if that's going to come back high, above four, then you're probably going to have to fix it then. So you just got to keep that in mind when you're testing. But, yeah, that answers your question. [LB695]

SENATOR CAMPBELL: And it should not be done in a utility room, bathroom, or kitchen due to the moisture. Correct? [LB695]

CURTIS DREW: Right. Correct. Yeah, that can... [LB695]

SENATOR CAMPBELL: I thought that was interesting because I would put it in the kitchen, you know. Wouldn't have thought twice about that. [LB695]

CURTIS DREW: Yeah. [LB695]

SENATOR CAMPBELL: So very helpful information here. Other questions? Senator Crawford. [LB695]

SENATOR CRAWFORD: Thank you, Senator Campbell. I was trying to think about the other protections or regulations that we have in place already in radons. We've got some day cares that are in homes and then some that would be other buildings. So are there already requirements in terms of when you're selling a home and then also...or selling a retail kind of space where a day care might go, are there some regular times when we're testing buildings like that that we should know about in the context of understanding how likely it is that childcare centers are getting tested in these other places? [LB695]

CURTIS DREW: There is a couple of things going on legislatively around the country. One of the new developments is within the Department of Health or department...HUD, Department of Housing and Urban Development. Thank you. They have a requirement on multifamily homes being built, and then if they're backing the loan, they're going to require testing on that. And if you're in a Zone 1 or a Zone 2, which would be all of the state of Nebraska pretty much, there's no requirements about testing if you're buying and selling a house currently. And although we'd love to see that some day, I don't know that there is a requirement really in any state about that yet. Although there's been some legislation being put forward, you know, in many states right now. So, you know, with the day-care initiative that you have here, I am privy to, you know, the state of Illinois put theirs into place January 1 of this year to require...a similar type of bill that you guys have here. That's also going to probably pass this year. Well, I shouldn't say.

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It's going through in Iowa as well this year and they're trying to work on the same types of initiatives. Minnesota, I mean, state to state with radon problem there's a similar type of legislation happening. You know, typically the real estate side, you know, there's a lot of players involved in that, so not sure what's happening with that as far as real estate communities. [LB695]

SENATOR CAMPBELL: Other questions for Mr. Drew? Thank you very much for coming today. [LB695]

CURTIS DREW: Sure. [LB695]

SENATOR CAMPBELL: And for the information. [LB695]

CURTIS DREW: You're welcome. [LB695]

SENATOR CAMPBELL: Our next proponent. Anyone else? Anyone in the room who wishes to provide testimony in opposition? Or in a neutral position? Senator Haar, we're back to you. [LB695]

SENATOR HAAR: Well, thank you very much. And, again, just...this is something...it's one of those things when you first learn about it you say, oh, really. And then make you wonder about the space you live in. And that's what we're seeing here. If...again, nobody asked that question exactly, but what would it cost to mitigate if you have a radon level more than four. And that depends on the space and basically it just involves moving that air, you know, where at the bottom that...where radon tends to collect and moving that air and exhausting it, so. My brother-in-law, for example, has a duplex near Kansas City and he just has a tube and a fan in his basement and it pulls the air, you know, across the basement floor. So anyway, I...if you have any more questions I'd be happy to... [LB695]

SENATOR CAMPBELL: Any other questions, Senators? I do want you to know, Senator Haar, that years ago when you were on the city council and I was on the county board that we had, and it was early on, had a gentleman come who wanted us to lower the valuation of his house because he had radon. And I see the chuckles. And all of us sat there and we went, what is radon. I mean, you know, he made it sound as if this was this horrible thing and we ought to take his value to like half. Fortunately we did some investigation and found out that we didn't have to lower the value of his house. (Laughter) But I still remember how all of us really had no idea what that was, none. [LB695]

SENATOR HAAR: And you sort of had a reputation as a heartless county commissioner, (laughter) right, with... [LB695]

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SENATOR CAMPBELL: Is that it? The truth comes out. [LB695]

SENATOR GLOOR: I'd move to IPP the... [LB695]

SENATOR CAMPBELL: Okay. Any other questions, Senators? Thank you, Senator Haar. [LB695]

SENATOR HAAR: Thank you very much. [LB695]

SENATOR CAMPBELL: And that concludes our hearing on LB695 today and all of our hearings for the day. [LB695]