

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

Health and Human Services Committee
January 20, 2017

[LB195 LB284 CONFIRMATION]

The Committee on Health and Human Services met at 1:30 p.m. on Friday, January 20, 2017, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB195 and LB284 and gubernatorial appointments. Senators present: Merv Riepe, Chairperson; Steve Erdman, Vice Chairperson; Sue Crawford; Sara Howard; Mark Kolterman; Lou Ann Linehan; and Matt Williams. Senators absent: None.

SENATOR RIEPE: In the interest of time, we'd like to get started. This is the Health and Human Services Committee. It's Friday, so this is a very good day, I think, for all of us. I'm Merv Riepe; I am the service Chairman of this committee. And I am from the 12th District, which is the Millard-Ralston area in the parts of Douglas County, Nebraska. The committee today...this is your opportunity to participate in our Nebraska democratic process, so we appreciate all of you being here. You will see some of our committee members at times having to get up and leave, and it's not a lack of interest in terms of your bill; it's that they will have other bills that they need to either open on in other committees or they have to testify in other committees. We'll also see that some may be using computers. That's not because...well, that's...fundamentally there's information in terms of your bill and your interests that are electronically. And we're encouraging more and more of people to be able to get on, as Senator Chambers calls them, "the gadgets." We also, to facilitate our proceeding today, we'll ask several things of you. First we'll ask you to please make sure your cell phones are off. We'll ask you to move forward as...if you're going to testify in support of or in opposition of it, so that we can move the process along. The process will be: the introducing senator; and then the proponents; then we will go with opponents; then we will go with neutral; we'll read in any letters that happen to come in. If you are testifying, we ask you to sign in with an orange sheet over here and to give that with our committee clerk as you come up to testify. We're also asking you to please state your name and spell your name. That's important so that we get it correct in the record. Also we're asking you to be concise so that we can move along. The senators are invited that, if they have a followup question, that they can continue with that followup question and not have to come back to the chair, if you will, to ask for additional time. We work on a four- of five-minute model, and that is that we have four minutes...if you're testifying you'll see the green light on--it's kind of like a traffic light--and then you'll get one minute on the yellow. And the red will come on and we will politely try to ask you to cease, if you will. That all said, we also, if you will not be testifying at the microphone and you want to be on record, we'll ask you to...there are some white sign-in sheets by the entrance and you'll leave your name and other pertinent information, if you will. Any written material may be distributed to the committee. If that's the case, the pages will do that and we will need ten copies of those documents, if you will. As a matter of staff, to my right is Kristen Stiffler, who's our legal counsel, and to my far left is Tyler Mahood, who's our committee clerk. And I will ask each of these senators to introduce themselves and then I will

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introduce the pages that we have supporting us today. So I'd like to start off to my far right...Senator Kolterman.

SENATOR KOLTERMAN: Yeah, I'm Senator Kolterman. I represent the 24th District: Seward, York, and Polk Counties.

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

SENATOR ERDMAN: Steve Erdman...I represent 80 percent of the Nebraska Panhandle.

SENATOR CRAWFORD: Senator Sue Crawford...I represent eastern Bellevue, eastern Sarpy County and Offutt.

SENATOR WILLIAMS: Matt Williams, District 36: Dawson County, Custer County, and the north part of Buffalo County.

SENATOR LINEHAN: Lou Ann Linehan, District 39: everything in Douglas County west of 180th Street.

SENATOR RIEPE: Thank you very much. Our pages that are supportive of us today is Jordan Snader, from Oakland, California (sic: Nebraska), and Brianne Hellstrom, who's a young lady from California, and they're both students at the University of Nebraska at Lincoln. With that, we are first...we have two appointees. These are Governor appointees for confirmation, and those hearings will now be up. Our first appointee is Dr. Knoche. Is that pronounced right?

[CONFIRMATION]

DR. LISA KNOCHE: Yeah, great job. [CONFIRMATION]

SENATOR RIEPE: Okay, very good. Thank you. We invite you to take a chair and share with us your background, credentials, and why you sought...seek the position and accept.

[CONFIRMATION]

DR. LISA KNOCHE: Sure, sure. Okay, do I need to state my name, because you needed it?

[CONFIRMATION]

SENATOR RIEPE: Yes, please. State your name and spell it, if you would, please.

[CONFIRMATION]

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DR. LISA KNOCHE: Okay, okay. Yeah, so...sure. It's Lisa, L-i-s-a, last name Knoche, K-n-o-c-h-e. I'm a research faculty member at the University of Nebraska-Lincoln, in the Nebraska Center for Research on Children, Youth, Families and Schools. And I direct the Nebraska Early Childhood Research Academy (sic: Nebraska Academy for Early Childhood Research) there. I do abuse prevention and intervention research in early childhood, specifically looking at parent engagement and ways to supporting children school readiness. And I have served previously on the Nebraska Child Abuse Prevention Fund Board; so this is second term. It's been a pleasure working with the group, looking at prevention efforts across the state in the area of child abuse. [CONFIRMATION]

SENATOR RIEPE: Very good. [CONFIRMATION]

DR. LISA KNOCHE: Okay. [CONFIRMATION]

SENATOR RIEPE: Questions from the committee? [CONFIRMATION]

SENATOR HOWARD: Sure. [CONFIRMATION]

SENATOR RIEPE: Senator Howard. [CONFIRMATION]

SENATOR HOWARD: Thank you, Senator Riepe. Thank you for your work on the Child Abuse Prevention Board. I was hoping you could talk a little bit about your time with the Birth to Five Policy Alliance? [CONFIRMATION]

DR. LISA KNOCHE: Sure. [CONFIRMATION]

SENATOR HOWARD: And...because you're one of their representatives there. [CONFIRMATION]

DR. LISA KNOCHE: Yeah, I am; I am. Yeah, I've been fortunate to be involved in that work, in coordination with First Five. And so, through that effort, I sort of have become more trained in policy. And that's not something that we necessarily get a great foundation in, in terms of our training, unless you're seeking that out. And so it's been a good opportunity for me to understand the policy landscape, a little bit more understand how research can interface with policy, how research can be used to inform policy. So the Birth to Five Policy Alliance is a national effort. It's been renamed the Alliance for Early Success. And so that effort is involving many states across the country to think about issues that are important for young children and their families and the caregivers that are involved in their lives. [CONFIRMATION]

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SENATOR HOWARD: And then, in your opinion, how is Nebraska doing in terms of early childhood education... [CONFIRMATION]

DR. LISA KNOCHE: Um-hum. [CONFIRMATION]

SENATOR HOWARD: ...and early childhood work? [CONFIRMATION]

DR. LISA KNOCHE: Yeah, that's a great question. I think we're, as a state, doing many things to advance efforts in the area of early childhood. I think there's a good understanding that the period of birth to eight is very important in supporting the future lifelong success of young children and families. There's certainly always room for...always room for improvement. I think continuing to understand the value of that, for long-term success, is important investments early on. So we're certainly making great investments in the state in that area. There's always room for more work. [CONFIRMATION]

SENATOR HOWARD: Thank you. [CONFIRMATION]

DR. LISA KNOCHE: Uh-huh. [CONFIRMATION]

SENATOR RIEPE: Are there...Senator Linehan. [CONFIRMATION]

SENATOR LINEHAN: So in your efforts with First Five, is there a coordinating, or an effort made to reach out to businesses, hospital, corporations... [CONFIRMATION]

DR. LISA KNOCHE: Uh-huh. [CONFIRMATION]

SENATOR LINEHAN: ...about their...if they have...what their policies are toward childcare with their employees? [CONFIRMATION]

DR. LISA KNOCHE: Yeah. So I can't speak exactly to the First Five work specifically, but I know they're continually working to include businesses in the work that they're doing, and certainly inform and advance the early childhood information in the state. I think there's other parties, also, working in the state to inform businesses about childcare practices used, so that a business would know how to best engage childhood is that...engage in the area of early childhood. (Inaudible) so I understand your question. [CONFIRMATION]

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SENATOR LINEHAN: I guess I'm not being very clear. So I understand that we need excellent childcare. [CONFIRMATION]

DR. LISA KNOCHE: Yeah. [CONFIRMATION]

SENATOR LINEHAN: And a lot of mothers work. [CONFIRMATION]

DR. LISA KNOCHE: Um-hum. [CONFIRMATION]

SENATOR LINEHAN: So I guess my question is who's going to answer that call for that need? [CONFIRMATION]

DR. LISA KNOCHE: Um-hum, um-hum. [CONFIRMATION]

SENATOR LINEHAN: And I'm wondering if the University, through your work... [CONFIRMATION]

DR. LISA KNOCHE: Um-hum, um-hum. [CONFIRMATION]

SENATOR LINEHAN: ...if there's reach out to hospitals... [CONFIRMATION]

DR. LISA KNOCHE: Um-hum. [CONFIRMATION]

SENATOR LINEHAN: ...corporations... [CONFIRMATION]

DR. LISA KNOCHE: Um-hum. [CONFIRMATION]

SENATOR LINEHAN: ...to talk to them about how they might better provide for any collaborative effort... [CONFIRMATION]

DR. LISA KNOCHE: Um-hum. [CONFIRMATION]

SENATOR LINEHAN: ...to provide better or more robust... [CONFIRMATION]

DR. LISA KNOCHE: Yeah. [CONFIRMATION]

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SENATOR LINEHAN: ...childcare for their employees. [CONFIRMATION]

DR. LISA KNOCHE: Yeah, I guess I can't speak to any specific efforts that are going on, but looking at opportunities for partnership is certainly something that we do at the University. So as opportunities present themselves to incorporate best practices and childcare, we're there to provide that resource. I think, as we think about extension and the work that the University is doing in that area, that's a way that information is getting out. In terms of bridging partnerships, I think that's some other of their partners in the state maybe are working more specifically on public/private kinds of partnerships to enhance services. [CONFIRMATION]

SENATOR LINEHAN: Because I guess my concern...well not...well, it is a concern... [CONFIRMATION]

DR. LISA KNOCHE: Um-hum. [CONFIRMATION]

SENATOR LINEHAN: Because I see a lot of these efforts with our public schools. [CONFIRMATION]

DR. LISA KNOCHE: Um-hum, yeah. [CONFIRMATION]

SENATOR LINEHAN: And I understand the connection there, obviously, but to this point, mostly, public schools have been K-12... [CONFIRMATION]

DR. LISA KNOCHE: Um-hum. [CONFIRMATION]

SENATOR LINEHAN: ...and preschool have been independent or... [CONFIRMATION]

DR. LISA KNOCHE: Um-hum. [CONFIRMATION]

SENATOR LINEHAN: ...churches... [CONFIRMATION]

DR. LISA KNOCHE: Um-hum. [CONFIRMATION]

SENATOR LINEHAN: ...and in lots of places they have companies that do a good job of providing... [CONFIRMATION]

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DR. LISA KNOCHE: Um-hum. [CONFIRMATION]

SENATOR LINEHAN: ...like maybe not Nebraska, but other places... [CONFIRMATION]

DR. LISA KNOCHE: Yeah. [CONFIRMATION]

SENATOR LINEHAN: ...companies that do a good... [CONFIRMATION]

DR. LISA KNOCHE: Yeah. [CONFIRMATION]

SENATOR LINEHAN: ...job of filling the gap. It just seems like, along with the efforts with the public schools, there would be other efforts in the private sector that should be... [CONFIRMATION]

DR. LISA KNOCHE: Yeah, I think it's certainly an area to continue to explore, and bringing those...bringing those partners together is certainly a way to fill gaps that we have. Yeah, absolutely. [CONFIRMATION]

SENATOR LINEHAN: Thank you very much for being here. [CONFIRMATION]

DR. LISA KNOCHE: Yeah, um-hum. [CONFIRMATION]

SENATOR LINEHAN: Thank you, Chairman. [CONFIRMATION]

SENATOR RIEPE: Okay, thank you. Other...Senator. [CONFIRMATION]

SENATOR ERDMAN: Thank you, Chairman Riepe. Dr. Knoche, on the front there, it says the length of term was July 2016 to July 2019? [CONFIRMATION]

DR. LISA KNOCHE: Um-hum. [CONFIRMATION]

SENATOR ERDMAN: So it's a three-year term. Obviously there's been a vacancy there. Has there been a vacancy since July of 2016? [CONFIRMATION]

DR. LISA KNOCHE: I was on the board previously. [CONFIRMATION]

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SENATOR ERDMAN: Okay. [CONFIRMATION]

DR. LISA KNOCHE: And so in the interim, I guess I haven't officially been in that capacity until this hearing today, but I did serve up until that time. [CONFIRMATION]

SENATOR ERDMAN: So you were on the job on July 17, 2016. [CONFIRMATION]

DR. LISA KNOCHE: Yeah. [CONFIRMATION]

SENATOR ERDMAN: Okay. I just can't...seemed kind of strange, your accounting for appointment, and then you've already been there. That's all; I understand. [CONFIRMATION]

DR. LISA KNOCHE: Yeah, yeah. [CONFIRMATION]

SENATOR ERDMAN: Thank you. [CONFIRMATION]

DR. LISA KNOCHE: Yeah. [CONFIRMATION]

SENATOR RIEPE: Thank you, Senator Erdman. Other questions and concerns, comments? Okay, fair enough. Thank you very much for appearing. [CONFIRMATION]

DR. LISA KNOCHE: Thank you, yeah. Thanks. [CONFIRMATION]

SENATOR RIEPE: We're now going to ask for supporters, proponents, if you will, that...to your appointment, if there are any here. There may not be. Are there any opponents? Do have any enemies or friends in here? [CONFIRMATION]

DR. LISA KNOCHE: Well... [CONFIRMATION]

SENATOR RIEPE: Okay. Is there anyone who wants to testify in a neutral capacity? Hearing none, that concludes our appointment hearing. [CONFIRMATION]

DR. LISA KNOCHE: Okay. [CONFIRMATION]

SENATOR RIEPE: We appreciate your, very much, being here. Thank you. [CONFIRMATION]

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DR. LISA KNOCHE: Thank you; thanks. [CONFIRMATION]

SENATOR RIEPE: Our second appointment for the day will be Ms. Hanus, Mary Beth Hanus. Is Mary Beth here? Okay. Her claim to fame was she was on the Children's Hospital staff at the same time I was, and I wanted to give her a little bit of a hard time about that. Well, okay. We are now then going to move forward with LB195, which will be introduced by Senator Craighead. Senator, the floor is yours. [LB195]

SENATOR CRAIGHEAD: (Exhibit 1) Good afternoon, Chairman Riepe and members of the HHS Committee. My name is Joni Craighead, J-o-n-i C-r-a-i-g-h-e-a-d, and I represent Legislative District 6 in Omaha, in Douglas County. And I do want to say thank you to the legislative body today. I saw a lot of pink; we asked for that. And we saw a lot of pink today, so thank you for that, too. LB195 would require all healthcare facilities that perform mammography to include, in the summary of the mammography report that is provided to a patient, information that identifies the patient's individual breast density classification, based on the breast imaging report and data system established by the American College of Radiology. The information would be provided to raise an awareness of the impact of breast density on cancer detection and to encourage patients to discuss this issue, as well as other breast cancer risk factors, with their healthcare provider to decide together if further screening options should be required. The bill does not create a duty of care or other legal obligations beyond the duty to provide notice. I have introduced this bill in memory of Cheri Rauth, an Omaha, Nebraska, resident, who passed away from breast cancer one year ago this month, after receiving a stage IV diagnosis within 18 months of her 15th normal mammogram. Had Cheri been notified of her dense breast tissue and discussed additional screening options to her mammogram, her cancer most likely would have been diagnosed at an earlier stage. Breast cancer awareness is a very hot issue, encouraging women to be strong advocates for their own health. Yet most women are never told about one of the most important factors in breast cancer detection. The knowledge of one's breast density plays a key role in the detection of breast cancer. 95 percent of women do not know their breast density, and 40 percent of women do have dense breasts. For perspective, high breast density is a greater risk factor than having two first-degree relatives with breast cancer. The reporting requirement in Cheri's law would provide women important breast density results and give them ability to discuss with their healthcare provider if further screening options should be required. These were options not afforded to Cheri Rauth by the time her cancer was detected. In the handout you received you will see, on the second page, that there are currently 28 states with breast density reporting laws enacted, and another 11 are introducing legislation this year. LB195 is written word for word as the laws that have been enacted in those 28 states. In closing, I want to thank you for your consideration of LB195, and I'm happy to answer any questions. [LB195]

SENATOR RIEPE: Thank you, Senator Craighead. Are there questions from the committee? It appears not, so we would just simply...I would assume you will be around for closing? [LB195]

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SENATOR CRAIGHEAD: Yes. [LB195]

SENATOR RIEPE: Okay. We will now move to proponents for LB195. If you would just come to the mic, we will be going on the light system now, so you'll have your five minutes. [LB195]

NANCY CAPPELLO: (Exhibit 2) Good afternoon. Chairman Riepe and members of the Health and Human Services Committee, you will see I have a letter that I'm submitting, but I'm not going to read it because I think you probably... [LB195]

SENATOR RIEPE: Could you give us your name and spell it, please. [LB195]

NANCY CAPPELLO: Yes I will; I'm sorry. My name is Nancy M., as in Mary, Cappello, C-a-p-p-e-l-l-o, and it's Ph.D. I'm not a real doctor, despite my mother thinking I am. I always say I'm a fake doctor, so. So there's a letter in front of you and some information about dense breast tissue. But I think it's better if I just talk to you because Cheri's story...Cheri Rauth, who I never met except through social media, contacted me a year and a half ago. She read my story on our Web site, areyoudense.org. I had a similar story as Cheri and thousands and thousands of women across this country and globe, and when Cheri read my story, she said: I want to do what you did in Connecticut, the first state to enact a density reporting law in Nebraska. I'm just going to read you what she said to me, quickly: My wonderful husband and I are advocating that the standard of care for women with dense tissue should be to inform a woman of her breast density so she can discuss her risk factors with her physician and make educated decisions. We can't help to think how different our lives would be if I had known this. We will continue to keep looking forward and stay positive and reach as many we can. This was on June 15, 2015. In a year and a half, Cheri would have lost her life. So here's the story on dense tissue and here's what happened to me. I ate healthy, I exercised daily, I have no risk factors with breast cancer. In fact, 75 percent of women who get breast cancer have no known risk factors. In 2004 I had my 11th yearly mammogram; it was normal. Six weeks later I found myself at my annual gynecological exam. My doctor was examining my breast; she felt a thickening--think of that, a thickening, not a lump--in my right breast and sent me for another mammogram. Standard of care...you feel something, you go on to a diagnostic mammogram and an ultrasound. The mammogram was normal. The diagnostic ultrasound illuminated a stage...illuminated an inch tumor. Fast forward...stage IIIC breast cancer. There's four stages of breast cancer. Cheri, sadly, was diagnosed at the fourth stage at initial diagnosis, never missing an appointment. Stage IIIC breast cancer that metastasized to 13 lymph nodes, a normal mammogram weeks before. What happened? Now I had a team of doctors--six. And I said to my team of doctors: I don't get it. I mean, I read Oprah; I read all the information about breast cancer. I never missed a mammogram. It was normal; look, I have the letter. How did I get diagnosed with late-stage disease? And each of them proceeded to tell me, in a nonchalant manner...matter: Nancy, you

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have dense breast tissue. Being an educator, I wrote that down. What's that? Well, 40 percent of women have dense tissue. They do? And as the density of the breast increases--it's like fog. Today I could not see the top of this beautiful building because it was masked in fog. That's what dense breast tissue looks like on a mammogram; you can't see it. So what typically happens, you go year after year and you get a normal mammogram yet you may have a hidden intruder being masked by the density. That's what happened in my case and certainly in Cheri's case and in thousands of women across the globe. So fast forward...my healthcare providers I call "healthcareless" because they did not listen to me, even though they were brilliant people and I had great healthcare; thank goodness. I said to them: Shouldn't women know this? Shouldn't I get the same information that my doctors have about my own breast tissue, since it's the number one predictor of the failure of mammogram to find cancer? Oh nah, we can't tell women that. So my beautiful husband of 42 years said to me: I'm going to talk to a woman that I went to high school with; she happens to be in the legislature. I said: You are? He goes: Yeah; her name is Senator Joan Hartley. Listen to this...is this crazy? I had to go to a legislator to get this health information to women? Not to any physician trade group, not to my healthcare providers...to a legislator. Fast forward...Senator Hartley heard the information and the data; by the way there's two decades of data about this. It's all research based. It's not made up, it's not fake news; this is real news. And what happened was she introduced a bill to disclose density to the patient, through the mammography report, in Connecticut. Opposed by the College of Radiology in Connecticut...I had no other cancer group supporting us, except me, my husband, and a few other people. I didn't know anything about lobbying; what the heck am I doing here? I'm an educator at the state department; this is not my job. Well, through lots of drama, fast forward...we became the first state in the nation, in 2009, to tell women about their density through the mammography report. I was thrilled...finally. I need to rescue a dog, I need to learn Italian...I need to take off lessons; I can't be doing this in my sun-setting years. But little did I know, after we started Are You Dense and Are you Dense Advocacy, I'd hear from women all across the globe, like Cheri. These are women who find my story after they end up with a late-stage disease. I call it like I'm a match.com for breasts. And I couldn't quit this; I had to do what I'm compelled to do. And I'm very fortunate to be here to tell my story and to support Cheri's law and to thank the 28 legislatures that have passed this information on to women, the people that need to know this. Most of these laws--and many of them are neutral by a lot of physician trade organizations--you know who they're supported by? Women and champion legislators. So I thank you. I thank Senator Craighead; I am indebted to you, Senator, for your support of this. We need to eliminate the grief of a loved one dying prematurely from this disease. It can be done. We are in 2017; we have the technology to find cancers early. Mammo first but, if you have dense breast tissue, it shouldn't be last. Thank you very much. [LB195]

SENATOR RIEPE: Thank you. Now you're from Connecticut? [LB195]

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NANCY CAPPELLO: I am. Two planes, no trains, and two automobiles to get here (laughter). [LB195]

SENATOR RIEPE: That's why we'd rather ignore the red light, because we know you've traveled and we do appreciate that burden. [LB195]

NANCY CAPPELLO: Aw, thank you. [LB195]

SENATOR RIEPE: And we...well, we wanted to hear your story to the end. [LB195]

NANCY CAPPELLO: I appreciate that; thank you. [LB195]

SENATOR RIEPE: And thank you very much for being here. [LB195]

NANCY CAPPELLO: Thank you. [LB195]

SENATOR RIEPE: Are there questions from the committee? Senator Erdman. [LB195]

SENATOR ERDMAN: Thank you, Chairman Riepe. So if you would, tell me why wouldn't the physicians want to just do this on their own? Why don't they just tell these people? They know what the situation is; why don't they just voluntarily step up to the plate and announce to the women who have that issue? Why don't they tell them? [LB195]

NANCY CAPPELLO: Now, isn't that a smart answer? Wouldn't one think? I remember Governor Rell said to me: This is a no-brainer, Nancy. And I said to Governor Rell: How long you been in the legislature and then a governor? She goes: Many years. I say: Have you ever met people that don't have brains? She said: Yeah. Here's the problem--or the challenge. We've learned, from many years of mammography, that voluntary measures don't work. You would think...I went back to my six doctors. All I...honestly, did I ever think I'd be in Lincoln, Nebraska? Never. And travel all over the globe...I've been in Tokyo, Japan; Rome, Italy. I mean this is crazy to talk about this work. But here's what happens. We know, from years, that voluntary measures don't work. The...my six doctors would not do it. So the only way I knew how to do it was go to the legislature. In fact, we've even asked doctors across the globe to, say, just voluntarily do it. We won't even bring...put a law; can't standardize it. We want everyone, regardless if they live in Lincoln or Omaha, who they go to, to get this information. I wrote a paper in the Journal of American College Radiology peer review that is in the packet that answers all your questions like: mandated medicine; mammogram is the best; why we have to

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tell women this...I mean all this stuff. This has no cost to the state; give the same information our...that the doctors have about us. [LB195]

SENATOR ERDMAN: Thank you. [LB195]

SENATOR RIEPE: I have a question in terms of, in Connecticut... [LB195]

NANCY CAPPELLO: Yes. [LB195]

SENATOR RIEPE: ...how long has it been in law? [LB195]

NANCY CAPPELLO: Since 2009. [LB195]

SENATOR RIEPE: How do they enforce the "mandate" side of it? [LB195]

NANCY CAPPELLO: Well, it's... [LB195]

SENATOR RIEPE: And is there a punitive fine or what's the outcome of it? [LB195]

NANCY CAPPELLO: So the outcome is just like what Senator Craighead said, what you have language in this bill, Cheri's law, is that the only duty of care is to provide notice. It's about a disclosure. I mean, for Pete's sakes, I know my blood pressure, I know my IQ...I mean I can't get this information unless it's mandated. So it's only really the disclosure of dense breast tissue. We don't have any fines. And it would be up to a citizen, if they felt that they were being...that their due process wasn't being followed, that they could certainly pursue whatever they need to do to get justice. [LB195]

SENATOR RIEPE: Another question I have is it seems to impose or bring forward a new standard of care. And although this says no liable situation, it... [LB195]

NANCY CAPPELLO: Um-hum. [LB195]

SENATOR RIEPE: I'm not sure the person, by saying it, doesn't necessarily make it so. [LB195]

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NANCY CAPPELLO: Yeah, I guess you would need to talk to your legal counsel about that information. You know, I know in Connecticut it's interesting, Senator, we had the...do you mind if I just say one little quick story? [LB195]

SENATOR RIEPE: Oh, please; that's why you're here. [LB195]

NANCY CAPPELLO: We have a College of Radiology secretary; her name is Dr. Jean Weigert; she's a radiologist. And she testified in 2008 against our legislation, representing the radiologists, and with a whole slew of, you know, mandated medicine and women should be able to get this-- they could ask the question. Well, if you don't know to ask the question, unless you're Jeane Dixon or Kreskin, how would you even know to even say: do I have dense breasts? I mean, it's crazy. And so with all the drama that happened in Connecticut, we finally did pass because of our chair or our champion senators--legislators--this legislation. And then they felt compelled, because there was a law, to follow it. Well, this Dr. Jane Weigert is now doing research all over the world about the importance of density reporting and the importance of adjunct screening if you have dense breast tissue. So she went from my WFF, which my worst friend forever, to my BFF, really. And we've traveled together to Washington, D.C. We're also trying to get a federal law. The further you get away from the state and the people and your bloodline, the further you get away from really getting something enacted that protects women. So it's been in the literature for many, many years; it's a known fact. We just want women to be...you know, I was just watching Dr. Price at the HHS hearing for secretary of HHS, and all these, you know, rhetoric, words sometimes: patient-centered medicine; transparency; empowerment; patient choice...well, withholding density is the antithesis to all those beautifully-sounded words. Women should have the same information their doctors have. [LB195]

SENATOR RIEPE: Are there additional questions? Senator Williams. [LB195]

SENATOR WILLIAMS: Thank you, Chairman Riepe. And thank you for being with us today. [LB195]

NANCY CAPPELLO: Oh, thank you, Senator. [LB195]

SENATOR WILLIAMS: A quick question just to help me further understand this. Are all types of machines that are used for these kind of tests capable of showing breast density? [LB195]

NANCY CAPPELLO: Currently your first line of defense is, you know...the standard of care right now is mammogram first. So a mammogram, an x-ray, even 3-D would show what a breast looks like on an x-ray; it's mammographically described. An ultrasound...I'm not sure that you

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would even need to know, because if you have dense tissue or don't, you can still see cancer. [LB195]

SENATOR WILLIAMS: My question is, are...is the equipment that is available at the Med Center in Omaha... [LB195]

NANCY CAPPELLO: Um-hum. [LB195]

SENATOR WILLIAMS: ...the same equipment that would be in a rural health clinic in western Nebraska to do a mammogram? [LB195]

NANCY CAPPELLO: Yes, a mammo...yes, absolutely. [LB195]

SENATOR WILLIAMS: It's the same thing. [LB195]

NANCY CAPPELLO: Yes, because a mammogram...doctors will look at the picture of a mammogram and determine what the density is. It's a, b, c, and d. [LB195]

SENATOR WILLIAMS: So any of these machines, wherever they're located, would be capable of showing... [LB195]

NANCY CAPPELLO: Yes. [LB195]

SENATOR WILLIAMS: ...the reason. [LB195]

NANCY CAPPELLO: Yes. In fact, Senator, I never knew this...most radiologists, most radiology reports that the patient never sees...it's already reported. Doctors have been reporting density in Nebraska probably for 15-20 years in a report that goes to a woman's referring doctor. The problem is the woman who has it gets what I call the "happy gram," which is meaningless. It doesn't tell you about your dense tissue; you have to go back and search. So they are...already been reporting it. There's people here today who can talk about their...knowing their own density. [LB195]

SENATOR WILLIAMS: Thank you. [LB195]

NANCY CAPPELLO: You're very welcome. [LB195]

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SENATOR RIEPE: Does a 3-D mammography unit much more effective in the densities, which is something that may not be in every hospital across the state of Nebraska. It's... [LB195]

NANCY CAPPELLO: Correct, um-hum. The research shows that 3-D mammography...it's still a mammogram, but it does increase the detection of invasive cancers that are not seen on 2-D, so yes, by about 1.1 per thousand cancers, although...and I just had my 3-D because I still have a good-for-not-much breast--on my left breast in case you're wondering--and I had my 3-D last week. But I also have an MRI and I have an ultrasound because I had, you know, I had the late-stage cancer and I could still die prematurely from this disease. However it's interesting, Senator, when you look at the research on 3-D, certainly a better mammogram, certainly can, because it's three-dimensional, can slice and see things. And we have a medical doctor here who's a radiologist who can tell more. It's still going to be limited in the dense breasts, especially the densest breasts, so we know that from research and I have tons of research I can just share with you. But it is a, I would say, a better mammogram overall. [LB195]

SENATOR RIEPE: Do you have any knowledge of defensive medicine that physicians are doing more biopsies and more retakes of mammograms just because of the mandated nature of it all? [LB195]

NANCY CAPPELLO: What I do know is that 3-D, which is great about 3-D, it does reduce callbacks, which is a huge, huge issue in screening. We know that, in Connecticut, when you look at the latest research that my BFF Dr. Jean Weigert just published in The Breast Journal in her fourth year of data, her positive predictive value of ultrasound in the biopsies and the false positive is the same as the mammogram that she gives. You get better as you practice, naturally. But that is a challenge, but it's certainly not one to overcome the right of a woman to have that information. [LB195]

SENATOR RIEPE: I understand the 3-D also has higher radiation exposure, so. [LB195]

NANCY CAPPELLO: It does, yes. Yes. [LB195]

SENATOR RIEPE: Are there other questions? Again, thank you very much. Are there other proponents? [LB195]

NANCY CAPPELLO: Thank you very much for having me. [LB195]

SENATOR RIEPE: Thank you. [LB195]

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NANCY CAPPELLO: It's just wonderful to be in Lincoln, Nebraska, with you. [LB195]

SENATOR RIEPE: We're Nebraska nice here, so (laughter). [LB195]

NANCY CAPPELLO: Yeah, thank you. [LB195]

BILL RAUTH: (Exhibit 3) Good afternoon, Senator Riepe and fellow committee members. My name is Bill Rauth, B-i-l-l R-a-u-t-h, and I'm here today in support of LB195, Cheri's law. By way of explanation, I am her husband. She was 57 years old when, in July of 2014 she was diagnosed with breast cancer, just two weeks prior to our wedding. Our worst fears were realized when the tests came back, confirming stage IV metastatic breast cancer de novo which means, unlike Nancy, it was late-stage. And stage IV...there is no cure; it's basically a death sentence. You're either on treatment or dying. She lasted 17 months; average is 34 with stage IV de novo. And to correct Senator Craighead, it was not eight months after a normal mammogram; it was-- or 18 months--it was eight months after a normal mammogram. And Senator Erdman, to get to your question in regards to why don't doctors just do this, my...Cheri's doctor did not tell her that she had dense breast tissue, even though she went in at that appointment and reported a lump. A doctor from UNMC has said that doctors know what to do when women present with a lump. This doctor did not know what to do. He's still practicing, even though he has three cases against him. She trusted her physician with her health and, ultimately, her life. If the doctors don't...if the women don't understand the difficulties of detecting this cancer through dense breast tissue using the mammogram, how are we expected to...I mean, if this doctor didn't even know that she had a lump...and he said she doesn't have any further history of it; she doesn't warrant any further, any testing, basically dismissing it as a clogged milk duct. She had 15 years of normal mammograms and not once was her breast density mentioned to her. Like Nancy said, she got the happy card saying your breasts...your exam was normal, although when we subpoenaed the records, they showed dense breast tissue, and that goes back to her OB. Neither doctor told her that she had dense breast tissue nor what it meant to have that. As Nancy said, 40 or 50 percent of the women have dense breast tissue and they don't even know it, so they can't act upon it. Cheri was sent home without a 3-D mammogram, without an ultrasound or without an MRI, and the cancer grew for nine months. She finally went in after nine months, having more increased pain. The doctor ordered an ultrasound and then a biopsy. Like many before us and, unfortunately, many after us, Cheri and I knew little about breast cancer and even less about metastatic breast cancer when it moves to your bones and other--(inaudible) major organ--and, in Cheri's case, it was her bones and her lungs. She eventually, basically drowned to death. Most of us learn about breast cancer through Susan G. Komen and their efforts for the cure. Their tag line should be "for awareness" because that's where 75 percent of their budget goes. Once you hit metastatic level the breast cancer community, and Susan G. Komen in particular, kind of push you aside because you're not a celebratory thing. You're not good for raising money; you'll die anyway. Just be quiet and go die. We learned about this breast cancer on the fly, doing research ourselves in dense breast

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tissue, all after the fact. Cheri had a lot of life left in her and a lot to live for. She raised two amazing boys, Austin and Jared. Austin, his wife Tara, and their oldest, Ava, are here today in support. They're from Lincoln. Cheri was witness to four of her five grandchildren being born. the fifth one was born about four months after her passing, and she was there; that's a whole other story for another time. She was an amazing woman, daughter, sister, cousin, mother, aunt, grandmother, and stepmom and stepgrandmom to my kids. She taught her kids and grandkids that...and me...the true meaning of the words "unconditional love." She was known for her hugs; they were uncomfortably long. But as I've stated many times to friends who do know her, she left...she hugged you so well that she left an imprint of her heart on you. They were known worldwide in her travels for...she worked...I'm at a loss for what her title was, but she worked with the Defense Department, and so she traveled the world. And her hugs were known all over the world. Cheri's death on January 10 last year, at just 59 years old, 18 months after her diagnosis, may not have been prevented if this legislation were in place then or even earlier. But it would have given her the knowledge to be able to act on that information and ask for, or at least talk with her OB about, what could happen after this. What are my options? And her hugs could continue. Thank you very much. Any questions? [LB195]

SENATOR RIEPE: We are profoundly saddened by your loss, and our sympathy goes to you. We appreciate you for having the courage to come here today and share that with us. It cannot be easy and we are proud and complimentary of the fact that your family came along to support you, as well. That said, are there questions of the committee that? Again, thank you so very much. [LB195]

BILL RAUTH: Thank you. [LB195]

SENATOR RIEPE: Other proponents. Welcome. [LB195]

DR. VICKY VANDERVORT: (Exhibit 4) Thank you. Good afternoon, Chairman Riepe and members of the Health and Human Services Committee. My name is Dr. Vicky Vandervort, V-i-c-k-y V-a-n-d-e-r-v-o-r-t. I live in Omaha, Nebraska. I'm here to testify in support of LB195. I'm a wife, a mother, a daughter, sister, cousin, and friend. I'm a practicing optometrist. I'm also a breast cancer survivor of seven months. They always say what you don't know won't hurt you. But that axiom proves false all too often. In my case, as with others you've heard today, not knowing you have dense breast tissue, or not knowing what dense breast tissue can obscure, may kill you. I've been going for yearly mammograms since 1985. Although I was informed that I had fibrocystic breast disease, now called dense breast tissue, I was never informed that this common condition conceals early breast cancers. I thought it was an explanation of my lumpy, bumpy breasts. It was shocking when I went in for a mammogram with a lump I had found myself and it didn't show up. My mammogram report stated: We are pleased to inform you that

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your recent mammogram is normal and shows no x-ray evidence of cancer. It was the same letter I had received in 2015, even though I could now feel a lump. I knew there was a difference. By the grace of God, I did not rest on this normal report. I pressed for a definitive diagnosis. I received that on May 24, when a pathology report stated: invasive ductal carcinoma, triple-negative. That's a particularly aggressive form of cancer. It was only later that I learned that dense breasts conceal early tumors. If I had trusted the mammogram and delayed further investigation, my situation would have been much worse. So had my tumor been slowly growing for a year? No one can say. Why? Because the 2016 mammogram showed nothing different than the 2015. And yet we now know that cancer was, indeed, there in 2016. It was a white mass among a web of white, dense tissue, the proverbial snowball in a blizzard. After this experience, I'm left with questions, "what if" questions. What if this legislation had been in place in 2015? What if I had been sent for additional testing because of my dense breasts? Would early precancerous calcifications have shown up, dictating a new schedule for testing? What if this legislation had been in place in 2016 and, instead of receiving a normal mammogram letter, I had been sent for adjuvant or concurrent MRI for comparison? Would my tumor have been caught at an earlier stage? This bill is about arming at least 160,000 Nebraska women over age 40 with information to empower them to ask questions and raise their level of awareness so that they do not put unwarranted trust in mammogram results. This bill is about breaking paradigms of preventative care for those 40 percent who are different than the other 60 percent. It is about using a two-pronged approach similar to differentiated populations like diabetes...diabetics and nondiabetics. Why not different protocols for heterogeneous and homogeneous breast tissue? Senators, you could be heroes to these women and their families. LB195 is a good bill, and I respectfully ask you to vote it out of committee and vigorously support its passage on the floor. Thank you for your attention. I would be most happy to answer any questions you make have. [LB195]

SENATOR RIEPE: Okay, thank you very much. Are there questions from the committee? I have a question. [LB195]

DR. VICKY VANDERVORT: Um-hum. [LB195]

SENATOR RIEPE: My question would be this, is...you're a healthcare professional. You've had a close enough personal experience with it. I know Cheri's husband talked about, I think, the physician that his wife had gone to. There were three other cases, if I heard right. Do you think that mandatory reporting requirement would have...what kind of a difference would that have possibly made or could it have made? [LB195]

DR. VICKY VANDERVORT: Well, what the bill will do is replace...or put on the report that the woman gets, information that allows her to then start a conversation, if it's not started by the

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physician. And I think that's the main goal of this is that we feel left out of information that impacts our lives. [LB195]

SENATOR RIEPE: Um-hum. There are also some reporting requirements through electronic health records, and I'm not sure whether that... [LB195]

DR. VICKY VANDERVORT: Yeah, I can't answer that. But I know Dr. Davey, who's a radiologist, is here. [LB195]

SENATOR RIEPE: Okay. [LB195]

DR. VICKY VANDERVORT: You might ask that question of her later. [LB195]

SENATOR RIEPE: Thank you. Okay, thank you very much for testifying. [LB195]

DR. VICKY VANDERVORT: Um-hum. [LB195]

SENATOR RIEPE: More proponents? [LB195]

DR. MARY DAVEY: Hi. [LB195]

SENATOR RIEPE: Thank you very much for being here. Please state your name and proceed. [LB195]

DR. MARY DAVEY: (Exhibit 5) Thank you, Senator Riepe. I'm Dr. Mary Davey, M-a-r-y D-a-v-e-y, and I thank you for having this hearing today. [LB195]

SENATOR RIEPE: And you're an MD? [LB195]

DR. MARY DAVEY: I'm an MD, yes. [LB195]

SENATOR RIEPE: Okay, thank you. [LB195]

DR. MARY DAVEY: So I am Dr. Mary Davey, a radiologist at Creighton University Medical Center. I specialize in breast imaging, and I've been interpreting mammograms and helping diagnose and care for women with breast cancer for about 20 years. I've also been a breast

cancer survivor for about 10 years. As you have heard and will hear more, the diagnosis and treatment of breast cancer, especially advanced breast cancer, is heart wrenching and difficult for patients and their families. Any cancer diagnosis is unexpected, unwelcome, and an intrusion upon our lives. We feel a loss of control. We try to control what we can by taking care of ourselves: by eating right, exercising, undergoing screening tests. These give us a sense of control over the possibility of illness. Mammography is one such screening test that women regularly undergo in order to find small, more easily-treated breast cancers. Mammography has been proven to save lives, reducing mortality from breast cancer by about 30 percent. But not all cancers are seen on a mammogram. Every woman's mammogram, like their fingerprints, are unique. The mammogram is an x-ray, and the x-ray is shot through the breast, and each woman has a different amount of fibroglandular--or glandular--breast tissue. A mammogram with very little glandular tissue is called fatty, and a mammogram with a lot of glandular tissue is called dense. And the pamphlet that I gave you is from the American College of Radiology. And a little explanation of what breast density is. The amount of glandular tissue a woman has she has no control over. It's dependent upon genetic factors, age, and whether she takes hormones after menopause. Glandular tissue is white on a mammogram and so are cancers. Therefore cancers can be obscured by normal glandular tissue. While most often breast cancer can be easily seen on a mammogram, sometimes breast cancers, even large breast cancers, cannot be seen on a mammogram, usually in women with dense breasts. Breast density not only makes it harder to see cancers on a mammogram, it also is an important risk factor--independent risk factor--for the development of breast cancer. Women with dense breasts have double the risk of breast cancer over women who do not have dense breasts. Most women are unaware of their breast density, even the concept of breast density. I believe women have the right to know their breast density, and there's an easy remedy for this. Radiologists are mandated by federal legislation that the MQSA, the Mammography Quality and Standards Act, to send results of the mammogram to the clinicians who ordered the mammogram and a summary result, or a lay letter, to each patient. Every mammogram report sent to a woman's doctor already contains a description of her breast density. This bill simply adds to a patient's mammogram the information about her breast density. So what should women do about this information, once they receive it about breast density? A woman with dense breasts should understand that her risk for breast cancer is slightly higher than average and should undergo regular screening mammography. A woman with dense breasts should consider having 3-D mammography, or digital breast tomosynthesis...the same thing. It's a new kind of a mammogram that appears to see through the breast better and find cancers better than standard mammography. It does cost slightly more than standard mammograms, but it is currently reimbursed by most insurance companies. Other tests for breast cancer, such as breast ultrasound and breast MRI may be appropriate for patients, depending on risk factors and breast symptoms. Currently there's not enough scientific evidence to mandate additional screening methods for all patients with dense breasts, but this may change as we...as more studies emerge, as we get more information about the Connecticut ultrasound screening. And how should clinicians deal with questions that will inevitably arise because of this bill? I

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believe these questions will spark important conversations between physicians and their patients about cancer and cancer risk modifications. I think physicians are up to the challenge of understanding breast density and being able to communicate what that means for their patients. In summary, I am in favor of this legislation as a means to educate women about their breast density and, as a result, improve understandings of the limitations of mammography, increased awareness of breast cancer risk factors, and encourage a dialogue between patients and their clinicians about managing risk and engaging in healthful behaviors. Thank you. [LB195]

SENATOR RIEPE: Thank you very much. Are there questions of the members? [LB195]

SENATOR LINEHAN: Thank you, Mr. Chairman. [LB195]

SENATOR RIEPE: Senator. [LB195]

SENATOR LINEHAN: So if a woman has dense breast tissue and she gets a mammogram, is it just a known fact that it's unlikely you're going to be able to see cancer? [LB195]

DR. MARY DAVEY: No, we can see most breast cancers. Most breast cancers are seen on a mammogram if it's there. [LB195]

SENATOR LINEHAN: Okay. [LB195]

DR. MARY DAVEY: But there are some cancers that cannot be seen on a mammogram. [LB195]

SENATOR LINEHAN: Okay, so if you were, you know...are you saying that once a woman has...I know that that's not the law, so I'm just trying to educate myself. [LB195]

DR. MARY DAVEY: Um-hum. [LB195]

SENATOR LINEHAN: And since you are a physician, at what point do you, as a physician, say: this isn't enough; we need to go further? I mean, is there...because the chart here is pretty...it's 10 percent are extremely dense, 10 percent are fatty, but then you've got this big area of blue and this big area of pink. [LB195]

DR. MARY DAVEY: Um-hum. [LB195]

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SENATOR LINEHAN: So in your...and maybe this an appropriate question, but in your area, where would you like everybody that's in the 40 percent... [LB195]

DR. MARY DAVEY: Oh yeah, that's a great question. So we have the four categories of breast density. We just divide it the middle. So if you have a fatty or scattered pattern, that's called nondense. And then if you are heterogeneously dense or extremely dense, that's called dense. And so those patients would be the ones to receive the letter notifying them that have dense breasts and to have a discussion with their doctor about whether any additional testing would be appropriate. [LB195]

SENATOR LINEHAN: Okay. [LB195]

SENATOR RIEPE: Okay. [LB195]

SENATOR LINEHAN: Uh-huh, thank you. [LB195]

SENATOR RIEPE: Thank you. [LB195]

SENATOR LINEHAN: Thank you. [LB195]

SENATOR RIEPE: Any additional questions? Hearing none, thank you very much for being with us today. [LB195]

DR. MARY DAVEY: Okay. Oh, you're welcome; thank you. [LB195]

SENATOR RIEPE: Other proponents. [LB195]

SURYA VENKATESH: Hi. [LB195]

SENATOR RIEPE: Welcome. If you would give us your name and spell it out, and then we'll ask you to proceed. [LB195]

SURYA VENKATESH: Surya Venkatesh, spelled S-u-r-y-a V-e-n-k-a-t-e-s-h. [LB195]

SENATOR RIEPE: Thank you. [LB195]

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SURYA VENKATESH: Well...may I start? Good afternoon, Chairman Riepe and members of the committee. My name is Surya Venkatesh. I am a sophomore attending Millard North High School, and I live in Omaha, Nebraska. My mom's friend, named Karen Steiner (phonetic), was diagnosed with advanced breast cancer, and she has come to understand that her cancer was more advanced at diagnosis because she had dense breasts. This made me aware of the issue of breast density and, as I researched more about it, I learned that 28 states have already passed laws that help to educate women about this important topic; and 11 are going through the process. And I want Nebraska to be the 29th state to pass this bill. And the tragic incident with Cheri and many more, including two of my family members, could be prevented if this is...if this goes through. There is no downside to passing this, so it would be in our...in the best benefit for the state and the people of the state in order to pass this. And I would also like to give a thanks to Dr. Davey, Mr. Rauth, Senator Hilkemann, Dr. Cappello, Senator Craighead, for helping me understand the magnitude of this situation, not only for our community, but for the United States itself. Okay, thank you. [LB195]

SENATOR RIEPE: Thank you. We applaud you for coming down here, and we applaud you for being engaged. There's a bit of a travel from Omaha, so thank you very much. Are there questions from the committee? Hearing none, thank you. Again, thank you. [LB195]

SURYA VENKATESH: Thank you. [LB195]

SENATOR RIEPE: More proponents? [LB195]

JOHN CARROLL: Yes, sir. [LB195]

SENATOR RIEPE: I wasn't sure whether that was your lunch or your (laughter)... [LB195]

JOHN CARROLL: You beat me to it; you stole my punchline. [LB195]

SENATOR RIEPE: Sorry. [LB195]

JOHN CARROLL: It's the new 2017 diet...lemons and Brazil nuts. [LB195]

SENATOR RIEPE: Okay. If you would state your name and spell it out, please, and then proceed forward. [LB195]

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JOHN CARROLL: (Exhibit 6) Yes. Good afternoon; my name is John Fitzgerald Carroll, J-o-h-n F-i-t-z-g-e-r-a-l-d C-a-r-r-o-l-l, and I am a resident of Gretna, Nebraska, 40 acres along the Elkhorn with my significant other and 200 goats. Good afternoon, Chairman Riepe and members of the Health and Human Services Committee. I thank you for the opportunity to speak on the behalf of my mother and my sister who have both been deeply affected by breast density. And I come here in support of LB195, Cheri's law. I'm going to take you back in time. It is April 2011; my father, John Thomas Carroll, the longtime Millard North tennis coach, is diagnosed with stage IV lung cancer. It is April 2014; and my mom, Michele P. Carroll, is diagnosed with stage III breast cancer. Hers was lobular carcinoma. It is now July 2016, and my sister, Krystina M. Klucking, is diagnosed with stage IIB invasive ductal carcinoma of her breast. My father was a smoker and his lung cancer diagnosis, while totally devastating to him and our entire family, did not come as a surprise because he was a smoker. My father died on October 15, 2012. But little did I know that cancer was not done messing with our family. My mom, who everyone calls Momo, even at work, undergoes a mammogram in August 2013. She, like the other people that testified here today, is told that she has a normal mammogram with no evidence of breast cancer. My mom is relieved. For you see, she had always had lumpy breasts but, when she underwent her mammogram and was told that it was normal, she had an actual lump in her left breast that she was concerned about. But when she got the good news, the head went right into the sand and she just figured I had lumpy breasts so it was a scare and nothing was going on. However in March 2014, her left nipple inverted, which scared her, and she makes an appointment with our mutual primary care physician. On April 1, 2014, her physician calls me at work and, in very quick order, informs me that my mom most likely has breast cancer. At first I think this is the worst and cruelest April Fool's joke in the world, before the words sink in. My mom has breast cancer. My mom has worked with me since 2007 and, just 30 minutes before the fateful phone call, my mom was in a staff meeting in our conference room. Over the years I've made sure that my mom undergoes her annual physical, colonoscopy, skin checks, et cetera. When she returns to my office, the son disappears and the nurse in me takes over. I am a registered nurse and an attorney in my day job. I ask to feel the mass. I inquire as to her last mammogram; I ask about the results. She tells me that it was normal. But I'm in abject shock. I tell myself that there's no way that her mammogram was normal in August after physically assessing the mass. Now you may think it's weird--a son's assessing his mom's breast--but, like I said, I'm a nurse first. And it's not small. And we later find out that her mass was 7.5 centimeters, the size of this lemon. This lemon is exactly 7.5 centimeters. This was hiding in her left breast. And in August, a mammogram did not find this. We immediately obtain her mammogram to find out how on earth her August mammogram could be normal. A few days later we learned, for the very first time, that my mom has what they refer to as dense breasts. Now in the paperwork that I've sent you, I have a picture of my mom's mammogram from August 2013. And if you take a look, you've heard a lot about the white on white, the snowball in the blizzard. So now take this lemon and tuck it behind this white stuff. That's where this lemon was hiding, was in the dense tissue. And that's why the mammogram couldn't find it, because a breast cancer is white; breast density is

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white. It's white on white. So besides the fact that this thing was sitting inside her left breast, I also am a medical malpractice attorney and I've heard some talk about liability here. So I've reviewed cases in my office regarding missed breast cancer cases. I have sent mammograms to independent radiologists to review to see if there were any missed breast cancer cases. And here's what's really interesting. All the radiologists that I paid money to, to review the x-ray, said: no; they didn't miss, they didn't miss anything. There's no evidence of breast cancer on the mammogram. What I didn't know at the time was that...what they didn't tell me was it was hiding in the breast density. So at that moment I realized how dangerous breast density was, because I had people in my office that had passed away because their breast cancer was hidden in the density. And now it has affected me personally with my mother. Shortly after her diagnosis, we contact WOWT and we sit down for an interview in April 2014 to get the news out right away; that's the first thing my mom wanted to do was to alert other women. And by the end of April 2014, my mom underwent a double mastectomy. Between 2014 and 2016, my mom, myself, and my sister Krystina were advocates regarding breast density and we've spoken in front of groups, individuals. We've put together a PowerPoint program. We've done whatever we can to get the word out about breast density. So now it's April 2016. My sister Krystina is at home and notices that she has a lump in her left breast. Scared and in disbelief, she spends the next few weeks feeling the bump, hoping it will go away; it does not. In May 2-16, she undergoes a mammogram. They ask her if she has any areas of concern. She tells them yes, points to the area where the lump is located in her left breast. She gets her report in the mail, and it tells her that her mammogram is normal. Even though my mom had been diagnosed with breast cancer and her father died from lung cancer, she initially accepts the news that the mammogram is normal. That what patients do; that's what people do. They accept good news, even in the face of the obvious. In July, that internal whisper becomes a very loud voice, telling her that she needs to get a second opinion. She goes back to the Breast Center and requests that one of the physicians physically examine her left breast. As the physician places her fingers on the lump, the look on the physician's face tells my sister everything she knows internally to be true, but too scared to accept. The physician then tells my sister that she needs an ultrasound and a biopsy. On January 26, 2017, my sister will be undergoing the final stages of her breast reconstruction. In your packet is a picture of her mammogram, and it's even more dense than my mother's. Hers is nearly 95 percent dense. They wouldn't have been able to find a loaf of bread in there, if they had tried to look for it. My sister's initial tumor was the size of this Brazil nut, which is 3 centimeters. When all is said and done, and my sister undergoes the initial lumpectomy, they find more cancer than they thought was in there. And then she undergoes a prophylactic mastectomy. And when she gets that tissue back, she, in total, has two breast cancer tumors and five areas of DCIS, which is ductal carcinoma in situ, which simply is stage 0/stage I breast cancer. It's in the ducts; it just hasn't blossomed into the tissue surrounding it. Had my sister not advocated for herself and waited, Cheri's fate could have been my sister's, because she had seven areas of breast cancer that was hidden in this mammogram. [LB195]

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SENATOR RIEPE: We are on a red light, so if you could wrap up, please. [LB195]

JOHN CARROLL: Okay, sure. I just...just to wrap up, you've heard all of the information that's here, the point being with notification, just to notify the women. Just let them know so they can get the report, so they know that they have dense breasts. And then they can have a conversation with their physicians to figure out what happened. Real quick, there's a triangle here that you have to be aware of where people are falling through the cracks. You have the ordering physician, the radiologist, and the patient. The radiologist understands what density is and what it means, and it goes into a report. Then it gets sent, right now without this law, to the doctor's office and it goes into a chart. I sat down with my mom's physician and said: do you understand what this report said? And he didn't, and it scared him to death. He didn't even know what breast density was; he did not understand what next step he needed to do to fix that. That's the gap that people are falling into. So by bringing this out of the committee and getting it to the floor and getting it passed...notification will be the law and conversations will start to happen between the patient and the doctor but, more importantly, between the radiologist and the ordering physicians. I thank you for your time. [LB195]

SENATOR RIEPE: Thank you, sir, very much. Other proponents. Anything from the committee? Okay. Any opponents? seeing none, any testifying on a neutral position? Seeing none... [LB195]

SENATOR CRAWFORD: Oh. Oh, she's coming. [LB195]

TYLER MAHOOD: Oh, there's one coming. [LB195]

SENATOR RIEPE: Oops, oh. Okay. Welcome. [LB195]

ELISABETH HURST: Good afternoon, Chairman Riepe and members of the Health and Human Services Committee. My name is Elisabeth Hurst, that's E-l-i-s-a-b-e-t-h H-u-r-s-t, and I'm the director of advocacy with the Nebraska Hospital Association, representing Nebraska Hospitals and the more than 40,000 individuals that they employ. I offer testimony today in a neutral capacity on LB195. According to the 2015 study in the Annals of Internal Medicine, 40 percent of women have dense breasts and only half have a higher risk of breast cancer. This means that a very broad classification of density produces an equally broad variation in risk among patients. LB195 would require facilities to provide information on the risks of conditions not applicable to the majority of the women receiving the information. This can create unnecessary anxiety for the patient, leading many to choose additional testing that can be inconclusive, result in false positives, or expose the patient to additional radiation. Insurance plans often do not cover these additional scans or ultrasounds, resulting in high out-of-pocket costs for the individual. LB195 is an example of proposed legislation that represents overregulation of a Nebraska industry. The

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healthcare road map for a patient should be between the physician and the individual receiving care. This can be done without the state interposing its own requirements into a physician and a patient's healthcare plan. At a time when the Ricketts administration strives to reduce regulation of Nebraska business, this is a particularly sensitive area of an individual's life--her health--in which to inject unnecessary, and potentially costly, mandates. I thank you for the time today, and I'm happy to answer any questions that you might have. [LB195]

SENATOR RIEPE: Thank you very much. Are there questions from the committee? I have a question. [LB195]

ELISABETH HURST: Sure. [LB195]

SENATOR RIEPE: Why is it that there is a disconnect that...I mean it's...to what we've heard today, it sounds like the physicians are very insensitive to the situation. Where does that disconnect come in? [LB195]

ELISABETH HURST: You know, I know that there are different practices across facilities. I contacted just a random sample of our hospitals yesterday and asking what their practices were. And there's just a different approach in many of the facilities to how they evaluate a report: It may be that they assess the report results with the patient in person; They may be handing a letter to that particular individual; they may be sending letters. And I think that there's just a different approach that physicians may use. And I can't speak on behalf of the physicians themselves, obviously, and what their practices might be. But I think that we're talking about a fairly small percent of individuals that would be affected. [LB195]

SENATOR RIEPE: Okay. Senator Erdman. [LB195]

SENATOR ERDMAN: Chairman Riepe, thank you. So let me be clear on your testimony. Is your testimony in opposition or neutral? [LB195]

ELISABETH HURST: It's a neutral testimony. [LB195]

SENATOR ERDMAN: It didn't sound neutral to me (laughter). [LB195]

ELISABETH HURST: We obviously... [LB195]

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SENATOR ERDMAN: Explain to me, if you would, how that's neutral, what you just said. [LB195]

ELISABETH HURST: Sure. We definitely support the intent of the bill and its purpose, but we do oppose, in a neutral capacity based upon the effect that it can have on the facilities that would be mandated to provide the information. [LB195]

SENATOR ERDMAN: I don't buy that. Neutral is neutral, and opposition is opposition. [LB195]

ELISABETH HURST: I appreciate that, Senator. [LB195]

SENATOR ERDMAN: The statements that you made about being opposed to those things would, in my opinion, not be neutral. [LB195]

ELISABETH HURST: Thank you, sir. [LB195]

SENATOR RIEPE: Senator Crawford. [LB195]

SENATOR CRAWFORD: I wonder if you could just repeat the number argument you were making, that you were saying the people who are affected...and the people who would be covered and require the notification versus the people. [LB195]

ELISABETH HURST: Sure. The statistics that I testified to were from the Annals of Internal Medicine, from a 2015 study. And that data states that 40, between 40 and 50 percent of women have dense breasts, and that half of those would have a higher risk for breast cancer. [LB195]

SENATOR LINEHAN: Okay. [LB195]

SENATOR RIEPE: Senator Linehan. [LB195]

SENATOR LINEHAN: I don't even know what...so half of them have a higher risk; I don't know what that even means. Half, okay. So they have higher risk than what? [LB195]

ELISABETH HURST: They have a higher risk of breast cancer due to the density of their breasts. [LB195]

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SENATOR LINEHAN: But I think the testimony we heard...they're not...they're just saying that, from real examples, that you can't...it's not about whether they're at higher risk or not risk. You can go in and...I do this, too. You go in, you get a mammogram, you pay for the mammogram, your insurance pays for the mammogram and, it appears to me that, even though a woman is paying for their mammogram or insurance is paying for it, they're...mammograms don't work for these women or, chances are, they're not working. So I don't know why they're paying for them if they know. If they have dense breasts and it doesn't show up on a mammogram, why are they even given a mammogram? I'm very confused by all this. [LB195]

ELISABETH HURST: Yeah, and I am definitely not a doctor, Senator Linehan, so I can't speak to what the data is, as far as the actual population that is affected. [LB195]

SENATOR LINEHAN: But still, here a very direct question...or not even a question, just a statement, I'm sorry. [LB195]

SENATOR RIEPE: Proceed. [LB195]

SENATOR LINEHAN: If a mammogram doesn't work for a women with dense breast tissue, why are the insurance companies and women paying for mammograms if they have dense breast tissue, if it doesn't work? [LB195]

ELISABETH HURST: And I do understand what it is that you're saying. [LB195]

SENATOR LINEHAN: Okay, okay. Thank you. Thank you, Mr. Chairman. [LB195]

SENATOR RIEPE: Thank you. Other additional questions? I have one last question. [LB195]

ELISABETH HURST: Sure. [LB195]

SENATOR RIEPE: And has the Hospital Association expressed concerns about the contingent liability that goes with the mandatory reporting? [LB195]

ELISABETH HURST: We haven't at this point. Again, we support the intent of the policy. The requirement that the facility would have to re-present the message, if it's changed--every time it's changed--I think would be also problematic. But as far as the last clause, I assume that's what you're referring to--I haven't seen any concern come from our membership in survey. [LB195]

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SENATOR RIEPE: Okay, okay. Not the place to pursue that further, in my opinion. Other questions? Thank you very much for being here. [LB195]

ELISABETH HURST: Yes. Thank you, Senator. [LB195]

SENATOR RIEPE: Are there others in "neutral" (laughter)? [LB195]

SENATOR ERDMAN: Pretty good. [LB195]

SENATOR RIEPE: Okay. Senator Craighead, would you like to close, please? [LB195]

SENATOR CRAIGHEAD: I would love to close. First of all, I would like to thank all of the proponents who came and spoke about dense breast tissue today. LB195 is about sharing important information with patients, information that the healthcare provider has, the insurance company has, and the mammographer has. LB195 ensures that the patient, the person that has all the information of...the person that all the information is about, will be aware and informed about their own health. As you give thought to this bill and advancing out of committee or not, I would like to ask each of you to do something this weekend. When you go home, ask your wives, your sisters, moms, and friends if they have dense breast tissue. If they answer that they don't know, think about whether you want them to get that answer to empower them in the prevention and early detection of breast cancer. 40 percent of women have dense breast tissue and a higher risk of breast cancer. Think about Cheri Rauth and the fact that she, like your loved ones, didn't know the answer until it was too late. And, as we were studying this issue this summer, we were getting ready and it just so turned out that everyone in our office ended up getting a mammogram the same week. It just happened that way. We all three had to go in and ask the question: do I have dense breast tissue? None of the three of us were told that we did or did not have dense breast tissue. And I also have a great interest in this. I started my professional career as a clinical laboratory scientist, so I do have a little bit of understanding in this. But I do thank you for your consideration of LB125 (sic: LB195) and I hope that you will vote to get it out of committee and on to the floor. [LB195]

SENATOR RIEPE: Are there questions before you...Senator Crawford. [LB195]

SENATOR CRAWFORD: Thank you. And thank you, Chairman; and thank you for your testimony and bringing this bill. I just want to, if you have this information...one of the letters that we received, from the Nebraska Medical Association, notes that radiology reports are currently required to include breast density assessment in it. And I didn't know if, since you were...you're...recently had this experience, if you...your sense of...if you...if there's already an

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assessment of density but it's not specific or clear enough to a patient or if that is...or if you are not...or if...I just wanted your response to that concern that was raised in one of the letters. [LB195]

SENATOR CRAIGHEAD: Okay. First of all, just for your information, in 2012 the American Hospital Association did agree with this bill. Okay? Second of all, Dr. Mary Davey was the one that talked about the four different levels of breast tissue... [LB195]

SENATOR CRAWFORD: Um-hum. [LB195]

SENATOR CRAIGHEAD: ...the pink versus the blue and drawing a line in the middle. The problem is, is that patients are not told what their breast density is. You could go in, everything is done, the mammographer knows, the physician...the healthcare provider knows, the insurance company knows; the patient is the only one who does not know what her breast density is. So all this bill does is just say that a healthcare provider must inform a woman of her breast density; that is all. It is really a very, very simple bill. [LB195]

SENATOR RIEPE: Senator Erdman. [LB195]

SENATOR ERDMAN: So...thank you, Senator Riepe. Tell me how that information is going to be disseminated to those doctors. How will they find out that this is a requirement that they do, that they have to do? [LB195]

SENATOR CRAIGHEAD: Well, I'm sure that it will probably be, you know, that the letters will be sent out and they will be disseminated that all they have to do is just simply tell the woman. It was like I gave the example of the three women in our office who said: do I have dense breast tissue? Rather than the patient asking the healthcare provider... [LB195]

SENATOR ERDMAN: Right. [LB195]

SENATOR CRAIGHEAD: ...the provider should say: and by the way, you have dense breast tissue or, you do not have dense breast tissue. [LB195]

SENATOR ERDMAN: So let me word it in a different way. Who...it will be a requirement that they notify these people. [LB195]

SENATOR CRAIGHEAD: Yes. [LB195]

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SENATOR ERDMAN: Who is going to notify the doctor that it's a requirement? [LB195]

SENATOR CRAIGHEAD: That hasn't been determined yet. [LB195]

SENATOR ERDMAN: Okay. [LB195]

DR. MARY DAVEY: And maybe (inaudible). [LB195]

SENATOR CRAIGHEAD: We have to get past you first. [LB195]

SENATOR ERDMAN: Okay, thank you. [LB195]

SENATOR RIEPE: Are there other questions. If not, I have one or maybe two. But my first question would be, is this a "yes, I do, no I don't" or is it on a scale of one to five? I mean there should be levels of breast density, I would think, and so that...so it goes beyond just saying: yes, you have density or, I think like the sister had much more density than...so that then would make a greater risk. Is that true? [LB195]

SENATOR CRAIGHEAD: Well, again... [LB195]

SENATOR RIEPE: And how is that reflected in the legislation? Is it... [LB195]

SENATOR CRAIGHEAD: Okay, again, let's go back to the pink/blue chart and the one, two, three, four, that Dr. Mary Davey talked about, okay? We're at the point here that yes, you are probably absolutely correct. But in 28 states it has already been passed that women have to be informed about their breast density. We're not doing that here. That's all...again, this...it's a very simple bill. It's just simply yes, you have dense breast tissue. At that point then, the patient can say to her physician or other healthcare provider: then what do you suggest we do to take care of this? [LB195]

SENATOR RIEPE: I always get concerned about false security. If she gets something and you think, you think: well, I'm just a level one when, in fact, you might not be. The second question I have is this, is this a public awareness, public health awareness issue? [LB195]

SENATOR CRAIGHEAD: Yes, to a point it is. [LB195]

SENATOR RIEPE: More than a legislative issue? [LB195]

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SENATOR CRAIGHEAD: No, it is not. [LB195]

SENATOR RIEPE: Okay. [LB195]

SENATOR CRAIGHEAD: It is a legislative issue and a public health awareness issue; it is both. [LB195]

SENATOR RIEPE: Okay. [LB195]

SENATOR CRAIGHEAD: But again, remember this have been passed in 28 states. We're trying to become the 29th, or maybe it will be the 39th, because this has been introduced in 11 states this session so far. But it is simply to let a woman know if she has breast...dense breast tissue. And again, how many times did you hear that, you know, people had mammograms that were supposedly normal, and they're sitting there with whopping breast cancer. [LB195]

SENATOR RIEPE: But remember what our witness from Connecticut said. It took the Legislature to make it happen, so there you go. [LB195]

SENATOR CRAIGHEAD: That's right. And that's what we're trying to do. [LB195]

SENATOR RIEPE: Okay. Any other questions? [LB195]

SENATOR ERDMAN: No. No sir. [LB195]

SENATOR RIEPE: Thank you very much for being here. [LB195]

SENATOR CRAIGHEAD: Thank you very much. [LB195]

SENATOR RIEPE: And thank all of you that...with that, that concludes the hearing on LB195. And do we have anything to read in? [LB195]

TYLER MAHOOD: (Exhibit 7) Yes. We have a letter signed by Dr. Todd Pankratz of the Nebraska Medical Association and Dr. Kyle Krehbiel of the Nebraska Radiological Society, with a neutral position on the bill. [LB195]

SENATOR RIEPE: Both of those are neutral? Or, or they were... [LB195]

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TYLER MAHOOD: It's the same letter, signed by two individuals. [LB195]

SENATOR RIEPE: Okay, okay. The next step is we will likely Exec on this next Thursday, just so that you can't say: well, where do we go now? So... [LB195]

SENATOR CRAIGHEAD: Nancy is our local expert right here that came in from Connecticut, so... [LB195]

SENATOR RIEPE: Excellent. [LB195]

SENATOR CRAIGHEAD: She knows everything. [LB195]

SENATOR RIEPE: Is she going to stay around until next Thursday (laughter)? [LB195]

NANCY CAPPELLO: (Inaudible) I will want a king size bed, and I'd like for my 400-threadcount sheets, please. [LB195]

SENATOR RIEPE: Senator Craighead will be in charge of that; thank you (laughter). Okay, thank you so very much for being here for this hearing. [LB195]

NANCY CAPPELLO: Thank you. [LB195]

SENATOR RIEPE: We will now go into LB284 and which I'm presenting on behalf of the Department of Health and Human Services. I will now turn the proceedings over to Senator...and...Erdman. [LB284]

SENATOR ERDMAN: Okay. [LB284]

SENATOR RIEPE: And I'm going to take the chair, Senator. [LB284]

SENATOR ERDMAN: Thank you. Thank you, Chairman Riepe. Before we get started, I would like to wish a happy anniversary to Senator Crawford. [LB284]

KRISTEN STIFFLER: Oh. [LB284]

SENATOR CRAWFORD: Thank you. [LB284]

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SENATOR ERDMAN: Happy anniversary. I believe it's 27. [LB284]

SENATOR CRAWFORD: Yes. [LB284]

SENATOR ERDMAN: Good. Did you hear that? Senator Crawford's anniversary. [LB284]

SENATOR HOWARD: Is it wedding anniversary? [LB284]

SENATOR ERDMAN: Yeah. [LB284]

SENATOR HOWARD: Hey. [LB284]

SENATOR CRAWFORD: Yes. [LB284]

SENATOR HOWARD: Are you and David going out tonight? [LB284]

SENATOR ERDMAN: 27th. [LB284]

SENATOR CRAWFORD: Probably. [LB284]

SENATOR HOWARD: Good. [LB284]

SENATOR ERDMAN: Okay. Good afternoon. Begin when you're ready. [LB284]

SENATOR RIEPE: Senator Erdman, thank you, and members of this committee. You're actually better looking from this position than you are from sitting alongside. But I appreciate the opportunity to present this particular piece of legislation on the background for childcare programs. In November of 2014 the Childcare and Development Block Grant Act was signed into law. The law authorizes the Childcare and Developmental (sic: Development) Fund, which is CCDF, and requires a major change, or changes, that impact the use of CCDF funds. One of those changes is to require federal criminal background checks for all, all licensed childcare program licensees, staff, and applicable household members. This requirement applies to all licensed programs, not just childcare programs that receive CCDF funds. By the way, my name is Merv Riepe, M-e-r-v R-i-e-p-e, and I apologize for not following my own rules. [LB284]

SENATOR ERDMAN: I'm sorry; I didn't recognize you. [LB284]

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SENATOR RIEPE: It was not a test, Senator. It was my own mistake. [LB284]

SENATOR ERDMAN: And I failed; thank you. [LB284]

SENATOR RIEPE: I continue. LB284 gives the Department of Health and Human Services authority to require federal criminal background checks for all licensed childcare programs and those childcare providers who receive federal subsidy funds. This legislation is required--I repeat, required--for the state to be in compliance with the U.S. Childcare and Development Block Grant Act. If the department is not in compliance, there is a risk of losing CCDF funding. Nebraska receives over \$30 million annually from the Childcare and Development...Developmental (sic) Block Grant. This grant funds the childcare licensing activities in the state. In addition, Nebraska uses the funds for an array of activities supporting quality childcare. Activities include: childcare subsidy, health and safety monitoring of licensed childcare providers, professional development, and trainings for other qualified initiatives. Failure to comply with grant requirements would result in a potential loss of all or part of the grant. Any loss of funding would have a significant impact on childcare quality, monitoring, and licensing efforts. The cost of the background check will be paid by the licensed childcare program. The cost currently charged to complete an FBI background check is \$28.75. It is estimated that approximately 14,500 federal criminal history checks would need to be completed. The federal Administration for Children and Families Office of Child Care provide guidance that the requirement for a federal criminal background check applies to all licensed and regulated childcare programs, not only those that receive subsidy funds. The implementation date is September 30, 2017. Once the implementation, the state may be granted an additional year to establish policies and procedures for implementation. Thank you very much, and I would welcome questions that I might be able to address. [LB284]

SENATOR ERDMAN: Any questions? Senator Howard. [LB284]

SENATOR HOWARD: Thank you, Senator Erdman. I was wondering...could you walk us through the fiscal note for this? [LB284]

SENATOR RIEPE: I will make some effort. And I also may yield to one of the witnesses who are...is more informed on the fiscal note. I think this...it is my understanding is that while the fiscal note is overwhelming, we also have to have the \$30 million. We don't necessarily have to have this approved this year, but we have to exhibit to the federal government that we are making substantial efforts to move to get it approved so that it might be something that we have to come back in a subsequent fiscal year to be able to actually move forward with it. But we do have to show effort. That was... [LB284]

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SENATOR HOWARD: I think my question was more around Liz Hruska's fiscal note that shows a savings, but it talks a lot about foster care agencies. And your opening was prominently about childcare licensing. Did I get the wrong fiscal note? [LB284]

KRISTEN STIFFLER: It was updated. [LB284]

SENATOR HOWARD: It was updated, okay, because I was really confused by that. I called her earlier and I said: this is not about foster care agencies. Right? This is about the CCDF. [LB284]

SENATOR RIEPE: Oh. Yes, yep. That was...Kristen did talk with Liz and I got that corrected. [LB284]

SENATOR HOWARD: Okay. All right. So now can you tell me about the expenditures and the cash funds? [LB284]

SENATOR RIEPE: Not in great detail. And I'm going to yield that. I think that there will be someone from DHHS that can maybe get into that more. [LB284]

SENATOR HOWARD: Okay, great. Thank you. [LB284]

SENATOR RIEPE: I apologize for not having those specifics. [LB284]

SENATOR HOWARD: Oh, no; that's fine. [LB284]

SENATOR RIEPE: I was asked to carry it and... [LB284]

SENATOR ERDMAN: Any other questions? Senator Crawford. [LB284]

SENATOR CRAWFORD: So I understand. I expect that the from "may" to "shall" is the compliance that's required by the federal grant. Is that the case? [LB284]

SENATOR RIEPE: It is required. [LB284]

SENATOR CRAWFORD: Yeah. So I noticed the bill also shifts, also adds language that says that the, that the...it would be at the expense of the licensee. I wondered if you know if that was

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previously the case, as well, just as this is codifying that or if this is a change in practice or policy in the department. [LB284]

SENATOR RIEPE: I do not know whether that...I assume that is a continuation of what was established before, but that's an assumption on my part. [LB284]

SENATOR CRAWFORD: Is someone from the department testifying? [LB284]

SENATOR RIEPE: Yes. [LB284]

SENATOR CRAWFORD: Okay, great. Thank you. [LB284]

SENATOR RIEPE: Yes. So we'll get some details. [LB284]

SENATOR ERDMAN: Anyone else? Senator, I have...I may have a...maybe this is just a statement, maybe it would be a question. But it sounds like, when you read the legislation, it is required... [LB284]

SENATOR RIEPE: Yes. [LB284]

SENATOR ERDMAN: ...for the state. That sounds like an unfunded mandate...or partially funded mandate. [LB284]

SENATOR RIEPE: Well, it's a means to have...gain access to the \$30 million that we're talking at, which is critical to the program, if you will. [LB284]

SENATOR ERDMAN: So, so in the bill it talked about the licensee or the association was going to pay those fees. And now we see those in the fiscal note; that was quite a change. Or is that different than...what was the change that...why did the fiscal note change from being a savings to being \$1 million or \$1.8 million? Do you know what that was? [LB284]

SENATOR RIEPE: I would like to defer to the people from DHHS... [LB284]

SENATOR ERDMAN: Okay. [LB284]

SENATOR RIEPE: ...who will give you an exact answer. [LB284]

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SENATOR ERDMAN: Okay. [LB284]

SENATOR RIEPE: Mine would be some level of speculation, and that's not healthy. [LB284]

SENATOR ERDMAN: All right. Thank you for your answers. Anything else? Okay, thank you. [LB284]

SENATOR RIEPE: Okay. Thank you very much. [LB284]

SENATOR ERDMAN: You'll be around to close? [LB284]

SENATOR RIEPE: Yes, I will. [LB284]

SENATOR ERDMAN: Okay, thank you. Any proponents? Hi. [LB284]

JENIFER ROBERTS-JOHNSON: Hi. Good afternoon. [LB284]

SENATOR ERDMAN: Please state your name and spell it, if you would. Thank you for coming. [LB284]

JENIFER ROBERTS-JOHNSON: (Exhibit 1) Good afternoon, Senator Erdman and members of the Health and Human Services Committee. My name is Jenifer Roberts-Johnson, J-e-n-i-f-e-r R-o-b-e-r-t-s-J-o-h-n-s-o-n, and I'm the deputy director for the Division of Public Health with the Department of Health and Human Services. And I am here today in support of LB284. The Childcare and Development Block Grant, also called the Childcare and Development Fund, is primarily...is the primary funding source from the federal government that provides childcare subsidies and activities that improve childcare quality. Nebraska receives over \$30 million annually from the Childcare and Development Block Grant. This act was reauthorized and signed into federal law in November 2014. As a part of the reauthorization, a new mandate was placed upon all states. All states that receive Childcare and Development funds must ensure that there is an FBI background check completed on all licensed childcare programs, as well as programs that are not required to be licensed, but receive subsidy. LB284 would amend the provisions in the Child Care Licensing Act related to criminal history record information checks. Currently the law states that the department may investigate the character of an applicant or licensee, staff, or members of the licensee's household, by making a national criminal history record check. If passed, this legislation would require the department to conduct FBI fingerprint background checks on all childcare providers, staff, and household members of the applicant or licensee. The federal implemented...implementing agency has advised that states that fail to be in

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compliance with federal requirements would jeopardize this vital funding. I would like to speak briefly on the fiscal note. This bill has no fiscal impact on DHHS. However, it does have a fiscal impact on another agency, the Nebraska State Patrol. We have been in conversation with our colleagues at the State Patrol in regard to this matter and have provided them information on the anticipated number of licensed childcare providers that would need to be fingerprinted. So we are in agreement with, and understand, the fiscal repercussion to their agency. Thank you for the opportunity to testify before you today. LB284 does not necessarily align with our mission of a more customer-focused state government. However it is critical for allowing the agency to continue to receive Childcare and Development Block Grant funding, to assist in providing necessary childcare services, as well as protection for all children being cared for in licensed settings or those who are not required to be licensed, according to the law, but who are providing care for families receiving subsidy. We will continue our mission of helping people live better lives, by giving all parents assurances that their children are being cared for by individuals who have these additional background checks completed. And I'm happy to answer any questions that you may have. [LB284]

SENATOR ERDMAN: Thank you for your testimony. Are there any questions? Senator Howard. [LB284]

SENATOR HOWARD: And you my know this a little bit better than me on the federal level. So the only requirement from the reauthorization is that we require the fingerprint checks...or the required background checks? [LB284]

JENIFER ROBERTS-JOHNSON: Yes, the...yes. [LB284]

SENATOR HOWARD: And so the new addition is making it at the applicant's or licensee's expense? [LB284]

JENIFER ROBERTS-JOHNSON: So that's an addition that is put in for clarification. [LB284]

SENATOR HOWARD: Okay. [LB284]

JENIFER ROBERTS-JOHNSON: We have not been bearing those expenses in the past. [LB284]

SENATOR HOWARD: Okay. [LB284]

JENIFER ROBERTS-JOHNSON: But for the purposes of this expanded requirement, we thought it would be good to include that. [LB284]

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SENATOR HOWARD: And then, when a childcare facility--say a home-based childcare facility--and you have multiple adults living in that home and we're conducting, we're expecting a background check for every adult in that home? [LB284]

JENIFER ROBERTS-JOHNSON: Yes. [LB284]

SENATOR HOWARD: Great, thank you. [LB284]

SENATOR ERDMAN: Good questions. Senator Linehan. [LB284]

SENATOR LINEHAN: So this is only the licensed providers. So it's not grandma taking care of three grandkids. [LB284]

JENIFER ROBERTS-JOHNSON: So no. This...the act actually requires these checks on all licensed providers receiving subsidy. And so...or I'm sorry; that was a misstatement. On all licensed providers, not just those receiving subsidy... [LB284]

SENATOR LINEHAN: Okay. [LB284]

JENIFER ROBERTS-JOHNSON: ...and then any other providers who are not licensed. So if you have three or less kids, you're not required to be licensed. And in some of those cases, those individuals providing care are receiving subsidy, so they would also be required to have those fingerprint background checks. [LB284]

SENATOR LINEHAN: So this...I know you can't get me an exact number; I'm...or I'd be amazed if you could. Out of 100 percent of the childcare givers in Nebraska, how many...what percentage would fall under this? [LB284]

JENIFER ROBERTS-JOHNSON: Okay. You're right; I cannot give you that exact number. But what I can tell you is that the number of childcare providers who are licensed and receiving subsidy is just over 1,546--right around there. And the number of unlicensed providers receiving subsidy is around 1,394. [LB284]

SENATOR LINEHAN: And just to make sure I understood you...if they're over three, they're going to fall under this bill. [LB284]

JENIFER ROBERTS-JOHNSON: Correct. If, well... [LB284]

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SENATOR LINEHAN: If they've got more than three children. [LB284]

JENIFER ROBERTS-JOHNSON: They will fall under the bill either way if they're receiving subsidy. But if they are under three--providing care for under three children--they're not required to be licensed and they're not receiving subsidy, then they would not fall under this bill. [LB284]

SENATOR LINEHAN: So it's not a very big percentage that will not fall under this bill, I'm guessing. [LB284]

JENIFER ROBERTS-JOHNSON: I would guess, but I don't have those numbers. [LB284]

SENATOR LINEHAN: Okay. [LB284]

SENATOR ERDMAN: Anyone else? [LB284]

SENATOR LINEHAN: One more, I'm sorry, Mr. Chairman. [LB284]

SENATOR ERDMAN: Go ahead; go ahead. [LB284]

SENATOR LINEHAN: How long does it take to get...because one of my concerns would be...and I don't know what it's like in this state...to get an FBI check or a national security check takes months and months. How long does it take to get an FBI check? [LB284]

JENIFER ROBERTS-JOHNSON: So what I can tell you is just based on my information from the licensing work that we do in other areas. That can take some time; it can take a month or more to do that. And that is one of the reasons that we referenced the...for customers that becomes a little more difficult because it takes a little more time to get that done, as far as getting that information back. [LB284]

SENATOR LINEHAN: So if somebody wants to work at a daycare center--they come in, they apply--before they can work there they have to get the FBI background check. So it could be a month, two months, before they get the background check done. The facility has to pay for the background check and, by the time it comes back, the person has already found another job. Would that be a risk, do you think? [LB284]

JENIFER ROBERTS-JOHNSON: It...I guess it could be a potential risk. I'm not as familiar with that...with the way that that hiring goes. The facility would not necessarily be the one paying.

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The facility could require the applicant to pay, so I'm not sure exactly how that...the funding would flow. But it would take...you would have to apply for your background check, yes, in that case. [LB284]

SENATOR LINEHAN: Seems like...what background checks do you require now? [LB284]

JENIFER ROBERTS-JOHNSON: So right now we require an Adult Protective Service and a Child Protective Service Central Registry check, a Nebraska State Patrol Sex Offender Registry check, and then a law enforcement check that can be done at a local level or with the Nebraska State Patrol. So it is not as inclusive as an FBI fingerprint background check would be. [LB284]

SENATOR LINEHAN: But we would know if they were Nebraskans, if they have a Nebraska record. We already know that. [LB284]

JENIFER ROBERTS-JOHNSON: Correct. [LB284]

SENATOR LINEHAN: Okay, thank you very much; I appreciate that. Thank you, Chairman. [LB284]

SENATOR ERDMAN: Anyone else? Senator Crawford. [LB284]

SENATOR CRAWFORD: Thank you, Senator Erdman. And thank you for your testimony. So as I understand it, the federal requirements are requiring this to be a "shall" in all cases. [LB284]

JENIFER ROBERTS-JOHNSON: Correct. [LB284]

SENATOR CRAWFORD: And is it also the case that it is also the reason why the other members of the household...does it also require the "shall," in terms of the other members of the household? Or do we need to adjust that part of the language? [LB284]

JENIFER ROBERTS-JOHNSON: My understanding is it does require that, but I can get back to you because I'm not 100 percent certain. [LB284]

SENATOR CRAWFORD: Sure. I would appreciate that. [LB284]

JENIFER ROBERTS-JOHNSON: Okay, yes. [LB284]

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SENATOR CRAWFORD: Just so that we don't pull more people in than necessary by changing the "may" to a "shall" without (inaudible) it that carefully. [LB284]

JENIFER ROBERTS-JOHNSON: Okay. [LB284]

SENATOR CRAWFORD: Thank you. [LB284]

SENATOR ERDMAN: Anything else? I have one question. Senator Riepe mentioned there could be up to 14,500 criminal background checks and, if my math serves me right, those two numbers you gave me didn't quite add up to 14,000; you said like 1,300 or something. Can you give me those numbers again? [LB284]

JENIFER ROBERTS-JOHNSON: Yes. So the number that you have with the 14,500 was our general estimate of all childcare providers. I think we worked with the Department of Labor to get some of those generalized numbers. [LB284]

SENATOR ERDMAN: Okay. [LB284]

JENIFER ROBERTS-JOHNSON: What we know, in regard to the licensed subsidized providers is that there are 1,546 providers. [LB284]

SENATOR ERDMAN: Okay. [LB284]

JENIFER ROBERTS-JOHNSON: Now those providers may have more than one person working with them. [LB284]

SENATOR ERDMAN: Okay. [LB284]

JENIFER ROBERTS-JOHNSON: So that's probably where some of that variation is coming in. [LB284]

SENATOR ERDMAN: Okay. Thank you for clarification. [LB284]

JENIFER ROBERTS-JOHNSON: Um-hum. [LB284]

SENATOR ERDMAN: Thank you. [LB284]

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JENIFER ROBERTS-JOHNSON: Okay, thank you. [LB284]

SENATOR ERDMAN: Appreciate it. Any other proponents? Seeing none, any opponents? Seeing none, how about neutral? New definition of the word "neutral?" Seeing none, would you like to close, Senator Riepe? [LB284]

SENATOR RIEPE: Thank you, Senator Erdman. I will close it in a brief manner, in the sense of saying I think this is, as we've said, this is a required action that we need to take. We have to...and I think the function of protecting children in these childcare centers is critical and something that we can ill afford to let slip. So with that, I would ask for the consideration of the committee when it comes time to Exec on it. Are there any questions? [LB284]

SENATOR ERDMAN: Any questions? Seeing none, I'll turn the chair back over to you. [LB284]

TYLER MAHOOD: Sir? [LB284]

KRISTEN STIFFLER: We have letters for the record. [LB284]

SENATOR ERDMAN: Oh. Is there any for the record? I'm sorry. [LB284]

TYLER MAHOOD: (Exhibit 2) Yes, I have a letter, signed by Andrew Monson of First Five Nebraska, supporting the legislation. [LB284]

SENATOR ERDMAN: Okay, one letter of support. Senator Riepe, it's all yours. [LB284]

SENATOR RIEPE: Thank you, Senator Erdman. That concludes the hearing on LB284. Is there any additional business that needs to come before this committee? Hearing none, is there a motion to adjourn? [LB284]

SENATOR ERDMAN: So moved. [LB284]

SENATOR RIEPE: Second? [LB284]

SENATOR LINEHAN: Second. [LB284]

SENATOR RIEPE: All those in favor, say "aye." [LB284]

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RESPONSE: Aye. [LB284]

SENATOR RIEPE: Thank you very much. Have a great weekend. Stay healthy; we need you.
[LB284]