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Health and Human Services Committee  
February 08, 2018

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[LB1046 LB1073 LB1079]

The Committee on Health and Human Services met at 1:30 p.m. on Thursday, February 8, 2018, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1046, LB1073, and LB1079. 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: Good afternoon. This is the Health and Human Services Committee. We appreciate your being here. My name is Merv Riepe. I am from Millard and Ralston, which is the 12th Legislative District, and I serve as chairman of this committee. I'm going to defer on the self-announcements, because I think we will have some...a couple more senators joining us, so that we don't have to repeat. So I'll go through some of the rules of engagement, if you will. The committee will take up the bills in the order that they're posted. They're posted outside of this room. Our hearing today is your public part in the legislative process in Nebraska, and this is your opportunity to express your position on proposed legislation before us. The committee members will come and go during the hearing because they...we have to introduce bills in other committees and are oftentimes called away. It is also...or it is not an indication of a lack of support or interest in your particular bill. We also...you will see that they will be working on laptops and iPads, and that's simply us moving into the 21st century before it's gone. To better facilitate today's proceedings, I ask you abide by some rules and the rules are: 1) Please silent or turn off your cell phones; to move to the reserved chairs when you are ready to testify in order that we can move the process along. The order of testimony is: First of all, the introducing senator will present and have an unlimited time; followed by proponents; then followed after that with opponents; then someone testifying in a neutral capacity; we'll have some letters if some are submitted--Tyler, the clerk, will read that in; and then the introducing senator will have an opportunity to come up, if he or she so chooses, to do what we call a closing. Testifiers we will ask to sign in and hand in the particular orange sheet to the committee clerk when you come up to testify. We'll ask you, when you do come to the table, to spell out your name, and spell it for the record, and I will ask you to indicate the organization that you represent, obviously, if you're not a senator. We'll ask you to be concise and that we will request that you limit your testimony to five minutes. We run on a five-minute clock, and that is four minutes on the green, one on the amber, and then the red light will come on. If the red light does come on, we ask you to try to pull your conclusive remarks together. We may allow you, if you're in the middle of something...it's not our intent to just abruptly cut you off. I would also remind you at times that you will have committee members that may ask you a question, which will afford you an opportunity to go on. If you're not to be testifying at the microphone, but want to go on record as having a position on a bill being heard today, there are these white sign-in sheets at each entrance where you may leave your name and other pertinent information. These sign-in sheets will become exhibits in the permanent record at the end of today's hearing. Written material may be

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distributed to committee members as exhibits only while testifying. And hand them to the...one of the pages for distribution. When you come up to...when you do come up to testify, we will need ten copies. If it so happens that you do not have ten copies, please indicate to one of the pages, and they will quickly provide...get access to and make sure that we have copies for distribution. I would also like to bring to your attention the Legislature's new rule regarding written letter policies for public hearing. If you're not testifying in person on a bill and would like to submit a written position letter to be included in the official hearing record as an exhibit, the letter must be delivered to the office of the committee chair or e-mailed to the committee chair of the committee conducting the hearing on the bill by 5:00 p.m. on the last work day prior to public hearing. I'm...additionally the letter must include your name, address, state a position of either for, against, or neutral on the bill in question, and include a request for the letter to be included as a part of the public hearing record. That's not specifically a policy that's limited to the Health and Human Services Committee, but is a policy that came down, and it stands for all standing committees. With that, I would like to introduce our senators. They are all in chair now, and I would like to start at my immediate right, and then I'm going to ask staff to introduce themselves, as well. Senator.

SENATOR KOLTERMAN: My name is Mark Kolterman, from the 24th District: Seward, York, and Polk Counties.

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

SENATOR ERDMAN: Steve Erdman, District 47: ten counties in the Nebraska Panhandle.

KRISTEN STIFFLER: Kristen Stiffler, legal counsel.

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

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

SENATOR LINEHAN: Good afternoon. Lou Ann Linehan, District 39, which is the western part of Douglas County.

TYLER MAHOOD: Tyler Mahood, committee clerk.

SENATOR RIEPE: I would like to add that we have two high-performing early arrivers in the form of pages, and we're very excited with them and thank them very much in advance. With

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that, we are ready to start our hearing, and today's first bill for introduction is LB1046. Senator Bolz, the chair and the microphone are yours. [LB1046]

SENATOR BOLZ: (Exhibits 1, 2, and 3) Good afternoon, Health and Human Services Committee. I am, in fact, Senator Kate Bolz; that's K-a-t-e B-o-l-z, for the record. I come today to introduce LB1046, which requires the Governor to declare a caseload ratio emergency in the event that the Department of Health and Human Services remains noncompliant with the statutorily-required caseload ratio standards for two consecutive quarters. The bill further requests the department make a corrective action plan and reach compliance within 90 days from the date that the emergency is declared. The history of the caseload ratios in Nebraska is a well publicized one. And the 2012 statute prescribed that the Department of Health and Human Services shall supervise all public child welfare services as described by law. The department and the contracted pilot project agency, which we all know as PromiseShip, shall maintain caseloads to carry out child welfare services which provide for adequate, timely, and in-depth investigation and services to children and families, specifically caseloads shall range between 12 and 17 cases. Additionally the statute provides guidance for determining specific caseloads, based on service level and other criteria. The statute further required that average caseloads "shall be reduced by the department in all service areas, as designated", "to comply with caseload range prescribed in this subsection, by September 1, 2012. The statute also required the department to report annually to the Legislature on the attainment of the decrease according to such caseload standards. To date, while there have been periods of improvement according to its own reports, the department has not successfully reduced the average caseloads of all caseworkers in service areas...in all service areas. This bill says that we should declare an emergency and make caseload ratios, and the protection, safety, and well-being of Nebraska's children a priority and that there should be accountability measures if we do not meet the statutorily-required ratios. Nebraska has not performed as well as it could, in terms of their federal Children and Family Services review, and concerns have been expressed by the Office of the Inspector General for Child Welfare, the Foster Care Review Office, the Supreme Court Commission on Children in the Courts, the Nebraska Children's Commission, and numerous external child advocacy organizations. The department's consistently high caseload ratios have negatively impacted outcomes for children in their care. To quote the Office of the Inspector General Child Welfare Annual Report for 2016/17, "Through investigations and reviews, the OIG has repeatedly uncovered evidence that high caseload and workload burdens, staff turnover, and vacancy issues for CFS staff have negatively impacted child welfare operations in Nebraska. The OIG has repeatedly noted in annual reports that DHHS has never complied with the minimum caseload standards required by [Nebraska] law since 2012. These caseload standards were adopted to improve the effectiveness of the child welfare workforce and help stabilize the child welfare system. This year, DHHS continues to be out of compliance with statutorily-mandated caseload standards. With a growing number of children in the system and budget cuts to child welfare operations, CFS will likely not be in compliance with the statutory caseload

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standards in the near future." The result of caseload ratio noncompliance has been linked to delayed permanency, decreased safety and well-being, inadequate response to child injury and abuse reports, and more. The precedence for establishing a state of emergency to secure the health and safety of individuals in the care of the state is established in Nebraska statute. As you are all aware, numerous bills have been brought this session to attempt to address the overcrowding crisis we are facing in Corrections and prevent an overt crowding emergency from being declared. I contend that the child welfare system has been in a nonfunctioning--not nonfunctioning--in an underperforming position for far too long. My goal with LB1046 is not just to fix the problem for now, but to ensure that it remains fixed. Nebraska's children, and those who entrust us with their care, deserve and demand we do better. The strain related to the caseload ratio noncompliance places pressure on child welfare staff, and they also deserve our attention. I've provided a number of handouts for you, including some data on the caseload ratios and a fact sheet. I'm happy to answer detailed questions about the...how the caseload ratios are established, if that's of interest to the committee, and I also have a letter of support from the AFSCME for the record and for the committee's consideration that I received earlier today. So I'll wrap it up there and answer any questions that you might have. [LB1046]

SENATOR RIEPE: Okay. I have a couple to start with; then I'll ask the committee. Did the state union ask you to bring this legislation? [LB1046]

SENATOR BOLZ: No. In fact, I didn't know they were bringing a letter until this morning. [LB1046]

SENATOR RIEPE: Okay. The other question that I have: this document that was handed out to us, are you the author of that? Or... [LB1046]

SENATOR BOLZ: Yeah, um-hum. [LB1046]

SENATOR RIEPE: Okay. It doesn't say that on there, and I always like to... [LB1046]

SENATOR BOLZ: Oh, sure. [LB1046]

SENATOR RIEPE: I like...I'm always interested in sources. [LB1046]

SENATOR BOLZ: Sure. [LB1046]

SENATOR RIEPE: Okay? [LB1046]

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SENATOR BOLZ: Sure. And the sources are listed here: the OIG report, the State of the State address, the statute, and the Foster Care Review Annual Report are all cited at the bottom of the fact sheet. [LB1046]

SENATOR RIEPE: Okay; thank you. [LB1046]

SENATOR BOLZ: Um-hum. [LB1046]

SENATOR RIEPE: Questions from the committee? Senator Erdman. [LB1046]

SENATOR ERDMAN: Thank you, Senator Riepe. Thank you, Senator Bolz. Do you live here? You're here every day; that's good. [LB1046]

SENATOR BOLZ: Do I live here, in the Health and Human Services Committee (laughter)? Not, not intentionally so. [LB1046]

SENATOR ERDMAN: So I read...I appreciate you coming. I read the statute. It talked about the caseload shall be described in Section 68-1207; I read that. [LB1046]

SENATOR BOLZ: Um-hum. [LB1046]

SENATOR ERDMAN: And if I can conclude from that, it says the caseload shall be between 12 and 17. Is that correct? [LB1046]

SENATOR BOLZ: It's in the statute. [LB1046]

SENATOR ERDMAN: So what was the caseload last year? [LB1046]

SENATOR BOLZ: So the report that I handed out describes that in more detail. [LB1046]

SENATOR ERDMAN: Oh, okay. [LB1046]

SENATOR BOLZ: In fairness, and I do...if I may, I do think it's helpful to talk about how caseload is determined, based on the intensity of the case, the number of the children in the home. There are some factors that are determined, so if children are placed in the home, the family shall count as one case; if a child is placed in out-of-home, the child shall count as one

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case. If within one family one or more children are placed in the home and one or more children are placed out of the home, the children placed in the home shall count as one case and each child placed out of the home shall count as one case. The point I'm trying to make is that I do think that the way those numbers are analyzed are in sufficient detail and are considered on a geographical basis, as well. [LB1046]

SENATOR ERDMAN: Okay. And then it goes on to say that the Governor shall declare a caseload emergency and then it's the department will implement corrective action. What would corrective action look like? Hire more caseworkers? [LB1046]

SENATOR BOLZ: That's a possibility. It could also mean deploying different caseworkers in different ways. There are different kinds of caseworkers that have different specialties. One of the recommendations of the Foster Care Review Office was that we needed to deploy more intake caseworkers. We also may need to address more high-needs cases. So certainly a number of strategies could be implemented in response to a caseload emergency. [LB1046]

SENATOR ERDMAN: So who would be responsible to see that the corrective action is taking place? I mean, would it be next year, when they file the report? Or how would we know they'd done... [LB1046]

SENATOR BOLZ: Um-hum. [LB1046]

SENATOR ERDMAN: ...what they have been asked to do? Is that what would happen? [LB1046]

SENATOR BOLZ: Um-hum. I mean, certainly that's part of why the report is there. [LB1046]

SENATOR ERDMAN: Right. [LB1046]

SENATOR BOLZ: Since the Governor is the one articulated, in the statute, of declaring the emergency, I would envision a role for that office, as well. And certainly, you know, I think the Health and Human Services Committee...all of you are here because you care about those issues and would monitor such an emergency, as well as the other stakeholders that sort of have already been given these authorities to oversee the Inspector General and the Foster Care Review Board, as well as the Children's Commission. [LB1046]

SENATOR ERDMAN: It would seem logical that someone would step in to look at that before a year went by, before the next report came out. [LB1046]

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SENATOR BOLZ: I'm sorry, say... [LB1046]

SENATOR ERDMAN: Once they discover that there's an emergency...an emergency means something needs to be done quickly, right? [LB1046]

SENATOR BOLZ: Sure. [LB1046]

SENATOR ERDMAN: I wouldn't want to wait another year to find out whether something happened or not. [LB1046]

SENATOR BOLZ: Right, which is why we put in the 90-day time frame. [LB1046]

SENATOR ERDMAN: Okay. [LB1046]

SENATOR RIEPE: Senator Howard. [LB1046]

SENATOR HOWARD: Thank you, Senator Riepe. Thank you for visiting with us today. I wanted to ask you when we're considering whether the Governor would need to call for an emergency. One of the ways that we know how big a caseload is, is by the data that they give us. But the data that they give us is always based on point-in-time, so who has what case on that day. But our statute is based off their...on their monthly expectations. [LB1046]

SENATOR BOLZ: Um-hum. [LB1046]

SENATOR HOWARD: And so when we're considering an emergency, just for building a record, do you feel as though we should rely on that point-in-time data, or we should try to encourage the department to get those monthly numbers, to see if they're actually meeting the statute that way? [LB1046]

SENATOR BOLZ: Um-hum, that's a great clarification and observation. My immediate thought is that it makes more sense to look at it on a monthly, or even a quarterly, analysis. And perhaps, in fact, it should be a quarterly analysis because other data is provided to us on a quarterly basis that we report out to the federal government. And so you make a good point that those cases wax and wane, and so perhaps an average is an appropriate number to look at. [LB1046]

SENATOR HOWARD: Thank you. [LB1046]

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SENATOR BOLZ: Um-hum. [LB1046]

SENATOR RIEPE: Okay, are there additional questions? [LB1046]

SENATOR ERDMAN: I maybe have one more. [LB1046]

SENATOR RIEPE: Yes, Sir. Senator Erdman. [LB1046]

SENATOR ERDMAN: Thank you, Chairman Riepe. Thank you, Senator Bolz. So if a person has a caseworker, and they request or ask to have a different caseworker, is that counted twice? Can they keep changing caseworkers and it keeps counting as a different... [LB1046]

SENATOR BOLZ: In terms of the caseload ratio? [LB1046]

SENATOR ERDMAN: Yeah. [LB1046]

SENATOR BOLZ: I wouldn't think so, because the ratio is the number of caseworkers to kids and families. So even if a different caseworker picked up that kid or family, there would still be pool A of caseworkers and pool B of kids and families. So I would hope that we would be able to get the clear enough information to be able to make this discernment. [LB1046]

SENATOR ERDMAN: So if one has a caseworker, who decides whether that caseworker...if they don't like that caseworker, can they request a change? [LB1046]

SENATOR BOLZ: That is...that is an internal policy question that might be better addressed as somebody who's more directly engaged in the system. [LB1046]

SENATOR ERDMAN: Okay, okay. All right, thank you. [LB1046]

SENATOR BOLZ: Um-hum. [LB1046]

SENATOR RIEPE: Do you have another question? [LB1046]

SENATOR ERDMAN: No, none. Thank you. [LB1046]

SENATOR RIEPE: Okay, Senator Crawford. [LB1046]

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SENATOR CRAWFORD: Thank you, Chairman Riepe. And thank you, Senator Bolz. I think this...caseloads are really important because of the impact on the services to our people who are our most vulnerable population. So I appreciate you bringing attention to this issue. I am wondering, just getting a sense of how this would work, how it would look. So let's say we are out of compliance and there is an emergency declared by the Governor. Do you have a sense of what some of those corrective actions might be? [LB1046]

SENATOR BOLZ: Um-hum, sure. So different caseworkers have different roles, and so it might be prioritizing the different roles of the different caseworkers. It might be thinking about--and this is a very important issue that is in front of us now--trying to understand the underlying drivers of increased demand for services. So I'm sure we all recall the comment, from the Governor's State of the State, about increased methamphetamine use driving higher utilization. So it...part of a strategic plan might be to, for example, invest more service dollars in Project Mother and Child at St. Monica's, where we're serving substance-using parents and their children at the same time. It may mean that we need to find additional placement caseworkers so that we can move more people, more kids, into permanency. Or it may be a shortage of foster care placements, and that's what's keeping kids in the system. So I do think that the plan and the analysis, so that we have a strategic response, is an important aspect of the bill. [LB1046]

SENATOR CRAWFORD: Thank you. [LB1046]

SENATOR BOLZ: You're welcome. [LB1046]

SENATOR RIEPE: Senator, I have a question. How many open positions do you know that we have, currently have? [LB1046]

SENATOR BOLZ: Oh, that's a great question, and I don't want to burn the committee's time by digging through this binder, but I have it and I'll... [LB1046]

SENATOR RIEPE: Burn it. [LB1046]

SENATOR BOLZ: Okay, let's see if I can find it here. [LB1046]

SENATOR RIEPE: I'm also going to ask you, because I know you can multitask, is when the last time we were at full staffing. [LB1046]

SENATOR BOLZ: Oh, that's a great question, and I don't know the answer to that question. [LB1046]

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SENATOR RIEPE: It may be a long, long time. [LB1046]

SENATOR BOLZ: Yeah, and I'll give you the vacancy data on closing. [LB1046]

SENATOR RIEPE: Maybe you can do that on closing; that'd be just wonderful. [LB1046]

SENATOR BOLZ: Yeah, yeah. [LB1046]

SENATOR RIEPE: Okay, are there other questions from the committee? Seeing none, thank you very much. [LB1046]

SENATOR BOLZ: Thank you, Sir. [LB1046]

SENATOR RIEPE: I would like to take proponents at this time. We have one presenter that jumped out of her seat. So we welcome you. [LB1046]

JULIE ROGERS: Thank you. Good afternoon. [LB1046]

SENATOR RIEPE: Of course, we'd ask you to state your name and spell it, and then go. [LB1046]

JULIE ROGERS: (Exhibit 4) Chairman Riepe and members of the Health and Human Services Committee, for the record my name is Julie Rogers, J-u-l-i-e R-o-g-e-r-s. I serve as your Inspector General of Nebraska Child Welfare. The Office of the Inspector General, or OIG, investigates concerning incidents, including deaths and serious injuries and allegations of wrongdoing and improper performance of individuals and agencies responsible for the care and protection of children in both Nebraska's child welfare and juvenile justice systems. LB1046 requires DHHS to develop and implement a corrective action plan to comply with the child welfare caseload standards that became law, as you heard, in 2012. This law was a part of a package of bills passed and signed into law in that year, intended to stabilize and improve Nebraska's child welfare system after a failed attempt at statewide case management privatization. Our office was also created in 2012, in the aftermath of privatization. Soon after being appointed, one of the very first complaints I received was about how DHHS was not complying with caseload standards required by Nebraska law. It was an issue I highlighted in my first official annual report in September of 2013. It is an issue I have highlighted in each of the following OIG annual reports, as we have continued to find evidence, in investigations of death and serious injuries of children in our child welfare system, that high caseloads are a factor in poor, and sometimes tragic, outcomes for Nebraska's children and families. Our office has made

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numerous recommendations to DHHS that they comply with caseload standards, as set forth in the law, in addition to addressing other workforce issues. Attached to my testimony is a handout. It's a section from our latest report on sexual abuse of state wards, and it's a workforce section. While DHHS has undoubtedly made strides and presented evidence that it has developed, and continues to develop, strategies to reduce turnover and improve recruitment, DHHS continues to be out of compliance with Nebraska law on caseload standards. It is one of the few recommendations that we have made to DHHS where little to no action has occurred. LB1046 provides a tool for greater accountability, transparency, and action related to compliance with statutory caseload standards. This bill presents an opportunity for DHHS to continue to improve outcomes for Nebraska's vulnerable children and families. Thank you, and I'm happy to take questions. [LB1046]

SENATOR RIEPE: Okay, thank you very much. Are there questions from the committee members? I see none, so thank you very much. [LB1046]

JULIE ROGERS: Thank you. [LB1046]

SENATOR RIEPE: Additional proponents, please. Welcome, and if you would state your name and spell it, and away we go. [LB1046]

KIM HAWEKOTTE: (Exhibit 5) Good afternoon, Chairman Riepe and members of the committee. My name is Kim Hawekotte, K-i-m H-a-w-e-k-o-t-t-e, and I'm the executive director of the Foster Care Review Office. As each of you are aware, the Foster Care Review Office is an independent state agency, and we are responsible for the oversight of all children in out-of-home care. We meet our statutory duties on two levels: First, we do individual case file reviews for children in out-of-home care, and we do over 4,000 of those every year; we also, as each of you are well aware, collect data and give systemic recommendations through our quarterly and annual report to each of you. I can tell you throughout the five years that I've been at the Foster Care Review Office, I do believe every year this has been one of the recommendations that we have made, that this is an issue, as a workforce, we need to deal with. In our opinion, whenever you look at the child welfare workforce, and of which my workforce is part of the child welfare workforce, you really have to look at two important concepts that come equally into play: First one is caseload, how many cases are they dealing with; but second, and just as important in our opinion, is workload, what are you having to do. Each of the cases we deal with have very different workload standards. Everybody has discussed, Senator Bolz and Julie Rogers has talked about the statutory section we have with regards to the caseloads. One of the things that we have always recommended is that there needs to be a comprehensive workload study to figure out what our current case managers are doing and where their time is being taken. So Senator Crawford, to answer your question, part of any plan I would...could think about doing would be

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to do a workload study and see, are there ways we can take things off of their plate to make their jobs easier, more efficient? Are there computer upgrades? I mean there's many things, as...even within my own agency, I do that every two years just to see, are there processes we can do that would help, because we know that happened. So just saying you only get so many cases doesn't solve the problem, if you're not at the same time dealing with the workload issue. On the second page of my testimony, I do give you some relevant research as to why this is important and why it's really a key issue. There's an often-quoted study that I list there, from Milwaukee County in Wisconsin, where they found that children that had only one caseworker achieved timely permanency in 74, almost 75, percent of the cases, as compared to, if you had two workers, it was only 17 percent had timely permanency. And for those that had six or more workers, it was less than 1 percent. So we know, as our numbers are going within...growing within child welfare, timely permanency is essential, but we also know case managers are a major portion of it. There's also a study out there that says every time you change case managers, you are delaying that case anywhere from three to six months. So if you think about it, over the life of the child, that could be extremely significant. I also list, on page 2...and I won't go through that some other research that is available with regards to the impact that case managers do have. What I think is more important to you right now is on page 3. It's really looking at our Nebraska data and seeing where it is we're sitting. Part of the data that the Foster Care Review Office collects every day from the Department of Health and Human Services is who is the case manager that is assigned to that case, or who is the FPS from that case that's assigned to it. We note that. We track how many changes have there been. So when you think about it, worker A might be on a case and then you go to worker B. We know to count that as then there's been two workers on the case. There's a bit caveat on the data I'm going to give so that you understand it, and that is because we are responsible for children in out-of-home care, I can just give you the case manager changes for those children in out-of-home care. For any child that is placed at home, or if they're placed at home anytime during a case, I would not have that data reported to me from HHS, so we wouldn't be able to tell you. So it's always been our position with regards to this data, that we are underreporting the number of case managers. So if you go to page 3 of the testimony, that for some reason says page 1--I can't count today--I did give you a chart from our December annual report that shows the number of case managers, based upon the length of stay that that child has been out of home. So you'll see we do a very good job when a child has been home up to six months. About 90 percent of them only have one case manager. But if you look at that red line, that one to two case managers on a case, it goes drastically down, the longer that a child is within the system. So we know that it is impacting the length of stay. We also know that more than one-third of all of our children in out-of-home care currently have had four or more case managers, so we have an issue here. We know it directly impacts a case. As we've said for many, many years, this is a major concern and we are here supporting this bill because this will at least begin the process so we can start looking at resolutions instead of just saying there's a problem. So I'm available for any questions, and I have the red light. [LB1046]

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SENATOR RIEPE: Very good, thank you. Are there questions from the committee? Senator Crawford. [LB1046]

SENATOR CRAWFORD: Thank you, Chairman Riepe. And thank you for being here and for all of your work to help us track and figure out what's going on in these cases. I wondered if we were to consider a change in the bill that would give a time line for this resolution to be addressed, given the work that you've done in many settings with groups of people coming to solutions, if you...what you think is a reasonable time line, once a state of emergency is declared, for some kind of resolution. [LB1046]

KIM HAWEKOTTE: I would realistically think 90 days because,... [LB1046]

SENATOR CRAWFORD: Okay. [LB1046]

KIM HAWEKOTTE: ...to me, your workforce, no matter what agency you're running, it's imperative to how you run your agency, that that would be something you--any agency director--would be doing continually. Is my workforce meeting their requirements? Now I also know and acknowledge that, if you don't have people out there to hire for the jobs, that that's a separate issue. [LB1046]

SENATOR CRAWFORD: Um-hum. [LB1046]

KIM HAWEKOTTE: But to me that would be something, then, that would come forward in the report, saying we are trying to hire. We're having inability hiring or finding the right qualifications. I mean it could be any one of those things. But at least then we know attempts are being made with regards to it. So I guess I would say that. I also know, in the past, the way the department has dealt with this issue is to do what they call a forward fill. In other words, you're in a constant recruitment- and retention-type atmosphere, where you're filling positions before they even come open, so that you always have somebody ready and available to take the job. [LB1046]

SENATOR CRAWFORD: So you think the 90 days is appropriate. [LB1046]

KIM HAWEKOTTE: I think the 90 days is sufficient, yes. [LB1046]

SENATOR CRAWFORD: All right; thank you. [LB1046]

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SENATOR RIEPE: I have a couple questions. [LB1046]

KIM HAWEKOTTE: Sure. [LB1046]

SENATOR RIEPE: My first question is, well, as legislators, we like to think that we're part of solution, not part of the problem. But I would...on top of that I would say, are we adding expectations on a regular basis that burden the caseworker even more? Either we, at the state level, or at the federal level, getting more and more: fill out this form and do this, do that, that takes them away from the actual service that they're providing. [LB1046]

KIM HAWEKOTTE: In my opinion, yes. And I think that goes for my staff along with all other staff. And that's why I go back to, Senator, what I said originally. Are there ways that we can automate their process? Are there ways that we have computer systems that could do some of that, so that they are not taking that time to do it? Instead, they're actually providing services to family and doing the relevant documentation so that we know it's being done. [LB1046]

SENATOR RIEPE: I remember before Calder Lynch left, he said the information technology here is older than he is. [LB1046]

KIM HAWEKOTTE: Correct. [LB1046]

SENATOR RIEPE: Is that the case in your service, as well? [LB1046]

KIM HAWEKOTTE: They're not older than I am, okay? [LB1046]

SENATOR RIEPE: Well, you're so young (laughter), (inaudible). [LB1046]

KIM HAWEKOTTE: I'm going to say that, Senator. But yes, as long as I have been in child welfare, it is very antiquated. And one of the things they did say is... [LB1046]

SENATOR RIEPE: You still working with cards, are you, up there? [LB1046]

KIM HAWEKOTTE: Yeah, I think they've gone past the cards now. [LB1046]

SENATOR RIEPE: Okay. [LB1046]

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KIM HAWEKOTTE: I did start with cards, though. I will say that. [LB1046]

SENATOR RIEPE: So did I, yeah. [LB1046]

KIM HAWEKOTTE: I know, see. So but one of the things I do think we have to look at, as a system, besides the workforce is also, we have not updated our child welfare statutes in 20 years. I mean it is time to really take a look at the entire package and to figure out what are better ways that how we can operate the system to make it more efficient, which does directly impact the workforce, also. [LB1046]

SENATOR RIEPE: And that's...is not being accomplished because we have work at hand, so we don't have work to try to fix the leak, as long as we're trying to... [LB1046]

KIM HAWEKOTTE: Correct. [LB1046]

SENATOR RIEPE: Okay. So this is kind of a circular argument, if you will. [LB1046]

KIM HAWEKOTTE: It can be. [LB1046]

SENATOR RIEPE: The other question that I have is, how long is the actual training? And then for a caseworker, when you bring one in, do they go through boot camp and then, from there on, you have a mentoring program? [LB1046]

KIM HAWEKOTTE: I will have to defer to HHS on that... [LB1046]

SENATOR RIEPE: Okay. [LB1046]

KIM HAWEKOTTE: ...because I know they have changed some of their training and they just did an RFP for a new training contract. I'm not sure what that new training contract all entails, so. [LB1046]

SENATOR RIEPE: Okay, we'll have a chance to explore that in a little bit. Are there other questions from the committee members? Seeing none,... [LB1046]

KIM HAWEKOTTE: Thank you. [LB1046]

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SENATOR RIEPE: ...thank you very much. Additional proponents, please, if you're there. Welcome. [LB1046]

SARAH HELVEY: (Exhibit 6) Thank you. Good afternoon, Chairman Riepe and members of the Health and Human Services Committee. My name is Sarah Helvey; that's S-a-r-a-h, last name H-e-l-v-e-y, and I'm a staff attorney and director of the child welfare program at Nebraska Appleseed. It's long been understood, as you've just heard, that a core challenge of Nebraska's foster care system is the unmanageable caseloads and workload levels of frontline child welfare workers. You've heard a little bit of history but, going back to 1990, the Nebraska Legislature passed LB720, which required HHS to establish standards to limit caseloads for child welfare and juvenile justice workers, and to report on needed resources. And then, as you've heard, in 2012 the Legislature passed LB961, which established our existing criteria set by...to match the Child Welfare League of America for caseloads and workloads in the range of 12-17 cases, and providing specifics on how those caseload numbers are determined. Now, after decades of reform, oversight bodies have repeatedly echoed the necessity of reducing caseloads. The data that you've heard from HHS and the OIG are alarming, the most recent caseload report from HHS point-in-time data showed 75 percent compliance with caseload standards for initial assessment workers, 82 percent for ongoing workers, and 50 percent compliance for workers with mixed or combined caseloads. Data also showed that there were over 1,500 initial assessments that had not been completed within the required 30 days. And then, perhaps most alarming, as you've heard many times, our...the OIG's investigations of 22 cases, in fiscal year '15/16, that resulted in death or serious injury and the 20 cases between July 2013 and October 2016, involving the sexual abuse of children in state care or in adoptive or guardianship homes, and high caseloads cited as a factor, impacting the work of HHS, leading to these devastating outcomes and the OIG repeatedly recommending immediate action to increase the number of employees to meet these staffing requirements. It's within this history and context that Nebraska Appleseed supports LB1046 and efforts to hold HHS accountable to the statutory caseload standards. We think it's imperative for the safety of children, and for the state of Nebraska, to be in compliance with the law. We support LB1046 because we believe we are in a caseload emergency. The Nebraska Legislature has been trying to address this for over 20 years. This is the fifth consecutive year that the OIG has found HHS not to be in compliance with the requirement, and we believe this ongoing failure has, and continues to, put children at risk of harm, so we're very supportive of LB1046. We thank Senator Bolz and the committee for your commitment to ensuring the protection and safety of children in our state, and we respectfully request that you vote to advance this bill. [LB1046]

SENATOR RIEPE: Okay, thank you very much. Are there questions from the committee? Senator Linehan, please. [LB1046]

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SENATOR LINEHAN: Thank you, Chairman Riepe. Is Appleseed...a national, right? So you have Appleseeds in Colorado and Wyoming and Missouri and... [LB1046]

SARAH HELVEY: That's correct. There's a national Appleseed organization; there are Appleseed centers in a number of states across the country. [LB1046]

SENATOR LINEHAN: So how do our numbers--these numbers that you just provided, which are helpful--how do they compare with other states? [LB1046]

SARAH HELVEY: Well, first of all, our Appleseed centers in other states across the country don't all do child welfare work. And states have different standards for what their caseload requirements are. But ours are attached to the Child Welfare League of America, which is the national standard. And so I don't have data on where other states are, in terms of meeting that, or whether they have statutes that match ours, but I'd be happy to look into that and provide the committee with some information. [LB1046]

SENATOR LINEHAN: I think it would be helpful to have some comparisons to...where Appleseed thinks they're doing a great job, where they think they're doing even worse than us. I...just so we have some, so we're not just like, you know, one piece of the puzzle. [LB1046]

SARAH HELVEY: That's right. And you know, how they've made those efforts. I'd be happy to try to find some research on that. [LB1046]

SENATOR LINEHAN: Thank you very much. Thank you, Chairman. [LB1046]

SENATOR RIEPE: Does Appleseed have documented best practices? [LB1046]

SARAH HELVEY: On caseload standards? You know, we just look to the national best practices and what's available out there, and the Child Welfare League of America's standards are one of those, and we're supportive of that being a part of our statute. [LB1046]

SENATOR RIEPE: So you embrace this...embrace those as your own. [LB1046]

SARAH HELVEY: That's right. [LB1046]

SENATOR RIEPE: Fair enough. Okay, are there other questions? Seeing none, thank you very much for being here. Do we have additional proponents? Yes, we do. If you'd be kind enough,

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please, to state your name and spell it, and then share with us the organization you represent.  
[LB1046]

DEB STRUDL: Good afternoon, Senators. My name is Deb Strudl; it's Deb, D-e-b Strudl, S-t-r-u-d-l. I am with NAPE/AFSCME Local 61, and I am here on their behalf. As you're aware, we are here as...NAPE/AFSCME is with the Nebraska Association of Public Employees. I am the president of the greater Lincoln district and, being so, I get to hear from all the employees of the Lincoln offices. I have been a state employee for 32 years. In my 32 years, I've spent all of the 32 years as a Children and Family Services specialist. We've had many different names during that entire 32 years. I've been a child protective services worker. I was a specialist with the integrated care coordination unit. I've been with the adoption unit, which is now called a permanency unit. I've been in adult protective services, as a dedicated adult protective services worker, the past seven years. I may slur a little bit. I had emergency oral surgery this morning, which kind of threw me off, because I wasn't even sure if I would be here today. I've talked with workers that have left. I have talked to workers that have sat and cried in my office because they don't think they can do the job because they have too many cases. Now this is something that is obviously...I've told people, I said I'm not sure if I'm so committed to the job that I've stayed for 32 years or I'm just to damned stupid to do something else. But I like to think that I have a passion for it. I've worked with children, I've worked with adoptions, I've terminated rights. I've had too many cases. There are times that I've gone home in tears myself at the end of the day, thinking can I do this one more minute. There was a time, not that long ago, when caseloads were more reasonable; however, that was back in the early '90s. They have consistently increased, and I've had workers that have come to me saying: How can I do this job when I have 25 cases, when I have 30 cases, when I have 35 cases? And I talked to a young woman who left. I asked her if she would come and speak. She has moved on to a different job. I said: What was your caseload when you left? She said: I had 46 cases. You can't do case management, you can't do families justice, you can't keep kids safe when you have 46 cases. I did talk to one of my...an employee of the department and his...I asked him if he would write a letter. He said: I was a Child and Family Services specialist from July '12 to July of '17. During my time as a CFSS, my caseload numbers varied from 8 to 26. When I resigned from my position to accept another position within the Division of Children and Family Services, I transferred 19 cases, modified to account for in-home or out-of-home cases, working with 12 families. I transferred four cases, involving two families, in June of '17. During my last year as a CFSS, I was over 20 cases for the majority of the year. At one point during my five-year tenure, I had a special assignment that lowered my caseload to eight. Once the special assignment ended, I was between 15 and 17 cases for a while, during which time I felt I was able to provide the time and assistance to my families they desired and needed. When my caseload was more manageable, cases closed more quickly, allowing me to take new cases while maintaining a manageable caseload. As more case managers left, my caseload increased, maxing out at 26 cases, involving almost 40 children. If you have questions, please contact me: 402-202-8359. Thank you, Rex Remington. He was a

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good worker. He said: I can't keep doing it. 26 cases, 40 children is too much. And he moved on to a different position within the department. This morning before I had surgery, I was talking with four of the supervisors. I said: Can you give me your statistics? One supervisor has a worker, Melissa; she has 26 cases, Heather 26 cases. Stephanie is a new worker; she has 3 cases. Karissa will not have any cases until April. Argerina will not be able to take any cases until June because they are still in training. An ongoing worker, Rebecca, has 19. Carolyn has 20 cases, but she also has two initial assessments. Charles is a brand new worker; he just completed his CRTs two months ago. He has 12 initial investigations. So actually his will start blossoming now that he's off. They have to complete a CRT to take cases. [LB1046]

SENATOR RIEPE: Would you be able to kind of wrap it up there? [LB1046]

DEB STRUDL: Yes, I'm sorry. The other supervisor has Tina with 25, Jasna has 27, Connie has 20, Mary Kate just completed training; she's at a cap on 4. The other supervisor 19, Lisa has 27, Julie has 12 because she just finished her CRTs, Aubrey and John both have caps of 4. The only thing in with Lisa, who has 27, is their Indian Child Welfare advocate, her cap is supposed to be 8. [LB1046]

SENATOR RIEPE: Okay, let me see if we have some questions from the committee. Do we? Senator Linehan. [LB1046]

SENATOR LINEHAN: Thank you, Chairman Riepe. Thank you very much for being here; it's very helpful. How did...why do you think you were able to do that, because the turnover is a huge issue here. [LB1046]

DEB STRUDL: Yes. [LB1046]

SENATOR LINEHAN: So was it because the management you worked under? Why do you think you were able to stay, or just (inaudible) 32 years? [LB1046]

DEB STRUDL: It was... [LB1046]

SENATOR LINEHAN: Others that you worked with that stuck with it... [LB1046]

DEB STRUDL: I did...we did have different management then. I had a supervisor that was: 1) he was a social worker; he knew how to do team building; he knew how to give support to workers. And there was a big changeover from giving support to workers and building them up and

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teaching them how to do the job, to blaming them, tearing them down, and pointing fingers, and it really has been quite a change that I've seen over the years. [LB1046]

SENATOR LINEHAN: So it's a cultural... [LB1046]

DEB STRUDL: It is and, unfortunately, I do believe that it has become kind of statewide. There was a time when, if you did something wrong as a worker, you were re-educated. And now you're written up. So I think that is probably the biggest difference, from being educated on you did this incorrectly, to you're a terrible human being. [LB1046]

SENATOR LINEHAN: Are you...is it...are you written up because it's a policy or is that something that's statute? [LB1046]

DEB STRUDL: Mainly policy. And they've added policies. You know, it's...we used to have a saying at the end of the day: Nobody is bloody, everybody is breathing; we've had a really good day. And now it's, again, so much paperwork, so much computer work. I spend more time on the computer, as do most of the new hires...more time on the computer and less time in the field. So that is quite a changeover from over the years. So trying to find that balance to actually be able to do the casework that you get hired to do, that you think you're going to be doing, and you're not out in the field doing it; it is quite a change. [LB1046]

SENATOR LINEHAN: Thank you very much for being here. [LB1046]

SENATOR RIEPE: Are there other questions? I have a question. Are staffing levels part of your contract negotiations? [LB1046]

DEB STRUDL: Pardon me? [LB1046]

SENATOR RIEPE: On your contract negotiations, as a union, as a collective bargaining, are staffing levels part of that? [LB1046]

DEB STRUDL: That is not. [LB1046]

SENATOR RIEPE: Or is your negotiations limited to compensation? Is that right? [LB1046]

DEB STRUDL: Well, yeah, we do not go into staffing levels. [LB1046]

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SENATOR RIEPE: Okay then. Thank you. Senator Crawford. [LB1046]

SENATOR CRAWFORD: Thank you, Chairman Riepe. And thank you, Chairman Riepe, and thank you for being here. And I appreciate your service to the state for so many years, so thank you for that. Can you tell us a little bit, from a frontline view, what kinds of things tend to happen when workers get overloaded with too many cases? [LB1046]

DEB STRUDL: They leave; they quit. [LB1046]

SENATOR CRAWFORD: They leave, so that's why we've heard a great deal then. [LB1046]

DEB STRUDL: I mean that is a huge part of it. They will look to, well, when they get overloaded with cases, I guess as far as the workers, the workers leave. Unfortunately, for the families, the families will get passed on to another worker who doesn't know them. They'll get put on that worker's back burner. Will their needs be met? Minimally. They will get met. The children's needs will get met but, again, minimally until one of these new hires, that has a 4 cap, is able to get maybe another case added, and then they'll get into that one. New hires are excited. They want the cases, they get involved, and it's great. But unfortunately, there's that time frame..or fortunately. [LB1046]

SENATOR CRAWFORD: Right. [LB1046]

DEB STRUDL: Sometimes it's both, until they can take those new cases. New hires are real enthusiastic; got to love them. But again, with the workers themselves, they'll leave; they'll go on to do something else. A lot will say: You know, I got my toes wet; I'm going straight for a master's degree. Or they'll go to one of our contract agencies and do home visits and get completely out of that frontline case management decision-making. And we've lost a lot of really good workers that way. We've also had some very good workers that have gone on and they're now our trainers at the CCFL. I know a couple of them because they were my trainees at one point in time. I do see a lot of things that we do differently now. I would love to see the department utilizing more practicum students in training positions; I think that would be awesome. It would be a good use of practicum students. [LB1046]

SENATOR CRAWFORD: Thank you. [LB1046]

SENATOR RIEPE: Okay. Are there other questions? Senator Howard. [LB1046]

SENATOR HOWARD: Thank you. Thank you for visiting with us today. [LB1046]

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DEB STRUDL: Yes. [LB1046]

SENATOR HOWARD: I'm really impressed that you made it 32 years. Did you get your mug? [LB1046]

DEB STRUDL: I've known your mom. [LB1046]

SENATOR HOWARD: I know. She made it 34, so you've got a few more to go. I wanted to ask you specifically about the training. [LB1046]

DEB STRUDL: Yes. [LB1046]

SENATOR HOWARD: So tell me a little bit about the training, both for new workers as well as what kind of ongoing training that you're getting from the department. [LB1046]

DEB STRUDL: Well, my training, when I started, was I did my practicum. I did 400 hours. I started on January 3rd and ended two days before I graduated from college. So I did a 400-hour block, working five days a week, 40 hours a week. And that was our training. They had us going to the same trainings that any of the--at the time--CPS workers would go to. Currently they have the training through the CCFL--part classroom, part in the field. Each supervisor that has new trainees coming in, they kind of set it up differently, so it's not consistent. And I think that could be a bit of a problem, too. I think CCFL can regulate that a little bit better. Part of that problem is that all of your trainees aren't getting the same training. Supervisor...the supervisors aren't trained on how to assist their trainees. The...one example that I have is a young woman that started in--I believe it was like--May, and she's taking the...she's doing the classroom, because part of it is curriculum, part of it is in the field. Her supervisor wasn't arranging for her to shadow anybody on a regular basis, so she's doing her classroom stuff, she's shadowing people when she can find someone to shadow, and the next thing she knows is she's going out, having to do a removal of children before she has had the classroom direction on how to remove children. Asked the supervisor, you know, are you going with me? Yeah, I'll go with you. Then the next day, something came up, supervisor couldn't do it. She was directed to find...by her supervisor to find another worker to go with her. She did find a seasoned worker to go with her, and she resigned. And her comment was: Mom, I can't do this. I can't keep doing things where I haven't had the training on how to do it. And I told my daughter, I said: I understand that. I understand that, if you haven't been trained on how to do it, you don't have a supervisor that's willing to go with you to do it, then I understand why you're not going to stay with this job. And I said: Why don't you see about going to...from an intake position to an ongoing? They didn't even want to do that. They had invested...it's, I think, a little over \$18,000 now to train a CFS. And four months of it had gone out the window. It would have, to me, made more sense to say: Would you be able to

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look at doing an ongoing job, rather than just saying bye bye to four or five months of training? But she knew that she was not going to stay in a position where you haven't had the training and you're sent out to do the job. It didn't make sense. But if that was her reality, I know it has happened to other trainees, and I think that's one of the reasons we lose trainees--not enough experience being sent out to do the job and feeling inadequate at it, so... [LB1046]

SENATOR HOWARD: My mom would... [LB1046]

SENATOR RIEPE: Okay. [LB1046]

DEB STRUDL: Not a good thing. [LB1046]

SENATOR HOWARD: My mom would kill me if I didn't ask, but is there anything that you'd like to tell us, just candidly, that we should keep in mind as a committee? [LB1046]

DEB STRUDL: Well, there's always room for improvement in everything, and...but I think that, don't take everything you have given to you on a silver platter and thinking that there isn't more underneath, on the bottom side of that platter. Last year we went through and, as part of NAPE/AFSCME, I had employees coming to me on a regular basis saying: We've got a problem. Mike Marvin was the executive director at that time, and he said: Well, I need to know the numbers; I need to know why the numbers are so...why everyone is complaining that their caseloads are so high. What I had was the workers coming to me and I said: Fine, give me your numbers. And it was very specific mainly to the initial assessments, which are the investigations. So I went and met with them. The workers gave me their numbers and they said: We're down...we're down workers and our numbers are clear over the top. And so I gave those to Mike Marvin. Mike Marvin contacted the director of DHHS, and then Mike Marvin called me and he said: You made me look like a fool. She's saying they have this many IA workers, and you gave me this many, and your numbers are off. And I came back and said: Ask Ms. Phillips to give you their names, because I have workers' names to go with the numbers. And I said: Have her give you the names. The reality of it was she was being given this information. She was being given numbers without names. I had names to show that there were not that many workers. [LB1046]

SENATOR RIEPE: Okay. [LB1046]

DEB STRUDL: And unfortunately, we lost a service area administrator, a few...a deputy administrator, and a couple of other administrative people at the department because we had a director that was being given misinformation. So when people give you numbers, you might

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want to ask are there really names to go with that, because I can give you guys a whole bunch of numbers. But that's why I came in here today, was names to go with it. [LB1046]

SENATOR HOWARD: Okay, thank you. [LB1046]

SENATOR RIEPE: Okay, thank you very much. Are there other questions? If not, thank you very much for being with us. [LB1046]

DEB STRUDL: Okay, thank you. [LB1046]

SENATOR RIEPE: Additional proponents, please. [LB1046]

DEB STRUDL: Thank you. [LB1046]

SENATOR RIEPE: If you'd be kind enough...we've seen you before, but if you'd be kind enough to state your name and spell it and who you represent. Thank you. [LB1046]

JULIET SUMMERS: (Exhibit 7) Good afternoon. Chairman Riepe, members of the Health and Human Services Committee, my name is Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s. I'm here representing Voices for Children in Nebraska, in support of LB1046. The children coming to the attention of our child protective system deserve a system that is structured and funded to promote a thoughtful, yet timely, response. As you've just heard, our case managers, our initial assessment workers, our ongoing staff are the front line of service to our state's youth, and we depend on them to use careful judgment and to build strong relationships with the children and families that they serve, to promote their best interests. That is why these individuals have the heart to go into this profession, and we want to do everything we can to keep them there. We support this bill because, as you've just heard and as we see, when we fail to adequately fund and support that workforce, it is the children who suffer the consequences. So you just heard to watch out for the numbers. I won't lay the numbers on you, but I will point you back to--you've got them there in my testimony--I do want to point you back to the Inspector General's report. And in the 2015/2016 report, after in-depth investigation into child deaths and serious injuries in our child protective system, there were 22 cases identified but, reading the report, we saw 11 that were directly linked to findings about caseload and workload of our workforce. And those included, but were not limited to, children with abusive head trauma, battered child syndrome, starvation, death by drowning, and death by abusive head trauma. And in their...in the findings in the Inspector General report into these deaths and injuries, there was this language, which I'm going to directly quote: "...the CFS employees interviewed--from frontline staff to central office administrators--identified caseload and workload as the primary obstacles to improving initial

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assessment practice and doing thorough work." Excessive caseloads not only lead to workers leaving, but they also lead to cut corners, which can contribute to flawed investigations and casework which can leave children unprotected. I'm going to skip ahead since you've got some of this, you've heard some of this data before, and now I'm not sure if it's accurate. But I want to say that, if we don't continue working urgently to ensure that we have an adequate number of well-trained, competent, capable, well-supported case managers who have a workload that they can manage, given how stressful this job is and the trauma that they have to deal with every day, we're going to continue to experience tragic and tragically avoidable outcomes. If the deaths of children in our state's care don't constitute an emergency, I do not know what would. So we really, truly thank Senator Bolz for bringing this bill, and we thank this committee for your time and consideration and your commitment to keeping our children safe, and I would respectfully urge you to advance it. [LB1046]

SENATOR RIEPE: Thank you very much. Are there questions? Seeing none, thank you very much. [LB1046]

JULIET SUMMERS: Thank you. [LB1046]

SENATOR RIEPE: We appreciate it. More proponents, please. Any more in support? Not seeing there, are there any in opposition? Thank you. Director Wallen, the show is yours. [LB1046]

MATT WALLEN: (Exhibit 8) Good afternoon, Chairman Riepe and members of the Health and Human Services Committee. My name is Matt Wallen, M-a-t-t W-a-l-l-e-n, and I am the director of the Division of Children and Family Services in the Department of Health and Human Services. I am here to testify in opposition of LB1046, which requires DHHS to develop and implement a corrective action plan to bring caseloads within standards whenever the caseload standards are exceeded for two consecutive quarters, and the Governor declares a caseload emergency. This corrective action plan would be submitted within 90 days of the declaration. I am confident at this time there are enough positions allocated to meet caseload standards for the number of children DHHS is currently serving. However, allocated positions do not equal fully-trained team members, able to carry full caseloads. For example, there are always members of our team in the hiring process and new worker training or on vacation, maternity, or catastrophic leave. Given the situation any given time, caseloads are adjusted to compensate for these situations. Mandating that an emergency be declared only undermines the hard work our skilled caseworkers are doing every day. LB1046 will not solve the problem of assuring positions are filled and sustained long-term. As you are aware, during the committee's caseload workforce oversight briefing on January 25, 2018, I outlined several initiatives already underway to bring caseloads within standards. These initiatives include the development of tiered CFSS positions, flexible staff hours, staff core hours, use of telecommuting, peer assignments, and the use of

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tablets to complete assignments. I also mentioned that DHHS was selected to participate in the Quality Improvement Center for Workforce Development. It's a five-year workforce project. The goals of this project are: to work with experts on the QIC-WD team regarding some tools, strategies, and best practices; increase retention of the CFSS workforce by increased job satisfaction; comply with statutory requirements for caseload standards; and improve outcomes for children and families we serve. I am confident we are making improvements and heading in the right direction to impact the caseload standards. If the committee wishes to move forward with this bill, I would like to request that there be an amendment to change page 2, line 4, by striking "shall" and inserting "may." I'm happy to answer any questions you might have at this time. [LB1046]

SENATOR RIEPE: Thank you. Are there questions from the committee? Senator Crawford. [LB1046]

SENATOR CRAWFORD: Thank you, Chairman Riepe. And thank you, Director, for being here. I do appreciate you being here to answer our questions, and I do also appreciate the work you're doing with the working on the flexible staff hours and the use of tablets and other pieces. We talked about that a little bit before, about the workload as well as the caseload. [LB1046]

MATT WALLEN: Yes. [LB1046]

SENATOR CRAWFORD: And I appreciate your effort on that front. I just want to clarify, from your testimony here. You say you're confident that there are enough positions allocated to meet caseload standards for the number of children DHHS is currently serving. So does that mean if we were able to get to a point where we had a much lower number of vacancies, that you feel we have enough positions to meet the caseloads? Or have you calculated that out so, I mean, if we filled, to a certain number of vacancies, I'm sure there's always some percent of vacancies. [LB1046]

MATT WALLEN: Right. I have, I've looked at...I took an average of January, and I have IA cases, open IA cases in January of 1,258. And I have 158...I would need 158 staff to work those number of cases, and that would put me within compliance. However, and it goes to the numbers, I have a number of...I have ten IA vacancies. [LB1046]

SENATOR CRAWFORD: Um-hum. [LB1046]

MATT WALLEN: So I have the allocated positions that, if I have my vacancies filled, I'm confident that I have the cases and the positions to meet that caseload ratio. It's a matter of

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having the positions filled and filling those vacancies. I also have 32 IA workers who are in trainee status, so that is also impacting my caseloads, that I have people there and I have people there ready to work; I just don't...I can't give them that full caseload of over 12 yet. [LB1046]

SENATOR CRAWFORD: And what do you most need from us to reduce your vacancies, to get those positions filled? [LB1046]

MATT WALLEN: We continue to try to do--I heard it referenced earlier--to try to do some forward filling, and we've tried an initiative where we kind of post it a couple of different ways. Now we have a permanent posting on the Web site, and it lists multiple locations throughout the state. So it's not the old, we have to wait until someone leaves to post something, so it's always out there. And then in some of the harder areas to hire for, in the northern and western service areas, we actually go in and try to do some proactive recruitment and list those positions locally, as well, to try to recruit that workforce, as well. [LB1046]

SENATOR CRAWFORD: Have you seen any improvement or success on those efforts yet? [LB1046]

MATT WALLEN: I've seen...I have. I've seen our...the vacancy number has kind of...it's come down significantly. I think it was up around 40-ish during the summertime, and we're down to 23 now. [LB1046]

SENATOR CRAWFORD: Okay. [LB1046]

MATT WALLEN: So I think part of it is understanding that we can live with, maybe it's a 6 percent or an 8 percent or a 10 percent vacancy rate, and understand we're going to have that little bit of churn, but still be staffed adequately to meet the number of cases that we have, to meet those ratios. And to be quite honest, we're not there yet, and we still have that turnover rate that...it's come down a bit from last year, but we still need to get it and make improvements in that turnover rate, as well. [LB1046]

SENATOR CRAWFORD: Do you mind if I've got one... [LB1046]

SENATOR RIEPE: Senator Kolterman. [LB1046]

SENATOR KOLTERMAN: Well, she can go ahead. Finish out. [LB1046]

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SENATOR RIEPE: Oh, do you have a follow-up? [LB1046]

SENATOR CRAWFORD: Just one follow-up. [LB1046]

SENATOR RIEPE: Go ahead. [LB1046]

SENATOR CRAWFORD: Just wondering, in the terms of projecting the numbers needed of allocated slots...I know we had some concerns that we had to adjust funding because we had an unexpected number of children coming into the systems. [LB1046]

MATT WALLEN: Um-hum. [LB1046]

SENATOR CRAWFORD: So as you're looking at the allocated spots moving forward, I mean, do you have projections of the number of children coming in, so we're continuing to work on the allocated spots and the vacancy efforts, considering how many children may be coming in? [LB1046]

MATT WALLEN: We are trying to incorporate that. It's...I look at it as taking steps in the right direction. It was referenced earlier that, you know, generally we would look at point-in-time data. We have a monthly average for January that I've brought to the committee to look at our caseload ratios, to try to move in that right direction. As far as staffing, like if I take the number...I mentioned I have 1,258 initial assessment cases and I've got 4,123 ongoing cases and, if I just do a straight ratio by 12 and by anywhere from 14, 16, or 17, my numbers add up. But it's...do I have the right people in the right locations? [LB1046]

SENATOR CRAWFORD: Right. I see. [LB1046]

MATT WALLEN: Do I have people out of training? I've got about 93 people that are in a training status, so some sort of reduced caseload, at least. [LB1046]

SENATOR CRAWFORD: Okay. I appreciate your attention to that; thank you. [LB1046]

MATT WALLEN: Okay, thank you. [LB1046]

SENATOR RIEPE: Okay. Senator Kolterman. [LB1046]

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SENATOR KOLTERMAN: Thank you, Senator Riepe. Director, thanks for being here. A couple...just a couple of questions. You're new in this job. [LB1046]

MATT WALLEN: Um-hum. [LB1046]

SENATOR KOLTERMAN: But your background is from this type of industry. What do you see...what are our...how do we compare to other states? Are we so far off that...or are we very similar to the same challenges in other states? [LB1046]

MATT WALLEN: Nationally, what I've seen, is a turnover rate around 21 percent, as an average, and it creeps up a little bit higher on the...in that range, 21...I would say 21-25 is what I've seen. So we are kind of in that same area. We've come down from what I saw as 32 percent, down to 19 percent and, if there's a national average of 21, we're kind of a little bit higher and now a little bit lower. But it's...I don't think it's unique to Nebraska, what we're experiencing here. It's part of the workforce, the QIC-WD workforce five-year project, because the Administration for Children and Families has identified that recruitment and retention is a national problem in this industry, this area, and there needs to be concerted effort to ensure that the staffing levels are appropriate to meet particular caseloads. [LB1046]

SENATOR KOLTERMAN: Two other follow-up questions to that. Several years ago, when Director Phillips was here, was brought here, and she visited with this group--our committee, she indicated that she was going to try and change things so that we would have a more professional outlook and try and recruit people to be professionals in this type of work. Have you--and I know you're not, you haven't been here very long--but do you sense that your department is becoming more of a destination or somebody wants to come in and they want to make a difference and they want to stay in the job? And are we facilitating that, from a management perspective? [LB1046]

MATT WALLEN: We are trying to do everything we can to facilitate that. Are we there yet? No, I think we've started it and we have a little bit ways to go on that front. But some of what I've noticed, and it starts with some of that foundational...it's the culture in the offices and how they're supported, and how our teams are treated in the office. And that's the safe place; it shouldn't be a stressful...it shouldn't be a place that they don't enjoy being there or want to be around their coworkers and colleagues and things like that. So I think from a cultural standpoint, we're making, certainly, improvements in the culture and some of the different areas, in particular some of the different regions and the offices within the region. [LB1046]

SENATOR KOLTERMAN: And then finally...is that all right? [LB1046]

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SENATOR RIEPE: Sure, continue. [LB1046]

SENATOR KOLTERMAN: My final question would be and, again, it goes back to history because I've been here...this is my fourth session. I can't believe it, but even on this committee (laughter). But anyway, we have done things for the past four years to try and make things better in HHS. One example that I believe it was a year ago--it might have been two years ago--we allocated some funds for social workers so that they could do their practicum in the field, get paid for doing that, and then come back and you have to give maybe a year of service when they get hired on. And maybe that's a high-end look at it. But is that going on? Are we getting...because there's some social work schools in the state, or degrees that you can get, are we taking full advantage of that and recruiting in those arenas? [LB1046]

MATT WALLEN: We have the first cohort in the MSW program, and I believe...at least from the department, we have, I think, two that are at UNK--Kearney--participating, and then the six that are at UNO in Omaha that are participating. So we have the first cohort in that project, if you will. And you know, I think it's a positive thing, and I think it's an important retention tool. And I know it started before I started, but I know it's something that our team is very interested in and very excited about. So it's something I want to see sustained and continued forward. [LB1046]

SENATOR KOLTERMAN: Okay; thank you very much. [LB1046]

SENATOR RIEPE: Thank you. Senator Williams, please. [LB1046]

SENATOR WILLIAMS: Thank you, Chairman Riepe. And thank you, Director, for being here; really appreciate your candor and your hard work and your commitment in this area. Couple of questions. I want to read a sentence of Julie Rogers' testimony. "I have highlighted in each of the following OIG annual reports, as the OIG has continued to find evidence in investigations of deaths and serious injuries that high caseloads are a factor in poor, and sometimes tragic, outcomes for Nebraska's children and families." It's easy to just jump to the conclusion that caseload is the factor that causes this problem. [LB1046]

MATT WALLEN: Um-hum. [LB1046]

SENATOR WILLIAMS: There have to be other factors, too. What are the other factors that are causing poor outcomes? [LB1046]

MATT WALLEN: First I'd like to start by saying, you know, we do have probably one of the most dedicated and passionate teams that work on these difficult situations and, you know, and

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difficult cases. And the empathy they display towards the clients and the families they work with is...I mean, it goes a long way. In that statement that you had referenced, I agree with you. I think high caseloads may be one factor, but I don't think it's the be-all and end-all of why we had a poor result. And to be quite honest with you, that's why we track those things and try to analyze those things and better understand those things...and outside of kind of a case-by-case basis of: Did we miss a red flag, or was something overlooked, or was it caseload that impacted this, or was it we had a gap in training and we need to go back and learn something from this experience and go back and do some retraining and some refreshers in some areas? But outside of kind of a case-by-case... [LB1046]

SENATOR WILLIAMS: Thank you for helping me understand that. One of the previous testifiers was quite critical of a number of the things happening in the department, talked about names versus numbers, talked about how management has changed from the 1990s and today and, again, the turnover and what's leading to all of that. What thoughts raced through your head when you were hearing an employee say those things publicly? And what plans do you have to address those kinds of situations? [LB1046]

MATT WALLEN: As I mentioned before, I think a lot of it is the culture part of it and, in particular, in the southeast service area we did make some changes in the leadership in the southeast service area. And when I visit there now, I hear a lot of positive and a lot of the improvements that those leadership changes has made. And I think, working as a team...and so often our team or our workers can feel that they're out there on an island by themselves and not supported. And that is...that's the biggest failure that we can do as leaders and supervisors, is to not support that team and provide them everything they need in their toolbox to be successful. One of the things that I think is very important is: We talk a little bit about career path and the lack of career path and, generally, the only career path is to go in and be a supervisor. But supervisor isn't for everybody, or some people really like the family engagement and the front-end side of the things...but to make sure our supervisors are engaging, are coaching, are supporting, are meeting with their team daily, you know, those types of things, to know that they're supported from their supervisors to their administrators to anybody at central office, that we have their back and we're willing to help them and do anything we can to support them. [LB1046]

SENATOR WILLIAMS: In your judgment and your experience, do we need this legislation to get this job done? [LB1046]

MATT WALLEN: No, I believe we do not need this legislation. [LB1046]

SENATOR WILLIAMS: Thank you. [LB1046]

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SENATOR RIEPE: Senator Howard. [LB1046]

SENATOR HOWARD: Thank you for visiting with us today; long time, no see. [LB1046]

MATT WALLEN: Yeah. [LB1046]

SENATOR HOWARD: So the executive director of the Foster Care Review Office recommended a workload study for your caseworkers, so not just looking at how many cases they have but how much work is involved with each one. [LB1046]

MATT WALLEN: Um-hum. [LB1046]

SENATOR HOWARD: Are you planning on doing something along those lines? [LB1046]

MATT WALLEN: I'm trying to better understand if part of the QIC-WD project is going to dive in and look specifically at some of those areas through the survey that they're working through, and also through some of the forms and feedback that they're going to have with our team. [LB1046]

SENATOR HOWARD: And the QIC-WD is the... [LB1046]

MATT WALLEN: That's the work...that's the five-year research workforce. [LB1046]

SENATOR HOWARD: The research, okay. [LB1046]

MATT WALLEN: But certainly, if the Foster Care Review Office wants to work on that with us and look at better understanding how we can achieve these caseload standards, by all means I work pretty regularly with that office and would certainly be more than willing. I think it's great that...oftentimes I hear people's concerns and some issues, and it's nice that, if someone wants--is willing--to kind of roll up their sleeves and work with us on, you know, problem-solving and getting to solutions for some of these concerns. [LB1046]

SENATOR HOWARD: Yeah, and I just saw you yesterday, and we were talking about workload studies then, as well. I also wanted to ask you about...now we did have a question about just training for workers, so... [LB1046]

MATT WALLEN: Um-hum. [LB1046]

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SENATOR HOWARD: ...the length of their training, how much training they're getting. But can you tell me a little bit about the supervisor training? [LB1046]

MATT WALLEN: I know there is a requirement for supervisor training... [LB1046]

SENATOR HOWARD: Um-hum. [LB1046]

MATT WALLEN: ...on an annual basis. I can't describe exactly what that supervisor training is. I know part...as part of the CFSR, one of the areas that we were identified to not be in substantial conformity, we believe some supervisor training would address those concerns. [LB1046]

SENATOR HOWARD: Um-hum. [LB1046]

MATT WALLEN: So it's something that we're looking at, some different supervisor training and making that available. [LB1046]

SENATOR HOWARD: When we're talking about the CFSR, are there any penalties for not being in compliance or conformity? [LB1046]

MATT WALLEN: They do identify that there could be some penalties for not being in conformity, but I'm confident that we'll be able to work through a program improvement plan and negotiate a two-year implementation plan and be in conformity within that two-year (inaudible). [LB1046]

SENATOR HOWARD: Oh, so you're in the middle of negotiating a PIP with them? [LB1046]

MATT WALLEN: Not yet. We have to submit our program improvement plan towards the end of February, so we're nearing that point where we would submit it, and then we will negotiate whether we think we've covered all that we need to address in the CFSR, and whether the federal agency thinks we've addressed it. And then, once we agree on what the program improvement plan is, then we have two years to implement it and then a third year of monitoring. [LB1046]

SENATOR HOWARD: Okay. And I'll just ask the last question, because it's the same question I always ask when we get to caseloads. Do you know of any other agencies that come to their committees of jurisdiction to tell us how far out of compliance they are with the statute? [LB1046]

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MATT WALLEN: No, I do not. [LB1046]

SENATOR HOWARD: Thank you. [LB1046]

SENATOR RIEPE: Okay. Do I have other questions? Senator Erdman. [LB1046]

SENATOR ERDMAN: Thank you, Senator Riepe. Thank you for coming, Director. I'm going to read this statement to you and get your response. And this is from Ms. Julie Rogers' testimony. It says, "DHHS continues to be out of compliance with the Nebraska law on caseload standards." Is that a true or false statement? [LB1046]

MATT WALLEN: That's true. [LB1046]

SENATOR ERDMAN: Okay. Then the next part of the question...comments you make. It has not...DHHS has not presented to the OIG with a plan or a time line to get back into caseload compliance. I was here last year, and we had several young people that had died in the custody of the state. And I made a comment then, and I'll make it again today. It appears that we have a continuation of what has always happened before continuing, and if the Inspector General Office has made recommendations in the past and nothing has changed, when is it going to change? Because I don't want to come back here next year and have another report that says another 20 young people died in the custody of the state. And so when are you going to get back into compliance with the standards? [LB1046]

MATT WALLEN: Well, we continue to work and make progress on those standards. Just looking at an average for January, we were 87 percent in compliance for our IA workers. [LB1046]

SENATOR HOWARD: Across the state? [LB1046]

MATT WALLEN: Yes, across the state. [LB1046]

SENATOR HOWARD: And there was no variation in service area? [LB1046]

MATT WALLEN: No, there was variation in each of the service areas, so... [LB1046]

SENATOR HOWARD: So the average in... [LB1046]

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MATT WALLEN: ...our state average was 13 percent out of compliance, or 87 percent in compliance for IA workers. And then I'm going only...we were 84 percent in compliance for January. Now this is just January data... [LB1046]

SENATOR HOWARD: Um-hum. [LB1046]

MATT WALLEN: ...and then our combination of IA and ongoing workers is where we really struggle, and we're 64 percent in compliance. So that's the challenge. And when you add our IA ongoing and...IA and ongoing combination as a total, it...we're at 82 percent in compliance as a state. So that is me coming and saying yes, we're out of compliance, but I truly believe it's...this isn't point-in-time data; this is January average data. It's not as good a data as I had hoped. It's five weeks in January, point-in-time averaged, and I am working with my team to get it so I can get a daily average. So first of all, when we look at are we within standard, we're actually using the right mechanism to count that standard as really the first foundational step and then, moving forward to these percentages, we need to push those up as high, and get to 100 percent, as we can. I truly think we have, between our workforce initiatives...and if we look at strategically how we're administratively aligned, and do we have too many IA workers in the central area but we need some in the western area, or vice versa, that we make those appropriate administrative adjustments to get the right workforce where the demand is. And we can get there; I'm confident we can. [LB1046]

SENATOR ERDMAN: And I don't mean to be so critical of you, because you haven't been here very long. You haven't had a chance to fix what needs to be fixed, but let's say we fast forward and we're sitting here next February 8th, and we get a report similar to this. What should the committee's reaction be then? [LB1046]

MATT WALLEN: It would be my intent that in a year from now, that you'd get a report that's much different than this, that shows us being in compliance for several months. [LB1046]

SENATOR ERDMAN: Because I've been here twice, and I don't want to see that the third time. So now I'd give you credit; I'll give you, you know, a pass; you haven't been here very long. But the comment I'm trying to make is we don't want to see this happen again. [LB1046]

MATT WALLEN: No, I understand, and one of the things I did mention is that I've currently got 93 people that are in some form of training, and that restricted,... [LB1046]

SENATOR ERDMAN: Good. [LB1046]

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MATT WALLEN: ...you know, so that's a positive thing... [LB1046]

SENATOR ERDMAN: Yeah. [LB1046]

MATT WALLEN: ...that we were able to recruit and have people to fill vacancies. [LB1046]

SENATOR ERDMAN: Yeah. [LB1046]

MATT WALLEN: But the downside of that is they're not carrying that full caseload at this time. [LB1046]

SENATOR ERDMAN: Well, I'm looking forward to seeing your management style bring this back into compliance. I appreciate it; thank you. [LB1046]

MATT WALLEN: Thank you. [LB1046]

SENATOR RIEPE: There's a principle in mathematics that the way to raise the average is to take off the lowest number. There's also a perception that a state employee never gets terminated. Do you have the power and authority that, if given due process, that you can terminate low performers? [LB1046]

MATT WALLEN: What we would do is work with an improvement plan and put them on some kind of work improvement plan, and... [LB1046]

SENATOR RIEPE: And if they don't respond? [LB1046]

MATT WALLEN: And if they don't respond after a series of coaching and working through that, then we would have the opportunity to terminate or to reassign to something that maybe more meets their needs, that meets our needs, that it's a position they could excel at. But it's not...termination is not the first step, and it's not the first thing that we would go to; we would certainly try to work with them on that. [LB1046]

SENATOR RIEPE: I guess my question is because I believe in a sense of urgency. My question would be, is there ever any termination? [LB1046]

MATT WALLEN: There is. [LB1046]

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SENATOR RIEPE: Other than some criminal activity? [LB1046]

MATT WALLEN: There is. It... [LB1046]

SENATOR RIEPE: On performance, I'm talking about. [LB1046]

MATT WALLEN: ...and people are held accountable for that. [LB1046]

SENATOR RIEPE: Willing. Does that happen since...have you terminated someone since...in your...since being in this position? [LB1046]

MATT WALLEN: I have. [LB1046]

SENATOR RIEPE: You have. Okay. Now I'm not looking for termination; I'm just looking for urgency and performance. [LB1046]

MATT WALLEN: Right. [LB1046]

SENATOR RIEPE: Okay. Are there other questions of the committee? Hearing none, again, thank you for being with us. Are there other opponents that would like to address the committee? Seeing none, are there any that would like to testify in a neutral capacity? Seeing none, I'm going to ask Tyler to read some letters so that, Senator Bolz, you have the advantage of hearing what those might, or might not, be. Tyler? [LB1046]

TYLER MAHOOD: (Exhibits 10, 11, and 12) I have a letter, signed by Scout Richters of the ACLU of Nebraska, in support; a letter from Terry Werner of the National Association of Social Workers-Nebraska Chapter, in support; and a letter, signed by Dave Newell (sic--David Newell) of the Nebraska Children's Commission, in neutral. [LB1046]

SENATOR RIEPE: Okay. So that's one neutral and the balance were in favor, or in support, of the legislation. Okay, thank you very much. Senator Bolz, you're welcome to close if you would like. [LB1046]

SENATOR BOLZ: (Exhibit 9) Thank you very much. I wanted to just answer a couple of questions that I heard and make a couple of comments. The first is that I did offer up the vacancy numbers--I think you've heard it from other testifiers, too--and just...the first version we sent around I realized wasn't particularly readable, so the second version is just larger for you to

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review. I do have a comment on that subject, though, which is just to articulate the vacancies and the caseload ratio, those aren't synonyms, right? Fully filling vacancies doesn't necessarily mean that you have the right people at the right level of training, the type of workers. It doesn't necessarily mean that you're able to meet increasing demand that may change over a time. And so I think it's important to recognize that part of LB1046 is the development of a plan of how you get from point A to point B. And I think that's really the solution-oriented part of the bill, not only to articulate that there is an emergency, but to develop that plan for response and the solution so that Senator Erdman doesn't have this conversation year after year. And that's, I think, part of the value of LB1046. Senator Williams, you asked, "...do we need this legislation to get this job done?" I want nothing but success for Director Wallen and for the agency. I want nothing but success for the people who do this work, because the work that they do is so incredibly important. But unfortunately, we haven't seen that success in 2012, in 2013, in 2014, in 2015, in 2016, or yet in 2017. So what needs to be done to move the dial? Without our insistence that the department meet statutory compliance, how will we...how will we change the status quo? And if this legislation goes into place and Director Wallen is successful, we will never declare an emergency and we can spend our time on other issues. If there is a sad set of circumstances where substance use or other family dynamics lead to dramatic utilization, that might be a reason why we want to use a caseload emergency. There are a million reasons why these dynamics are so difficult to manage, and they are beyond any one individual's ability to manage all of them. And so I think it's important to think about this in the long term, not just in the excellent work that's being done today to try to address caseload ratios. I'm sorry, I don't mean to ramble on; I'm passionate about this issue. So I will wrap it up by simply saying there is an incredible amount of human development that happens over a five- or six-year period: brain development, language development, social emotional development. When you put five years of noncompliance in the context of child's life, it is far too long. [LB1046]

SENATOR RIEPE: Let's see if we have some questions. I have one; maybe it's a comment. [LB1046]

SENATOR BOLZ: Sure. [LB1046]

SENATOR RIEPE: And this is very helpful. [LB1046]

SENATOR BOLZ: Um-hum. [LB1046]

SENATOR RIEPE: It talks about month-to-month. I'm also interested in year-to-year because you see a longer trend. [LB1046]

SENATOR BOLZ: Sure. [LB1046]

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SENATOR RIEPE: I think you addressed that in your remarks. [LB1046]

SENATOR BOLZ: Sure. [LB1046]

SENATOR RIEPE: But it's visually...it's... [LB1046]

SENATOR BOLZ: Oh, sure. [LB1046]

SENATOR RIEPE: ...oftentimes interesting to see where we have come since 2013. [LB1046]

SENATOR BOLZ: Sure. [LB1046]

SENATOR RIEPE: Just as a comment--observation. [LB1046]

SENATOR BOLZ: Sure. [LB1046]

SENATOR RIEPE: Other questions of any committee members? [LB1046]

SENATOR BOLZ: Thank you. [LB1046]

SENATOR RIEPE: Thank you very much. With that, I declare that we have conducted a full and fair hearing on LB1046. We will be moving on, but I would like to take a ten-minute break. We've been at this for a bit. So if we can maybe make it an eight-minute break. Let's start at ten minutes after the hour. Can everyone move quickly? Thank you. [LB1046]

BREAK

SENATOR RIEPE: (Recorder malfunction) ...quorum--one, two, three four--we do. So Senator Crawford, thank you very much for being here. We invite you to open on LB1073. [LB1073]

SENATOR CRAWFORD: (Exhibit 1) Thank you. Good afternoon, Chairman Riepe and members of the Health and Human Services Committee. For the record, my name is Sue Crawford, S-u-e C-r-a-w-f-o-r-d, and I represent the 45th Legislative District of Bellevue, Offutt, and eastern Sarpy County. And I'm honored to be here today to introduce LB1073 for your consideration. LB1073 calls for the Department of Health and Human Services to include, in their existing weekly report to the Foster Care Review Office, information on whether relative

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and kinship foster placements are licensed or instead have been issued a waiver for licensing standards. Our current statutes call for the Department of Health and Human Services to assist relative and kinship foster placements in becoming licensed. Specifically, Nebraska Revised Statute 71-1904 calls DHHS to assist relative and kinship homes in becoming licensed in order to maximize federal IV-E requirements and kinship guardianship payments, under federal law. It is equally important to take steps to increase training in licensure among these placements to ensure the safety of some of our state's most vulnerable children. In working with the state Foster Care Review Office, it became clear that there is currently no process in place to track the ongoing progress of increasing licensure among these placements. It's critical that the state know how many of these homes are not meeting IV-E licensing requirements before our CMS waiver, that allows these homes to receive increased payments without licensure, expires in 2019. Having access to this information will allow the state to better think through the best ways to maximize federal IV-E requirements and kinship guardian payments, under federal law. Although according to DHHS, there are approximately 650 relative and kinship placements, not including those that are managed by eastern service area, that are approved but not licensed. After the expiration of the waiver, federal IV-E funding--excuse me--federal Title IV-E funding will not be available in these placements. This means that state funds must be used for a variety of expenses that would have fully, or partially, been covered with federal funds if the caregiver's home was licensed. And also again, as we...the licensure is critical for funding, but we're also obviously concerned about the welfare of the children, as well. I'm passing out a chart that explains the levels of approval and licensure for homes. Of the 650 placements, again in areas other than the eastern service area, that are currently in the approved category, only relative placements will be able to waive training and be considered a relative-licensed home to draw down IV-E funding in 2019. The kinship-approved homes will need to become fully licensed by 2019 to draw down these funds. Although the impact on our state budget is a critical part of this conversation, it's also important to track licensure rates in these homes, as the data can be used when evaluating strategies to increase these rates without reducing the number of relative/kinship homes willing to provide care. This a delicate balance but, seeing as no training is required in an approved home, many relative and kinship caregivers do not receive training on the workings of the foster care system or coping with the types of behavior that abused or neglected children may exhibit. As the fiscal note indicates, the department does not see any additional cost in providing this information to the Foster Care Review Office. LB1073 simply adds this information to the list of what is included in a weekly report the DHHS already provides to the Foster Care Review Office. The Foster Care Review Office can then analyze and share this data with the Legislature in their annual report that we receive, so that we can see, each year, what progress is being made. It's also a critical this is a weekly report, and I know the Foster Care Review Office and the department are both committed to increasing licensure. So this provides a mechanism to make sure we're tracking that...just one piece of information that's not currently in those reports that will provide a way to make sure that we're tracking that. So Foster Care Review Office, the department, and the Legislature, all of the other stakeholders...we can all work together to make

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sure we're pushing those licensure numbers up, as we near...again, for the sake of the children as well as for the sake of getting those numbers up before we hit the end of our waiver period. LB1073 is a simple, budget-neutral way to gather critical data about our foster care placements. Collecting this information will help DHHS, the federal--excuse me--the Foster Care Review Office, and the HHS Committee work together to increase licensure before the expiration of the IV-E waiver. This data will continue to be critical past that 2019 period, as it provides an ongoing mechanism for central data about relative and kinship homes that are not meeting the criteria to pull down federal funds and receive the requirements that we included in licensure. I appreciate your attention to this issue, and I'm happy to answer any questions you may have. [LB1073]

SENATOR RIEPE: Thank you very much. My first question would be, is this: Is the department stonewalling, and being hostile, and not providing this information on a voluntary manner? [LB1073]

SENATOR CRAWFORD: It simply is not part of the required components of what they're providing. And I talked to the director, and he may be here to speak for himself, in terms of this being a reasonable piece of information to provide. [LB1073]

SENATOR RIEPE: So it's putting into statute what's currently be provided. [LB1073]

SENATOR CRAWFORD: It is not currently being provided. [LB1073]

SENATOR RIEPE: Has it been requested? [LB1073]

SENATOR CRAWFORD: I don't know. You can ask the Foster Care Review Office that when they come to speak. [LB1073]

SENATOR RIEPE: Okay, thank you...just a curiosity. [LB1073]

SENATOR CRAWFORD: Yeah. [LB1073]

SENATOR RIEPE: Are there other questions, as well? Okay, thank you. [LB1073]

SENATOR CRAWFORD: And sometimes... [LB1073]

SENATOR RIEPE: Yes. [LB1073]

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SENATOR CRAWFORD: ...you know, we bring bills to have conversations and move forward, and sometimes we see departments doing things that don't require the bill to be passed. That may be the case in this case. [LB1073]

SENATOR RIEPE: I think it's very good to bring attention,... [LB1073]

SENATOR CRAWFORD: Yes. [LB1073]

SENATOR RIEPE: ...to make sure you do get the...or we do get the information that's essential. [LB1073]

SENATOR CRAWFORD: Yes, um-hum. [LB1073]

SENATOR RIEPE: I'm totally in support of that. Senator Erdman. [LB1073]

SENATOR ERDMAN: Thank you, Senator Riepe. Thank you, Senator Crawford. [LB1073]

SENATOR CRAWFORD: Um-hum. [LB1073]

SENATOR ERDMAN: So in that light, who brought you this bill? [LB1073]

SENATOR CRAWFORD: No one brought this bill to me. Actually I was looking at the Foster Care Review Office report... [LB1073]

SENATOR ERDMAN: Okay. [LB1073]

SENATOR CRAWFORD: ...which we get. And one of the key areas on the chart of 2016 recommendations and status, one where we had seen no progress yet... [LB1073]

SENATOR ERDMAN: Okay. [LB1073]

SENATOR CRAWFORD: ...was that of, well, of having...approving licensure for relative and kinship placements. So really the bill came out of... [LB1073]

SENATOR ERDMAN: All right. [LB1073]

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SENATOR CRAWFORD: ...recognizing that that's an area that, we're hearing from the Foster Care Office, we haven't seen work. [LB1073]

SENATOR ERDMAN: Okay. [LB1073]

SENATOR CRAWFORD: We had some conversation about how far we could go in trying to get more child-specific licenses and, in the end we, after some conversation, decided that getting the tracking was important because the Foster Care Review Office felt that we do already have some of the regulations in statute to move stronger in that direction. What we really needed to do is make sure we're keeping track of it and moving the way we need to move. [LB1073]

SENATOR RIEPE: Okay. [LB1073]

SENATOR ERDMAN: Okay. [LB1073]

SENATOR CRAWFORD: Thank you. [LB1073]

SENATOR RIEPE: Are there other question? Seeing none, thank you very much. [LB1073]

SENATOR CRAWFORD: Thank you. [LB1073]

SENATOR RIEPE: We're confident you're going stay around for closing. [LB1073]

SENATOR CRAWFORD: I will; thank you. [LB1073]

SENATOR RIEPE: Thank you very much. Are there proponents that would like to speak? Welcome back. [LB1073]

KIM HAWEKOTTE: (Exhibit 2) Welcome back. Chairman Riepe and members of the committee, my name is Kim Hawekotte, K-i-m H-a-w-e-k-o-t-t-e, and I'm the executive director of the Foster Care Review Office. And Senator Crawford, we do thank her for bringing this bill forward. What this basically does is it requires HHS, through their daily...we now get daily automatic downloads from their computer system to our computer system, which has been a great step forward, but to add the additional information on placements so that we know, with regards to these relative/kinship placements, if they are licensed or are they approved. Right now we don't get that, per se, and what we have found, in working with HHS, is that their data disagrees with our data, and that probably should not be happening on this important issue. And

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the reason it's important is mainly access to federal IV-E funds. Currently, as we all know, Nebraska is under a federal IV-E fund waiver. That waiver ends in 2019. So that means, starting in 2019 unless the feds change the law, is that we are going to go back to a complex set of requirements in order to draw down these federal funds. Besides the eligibility requirements, one of the requirements that the feds do require for IV-E is that the placement this child is in has to be a licensed placement, not just an approved placement, but a licensed placement. So the issue becomes...we know right now about 50 percent of all of our children in out-of-home care are in a relative/kin placement. So that's roughly almost 2,000 children. We also know that many of those homes are approved, but they're not licensed; they haven't gone through the formal license requirement. So what LB1073 does is requires HHS to report to us whether these relative/kin homes are approved or are they licensed, so that we, then, can start tracking are we seeing improvements in getting these homes licensed or not getting them licensed. And it does...Senator Crawford is right; it is a funding issue. That funding issue affects the General Fund dollars, it affects HHS, it affects the Foster Care Review Office because 25 percent of our budget comes from federal IV-E funds also, just like the department for out-of-home care. And I do want to put on the table...Director Wallen and I have met, we've talked about this, we've worked through it. As commonly happens, we have figured out one computer system does it one way, and another computer system does it another way. So having those two systems be able to draw it from the right information, we are working through. I think it's probably going to be a little bit of a process to get it done. I do want to say that Director Wallen and his staff are committed to make it happen, but I still feel this bill needs to go forward because I can trust many, many people but, if I'm not here in my position, or Director Wallen isn't in his position, by putting this in statute we guarantee, from this day forward, that all that reporting requirements that are needed will be in statute so we ensure that it continues into the future. So we are here strongly in support of it and do thank Senator Crawford for bringing this forward just so we're able to give you guys the accurate data that everybody needs to make good decisions. And I'd be happy to answer any questions. [LB1073]

SENATOR RIEPE: Okay. Senator Erdman. [LB1073]

SENATOR ERDMAN: Thank you, Senator Riepe. Thank you for coming back. So if you have a kinship home that's approved,... [LB1073]

KIM HAWEKOTTE: Um-hum. [LB1073]

SENATOR ERDMAN: ...once it's approved, is that it? Is it...or they go back and review that so that they have further information about that home, or once it's approved, that's all we do there? [LB1073]

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KIM HAWEKOTTE: Once it's approved, it's approved; you're correct. [LB1073]

SENATOR ERDMAN: Okay. [LB1073]

KIM HAWEKOTTE: Now what we are trying to do is to say: Okay, you can be approved and place a child there, but then let's move towards licensing. So we get that home licensed so that we can draw down the federal IV-E funds on that home. [LB1073]

SENATOR ERDMAN: So if they don't become licensed, you can't draw down on those funds? [LB1073]

KIM HAWEKOTTE: Correct. [LB1073]

SENATOR ERDMAN: Okay. [LB1073]

KIM HAWEKOTTE: And that's the main rub. So as a system, we're all for relative/kinship placement, and we know that that's good for children, but then let's make sure that we have the requisite avenues and are collecting the data to make sure these homes are...what most states call it, Senator, is a child-specific license. In other words, I am Aunt Kim to somebody. I don't want a total foster care license; I want a child-specific license for my niece so that my niece can live with me. And if it's not my niece, I don't have a foster care license. I have a child-specific license for that particular child. [LB1073]

SENATOR ERDMAN: Um-hum; I understand. Thank you. [LB1073]

SENATOR RIEPE: Okay. Senator Linehan, please. [LB1073]

SENATOR LINEHAN: Thank you, Chairman Riepe. So what would one have to do to get that license, because you're asking, obviously, and then drawing down the federal funds for what? So somebody brings me my second cousin's baby and I say: Okay, I'll take this child in. Then how would...what would that licensing consist of? And then what federal funds are we drawing down for what? [LB1073]

KIM HAWEKOTTE: You're drawing down federal IV-E funding, which is about 50 percent of the out-of-home care. [LB1073]

SENATOR LINEHAN: So... [LB1073]

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KIM HAWEKOTTE: The federal money is flowing to the state to help pay for that child to be in foster care. [LB1073]

SENATOR LINEHAN: So even if I'm a kinship, and I take a child in, I'm a foster parent and I get paid. [LB1073]

KIM HAWEKOTTE: You will get paid by the state for that foster care placement. It's a question: Is it 100 percent General Fund dollars or is it a mixture of federal funds and... [LB1073]

SENATOR LINEHAN: I just needed to understand, if it was kinship placement, that we pay, which I'm just trying to figure out what's... [LB1073]

KIM HAWEKOTTE: We do pay. [LB1073]

SENATOR LINEHAN: Okay. [LB1073]

KIM HAWEKOTTE: We pay the same foster care rate for relative and kinship placements as we do for agency-based foster care. [LB1073]

SENATOR LINEHAN: Okay, thank you. That's helpful. So what is the licensing procedure? What would I have to do? [LB1073]

KIM HAWEKOTTE: That all is set by HHS regulations. You would require a background check and fingerprinting. And it's a national check. It requires a home study, an approved home study, to make sure that everything is appropriate in your home. There are certain provisions, under current regulations, that the department can waive for a relative/kin, such as training, the square footage requirement can be waived for relatives, but not for kin. And that's part of the difference in these regulations, too, is it can be waived for relatives but not for kin so, if you are a kin placement, none of these can be waived and you need to go through the full licensing requirement. If you are a relative placement, HHS does have, under their regulations, the ability to waive some requirements. [LB1073]

SENATOR LINEHAN: But you don't want them like...we want them licensed, right? [LB1073]

KIM HAWEKOTTE: We want them licensed. And even if Health and Human Services keeps some of the waivers in, to make licensing easier for these child-specific license or these relative/

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kin, that is fine; that would be an HHS decision. We just want to make sure that they're going through the process of getting these licenses done instead of just approving the home. [LB1073]

SENATOR LINEHAN: Okay. All right. [LB1073]

KIM HAWEKOTTE: Does that make sense? Did I confuse you more? [LB1073]

SENATOR LINEHAN: No, no. I'm just...I guess it's...a little nervous to put voice to it, but does it, because you are...I think everybody is supportive of doing as many as kinship and family placements as possible. [LB1073]

KIM HAWEKOTTE: Um-hum. [LB1073]

SENATOR LINEHAN: So I don't know...making it a...does this complicate it? [LB1073]

KIM HAWEKOTTE: So we want to make sure that those kinship and relative homes are also licensed. And what we, as a state, require for them to get licensed are set by our regulations. So we can make that as hard or easy, as a state, as we want to. But we still need some type of license in order to draw down federal funds. [LB1073]

SENATOR LINEHAN: So there's no direction from the feds as what we have to do to license them? We just have to say we licensed them and then the feds are okay? [LB1073]

KIM HAWEKOTTE: Pretty much. [LB1073]

SENATOR LINEHAN: Okay, thank you very much. [LB1073]

KIM HAWEKOTTE: All the feds say, under IV-E, is that the licensing has to meet that state's requirements. [LB1073]

SENATOR LINEHAN: Okay, thank you. [LB1073]

KIM HAWEKOTTE: So our state can set those requirements as to what that needs to be. [LB1073]

SENATOR LINEHAN: Okay, thank you. [LB1073]

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SENATOR RIEPE: Thank you. Any follow-up questions? Okay. Senator Erdman. [LB1073]

SENATOR ERDMAN: Maybe one more question. I had an opportunity today to have dinner, over at the Cornhusker with the Extension people, and I sat by a grandmother who has a grandson that she is trying to raise. She has had this young man for three years. The young man tries to burn her house down and does not do one thing that she asks him to do. And a caseworker says you have to give him choices, you have to do certain things, and the grandmother told me that what the kid needed was a spanking or two along the way. She cannot do that. [LB1073]

KIM HAWEKOTTE: She cannot do that. [LB1073]

SENATOR ERDMAN: She's his grandmother; she can't touch the kid. So she said what's going to happen in May is when he's done with this semester of school, she's going to make him a ward of the state because she's not having him anymore. And she said he's going to wind up in prison because he's going to burn somebody's house down and they're going to be in it. And so where does she go to get help to solve the issues with this young man that just needs some discipline rather than just time-out and whatever else they try to tell him to do? [LB1073]

KIM HAWEKOTTE: Well, being it is not currently within juvenile court, part of our behavioral health system is designed to deal with youth that are having these type of issues, to try to work through it. So I would say the behavioral health in one of the regions, to see if we can't...if you can't get some type of therapy or some type of services involved in it. [LB1073]

SENATOR ERDMAN: What he may need is a visit with the board of education, and that may be part of the problem... [LB1073]

KIM HAWEKOTTE: That may be, too. [LB1073]

SENATOR ERDMAN: ...that his problem would be solved. But that's not one of the things we do. And she's had this young man for three years. And she said, for his age, he's quite big and pretty soon he's going to be 200 pounds. And she said: Then what will I do with him? And that's a sad situation, and she's tried to be the foster parent that he needs, but she can't. That's a serious problem. So I didn't know who to tell, but I thought, with your position, it may be the person to start with. [LB1073]

KIM HAWEKOTTE: Right. No, it is. And that...I mean, we know that especially teenagers come into care of our system due to no fault of the parent, but because of the behavioral health needs

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of the child. Sometimes they come in to Probation and they're called a status offender, and sometimes they come in to Health and Human Services as, no fault to the parent, they need extra help than what they can give. And sometimes you need to do that in order to access the necessary services. [LB1073]

SENATOR ERDMAN: Thank you. [LB1073]

SENATOR RIEPE: Okay. Are there any other questions? Seeing none, thank you very much for being here. [LB1073]

KIM HAWEKOTTE: Thank you. [LB1073]

SENATOR RIEPE: We're seeking out other proponents that want to...welcome back. [LB1073]

SARAH HELVEY: (Exhibit 3) Good afternoon again. Chairman Riepe and members of the Health and Human Services Committee, my name is Sarah Helvey; it's S-a-r-a-h, last name H-e-l-v-e-y, and I'm a staff attorney and director of the child welfare program at Nebraska Appleseed. And we support that LB1073 would provide important information with regard to relative and kinship placements of children in foster care. And I sense the members of this committee are on board with the idea that placing children with relatives, whenever possible, is good for them, but I will tell you that, when I first--I think it was my first session advocating at Nebraska Appleseed--worked on a bill about early identification of relatives for children in foster care. And I think, at that time, not everyone sort of understood all the benefits and the reason why that was important, so I want to just mention some. According to the Foster Care Review Office--I think Ms. Hawekotte mentioned this--about half of all children in foster care now reside in relative or kinship placements, and that's a significant increase from just a few years ago. So as I said, we've really made a lot of progress in this area, and I think it's something that I would commend the department for their efforts in this area. As I mentioned, the research supports that this is good for kids. When children must be removed from their homes and placed in foster care, they tend to have better outcomes on a number of measures when they are placed with relatives or individuals with whom they have a significant prior relationship, among other things, are less likely to experience behavioral problems and have fewer school disruptions. Kinship placements can also help kids maintain a sense of stability and minimize the trauma they experience. And then kinship care is also important to help kids maintain cultural and familial connections. But it's critical that relatives and kinship caregivers have the resources they need. As others have mentioned, many don't receive training to help them understand the system and address the needs of the child when they arise. They may also need additional support because they may not have had a lot of time to prepare when the need arose for a child, for them to take placement of the child. And then in addition, as others have mentioned, increasing licensure can permit HHS

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to draw down that federal Title IV-E funding for such placements when our waiver expires in 2019. While existing statute requires HHS to assist relative and kinship care givers in becoming licensed, this bill would help Nebraska track progress on licensure and waivers of non-safety standards permitted for relatives to become licensed. It would help us not only track progress, but ensure adequate training and support, and increase our federal funding, and we believe it's an important measure to improve practice to allow children to be placed with individuals they know and love. We thank Senator Crawford and the committee for your commitment on behalf of children, and respectfully request that you vote to advance the measure. [LB1073]

SENATOR RIEPE: Okay, thank you very much. Are there questions? Seeing none, we appreciate very much your being here. Are there additional proponents? Seeing none, are there any opponents? Seeing none, is there anyone that wishes to testify in a neutral capacity? Again seeing none, Tyler, do we have any letters so that Senator Crawford would be aware of those? [LB1073]

TYLER MAHOOD: (Exhibit 4) Yes. I have a letter, signed by Amadi Watts of the Nebraska Foster Parent Advocacy Network, in support. [LB1073]

SENATOR RIEPE: In favor, okay. And that's it. Senator Crawford, it's yours to close. [LB1073]

SENATOR CRAWFORD: Thank you. And thank you, everyone, for your attention to this issue. And great questions about this balance of working with relatives, making sure we have some standards but also being attentive to making sure that it's something that relatives are able to step up and do. That's a key challenge in this area. And trying to make sure that those who are stepping up to do that have supports. Now that's above and beyond this bill, because this bill is trying to help us track how we're doing on licensure, and it's to help us have those conversations and keep moving forward and trying to make sure that we can improve the situation, in terms of getting more people who are in relative-licensed homes or getting more situations where the homes are licensed. It is the case currently for our relative-licensed homes--and you can see the sheet that you have sort of tells you the kinds of things that you have to do to have a relative-licensed home versus just a relative-approved home. And currently the training is not in the...in place for the relative-licensed home. We might...and I think another larger issue is the questions of what kinds of supports those grandmothers may need. But this bill itself is about just tracking how we're doing on licensure, and I want to turn your attention to the green copy of the bill, the copy of the bill you may have on your gadget, as we say. And one of the reasons that it's...that we're talking about doing this as a statute as opposed to just a request, is basically the statute that we're revising in this bill is the statute where we lay out what these regular reports to the Foster Care Office include. So if you look at the statute copy, it is for each child entering and leaving foster care. It talks about the identifying information and placement information that is provided,

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and then also for the regular reports, what is included. And so we have, for, you know, the child identification information, the identification information for parents/stepparents and the placement information, including their initial placement date, current placement date, and the name and address of the foster care placement. And we're adding to that whether it's licensed, and also, we're also adding whether they received a waiver, and the basis for that waiver. And so that's also another really important piece of information that we'll be collecting, should we add this to statute, because that helps us know what kinds of waivers families are getting, and so we can track that. And if we see changes in terms of safety or changes in terms of people being unwilling to take placements, we can also be tracking in terms of what's going on for that, and for that individual child we know what kind of waiver has been given. So that's a reason to put it in statute, is to put it...that it's very clear; it's part of this ongoing work that we've laid out statute for the Foster Care Review Office to get regularly, and their work with the department, and then for them to be able to summarize for us in their annual report, which is a very useful tool for us. So I will try to answer any other questions people may have. [LB1073]

SENATOR RIEPE: Are there other questions from the committee? Seeing none, we thank you very much for being here, and I declare that LB1073 has had a full and fair hearing. [LB1073]

SENATOR CRAWFORD: Sure. [LB1073]

SENATOR RIEPE: And with that, we will close this hearing and move on to Senator Howard's LB1079. Senator Howard, you're welcome to go. [LB1073 LB1079]

SENATOR HOWARD: All right. All right. Good afternoon, Senator Riepe and members of the Health and Human Services Committee. My name is Senator Sara Howard, H-o-w-a-r-d, and I represent District 9 in mid-town Omaha. Today I bring before you LB1079. It's a bill that specifies in statute that when the department receives an allegation of abuse and neglect of a child placed in a licensed group home, or a complaint about the group home, they must decide, within five working days, whether to conduct an investigation. The bill also specifies that when an investigation is open, a report shall be issued within 30 days of its conclusion. This comes on the heels of the Inspector General's report on allegations of sexual abuse of children in our child welfare system. And I won't read the stories because it's late, and it's Thursday/Friday, but I would refer you to pages 12 and 13, where there are some incidents that occurred in group homes, where a staff member abused a child or where there was abuse that occurred. And I think this is a bill that can help address that issue. So essentially what happened was that the Department of Public Health failed to issue any reports, during a three-year time period, on allegations of sexual abuse of youth living in private group homes in the state of Nebraska. According to the report, that the staff at the Department of Public Health confirmed that they had issued no reports on sexual abuse at residential facilities between 2013 and 2016 and, most

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troubling, that...was that there were no reports on the two substantiated cases of sexual abuse by staff members that the OIG identified at licensed residential facilities, and there were none on unsubstantiated incidents. Not only were there no reports, but there were no records of investigations available. The Department of Public Health also confirmed that they had not taken any disciplinary action for staff, or formerly required corrective action when sexual abuse occurred. In some cases, the investigations were still open, even though the incident occurred more than a year prior. In other cases, reports were never issued, although investigations were closed. The staff who had sexually abused youth were criminally charged, but the shortcomings at the facilities that may have created the conditions where sexual abuse occurred were not identified or remedied. The Inspector General recommended that the department adopt clear, internal policy time lines on tracking and investigating possible violations of statutes and rules and regulations at residential child caring agencies. The department asked for a modification to clarify time lines; however, clarifying time lines is not adequate. If investigations are not completed, for whatever reason, and there are no concerning issues that the residential facilities needs to address, a pending investigation with no report does nothing to make sure that other youth placed in these group homes are safe. I feel it's important to enact investigation time lines in statute through LB1079, and I really do appreciate your time and attention to this important issue. I'm happy to try to answer any questions you may have. [LB1079]

SENATOR RIEPE: Thank you. [LB1079]

SENATOR HOWARD: And just...I see Senator Linehan holding the fiscal note, and I appreciate the rider. And so the...I think, as a state and as a body, we had every expectation that these investigations were already occurring, and that the inspections were already occurring. Unfortunately it appears as though either they were not or they do not have the staff to conduct them appropriately. And so they're...the expectation is that with this bill they would need one more person to provide that oversight. I believe they currently have one person for the entire state doing the inspections for group homes and licensed residential childcare facilities. So thank you, Senator Linehan, for not asking the question. I'm happy to try to answer any others, though. [LB1079]

SENATOR RIEPE: Let's go to Senator Crawford--or Kolterman, I'm sorry. [LB1079]

SENATOR KOLTERMAN: Thank you, Senator Riepe. Senator Howard, can you tell me how many group homes we have in the entire state? [LB1079]

SENATOR HOWARD: I will get that for you. We have both private and state-run. [LB1079]

SENATOR KOLTERMAN: I know we do. [LB1079]

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SENATOR HOWARD: Um-hum. But yes, I will get that for you. [LB1079]

SENATOR KOLTERMAN: Okay, thank you. [LB1079]

SENATOR RIEPE: Can you tell me, Senator, it says shall review "within five working days." What if...what's our current performance? Do you have a number there? Is it... [LB1079]

SENATOR HOWARD: Well, I think I would be able to give you more information about our current performance if we had any reports but, unfortunately, we don't have any... [LB1079]

SENATOR RIEPE: Okay. [LB1079]

SENATOR HOWARD: ...from them. [LB1079]

SENATOR RIEPE: So it might be a range more than anything. [LB1079]

SENATOR HOWARD: It could be a range. [LB1079]

SENATOR RIEPE: Has to be that then. [LB1079]

SENATOR HOWARD: Yeah. [LB1079]

SENATOR RIEPE: Okay, thank you. [LB1079]

SENATOR HOWARD: Thank you. [LB1079]

SENATOR RIEPE: Are there other questions? Seeing none, thank you very much. [LB1079]

SENATOR HOWARD: Thank you. [LB1079]

SENATOR RIEPE: Let's go to proponents, please. Thank you for being here. [LB1079]

JULIE ROGERS: (Exhibit 1) Chairman Riepe, members of the Health and Human Services Committee, for the record, my name is Julie Rogers, J-u-l-i-e R-o-g-e-r-s, and I serve as your Inspector General of Nebraska Child Welfare. LB1079 ensures that complaints and allegations of child abuse and neglect in Nebraska's residential child-caring agencies--which I believe in June

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of 2017 there were 30, these are privately run group homes, shelters, and other facilities--are investigated in a timely manner by the DHHS Division of Public Health, which licenses them. As with other bills that I have testified on before this committee, LB1079 relates directly to a recommendation we made to DHHS in a report of investigation. During our investigation into sexual abuse of state wards and youth in residential facilities, we discovered that Public Health was not adequately investigating and responding to cases of sexual abuse at the residential facilities it licenses. They did not complete any investigations, take any disciplinary action, or require any corrective action related to allegations or substantiated cases of sexual abuse at licensed residential child-caring agencies reported between July 2013 and October 2016. We discovered cases where investigations remained open for over a year, leaving facilities without a clear answer on what must be addressed and improved, and children in facilities that were not able to be kept safe. I have attached relevant excerpts of our report to my testimony. The case of what the report refers to as "Group Home Z," which was referenced by Senator Howard--and in my handout it's page 66--illustrates the repeated failure to investigate and take timely action. A pattern of concerns about abuse and neglect of residents and clear evidence that the facility had violated Nebraska statutes on reporting abuse allegations were not addressed for over three years, through an investigative report by Licensing. By adding time frames for investigations of residential child-caring agencies to Nebraska law, LB1079 helps ensure that the appropriate action is taken to keep children safe at privately-licensed facilities. I thank the committee for your time and attention to this issue, and I'm happy to answer any questions. [LB1079]

SENATOR RIEPE: Are there any questions from the committee members? Seeing none, thank you very much for being here. [LB1079]

JULIE ROGERS: Thank you. [LB1079]

SENATOR RIEPE: Again, additional proponents. Welcome back. [LB1079]

SARAH HELVEY: (Exhibit 2) Good afternoon, Chairman Riepe and members of the Health and Human Services Committee. My name is Sarah Helvey, S-a-r-a-h, last name H-e-l-v-e-y, and I'm a staff attorney and director of the child welfare program at Nebraska Appleseed. I'll keep my remarks on this one brief. We've reviewed the Office of the Inspector General's report, and we're very concerned about the lack of timely investigations of sexual abuse of children in group homes and the lack of clear policy and coordination between agencies and divisions of the Department of Health and Human Services. We are very concerned that, in some cases, these allegations were not investigated or reported for months or years or, in some cases, not at all. And we believe the statutory time lines are critical to protecting children in congregate care settings, who are particularly vulnerable to sexual abuse, and we thank Senator Howard for introducing this legislation, and respectfully request the committee vote to advance it. [LB1079]

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SENATOR RIEPE: Okay, thank you very much. Are there questions? Seeing none, thank you very much for being here. [LB1079]

SARAH HELVEY: Thank you. [LB1079]

SENATOR RIEPE: Additional proponents, please. Seeing none, are there any speaking in opposition, any opponents? If you'd be kind enough to give us your name and spell it. [LB1079]

JENIFER ROBERTS ACIERNO: (Exhibit 3) Yes. My name is Jenifer Roberts Acierno, J-e-n-i-f-e-r R-o-b-e-r-t-s A-c-i-e-r-n-o. And good afternoon, Senator Riepe and members of the Health and Human Services Committee. I am the deputy director for the Division of Public Health in the Department of Health and Human Services, and I'm here to testify in opposition to LB1079, which proposes to change the Children's Residential Facilities and Placing Licensure Act. The DHHS Division of Public Health has, and continues to review internal processes to ensure investigations on licensed residential child-caring and child-placing agencies are conducted and completed in a timely manner. There are 58 licensed facilities across the state, and we have one staff person assigned to complete all inspections and investigations for those licensed programs. In 2017 the department received over 70 intakes from the Division of Children and Family Services' child abuse and neglect hotline that involved residential, child-caring, and child-placing agencies. Many of those investigations involved law enforcement. The five-day requirement for review of the complaint, indicated in the bill, would be a time frame that the Division of Public Health could currently meet. Currently, complaints received by the division are reviewed within two to three business; however, if legislation is passed as written, the requirement to issue a report on the investigation within 30 days would create potential issues for the department. Many of these investigations involve law enforcement that often requests the department to wait on the completion of its interviews before contacting the licensee. Those complex investigations are rarely completed within 30 days and, when I'm talking about that, I'm talking about within 30 days even by law enforcement. So in those instances, the department would not be able to issue a final report within that time frame. I would be happy to address any questions you have regarding our complaint investigation process and the changes that we have already initiated when investigating licensed programs. Thank you for your time, and I'm happy to answer any questions. [LB1079]

SENATOR RIEPE: Okay. Thank you very much. Are there questions from the committee members? Senator Crawford, please. [LB1079]

SENATOR CRAWFORD: Thank you, Chairman Riepe. And thank you so much for being here to answer questions about the process. Could you...so I would first like to ask about investigations that aren't...that don't involve law enforcement. [LB1079]

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JENIFER ROBERTS ACIERNO: Yes. [LB1079]

SENATOR CRAWFORD: So tell me a little bit about the process in those cases. [LB1079]

JENIFER ROBERTS ACIERNO: Okay. So in those cases we would go out more, I guess, earlier in that process. We would not be waiting for anybody to complete any sort of investigation. We would go ahead and assess it. And then, depending on what the concern is, we would go out, maybe within even a couple of days, to assess the issue related to what, you know, the gravity of the complaint obviously. We get a broad range of complaints. So those...we may be able to complete those within the 30 days with an additional staff person to help supplement those investigations. It was the concern about the 30 days when law enforcement is involved that becomes an impossibility for us. [LB1079]

SENATOR CRAWFORD: So let's talk a little bit about the first piece, the five-day piece. [LB1079]

JENIFER ROBERTS ACIERNO: Okay. [LB1079]

SENATOR CRAWFORD: So you receive a complaint. [LB1079]

JENIFER ROBERTS ACIERNO: Yes. [LB1079]

SENATOR CRAWFORD: And then you said you don't have...you don't think it...you already are...within five days determine whether to investigate the report or not. [LB1079]

JENIFER ROBERTS ACIERNO: Correct. [LB1079]

SENATOR CRAWFORD: You feel you're already meeting that requirement. [LB1079]

JENIFER ROBERTS ACIERNO: Yes, we believe we can meet that. [LB1079]

SENATOR CRAWFORD: Okay. Is that up on one of your dashboards that we see or have access to? Or is that something that's tracked in a way that... [LB1079]

JENIFER ROBERTS ACIERNO: So we are...it is not part of one of our dashboards that I'm aware of. We are tracking that information. I will tell you that, over the last about year and a half or so, we have actually been developing more specific internal processes... [LB1079]

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SENATOR CRAWFORD: Um-hum. [LB1079]

JENIFER ROBERTS ACIERNO: ...for these complaints. There was very broad regulatory reference to this but the time frames weren't included, so we have implemented, as of October of '17, processes and time frames for those reviews internally, just to make sure that we are able to make sure they're moving through appropriately. [LB1079]

SENATOR CRAWFORD: Great. And what do you set as your own internal time line for that step then? [LB1079]

JENIFER ROBERTS ACIERNO: So it depends on what type of complaint that we get. [LB1079]

SENATOR CRAWFORD: Um-hum. [LB1079]

JENIFER ROBERTS ACIERNO: But we...if it is a complaint that is--and I--give me just a second here... [LB1079]

SENATOR CRAWFORD: Sure. [LB1079]

JENIFER ROBERTS ACIERNO: ...includes alleged maltreatment of a child or a youth, it is...that investigation would be initiated within 24 hours. [LB1079]

SENATOR CRAWFORD: Okay. [LB1079]

JENIFER ROBERTS ACIERNO: If it is one that does not allege those things, it is to be initiated within five working days. [LB1079]

SENATOR CRAWFORD: Okay. [LB1079]

JENIFER ROBERTS ACIERNO: We do coordinate with a number of entities--often law enforcement, Children and Family Services, and others--to determine where they're at in conducting those investigations because, certainly, we don't want to jeopardize what they're working on at that time. [LB1079]

SENATOR CRAWFORD: So if law enforcement is involved, they're worried about you talking to people before they have a change to conduct their interviews. [LB1079]

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JENIFER ROBERTS ACIERNO: Correct, correct. [LB1079]

SENATOR CRAWFORD: All right. And so is there some good cut-off point where we could, if we were wanting to make sure a report got in place or the corrective action got put in place, as soon as law enforcement is done, would there be a good way of crafting what that point would be so we could talk about non-law enforcement 30 days and then in law enforcement cases some particular point and 30 days after that? [LB1079]

JENIFER ROBERTS ACIERNO: Yeah, I mean I think that's something that we could assess... [LB1079]

SENATOR CRAWFORD: Um-hum. [LB1079]

JENIFER ROBERTS ACIERNO: ...as far as what that time frame would be. At the end potentially of law enforcement involvement or interviews,... [LB1079]

SENATOR CRAWFORD: Um-hum. [LB1079]

JENIFER ROBERTS ACIERNO: ...not involvement certainly. [LB1079]

SENATOR CRAWFORD: Right, right. Sure. [LB1079]

JENIFER ROBERTS ACIERNO: But we do have conversations with them as to when they are complete, so that we can go in and do our interviews, as well. [LB1079]

SENATOR CRAWFORD: Um-hum. [LB1079]

JENIFER ROBERTS ACIERNO: And sometimes we do those in conjunction with Children and Family Services, if there's...if both are going on, so... [LB1079]

SENATOR CRAWFORD: Great, all right. So you said you had information about process improvement you'd like to share with us. [LB1079]

JENIFER ROBERTS ACIERNO: Well, so that... [LB1079]

SENATOR CRAWFORD: Would you like to share that, in terms of time line? [LB1079]

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JENIFER ROBERTS ACIERNO: Yeah. Well, so really that is...that was part of the process improvement that we worked on was coming up with an internal process... [LB1079]

SENATOR CRAWFORD: Um-hum. [LB1079]

JENIFER ROBERTS ACIERNO: ...so that we could have numbers and be...have, you know, accountability and a time line that really wasn't set out in the regulations, per se. [LB1079]

SENATOR CRAWFORD: Okay. So in your own internal process then,... [LB1079]

JENIFER ROBERTS ACIERNO: Um-hum. [LB1079]

SENATOR CRAWFORD: ...do you have a time line for the second piece? Like do you have an internal time line when you would like to get reports out in non-law enforcement cases, and after law enforcement interviews? [LB1079]

JENIFER ROBERTS ACIERNO: We do have an internal time line, as far as our goals for investigations that do not... [LB1079]

SENATOR CRAWFORD: Okay. [LB1079]

JENIFER ROBERTS ACIERNO: ...involve alleged child abuse or neglect. We would like our completed investigation and report to be done within 30 days. [LB1079]

SENATOR CRAWFORD: Right. [LB1079]

JENIFER ROBERTS ACIERNO: And then investigations that do involve law enforcement, it really depends on when we come into it, but we would...from the time we come into it to the end of that, our goal is 90 days on those. [LB1079]

SENATOR CRAWFORD: So after law enforcement, 90 days. [LB1079]

JENIFER ROBERTS ACIERNO: Yes. [LB1079]

SENATOR CRAWFORD: And does that report...who all does that report go to? [LB1079]

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JENIFER ROBERTS ACIERNO: So I think the report goes to the facility and, beyond that, I would have to check and get back to you. [LB1079]

SENATOR CRAWFORD: Okay, okay. And that would include suggestions for... [LB1079]

JENIFER ROBERTS ACIERNO: Correct. Findings,... [LB1079]

SENATOR CRAWFORD: ...corrective actions and... [LB1079]

JENIFER ROBERTS ACIERNO: ...related to the facility and their performance. [LB1079]

SENATOR CRAWFORD: Thank you. [LB1079]

JENIFER ROBERTS ACIERNO: Yeah. [LB1079]

SENATOR CRAWFORD: Thank you. Excellent, thank you. [LB1079]

SENATOR RIEPE: Okay. Any additional questions? Senator Williams. [LB1079]

SENATOR WILLIAMS: Thank you, Chairman Riepe. And thank you, Director, for being here. A weird little terminology thing that I want to clear up so I understand this. [LB1079]

JENIFER ROBERTS ACIERNO: Um-hum. [LB1079]

SENATOR WILLIAMS: In the proposed legislation, they talk about "a" report shall be issued within 30 days after the decision is made to conduct the investigation. And in your testimony you talked about in the complex issues it would be difficult to make a report, and you used the term "final" report versus "a" report. What's the difference between "a" report, under the legislation, or a "final" report in your testimony? [LB1079]

SENATOR CRAWFORD: Um-hum. [LB1079]

JENIFER ROBERTS ACIERNO: Um-hum. And I think that's a good question, Senator, because I think when we're looking at the... [LB1079]

SENATOR WILLIAMS: Well, I asked it so I... [LB1079]

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JENIFER ROBERTS ACIERNO: Yeah (laughter). It is; of course it's a good one. Yeah, I think that... [LB1079]

SENATOR WILLIAMS: It's late in the day for me, but I don't want to (inaudible)... [LB1079]

JENIFER ROBERTS ACIERNO: Yeah, I think that when we were looking at the terminology report, we're looking at the report we generally issue, which would be that outcome report. So I mean, theoretically, if there was a... [LB1079]

SENATOR WILLIAMS: What you would think of as a final report, okay. [LB1079]

JENIFER ROBERTS ACIERNO: Yes, yes. The culmination of that investigation. Certainly I guess if that means something different, we could issue a report saying that we wouldn't be able to fulfill the 30 days, but I don't...I wasn't...that wasn't the impression I was getting as to what was being looked for. [LB1079]

SENATOR WILLIAMS: I'm just showing you how to do it within the 30 days. Thank you. [LB1079]

JENIFER ROBERTS ACIERNO: Um-hum. [LB1079]

SENATOR RIEPE: Okay. Are there additional questions or comments? [LB1079]

SENATOR CRAWFORD: I just have one. [LB1079]

SENATOR RIEPE: Senator Crawford. [LB1079]

SENATOR CRAWFORD: Thank you, Chairman Riepe. And thank you again. I just want to understand one part of the fiscal note and opposition. If I understand correctly, your opposition is...a core part of the opposition is that getting this done in 30 days, when law enforcement is involved, would be a very difficult thing to do. [LB1079]

JENIFER ROBERTS ACIERNO: Correct. [LB1079]

SENATOR CRAWFORD: True. So if you had the one more staff member that the fiscal note notes,... [LB1079]

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JENIFER ROBERTS ACIERNO: Um-hum. [LB1079]

SENATOR CRAWFORD: ...would you be able to get them done in 30 days? [LB1079]

JENIFER ROBERTS ACIERNO: No. So that actually, that additional staff member was so that we could complete the other ones, that didn't involve law enforcement, consistently in a 30-day period of time. [LB1079]

SENATOR CRAWFORD: Okay. I think you...but you already have that as your internal guidelines... [LB1079]

JENIFER ROBERTS ACIERNO: That is our... [LB1079]

SENATOR CRAWFORD: ...with existing staff. You're already expecting yourself to meet those in 30 days. [LB1079]

JENIFER ROBERTS ACIERNO: That is our internal goal, but I think for us to meet that on a consistent basis, we would need an additional individual. And why I say that is because the individual who's currently doing those investigations and those reports is also, basically, running the administrative part of that program. So I think we could do that better with another individual assisting. [LB1079]

SENATOR CRAWFORD: So are you not currently meeting 30 days? [LB1079]

JENIFER ROBERTS ACIERNO: And I would have to check on that for you because I didn't...I don't have that data. But I do...I will get back to you with that. [LB1079]

SENATOR CRAWFORD: All right. And you said currently your internal guideline is 90 days after police interviews (inaudible). [LB1079]

JENIFER ROBERTS ACIERNO: Well, and I believe...um-hum. After... [LB1079]

SENATOR CRAWFORD: So that's 30 days for regular, 90 days for other, with your existing staff. [LB1079]

JENIFER ROBERTS ACIERNO: So what it says...let me tell you what it says... [LB1079]

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SENATOR CRAWFORD: Sure, um-hum. [LB1079]

JENIFER ROBERTS ACIERNO: ...because I think that may be helpful. [LB1079]

SENATOR CRAWFORD: Okay. [LB1079]

JENIFER ROBERTS ACIERNO: Completed investigation...investigations that involve Children and Family Services and law enforcement, the completed investigation and report within 90 days unless law enforcement or CFS investigations dictate different time frames. So our goal would be, if they're involved, to have it done within that time frame... [LB1079]

SENATOR CRAWFORD: Um-hum. [LB1079]

JENIFER ROBERTS ACIERNO: ...unless their investigation would dictate a different approach for that time line. [LB1079]

SENATOR CRAWFORD: Okay. So the 90 days is inclusive then. [LB1079]

JENIFER ROBERTS ACIERNO: Yes, it is. [LB1079]

SENATOR CRAWFORD: It's not 90 days after. [LB1079]

JENIFER ROBERTS ACIERNO: It is. I think I misstated that part. [LB1079]

SENATOR CRAWFORD: I'm...okay, okay, okay, okay. That's helpful; that's a shorter time. [LB1079]

JENIFER ROBERTS ACIERNO: Um-hum, yeah. [LB1079]

SENATOR CRAWFORD: All right, excellent. Thank you. [LB1079]

SENATOR RIEPE: Senator Linehan. [LB1079]

SENATOR LINEHAN: Thank you, Chairman Riepe. I've just...a clarification. Any time there's sexual abuse charged, the law enforcement is involved, right? [LB1079]

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JENIFER ROBERTS ACIERNO: Correct. [LB1079]

SENATOR LINEHAN: So the only time they wouldn't be involved if it's...when wouldn't they be involved? [LB1079]

JENIFER ROBERTS ACIERNO: So for instance, if we get a report that there's an issue, maybe, with--I'll just give an example--with food on hand or something like that. [LB1079]

SENATOR LINEHAN: Okay. [LB1079]

JENIFER ROBERTS ACIERNO: Then we would go out and do that, most likely law enforcement wouldn't be involved in that one. [LB1079]

SENATOR CRAWFORD: Okay. [LB1079]

SENATOR LINEHAN: Okay. All right, thank you very much. [LB1079]

JENIFER ROBERTS ACIERNO: Um-hum. [LB1079]

SENATOR RIEPE: Okay. Thank you. Other questions? Seeing none, thank you very much for being here. [LB1079]

JENIFER ROBERTS ACIERNO: Thank you. [LB1079]

SENATOR RIEPE: Do we have other opponents? Do we have anyone speaking in a neutral capacity? Okay, seeing none, Tyler, do we have any letters at all? [LB1079]

TYLER MAHOOD: I do not have any letters. [LB1079]

SENATOR RIEPE: Okay. Senator Howard, welcome back, and you're welcome to close. [LB1079]

SENATOR HOWARD: Thank you. Just in closing, I will be happy to work with the Department (sic--Division) of Public Health to make sure that these time lines better reflect their internal goals and time lines, but I do think that it's important that we have something in statute in regards

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to ensuring that a report is issued and ensuring that these investigations are completed timely. I'm happy to try to answer any questions you may have. [LB1079]

SENATOR RIEPE: A question I have: Will you be bringing forward an amendment for a status report? [LB1079]

SENATOR HOWARD: For a status report... [LB1079]

SENATOR RIEPE: Within the bill? [LB1079]

SENATOR HOWARD: What's a...what do you mean? [LB1079]

SENATOR RIEPE: To make a required status report? [LB1079]

SENATOR HOWARD: What, what? Tell me more about what you mean by a status report. [LB1079]

SENATOR RIEPE: Well, just an update on how the performance is going. [LB1079]

SENATOR HOWARD: Oh. You mean like to add it to their dashboard or some type of reporting to the Legislature about these reports? [LB1079]

SENATOR RIEPE: Yes. [LB1079]

SENATOR HOWARD: We could certainly do that, although the function of the Inspector General is to really reach into that for us and analyze it for us. And so I think if she has the adequate means to reach into those reports and analyze them for us, that would be a great utilization of her position. [LB1079]

SENATOR RIEPE: Is she in a position to then publish that or share that? [LB1079]

SENATOR HOWARD: You know, that's a good question for the Inspector General. I can circle back with her and ask. [LB1079]

SENATOR RIEPE: Okay. Thank you. [LB1079]

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SENATOR HOWARD: Thank you. [LB1079]

SENATOR RIEPE: Any other questions? [LB1079]

SENATOR CRAWFORD: I think the overall patterns, you know, and the numbers (inaudible). [LB1079]

SENATOR HOWARD: Yeah, she mostly does systemic issues and then maintains confidentiality around the reports that she receives. [LB1079]

SENATOR RIEPE: Okay. If there are no more questions, I would declare that that is a full and fair hearing for LB1079. And that concludes this hearing, and it concludes the Health and Human Services hearing on February 8, 2018. We will be going into Executive Session. [LB1079]