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Transcriber's Office

Executive Board Committee
February 01, 2017

[LB376 LB442]

The Executive Board of the Legislative Council met at 12:00 p.m. on Wednesday, February 1, 2017, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purposes of conducting a public hearing on LB376 and LB442. Senators present: Dan Watermeier, Chairperson; John Kuehn, Vice Chairperson; Kate Bolz; Sue Crawford; Dan Hughes; Tyson Larson; John McCollister; and Jim Scheer. Senators absent: Ernie Chambers and John Stinner.

SENATOR WATERMEIER: All right. Welcome to the Executive Board Committee hearings today. My name is Dan Watermeier from Syracuse; I represent the 1st Legislative District in southeast Nebraska, serve as Chair of the Executive Board. The committee will take up the bills in the order that they are posted outside. Our hearing today is on your public part of the legislative process and your opportunity to express your position on proposed legislation before us today. Committee members may come and go during the hearing. We get called away for various reasons. This is not an indication that we're not interested in your bill but we are busy with other parts of the process. To better facilitate today's proceedings, I ask that you abide by the following procedures. Please silence your cell phones. The order of testimony will be introducer, the proponents, opponents, neutral, and then closing by the introducer. If you are testifying, please make sure you fill out a green testifier sheet. These are located outside in the other hallway. If you come up to testify, please hand the green paper to the page. Please state and spell your name for the record at the start of your testimony. If you will not be testifying but want to go on the record as having a position on a bill being heard today, there is a white sign-in sheet at the entrance where you can leave your name. These sign-in sheets will become an exhibit of the permanent record at the end of today's hearing. Written materials may be distributed to the committee members while testimony is being offered. Hand these to the page when you come up to testify. We will need 12 copies. If you need additional copies, we'll take care of that for you. If you have written testimony but do not have the 12 copies, raise your hand. To my immediate right is Legal Counsel Janice Satra; to my left is Committee Clerk Laura Olson. The committee members with us today will introduce themselves, beginning with Speaker Scheer unless he's leaving (laughter).

SENATOR SCHEER: No, no. (Inaudible).

_____: (Inaudible.)

SENATOR WATERMEIER: Senator McCollister.

SENATOR MCCOLLISTER: John McCollister, District 20, central Omaha.

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SENATOR BOLZ: Senator Kate Bolz, I represent District 29 in south-central Lincoln.

SENATOR HUGHES: Dan Hughes, District 44, ten counties in southwest Nebraska.

SENATOR KUEHN: John Kuehn, District 38, only seven counties in south-central Nebraska.

SENATOR CRAWFORD: Good afternoon. Senator Sue Crawford, District 45, eastern Sarpy County.

SENATOR LARSON: Tyson Larson, District 40, northeast and north-central Nebraska.

SENATOR WATERMEIER: All right. Also on our committee today is Senator Stinner who is Chairman of Appropriations and Senator Chambers from Omaha. I think that's it as far as our announcement, isn't it? We'll take up the bills in the order in which they are, starting with LB376. Speaker Scheer.

SENATOR SCHEER: (Exhibit 1) Thank you, Senator Watermeier and colleagues. Some historical information in regards to what we're talking about today: I believe it was three years ago I introduced a bill that would provide the ground that is in question. You have a copy of the map, if you look at this, and I will give you some historical data in relationship to the map. And there was a bill that we passed that was going to sell the property to the community college, realizing that...and you should realize that there is a sex offenders facility in the lower right-hand corner of the property that's in question. It could give you a historical portion of the information. The community college is essentially everything to the left of the center road that you're looking at. And that's that full section of ground. The community college on the other side, on the right side of that, owns all the property up above, on top of it, coming straight down south all the way over, and you can just see the highway on the very lower right-hand. Lower right-hand tip is the highway that goes across. That is all college ground. So in essence, the regional center, this ground was a regional center at one point in time and it had some buildings on it and the state has now vacated the buildings and had them razed. The original bill called for the buildings to be razed and then the community college was going to buy it. The proposed value at that time was somewhere around \$2,000 to \$3,000 an acre, which we thought was a fair price. Bear in mind it's sitting right next to a sex offenders facility. This is going to be utilized by the community college as a technology and an entrepreneurial center. It has taken a long time to get the buildings razed and at that point in time the state then decided to do an additional appraisal. I cannot tell you who--I suppose it might be in here--who did the appraisal, but they came up with a value of about \$34,000 per acre for the ground. I will tell you, there is not much in Norfolk, Nebraska, that would fetch \$34,000 an acre that is especially sitting next to a sex offender, razor-wired facility. The comps that they used, there is a four- or five-acre piece of ground that is on the city's

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bypass and high C retail area across the street from the Walmart was what they used as a comp and, by the way, has not been sold. In the time when I introduced the bill three years ago, and I had several of the senators that are still here now on the floor and several that have left said, why don't we just give the ground to the community college, we've already done that once in relationship to the university and the Fairgrounds. He said, well, that certainly could be an option but the community college was trying to do what it could and it could possibly afford that small of amount. Since that point in time, with the change of the veterans facility from Grand Island to Kearney, I believe that ground has been or will be deeded over to the city at one point, including the vacant farm ground that it is on, as well, and again at no charge. I understand the political ramifications. I'm not complaining that we did that at all. But if we are...if we are going to provide that to another governmental entity, this, as well, is a governmental entity; it is a property tax-supported entity, just like the city of Grand Island. And we can't seem to come up with what seems to be a fair or correct valuation on the property because right now they're only deeding not quite or maybe about half of the ground to the community college. It seems to me then maybe our best bet is then just simply to deed the ground, like we have done previously to other entities, to another tax-supported entity. I have...I specifically...and please don't misconstrue the fact that no one is here to testify as the lack of interest. I specifically asked them not to. As a body we've already agreed to divest the property as a state to the community college. What we're really talking about is how we go about that simply because of the time delays it has taken and now the struggle to come up with what might be an adequate or fair price. From my standpoint, within the last year, actions have again taken place that allowed the state to divest property that it owned at no cost to another governmental entity. Both of those would be property tax supported. Obviously the university is not property taxed. We support that and they're also supported via tuition. So I realize the economy is not great. But the original value that I think we placed on this as an A bill three years ago was about \$2,000 or \$3,000 an acre, which I think, as I recall, was about...I think there were, plus or minus, about 70 acres for the whole process was around \$200,000. The community college is wanting desperately to get started on this. This is a process that if it works out the way everybody hopes and envisions to, we'll be able to develop entrepreneurship in rural Nebraska. It will provide training to students from rural Nebraska to be able to go out and hopefully go back into rural Nebraska and help repopulate that area. I just don't want this to take another two or three years to facilitate some type of finality on it. We're in a quagmire. I'm not trying to...I'm not upset with Administrative Services. They're doing whatever they can to try to do what they're doing but their hands are tied too. They've got to look at the various regulations and they're really not sure exactly how to go about this. At least on personal standpoint, they have acknowledged our office, that they really don't think that's probably correct but they don't know how to get the correct one. I really don't want to spend another \$10,000 or \$15,000 or \$20,000 of the state's money trying to develop another valuation, for the real estates to come up with a price if, indeed, we can facilitate the transfer of that ground to the university, and from my vantage point, the sooner the better. They have waited much too long the way it is now. And again, may be no one's fault, but I think we need finality to this

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process. I have specifically asked that no one from Norfolk or the college or anyone else come to testify. This isn't a question if we're going to divest the property. That's already been determined. The question is how much the value is, if any, that will go to the community college. My bill is simply asking them to do as we've done before and deed the property over to the community college. [LB376]

SENATOR WATERMEIER: All right. Thank you, Speaker Scheer. Questions? Senator McCollister. [LB376]

SENATOR MCCOLLISTER: Yeah. Thank you. Thank you, Senator Watermeier. We talked previous to your opening about this particular situation. The college, if need be, could resell the property, could they not? [LB376]

SENATOR SCHEER: You know, they might be able to but, to be honest, John, I would think if you want to put some type of stipulations that if the ground was ever sold that it would revert back automatically or the profits thereof would go back to the state of Nebraska, they would be perfectly fine with that. There is no intent whatsoever for them to turn this property in some other form. They have a plan; they have a layout of exactly what they're going to do with it. If you look at the map, they own the rest of the property that encompasses it. This is a campus-type system. If you've never been up to Norfolk and looked at the facility, I can understand there may be some hesitancy. Northeast Community College I think is really relatively unique in the state of Nebraska. They are very progressive. They have a lot of things going. They probably on the right, to the south of that property and to the right on your picture, have a lineman facility where they train and educate electrical linemen. The...unfortunately, we do a really, really good job. People that come in that are going to school there are employed throughout the United States and the world. Unfortunately, a lot of those people that are educated there do go outside of our district because the state needs them and they do go outside the state. But we do a fabulous job in Norfolk with that community college and it's supported by the region. The students get a first-rate education. They're not trying to turn ground to profit. They're trying to build facilities that will help and encourage education and the development of the population in that area to help sustain it and increase it. So if there is a concern that, gosh, we could give them 20 acres and they could turn around and sell it to Kmart or Walmart or somebody else or turn it to a developer that would put up 800 apartment buildings, throw it on whatever deed you want to give them or whatever purchase or gift agreement you want, this ground is going to be utilized by the community college without question. [LB376]

SENATOR MCCOLLISTER: Thank you, Speaker Scheer. You briefly mentioned how the college plans to use this ground. Can you elaborate on that a little bit? Has a master plan been established? [LB376]

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SENATOR SCHEER: They have one. I do not have it with me. How it first came to light when they were looking at the ground, and again going back in time--and I know Senator Hughes and I think Senator Watermeier came up to look at it, I don't know if Senator Kuehn did or not, I know Senator Stinner did--there were probably 800- or 900-year-old buildings that hadn't been used for probably 30 or 40 years that the windows were broken out, the doors were blown open. We walked down...we walked throughout in many of the buildings. The state had a huge liability there. I mean you could tell that transients had been in there, that probably kids were using it for parties and other things. We were lucky we did not have something happen in relationship to having a claim against the state. When I was first elected I said, gee, that really is an eyesore. The state has almost neglected itself. And there have been other attempts to try to get the ground to the community college, but I don't know that anyone had taken as much initiative as I did. In the meantime, since probably the two or three years since it had been attempted by someone else, there had been two Internet providers that both brought systems in, lines in, and they both tie right in front of that property. That is probably going to be...I don't...I mean it will be as fast as anything in Lincoln, certainly the fastest, most responsive area in northeast Nebraska, without question. It could handle, literally it could handle if Google wanted to put 25...you know, if they wanted to take their facility in Council Bluffs and plop it on that ground, it could have facilitated. It has all the infrastructure that we need to have that type of facility in northeast Nebraska. And it's not...this is for public use. This is for training. This is for educational purposes. And we hope to emulate. We're not trying to reinvent the wheel. We're trying to emulate somewhat of what we see out at Innovation Campus trying to get people and incubate small businesses so that they can go out and grow in rural Nebraska because, let me tell you, 90 percent of the kids and adults that are attending there, they're from that area and they're probably more so from the rural areas than the more populated areas. They're doing a good job of trying to keep people and bring people back to the rural areas in northeast Nebraska. This will be an outstanding help. [LB376]

SENATOR McCOLLISTER: Well, based on what you're saying, shouldn't we attach some value to that property and attempt to bring those revenues into the State Treasury? [LB376]

SENATOR SCHEER: You could but I would say the same would be true of a lot of other things that have happened. I didn't see us attach a value to the Innovation Campus or the State Fairgrounds when it was provided to the university. Certainly, if we want to talk about a value, that was multimillion dollars' worth of ground and it was simply deeded over to the university system and is...well, in Grand Island, with those grounds, again, I know that was a political issue. I understand it. I don't have a problem with it. But again, highly valuable property, I know exactly where that fits. That is a very high retail, commercial, developable area in Grand Island. This is not the case with this property. Of any of those three, this would, by far and away, be the least valued of any of those; in fact, I would question the value at all. I don't know many people that really would want to build next to that facility. And we have somebody that is wanting to provide services and utilize that ground for that. And so I don't...I don't pause one second for that

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not having a value because when you place value and you're asking that value to be provided from one governmental entity that is tax supported, regardless if it's income, sales, or property tax, to have to cut a check to another governmental entity that is provided by the same tax structure, that seems somewhat idiot. [LB376]

SENATOR McCOLLISTER: Thank you, Senator. Thank you, Mr. Chairman. [LB376]

SENATOR WATERMEIER: All right. Senator Hughes. [LB376]

SENATOR HUGHES: Yes. Thank you, Mr. Chairman. Thank you, Speaker Scheer, for bringing this back. I was on the Building and Maintenance Committee. We did travel up to Norfolk and I was appalled at what this...the condition of this property at two years ago. So what does it look like now? I mean, is it just bare landscape or...? [LB376]

SENATOR SCHEER: They have received...they've taken all the buildings down and there were a few of the trees that were in the way of the equipment to get in to tear those down. But there are really no streets. I mean the, you know, the streets that we went back on that were corroded and we spent most of the time on the grass would still be there, would look similar other than the buildings are razed. [LB376]

SENATOR HUGHES: Okay. So it would take a significant amount of work to get it ready for development on the...whoever chooses to develop it at this point. [LB376]

SENATOR SCHEER: Oh, absolutely, yes, absolutely. [LB376]

SENATOR HUGHES: The question of whether they would ever sell it, you know, I don't know if whether you own the surrounding property, that...I mean, that, as a businessman, that does not make sense. But I would possibly support some sort of an attachment to this bill that it could not be sold but it would have to have a time limit on it. You know, I cannot be for, you know, for all time if it would be a... [LB376]

SENATOR SCHEER: Like I said, I would welcome...if that is a concern in relationship to the committee or the floor itself, if you want to put a 10-, 15-, 20-, or a 30-year stipulation that the ground cannot be sold and, if it is, the proceeds from that sale go directly to the state of Nebraska, no one will care. We just want to get it done so that we can get the process started. True. [LB376]

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SENATOR HUGHES: Yeah. I am fully supportive of just giving it to the college, especially since they own the surrounding property and would...and quite frankly, that sex offender prison is a little ominous sitting in the corner of that. You know, I...it does...to me, it does significantly diminish the value of that property, but that can be mitigated, you know, built out, you know, whatever. But if it would reduce some people's heartburn that we put a time limit on that they cannot be sold, you know, prior to this date, I would be amenable to that. Thank you, Mr. Chairman. [LB376]

SENATOR WATERMEIER: All right. Thank you, Senator Hughes. Further questions for Speaker Scheer? Thank you, Speaker Scheer. Are there anyone here today to testify on LB376 as a proponent? As an opposition to LB376? Neutral testimony? Come on up. Welcome. [LB376]

BO BOTELHO: (Exhibit 2) Thank you. Good afternoon, Chair Watermeier and members of the board. My name is Bo Botelho, B-o B-o-t-e-l-h-o. I'm the operations officer and materiel administrator for the Department of Administrative Services. I am here today to provide testimony regarding LB376 and mostly just background information to answer questions in regards to process if anyone should have them. LB376 is a bill that provides that the excess property of the Norfolk Regional Center campus be donated to the Norfolk (sic: Northeast) Community College. The original bill directed the Director of Administrative Services to arrange for a survey of the Norfolk Regional Center campus and for purposes of determining what portion was not needed for the state purposes and, based on such survey, request authorization to give Norfolk...Northeast Community College Area right of first refusal of the land that was declared excess prior to sale to the public. After the survey it was determined by the Vacant Buildings and Excess Land, what we call the VBEL, committee that the tract of land consisting of 43.55 acres was excess. The excess land was cleared and made ready for sale using the \$1 million appropriation allowed by LB660 in 2015 for abatement, demolition, and removal of buildings and infrastructure. Once the land was cleared and ready for sale, the real property was appraised in accordance with Nebraska Revised Statutes 72-815(3) and Statute 90-202. That's normal legal process we go through. The appraised value was determined to be at \$1,433,000. The appraisal was forwarded to the community college. The college questioned the appraised value and, thus, DAS has contracted, initiated second appraisal of the property with a new and independent appraiser. We haven't received our results yet. We expect to get them back around mid-February. It was the intent of our agency to forward these results to the college once we received them, and that was prior to this bill being introduced. Pending this appraisal, we have taken no further action on the sale of the property. Typically the sale value of land sold through the VBEL process is used to offset the cost incurred in declaring the land excess and preparing it for sale, and any remaining monies are then forwarded back into the VBEL fund and used for additional projects. Or if the fund was...if it originated from a fund different than VBEL, it would go back to that fund. In this case it should be returned to the VBEL fund if there was a sale. LB376 would require the property to be donated to the college and DAS remains committed

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to working with Speaker Scheer on this matter and the college. If there are any questions, I'd gladly answer them if I can. [LB376]

SENATOR WATERMEIER: Thank you for being here today, clarifying that. Questions? Senator McCollister. [LB376]

SENATOR McCOLLISTER: Yeah. Thank you, Mr. Chairman. Does the state have a protocol, an established protocol with regard to surplus property? [LB376]

BO BOTELHO: Surplus property or are we talking real property or personal property? [LB376]

SENATOR McCOLLISTER: Both. [LB376]

BO BOTELHO: Yes. Yes, we do. [LB376]

SENATOR McCOLLISTER: For both the real property and then for both types of property? [LB376]

BO BOTELHO: Yes. For real property it would fall into what we did here, which is Vacant Buildings and Excess Land (committee). If the property is determined or recommended that it be vacated by the state, it's sent to the committee. The committee reviews that, determines what portion if it's a structure--or in this case, ground--would be no longer of use to the state. It'll be surveyed, it'll be appraised, and it'd go through a public sale process generally speaking. [LB376]

SENATOR McCOLLISTER: Have we done that with this property? [LB376]

BO BOTELHO: Yes. It was surveyed. We met with HHS. They determined, you know, where...how much ground they did not need. There was obviously a concern with buffer because of the facility there. They wanted to make sure there was sufficient room between that facility and, in this case, the college. Based on that, we determined this 43.55 acres would be deemed excess and, per statute, it was then appraised. And I think the difference between the original appraised value and the subsequent appraised value probably has to do with the condition of the property. When it was originally looked at, it had all the infrastructure and dilapidated buildings on it. Obviously that would make the property less desirable. The second appraisal, which was done after, it was declared excess in accordance with statute. The property had already been cleared and that probably accounts for the difference in the appraisal. It was a different appraiser as well. I'm not an appraiser. We turned the entire appraisal over to the college and (inaudible) what it was. [LB376]

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SENATOR McCOLLISTER: Remind me. What was the appraised value? [LB376]

BO BOTELHO: One million, four hundred and thirty-three thousand (dollars), and I think part of it was the appraiser was using commercial value. He deemed it was commercial ground and appraised it as such. [LB376]

SENATOR McCOLLISTER: Would an auction for that property be in order does that ever occur in the procedures that you use? [LB376]

BO BOTELHO: Yes. That's one of the options the state can use for sale of real property. [LB376]

SENATOR McCOLLISTER: Any thought of doing that with this property or is it...the college have such a compelling use that we then want to forget that? [LB376]

BO BOTELHO: Well, Senator, the statutes give the college right of first refusal. So before the state would take any action to put the property up for a public sale, the college would have to make a determination to pick one to purchase it, which is where we're at right now. [LB376]

SENATOR McCOLLISTER: Okay. Would there be any advantage to waiting on this until we...a new appraisal comes in? [LB376]

BO BOTELHO: I would suppose if the subsequent appraisal was at a value closer to what the college deemed appropriate, then that may resolve the issue. Typically we don't do two appraisals, although there was a question of this appraisal and it was significantly different than the previous ones. We thought, you know, bring in an independent appraiser, look what that value was, and if there was a difference we could, you know,... [LB376]

SENATOR McCOLLISTER: Who paid for the appraisal? [LB376]

BO BOTELHO: Administrative Services did. [LB376]

SENATOR McCOLLISTER: Thank you. Thank you, Mr. President. [LB376]

SENATOR WATERMEIER: Thank you, Senator McCollister. [LB376]

BO BOTELHO: And that's per statute as well. [LB376]

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SENATOR WATERMEIER: Senator Kuehn. [LB376]

SENATOR KUEHN: Thank you, Mr. Chairman. I have just one quick question and it may be something you'll have to get back to me later. You stated that there was a \$1 million appropriation authorized under LB660 in 2015 and I remember that was our Appropriations bill for the biennial budget. Of the \$1 million appropriation that doesn't necessarily mean a million dollars was spent, do you know what actual portion of that appropriation was spent in clearing the land, or could you provide a detailed accounting of what that cost was to our committee legal counsel? [LB376]

BO BOTELHO: Yes, I can, Senator. I don't know if the actual value is in our fiscal note but I can get that for you. [LB376]

SENATOR KUEHN: That would be helpful. Thank you, appreciate it. [LB376]

SENATOR WATERMEIER: All right. Further questions? Thank you for being here and your testimony. [LB376]

BO BOTELHO: Thank you. [LB376]

SENATOR WATERMEIER: All right. Further testimony in the neutral? All right, Speaker Scheer. Do I read these after him? [LB376]

LAURA OLSON: Just read (inaudible). [LB376]

SENATOR WATERMEIER: (Exhibits 3 and 4) Okay. I do have two letters of support on LB376, as the Speaker comes up, from Michael Chipps of the Northeast Community College and Lucas Virgil from the city of Laurel in support. Speaker Scheer. [LB376]

SENATOR SCHEER: A couple things, one in relationship to the question I guess by Senator Kuehn, how much was spent. I know when we appropriated the million dollars, no one thought that we could get the 11 buildings demolished for that amount and I will tell you that I do recall and I did have a copy of the bid and it was a local vendor and that's who they used and it was substantially less than a million dollars. I think it was \$800,000 and change or right about \$900,000. So they may have spent a million if they utilized their expenses for whatever they're doing, involvement in it as well. It very well...they could have technically, from an accounting basis, used a million dollars. I don't know. It did not cost a million dollars to have the ground razed. One thing that I neglected to say and I would doubt that the...obviously the first real estate

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company that did the appraisal did not check on, and I would guess that probably the second one will not, because if it was based on commercial use that ground is currently zoned and will remain zoned as public use only. The city of Norfolk has no interest in having that outside the jurisdiction of either the community college or for public use. So, yes, you can probably have an auction, but I don't know if the value, it becomes any greater knowing that you have a sex offenders facility, you know, abutting the southern border and you have something zoned that is specifically public use. And if you went and talked to the city, you would find out that the mayor or the city council from a unanimous standpoint would be very, very reluctant to do anything in relationship to the zoning of that. That's not a threat. I'm just...that's what it is. And so from the vantage point of a true appraisal that's an accurate value and if we are looking at legitimately what the ground may be worth, I don't do a lot of land speculation. I have done that before and I will tell, all those give anyone that's doing that great pause. And with that, I would urge you to be...look favorably upon providing this the votes to get it on the floor to let the full Legislature look at it. [LB376]

SENATOR WATERMEIER: All right. Thank you, Speaker Scheer. Is there any further questions? All right, thank you. That will end the hearing on LB376 and we will open the hearing on LB442. Senator Bolz. While Senator Bolz is coming up, can I see a show of hands of who wants to testify on LB442? One, two, three, four...see seven or eight maybe, looks like at least six or seven, so we'll probably limit the testimony to three minutes today so you have a chance to prepare for that. So, Senator Bolz. [LB442]

SENATOR BOLZ: (Exhibits 1-4) Good afternoon. My name is Kate Bolz. That's K-a-t-e B-o-l-z, and I'm here today to introduce LB442. This bill would create a legislative oversight committee to gather information and analysis relating to the delivery of services under Medicaid Managed Care. Managed care currently encompasses physical, behavioral, and pharmacy services and is referred to as Heritage Health. Approximately \$1.2 billion will be spent annually on the Heritage Health system and the system serves over 200,000 Nebraskans with health needs. Such a significant portion of the state's budget deserves our scrutiny. It is important that such a system is serving Nebraskans who use services, as well as providing appropriate services in a cost-effective manner for the taxpayers. LB442 would include members of the Health and Human Services Committee as well as the Appropriations Committee and the Executive Board. I believe that this makeup provides expertise on the healthcare and funding side and allows for members who have relevant experience to speak on these issues. Fundamentally this would provide some legislative engagement and oversight in the managed care process and would be a forum for policy interaction and discussion between Health and Human Services interests, Appropriations interests, and the interests of the administration and the managed care companies. Fundamentally it's about transparency and oversight; it's not duplicative of the good work that is currently being done by Medicaid Managed Care in terms of engaging stakeholders. Rather, it's trying to make sure that the Legislature also is engaging in the process of a very big initiative in our state. I do

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have an amendment that addresses some technical concerns that were brought to me by the Department of Health and Human Services trying to clarify and tighten up some language, so happy to work with the administration on those issues. I also have several letters of support and I had encouraged stakeholders to provide letters of support. And if the testimony becomes duplicative, I would encourage the folks in the room to provide letters of support as well. I have heard a great deal of interest and engagement around this idea which I think only reinforces the idea that such a committee could have value not only to the Legislature but to the stakeholders. So I've got a couple of letters of support here. And the last thing I would add is that I also have a letter from the Association of Community Mental Health Centers in Kansas. We looked at their model when we put together this piece of legislation and it just articulates some of the value that the folks in Kansas have found in putting together such an initiative. So I'd be happy to take any questions at this point or turn it over to the stakeholders. [LB442]

SENATOR WATERMEIER: All right. Thank you, Senator Bolz. Questions for Senator Bolz? Senator Crawford. [LB442]

SENATOR CRAWFORD: Thank you, Chair. And thank you, Senator Bolz, for bringing this bill. As a member of the Health and Human Services Committee, it's been useful to have these kinds of intentional efforts to look at these processes. And this shift to managed care is, you know, an important process we're going through in the state and it's valuable to have additional efforts to review that. So one question I had for you is the long-term care process is just sort of...is in process still and the questions that are directed in the bill are much more directed I think to the other two processes that we're evaluating. And so I just wondered if you'd be willing to consider making changes just to direct the committee to ask a little more...a little different kinds of questions on the long-term care side, just because it's a different stage in the process. [LB442]

SENATOR BOLZ: Um-hum. Yeah. So I've been involved in some of the stakeholder conversations around the future vision for Medicaid. I think those have been useful and constructive. And I think that there is consideration of what long-term care looks like if we are to move forward under a managed care system. I am absolutely open to having those conversations. I do think that's part of the dialogue here in that as we're bringing more...as we're discussing the possibility of bringing more services under managed care, that maybe requires an additional thoughtfulness by the Legislature about how we're running these programs. [LB442]

SENATOR CRAWFORD: Thank you. [LB442]

SENATOR WATERMEIER: Thank you, Senator Crawford. Further questions? All right, thank you, Senator Bolz. Proponent testimony today on LB442? Senator Dubas, welcome. [LB442]

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ANNETTE DUBAS: (Exhibit 5) Thank you. Good afternoon, Senator Watermeier and members of the Executive Committee. My name is Annette Dubas, A-n-n-e-t-t-e D-u-b-a-s, and I am the executive director for the Nebraska Association of Behavioral Health Organizations, otherwise known as NABHO. And we'd really like to thank Senator Bolz for introducing LB442 and her commitment to a very strong and effective behavioral health system of care. For almost two years now, NABHO has been working very closely with the Medicaid Division and managed care companies as Heritage Health has been developed and now implemented. This move towards an integrated approach to delivering and paying for healthcare is a sizable change in the way...from the way Nebraska has operated in the past. Behavioral health is no stranger to managed care but it has done it as a carve out and not the part of a larger integrated system. We have moved from providers and consumers dealing with one managed care company to now dealing with three different companies that combines behavioral, physical, and pharmacy into one program: Heritage Health. So now that involves helping consumers navigate...consumers deciding on which company is the best for them to meet their needs and providers navigating new credentialing, claims processing, and other administrative procedures and business practices. This sea change has included many, many meetings, webinars, conference calls, provider bulletins, and other methods of communication and education. NABHO sincerely thanks Director Lynch and his division staff for all they have done to create open lines of communication and an inclusive process in their approach to Heritage Health implementation. But any change of this magnitude will encounter bumps along the way and we believe that the creation of a legislative oversight committee will complement and support the work of the various Heritage Health committees and help keep those bumps from turning into crashes. This oversight committee will provide a venue and an opportunity for all impacted stakeholders to bring successes and problems to the people's branch of government throughout this critical implementation time frame. Nebraska also has the benefit of learning from some of the missteps of managed care implementation in other states. Iowa and Kansas are ahead of Nebraska with the operations of their managed care programs. Both states also have some type of oversight in place. As Senator Bolz said, LB442 is modeled after Kansas. We firmly believe this oversight committee will make Heritage Health a better program and help us deal with problems and concerns in a much more proactive manner. We believe it will especially provide a forum for our consumers to share their experiences, both positive and negative. It will create a public accountability and an analysis related to the delivery of services. Heritage Health combines Nebraska's physical, behavioral, and pharmacy programs into this single, comprehensive, and coordinated system, and it will...its goals are to improve the overall health, enhance integration and the quality of care. But I believe they're also looking at how do you create a sustainable financial...a program that's sustainable financially. I believe that's the foundation for the success of Heritage Health and really the driving principle behind creating a committee such as this. So we truly, again, appreciate the open lines of communication, believe this committee will just enhance those efforts that are already in place and hope that you will see the need and support LB442. I did attach to my testimony the letter from my counterpart in Kansas. I apologize for the

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duplication, not coordinating with Senator Bolz as well as I should have, but I've had multiple conversations with my counterpart who has been very helpful and also very willing to engage in any conversations or answer questions that you may have as well. Thank you. [LB442]

SENATOR WATERMEIER: All right. Thank you, Senator Dubas. Questions? Thank you for being here today. [LB442]

ANNETTE DUBAS: Thank you. [LB442]

SENATOR WATERMEIER: Further proponents for LB442? I thought I counted several hands. Maybe I can't count. Just lay them right there; he'll get them. Welcome. [LB442]

MOLLY McCLEERY: (Exhibit 6) Chairman Watermeier and members of the Executive Board, my name is Molly McCleery, M-o-l-l-y M-c-C-l-e-e-r-y, and I'm a staff attorney in the healthcare access program at Nebraska Appleseed. We are a nonprofit legal advocacy organization that fights for justice and opportunity for all Nebraskans and I'm here today to testify in support of LB442. I'll keep my remarks brief and rely mostly on the written testimony that's being passed around. But to reiterate some of the points that both Senator Dubas and Senator Bolz mentioned in their opening, I think that this bill really enhances and emphasizes the work that the department is doing in the rollout of Heritage Health. As we all know, Heritage Health is not the first use of managed care in our state. We've had managed care in some form for the past couple decades; however, the scope with which this program is being implemented and it's a shift for clients in how they're experiencing Medicaid in the state, so new attention on some of the details and on some of the pieces of this bill that require data gathering I think is important. Managed care systems inherently require a lot of different layers of entities. You go from the State Legislature appropriating money all the way down to the client. And in order for managed care systems to be effective, you need transparency, accountability, and efficient communication among all of those entities. And I think LB442 does a good job of making sure we're on the right track to doing those things. As was mentioned, one of the goals with Heritage Health is really budget sustainability and predictability. One of the issues that advocates for Medicaid clients bring up a lot in managed care systems is the difficulty in finding data to back up the point that managed care actually saves money. There's some thought that it does but it's often challenging to find that data. And if that data is available, it's often challenging to determine if cost savings are being achieved essentially on the backs of clients. So, are cost savings being achieved through increased service denials or creating hoops that clients have to go through in order to access services? So the data gathering that's required in reporting in this bill I think goes a long way to making sure that we can assess that. Not only are we saving money and we're creating a good budget sustainability in this program, but also the way that we're saving money is good for Medicaid clients. Lastly, as others have mentioned, the long-term care process is still in the

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works in terms of whether long-term care would be brought into managed care. As we're talking about bringing in increasingly vulnerable populations and populations with complex needs, it's important to make sure that the system is working effectively before we do that. And LB442 does a good job of making sure that we can make that assessment of whether the system is functioning appropriately. So with that, I'd be happy to take any questions. [LB442]

SENATOR WATERMEIER: All right. Thank you for your testimony, Ms. McCleery. Right? Questions? All right, thank you. Further proponents on LB442? Welcome. [LB442]

ELISABETH HURST: Good afternoon, Senator Watermeier and members of the Executive Board. My name is Elisabeth Hurst, E-l-i-s-a-b-e-t-h H-u-r-s-t, and I am director of advocacy for the Nebraska Hospital Association. I'm testifying in support today of LB442. The implementation of Heritage Health has obviously been a massive undertaking and continuing to do this into the future is something that should be closely monitored. We're talking about many Nebraskans, vulnerable Nebraskans who will be affected by the process. And of course, the Hospital Association is supportive of that. And as the others have mentioned, this doesn't take away at all from the participation by the department in making sure that this is as seamless as it can be. Specifically, Director Lynch, "Rocky" Thompson, and Heather Leschinsky have been available with a direct line and we greatly appreciate that. So with that, I'm available for any questions. [LB442]

SENATOR WATERMEIER: All right. Thank you. Questions? Thank you, Ms. Hurst. Further proponents of LB442? Welcome. [LB442]

KIM ROBAK: (Exhibit 7) Senator Watermeier, members of the committee, my name is Kim Robak, K-i-m R-o-b-a-k. I'm here today on behalf of the Nebraska Medical Association and I'm also testifying in support of LB442 on behalf of the Nebraska Dental Association and CAFCON, the Children and Families...CAFCON Council...Children and Family Council (sic: Coalition) of Nebraska. I'm sorry. I apologize. In visiting with our clients on this issue, there was uniform support for this idea, and the reason for that is that managed care costs providers money. I'm not here to complain about the fact that it costs money but the fact is it does and in having to deal with three different managed care organizations and having to have extra personnel in doctor's offices. So the question is, if managed care actually provides better care, actually provides better access, and actually saves money in the long run, we're all excited about it and all in. But the question is, does it provide better care, does it provide better access, and does it ultimately save money in the long run? The idea of having a review to determine whether or not we're making steps in that direction was overwhelmingly supported by these organizations. And when I say that it costs money, let me give you one example of something that happened in Lancaster County. One of the doctor's offices in Lancaster County provides, of their constituency they

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provide 25 percent of the patients that they see are Medicaid. Last year they spent \$100,000 on interpreter services for this population. Now, historically, that's been paid by the managed care organizations and over time that has fallen off the table. And so the question is, is this part of the contract, which people believe it is, and if it's not being provided, then are there other aspects of the managed care contracts that aren't being followed? So the idea of oversight is important. And the ultimate goal of being able to provide more for less everybody lauds and we are absolutely on board for that. But we thank Senator Bolz for bringing this and we hope that you all will see fit to do this study. [LB442]

SENATOR WATERMEIER: All right. Thank you for your testimony. Questions? All right, thank you, Ms. Robak. Welcome. [LB442]

SHANNON ANDERSON: (Exhibit 8) Good afternoon, Mr. Chair. Senator Watermeier, members of the Exec Board, my name is Shannon Anderson, S-h-a-n-n-o-n A-n-d-e-r-s-o-n, and I'm the director of government relations for the Nebraska Health Care Association. And we have sent out a letter, distributed a letter earlier to be read into the record. I just wanted to reiterate that we are the remaining, one of the remaining pieces that have not been rolled into Heritage Health and we are working with the department; we have had several conversations and continue to do so and we have not...we still have significant concerns and reservations about the program. Currently in the United States, as you've heard, there's basically eight states that have these programs. And when you start talking to the states, they are all talking about experiences in transitioning to managed care that tell, one, of significant increases in state payments to the MCOs, reduced access to services per beneficiary, and a lack of state oversight. We're very grateful that Senator Bolz is taking on this issue that's been addressed in other states after the fact and being proactive and bringing us a state oversight function now. So with that and with the addition of the letter in the record, I conclude my comments and would be happy to answer any questions. [LB442]

SENATOR WATERMEIER: All right. Thank you, Ms. Anderson. Questions from the committee? Thank you. [LB442]

SHANNON ANDERSON: Thank you. [LB442]

SENATOR WATERMEIER: Further proponents? Okay, opponents to LB442? Mr. Lynch. [LB442]

CALDER LYNCH: (Exhibit 9) Thank you. Good afternoon, Senator Watermeier, members of the Executive Board. My name is Calder Lynch, C-a-l-d-e-r L-y-n-c-h, and I'm the director of the Division of Medicaid and Long-Term Care within the Department of Health and Human

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Services. Before I begin my testimony today, I just want to thank everyone that's been at this process with us. Many of those have come to the table today. It's been a long road to get to this point with regard to the implementation of Heritage Health and I certainly appreciate everyone's engagement. However, I am here to testify in opposition to LB442 that will create a Medical Assistance Managed Care Oversight Committee. Before I begin explaining our opposition to this proposal, I'd like to share some of the history of managed care in the state and the process we've done to get to the point we are today. The Nebraska Medicaid Managed Care Program was first implemented in July 1995. It initially provided physical health benefits to Medicaid members in three counties. Managed care expanded statewide nearly five years ago and Heritage Health, the state's new integrated managed care program, went live 31 days ago on January 1, 2017. On that date, a total of 225,746 members successfully transferred to their new integrated managed care plan. This program combines the delivery of medical, behavioral, and pharmacy services through a single comprehensive and coordinated system for Nebraska's Medicaid and CHIP members. Heritage Health will lead to not only better health outcomes for our members but also improve the financial sustainability of the program in Nebraska. Prior to implementation, extensive outreach was conducted, reaching out to members, providers, and other stakeholders by our three health plans, our enrollment broker, and the department itself. Thousands of individuals participated in town halls and provider orientation sessions held across the state and we continue to hold open provider assistance calls on a daily basis. These outreach efforts led to a smooth implementation with no significant issues and certainly no issues that we believe warrant the creation of an additional oversight committee. Health plans are meeting all call center service levels and health plans have paid a total of 213,000 pharmacy claims and 18,000 professional institutional claims. And I believe those numbers are even higher today. One hundred percent of claims have been processed within contractual timeliness service levels since January 1. LB442 would duplicate existing oversight for the Medicaid program, growing government unnecessarily. In addition to its existing stakeholder advisory groups, external auditors, and federal oversight, it is unclear why a separate legislative entity is needed or why the Health and Human Services Committee is unable to provide the necessary legislative oversight of the program. Not only does that committee have permanent oversight over Medicaid, it also has oversight over managed care, which is the predominant delivery system we use. At any time the HHS Committee can call a hearing concerning Heritage Health; in fact, over the interim I held two briefings for the HHS Committee reviewing implementation of the program and our outreach activities. Nebraska Medicaid has also been very forthcoming and transparent with our stakeholders, including the Legislature. We formed three advisory committees; we published numerous fact sheets and materials. They're available on our Web site. The contracts with the plans require that they produce numerous operational outcomes-based metrics from everything from their call center performance to their claims processing time lines to actual member outcomes. We've already begun daily operational report publishing on our Web site and soon we'll launch a dedicated transparency Web site for the program overall. There are also extensive new federal requirements for oversight of managed care. And I see my time is up, so I'll be happy

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to defer anything else to the committee but just want to close with saying that I don't object in any way to oversight or transparency of the program. We believe we're holding ourselves to high regard in that way and we look forward to continuing our work with the Legislature and the providers. [LB442]

SENATOR WATERMEIER: Okay. Thank you, Director Lynch. Questions from the committee? Senator Crawford. [LB442]

SENATOR CRAWFORD: Thank you, Senator Watermeier. And thank you, Director Lynch, for being here. And I do appreciate your effort to engage in folks as you're rolling out Heritage Health and, as other people have said, their work on those teams and careful work with those teams as that rolls out. And so I think as we're rolling forward, one question is just we as the Legislature, in the interim especially, you know, are not in session. And so these kinds of committees I guess provide an opportunity for us to intentionally meet regularly and also education to people who are outside of just the Health and Human Services Committee to make sure they get information and can ask questions (inaudible). So I wondered if...and again, the long-term care is still rolling out. And we did have conversation, comments from folks in our testimony here and letters about the situation in Kansas. I wondered if you have spoken to the Medicaid director in Kansas or about how that process rolled out or how the oversight committee in Kansas had played the role in helping them address issues there. [LB442]

CALDER LYNCH: Thank you, Senator Crawford. I'll note, to your earlier point, I completely agree and that's why I think it was great that the HHS Committee had two briefings outside of session regarding Heritage Health implementation, gave us that venue. And with regard to Kansas, I have spoken to many of my colleagues across the state as it relates to many different issues, including managed care implementation, as we prepare for the implementation of Heritage Health. We gathered input based upon experiences, what are contract terms we should include, what are things that we should make sure we do as we prepare for that implementation. He and I have not spoken specifically with regard to the committee that they have created. I'd be happy to do that and follow up with you on that. But I'm aware of many of the issues they and other states have experienced. Thirty-nine states have managed care programs; of those, I believe 28 have more than 75 percent of their members enrolled in those plans. So managed care has become the predominant delivery system for Medicaid across the country. [LB442]

SENATOR CRAWFORD: Thank you. [LB442]

SENATOR WATERMEIER: All right. Thank you, Senator Crawford. Further questions? Thank you, Director. [LB442]

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CALDER LYNCH: Thank you. [LB442]

SENATOR WATERMEIER: All right. Further testimony in opposition to LB442? Senator. [LB442]

SENATOR RIEPE: Chairman Watermeier and Executive Board senators, thank you for this opportunity. I would start my comments on LB442 as it's a hammer desperately looking for a nail. I am a reform...an administrator who seeks reform in healthcare because I think it's critical to the survival of healthcare. I see this LB442 as a needless duplication which is part of the growing healthcare cost. This is growing government, which is not necessary in part because we do have stakeholder advisory groups, we have external auditors, and maybe more important than anything, because it has federal monies, there is a federal medical advisory committee that is required to report four to six times a year. I think that the federal participation will drive the accountability that we need. I would also say that, as many of you know, I've spent an adult lifetime working in the healthcare business and as a hospital administrator and also working with physicians. And I would say again, you know, one of the important things for them is a control issue. And I would argue that these groups did not have control over Blue Cross Blue Shield, they do not have control over UnitedHealthcare, they do not have control over those and this is a managed care program that we have been doing for 20 years of managed care in Nebraska. So I don't think that it is justifiable for the complications that it causes and the cost that it will create. Thank you. [LB442]

SENATOR WATERMEIER: Thank you, Senator Riepe. Questions? Oh, go ahead, Senator Crawford. [LB442]

SENATOR CRAWFORD: Thank you, Senator Watermeier. [LB442]

SENATOR RIEPE: Sure. [LB442]

SENATOR CRAWFORD: Thank you, Senator Riepe. So when you're talking about cost, what...the cost that the oversight committee has? What do you have in mind with that? [LB442]

SENATOR RIEPE: Well, in my review of the bill, there was opportunity there, and I know, if you may, with Judiciary Committee Senator Lathrop was hired. So they have the opportunity for significant expenditures to bring in outside counsel, plus the cost that will be incurred by the Department of Health and Human Services staff there. [LB442]

SENATOR CRAWFORD: Thank you. [LB442]

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SENATOR WATERMEIER: Senator Riepe, I have a question I guess. [LB442]

SENATOR RIEPE: Yes. [LB442]

SENATOR WATERMEIER: You had mentioned a group that I'm not aware of, medical advisory committee that meets four to six times a year. Is that... [LB442]

SENATOR RIEPE: It's called the Medical Assistance Advisory Committee. [LB442]

SENATOR WATERMEIER: And they report to and report on...directly because of managed care or who are they reporting to? [LB442]

SENATOR RIEPE: They are accountable, as I read the legislation, they are accountable because they have federal monies... [LB442]

SENATOR WATERMEIER: Okay. [LB442]

SENATOR RIEPE: ...and that they are accountable and they have report four to six times and that would be federally public information. [LB442]

SENATOR WATERMEIER: Okay. All right. Thank you. Further questions? [LB442]

SENATOR RIEPE: And that's something I think that...excuse me. I think the Health and Human Services Committee is the right committee then to seriously look at that four to six. And so as we say at times, too, I don't think that we should overdrive our headlights on this. I think if we take a look at this and the HHS takes serious that federal report every four to six times a year, then I think maybe if we have some concern. I would say this much as a compliment to the Department of HHS. This is...the rollout on this has been a nonevent. It's been very successful. And we've heard a lot about some of the problems with the Affordable Care Act rollouts. That has not been the case here. And they have been timely and responsive and there's no blinking lights going off that says we should have concern at this time. [LB442]

SENATOR WATERMEIER: Further questions? Thank you, Senator. [LB442]

SENATOR RIEPE: Okay, thank you, sir. Thank you. [LB442]

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SENATOR WATERMEIER: (Exhibits 10 and 11) All right. Further testimony in opposition to LB442? Is there anyone here today in neutral? All right, Senator Bolz to close. I am going to read into the record. LB442 had a support letter from Diana Rohrick of the Nebraska Home Care Association and Dr. Richard Azizkhan and Liz Lyons of the Children's Hospital and Medical Center in support. Senator Bolz. [LB442]

SENATOR BOLZ: Thank you, Senator Watermeier. And I appreciate you reading those to the record. I count at least a dozen stakeholder and advocacy and provider organizations that support the function that this oversight committee would serve. And I would just leave you with a couple parting thoughts related to that. The first is that I think we have created task force and oversight committees when there is an intersection of jurisdiction. So I think it's appropriate that because this particular issue relates to Health and Human Services, it relates to Appropriations, it relates to the Exec Board, there are probably even some situations in which it relates to the Judiciary Committee because the rights of individuals, particularly individuals with severe health needs and developmental disabilities, play into the access to services. So I do think there is a specific role for this task force. I would like to address the issue related to duplication with the Medicaid advisory council. In my other role as the executive director of the Nebraska Association of Service Providers, I serve on the Medicaid advisory council and I would agree that it has served good functions. I think it's a great forum for us to have conversations. I also appreciate the updates and the information that is provided through that council. But I wouldn't say that that is focusing on managed care, nor would I say that it's focusing on the policy and the direction and the vision that managed care would provide. I think it's more encompassing than that. There are great questions every time I go related to why utilization is up or down or how new federal rules impact Medicaid as a whole, whether that is in managed care or out of managed care. The tribal entities participate and I think that's great. So I think that this oversight task force is much more focused specifically on the major change that is managed care than what I have experienced as a participant on the Medicaid advisory council. A couple of additional notes, one is that the fiscal note doesn't determine that there would specifically be an expenditure. That expenditure may or may not be necessary. I'd be happy to work with this committee either to adjust the language to try to address any fiscal concerns in this year, or I also think there are several cash funds that would be appropriate sources of funds to support an initiative like this: maybe the Health Care Cash Fund, maybe the Health and Human Services Cash Fund. I think there are ways to address that issue if that is of concern to this committee. My final note would simply be that as someone who works in this field, what I hear from my federal counterparts is that there is significant uncertainty under the new Trump administration and we are getting information and updates on a regular basis about what we should start thinking about and what we may or may not expect from CMS. And I think that this type of oversight committee could help us be responsive to the changes that come from the federal level. I do think it's helpful to be proactive rather than reactive. I do applaud the smooth rollout of managed care and in my professional role have monitored that closely. I don't think that it's necessary for us to have problems in order to create

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oversight. I think partnership and oversight can be effectively, proactively, and constructively done in a manner that gets ahead of the issues and thinks about them in a way that prevents problems. I know it's lunchtime. I'll wrap up. Thank you. [LB442]

SENATOR WATERMEIER: That's fine. We'll give it the due process here. Any questions for Senator Bolz? All right, thank you. That will conclude the hearing for LB442. Thank you all for coming. [LB442]