

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee January 31, 2020

HOWARD: [RECORDER MALFUNCTION] My name is Senator Sara Howard, and I represent the 9th Legislative District in Omaha, and I serve as chair of this committee. I'd like to invite the members of the committee to introduce themselves, starting on my right with Senator Walz.

WALZ: Hi. I'm Lynne Walz. I represent Legislative District 15, which is all Dodge County.

ARCH: My name's John Arch. I represent District 14, which is Papillion-La Vista, in Sarpy.

WILLIAMS: Matt Williams from Gothenburg, Legislative District 36; that's Dawson, Custer, and the north portion of Buffalo Counties.

CAVANAUGH: Machaela Cavanaugh, District 6: west-central Omaha, Douglas County, .

B. HANSEN: Ben Hansen, District 16: Washington, Burt, and Cuming Counties.

HOWARD: Also assisting the committee is our legal counsel, Jennifer Carter, our committee clerk, Sherry Shaffer, and our committee pages, Angenita and Nedhal. A few notes about our policies and procedures. Please turn off or silence your cell phones. This afternoon we'll be hearing four bills, and we'll be taking them in the order listed on the agenda outside the room. On each of the tables near the doors to the hearing room, you will find green testifier sheets. If you're planning to testify today, please fill one out and hand it to Sherry when you come up to testify. This will help us keep an accurate record of the hearing. If you are not testifying at the microphone, but want to go on record as having a, a position on this bill-- on a bill being heard today, there are white sign-in sheets at each entrance, where you may leave your name and other pertinent information. Also, I would note, if you are not testifying but have written testimony to submit, the Legislature's policy is that all letters for the record must be received by the committee by 5:00 p.m., the day prior to the hearing. Any handouts submitted by testifiers will also be included as part of the record, as exhibits. We would ask, if you do have any handouts, that you please bring ten copies and give them to the page. We do use a light system for testifying. Each testifier will have five minutes to testify. When you begin, the light will be green. When the light turns yellow, that means you have one minute left. And when the light turns red, it is time to end your testimony, and we will wrap up your

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final thoughts. When you come up to testify, please begin by stating your name clearly into the microphone, and then please spell both your first and last name. The hearing on each bill will begin with the introducer's opening statement. After the opening statement, we'll hear from supporters of the bill, then from those in opposition, followed by those speaking in a neutral capacity. The introducer of the bill will then be given the opportunity to make closing statements, if they wish to do so. We do have a very strict no-prop policy in this committee. And with that, we'll begin today's hearing with LB849, Senator Pansing Brooks's bill to change eligibility requirements under the Young Adult Bridge to Independence Act. Welcome, Senator Pansing Brooks.

PANSING BROOKS: Thank you, Chair Howard and members of the Health and Human Services Committee. For the record, I am Patty Pansing Brooks, P-a-t-t-y P-a-n-s-i-n-g B-r-o-o-k-s, representing District 28 right here in the heart of Lincoln. I appear before you today to introduce LB849, which closes a gap in the el, eligibility for tribal youth in the Young Adult Bridge to Independence program. This program supports young people aging out of the foster care system with monthly stipends, healthcare, and case management support, as I'm sure that you are all aware. LB849 fixes an important oversight in statute to ensure that Native youth have access to the program, all Native youth. The age of majority under Nebraska law is 19, but, for some tribes, the age of majority is 18. So some Native youth in the tribal foster care system age out at 18, and thus, are ineligible for services for a year, preventing these youths from participating in the program. LB849-- it eliminates that gap and allows youth, aging out at the tribal age of majority, to be eligible for the program, just like everyone else. It was always the intent that these youth be eligible for the program, but the gap was not recognized when the statutes creating the law were written. This law change will affect somewhere in the neighborhood of 20 youth. As some of you may know, I am one of the legislative representatives on the Children's Commission. When I attended one of our last meetings-- or one of our meetings last year-- I learned about the problem we are now addressing in LB849. The Children's Commission has made LB849 one of its top priorities and is recommending that the Legislature pass this legislation this session. The Young Adult Bridge to Independence program has been enormously beneficial, beneficial to children aging out of foster care. The testifiers behind me will shed further light on why this program is so important. I do have one amendment that I bring to you today, and I think we each have it, and ask you to advance that amendment with the

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underlying bill. AM2149 makes a few technical changes to ensure the Bridge to Independence program description is inclusive of all tribal youth. It also clarifies that we are not creating an additional program for Native youth leaving their tribal foster care system. With that, I will happy-- I'll be happy to answer any questions you may have, or refer them to the experts behind me.

HOWARD: Thank you. Are there questions? Do you want to address the fiscal note?

PANSING BROOKS: Sure, I can. I can address that. There is a fiscal note. Clearly, it was intended originally that, that these kids be incorporated into the whole program. So the fact that we have this little gap and discrepancy, I believe that we can and should absorb the costs that are listed here. I hope we can find a General Fund appropriation for this, and I'd be happy to discuss it with the appropriations leadership. You know, in the, in the grand scheme of things, I believe this is an affordable cost for a high need. Otherwise, these kids fall through the gap and we lose track of them for a year. They all of a sudden become eligible at 19, and people lose track of them. They have no hope of getting any help for the transitional period. So, you know, I, I really do think that the-- and, and of course, that we-- the tribals, the, the tribal nations are a separate sovereignty. So, you know, while we would hope that they might continue to cover them until 19, that's not within our, our jurisdiction, clearly. So, you know, we, we cover all the other kids, all the other tribal kids, as well as the nontribal kids. So this gap, I believe, needs to be covered.

HOWARD: Thank you.

PANSING BROOKS: Thank you.

HOWARD: Are there questions? Senator Arch.

ARCH: Just one, just one question. Thank you very much. Is, is this true of all tribes?

PANSING BROOKS: No. Some tribes have 18, and some have the age of majority as 19.

ARCH: Oh, so-- OK. So tribal court--

PANSING BROOKS: It is, it's a discrepancy, yes.

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ARCH: --tribal court in those, in those tribes that have 18.

PANSING BROOKS: Yes.

ARCH: OK. Thank you.

PANSING BROOKS: So-- and I think there are experts behind me that will testify as to which ones.

ARCH: Thank you.

HOWARD: OK.

PANSING BROOKS: Thank you.

HOWARD: All right. Will you be staying close?

PANSING BROOKS: Yes, thank you.

HOWARD: Wonderful. Thank you. All right, our first proponent testifier for LB849?

SARAH HELVEY: Good afternoon.

HOWARD: Good afternoon.

SARAH HELVEY: 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. Appleseed was a strong supporter and very involved in the creation and implementation of the Bridge to Independence program in Nebraska, which, as a reminder, provides extended services and support, including a monthly stipend, stipend, healthcare, and case management support for young people who age out of foster care to 21. Nebraska is one of, I believe, 22 states and the District of Columbia that has taken this option under federal law, based on research showing these types of programs can improve otherwise poor outcomes experienced by this population, where, for example, and maybe part of that population being young people who age out of foster care, state foster care system or tribal, without achieving permanency. That population, over 50 percent experience homelessness and less than 2 percent finish college. As Senator Pansing Brooks described, for youth in the state juvenile court cases, they're able to enter the B2I program directly upon aging out of state foster care at age 19, and stay in extended foster care and the program until they reach the age of 21. When youth whose cases either

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originate in or are transfer, transferred to tribal court under the Indian Child Welfare Act, and then age out of tribal court, whose age of majority is 18, there is a gap. They're not able to enter directly into B2I and until they-- they have to wait until they reach the age of 19. This bill would address that gap. Just to give a little bit of data-- I think some of the testifiers following me will have additional data-- but there's typically about 300 young adults at any given time in the Bridge to Independence program in Nebraska.. Some FCRO data from 2016 noted that there were only eight Native youth in the program at that time. Just to be clear, those are not youth in tribal court, but Native American youth in state court proceedings. We know that there is a disproportionality of Native American youth in our state foster care system, at a rate of four times non-Native youth. So we're even missing some of those of our Native youth that are in state foster care proceedings. That-- this bill would still require tribal youth to meet all of the other eligibility requirements of the Bridge to Independence program, including participating in a work or education activity. A recent eval-- external evaluation of Nebraska's B2I program by Child Trends found improved outcomes for young people in B2I, who are more likely than their non-B2I peers to report having some postsecondary education, have safe, stable, and affordable housing, be able to cover their monthly expenses and have an adult to turn to in crisis. And these opportunities, we believe, should be available to all youth, and as was the intent of the original program. I just want to pause and say I participate in the juvenile law section of the State Bar Association. I'm not testifying on their behalf today, but we discuss bills. And I think at a recent call-- it was actually maybe from last year-- one of the county attorneys said: Do we have to have a B2I bill every year? And I think-- I, I am quite certain that I've testified on every B2I bill there has been since the inception of the program in a bill introduced by Senator Amanda McGill in 2013. This is a program that the state should be very proud of. The Legislature, in its wisdom in the original bill, created an advisory committee. I've sat on that advisory committee, under the Children's Commission, since the program started-- also not speaking on their behalf today. But they have recommended a number of tweaks. So we've been able to learn from the program as the years go on. And so the Legislature has taken up those recommendations. I want to mention that there was a bill introduced and passed, introduced by Senator Bolz last session, that passed Legislature, where we made some cuts to the program, as recommended by the B2I advisory committee; and Appleseed testified in support of those cuts, including youth who are out of state and youth where there

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was some potential overlap in eligibility for B2I and Developmental Disability services. So this year, we're looking to address this gap in oversight for tribal youth. We want to thank Senator Pansing Brooks for taking up this recommendation that the Advisory Committee has been talking about and trying to address for a number of years, and also the Nebraska Indian Child Welfare Act, which you'll hear from after me and our tribal partners. Nebraska's really fortunate to have that group and good stakeholder involvement and collaboration with the tribes. So again, we thank Senator Pansing Brooks for bringing this bill, and I'm happy to answer any questions that the committee may have.

HOWARD: Thank you. Are there questions? All right, seeing none, thank you for your testimony today. Our next proponent testifier for LB849? Good afternoon.

ELIZABETH BROWN: Good afternoon. I would like to thank each and every one of you for giving me the opportunity to testify before you on behalf of our organization. Chairman, Chairwoman Howard and members of the Health and Human Services Committee, my name is Elizabeth Brown, E-l-i-z-a-b-e-t-h; last name B-r-o-w-n. I'm here to testify in support of LB849 on behalf of the Nebraska Indian Child Welfare Coalition, also known as NICWC, N-I-C-W-C. NICWC is a new nonprofit organization that developed from a grassroots organization, created in 2008. To improve ICWA compliance in the state of Nebraska, we educate, advocate, and bring people together to protect the Indian children's rights and preserve their culture connections, and ensure Indian Child Welfare Act is respected for the Nebraska children. I am the president of NICWC's board of directors. Our board has representation from all four tribes in Nebraska. Several other stakeholders in Nebraska that wish to protect the children's rights and improve life for Nebraska's American Indian children and families. As Ms. Helvey has stated, Native children are overrepresented in the, the child welfare system. We have also found that Native children and families do not have the resources they need in many years and on many levels, including when young adults age out of the child welfare system. As you can see in the data that is provided by the Nebraska DHHS, this bill will affect a small number of young adults. However, the impact can be huge, possibly immeasurable for their futures. Right now, if a child is under tribal court jurisdiction for Santee, Omaha and Ponca, the youth will be aging out of the system at the age of 18, under the tribal law. With the state of Nebraska's age of majority being 19, this leaves a one-year gap before the tribal wards are eligible for B2I.

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Some tribes have utilized independent living programs to track the youth for that one year, but a lot can happen in that one year, and tracking can be unsuccessful. NICWC is not aware of any tribal wards in, in the program to date, being eligible and have successfully made it to B2I. LB849 will allow tribal youth to be eligible for the Bridge to Independence program immediately when they age out of the program for a tribal court-- in the tribal court system. As Ms. Helvey has mentioned, the B2I program provides concrete benefits for the youth. B2I can also be viewed as a program that prevents homelessness, human trafficking, sex trafficking, criminal activity, and jail and prison entry. B2I may also help prevent future intergenerational trauma through continued support, and to empower the American Indian young adults. The result of this should be studied, but NICWC believes that these results may include delaying having children of their own until they are ready and have improved parenting skills, and they're ready to have children on their own. Both results assist us in reducing the disproportionate numbers of American Indian children in the child welfare system, and healing intergenerational trauma. Gaps in service remain that can be corrected by better collaboration between the state, Nebraska DHHS, and the tribal CFS Department, and tribal courts. We anticipate there may be some bumps in the road with the passage of the bill, such as determining what court will hold the review hearings. Having non-Native B2I caseworkers present is another natural barrier. However, NICWC is committed to helping bridge the gaps in service and working with all entities and systems that serve Native children and families. B2I provides a valuable service to young adults who do not have the resources available to other youth their age. These opportunities should be available to all youth aging out of the Nebraska child welfare system, whether through the state or tribal court. LB849 simply amends the existing state law to recognize the differing age of majority under the tribal law, and addresses the unintended gaps in access for tribal youth. Help us close the gap in services for tribal youth. We want to thank Senator Pansing Brooks and HHS Committee for your commitment to young adults aging out of the foster care, and your support for Native children and families. NICWC respectfully requests that you vote to advance LB849 out of committee.

HOWARD: Thank you. Are there questions? Seeing none, thank you for your testimony today. Our next proponent testifier for LB849?

GWEN PORTER: Hi.

HOWARD: Good afternoon.

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GWEN PORTER: Gwen Porter-- I represent the Omaha Tribe of Nebraska, G-w-e-n P-o-r-t-e-r. Thank you to the Health and Human Services Committee for taking time to hear the LB849. So I'll be reading my testimony that I have provided. Greetings, Chairwoman Howard and members of the Health and Human Services Committee. My name is Gwen Porter. I serve the Omaha People as the, as an elected tribal council member. I am a former foster adoptive parent, parent, former president and now a member of the Omaha, of the Nebraska Indian Child Welfare Coalition. On behalf of the Omaha Tribe of Nebraska, I'm here to testify in support of LB849. The Omaha Tribe and the state of Nebraska have-- DHHS have a tribal state child welfare contract to serve Omaha children and families that are wards of the Omaha Tribe. Bridges, Bridges to Independence is meant to help Nebraska foster care youth transition to adulthood, attain self-sufficiency, and establish permanent relationships. Native youth in out-of-home placements, also known as foster care, are overrepresented, and yet underrepresented in the B2I program. It has been recognized that a part of the underrepresentation is being the gap-- age gap in continued services for Native youth. These types of services provide basic needs, such as: housing, job readiness, healthcare, and mental health programs, and to make a successful transition into adulthood. As the first Nebraskans of the, of "Ni Blaska" [PHONETIC], we strongly support the LB849 proposal to close the gap for Native youth aging out of the tribal court system. The amendments would connect Native youth to additional benefits to succeed to adulthood. When our youth succeed, we all succeed. "Eh'witho(n)' Wo(n)g'the(n)." So we [INAUDIBLE] to the Health and Human Services Committee again, in considering the revision for this, this LB849. Thank you.

HOWARD: Thank you. Are there questions? Seeing none, thank you for your testimony.

GWEN PORTER: Got to run.

HOWARD: Our next proponent testifier for LB849?

DEREK LaPOINTE: Good afternoon.

HOWARD: Good afternoon.

DEREK LaPOINTE: Chairwoman Howard, members of the Health and Human Services Committee, my name is Derek LaPointe, D-e-r-e-k L-a-P-o-i-n-t-e, and I'm an executive officer of the Santee Sioux Nation Tribal Council. I will be reading off my written testimony. I

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didn't get an opportunity to send it to you last night, so I apologize. I heard the rules go on. So you have written testimony before you. I'm here in support of LB849, the Bridge of [SIC] Independence program, also known as B2I. It is a very good support program for foster youth aging out of the child welfare system. B2I provides much needed services for foster youth who need a guy, a lot of guidance and are at a higher risk for further issues, such as: homelessness, lower educational achievement, human trafficking, and sex trafficking-- another widespread issue facing the American Indian population. As pre, previous testifiers have stated, Native American youth are overrepresented in the child welfare system, yet are apparently underrepresented in B2I. We also know Native American youth, in general, do not have adequate services to meet their needs, especially culturally appropriate services. Tribal youth are currently eligible for B2I services at 19 years of age, just as all youth aging out across the state in Nebraska. However, tribal wards age out at 18 years of age under Omaha, Ponca, and Santee tribal law, leaving a one year gap for tribal youth to be eligible for B2I services. While there is a very small number of youth this bill will impact, the impact for these youth would be huge. We want to ensure tribal health-- or tribal youth are afforded the best services possible, and advancing this bill will help accomplish this goal. For these reasons, we strongly support LB849. Simply put, this bill will permanent-- or will permit youth who have attained the age of majority under tribal law to enter the B2I program directly upon aging out, just like all other youth in the state foster care. LB849 will still require tribal youth to meet all the other eligibility requirements, including participating in a work or education activity. These opportunities should be available to all eligible youth. It is our understanding there are some requirements on tribal, on tribal Child Family Services-- CFS-- departments and tribal courts. We believe the state and the tribes, including CFS and the courts, can work together to ensure the needs are being met to help our youth successfully enter and participate in the B2I program. Thank you all who have been involved in drafting this bill, improving services and support for Native youth. We especially want to thank Senator Pansing Brooks and the committee for your commitment to older youth with system involvement. And I respectfully request that you vote to advance LB849 out of committee to help us close the gap in services and improve in outcomes for tribal youth. Thank you.

HOWARD: Thank you. Are there questions? Senator Williams.

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WILLIAMS: Thank you, Chairwoman Howard. And thank you for being here. A couple of times in the testimony we've heard, there has been this talk about this, this problem that would require the court systems to work together to make something work. Can you explain in a little more detail so I can understand that?

DEREK LaPOINTE: You know, I, I'm not too familiar with the-- how the court system is working directly with right now. I know I did see some language in some of the emails that we have been exchanging with each other, talking about, you know, how the-- it can be deferred out, out of the tribal court and nontribal court. So I am-- there is some language in there about that. But I'm--

WILLIAMS: OK.

DEREK LaPOINTE: --not an expert on that. And maybe somebody can attest to that part--

WILLIAMS: OK.

DEREK LaPOINTE: --that you're talking about. But we do have some other statistics. I know that was illustrated in one of the other testimonies that was there but, you know, going forward, one of the things that I wanted to state is that, you know, we have 23 identified going forward within the next 20-- within the next four years. And we surpassed the last four years. We had 23 people that were affected by this. And, you know, it would be beneficial to Santee to support any supports to Santee.

WILLIAMS: And when those numbers-- are those the numbers for Santee or that combined number?

DEREK LaPOINTE: Santee.

WILLIAMS: Thank you.

DEREK LaPOINTE: I can only speak on behalf of the Santee.

WILLIAMS: Yep.

HOWARD: OK. Seeing no other questions, thank you for your testimony today.

DEREK LaPOINTE: Thank you.

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HOWARD: Our next proponent testifier for LB849?

JUDI GAIASHKIBOS: Good afternoon, Chairman Howard and the Health and Human Services Committee. My name is Judi gaiashkibos, J-u-d-i g-a-i-a-s-h-k-i-b-o-s. I am the executive director of the Nebraska Commission on Indian Affairs. I'm an enrolled member of the Ponca Tribe, and I am Santee Sioux. I'm here today to testify in support of LB849, which addresses the gap in eligibility for Native youth concerning the Young Adult Bridge to Independence program. And you've heard all of this wonderful testimony behind you-- behind me. And I have written testimony, but I think I'll just defer and give this to you, and speak off the top of my head on some of the things that I think are important for you to understand why this is so important. As an Indian person, I have dual citizenship. I am a citizen of my sovereign nation, and as are the people that testified. So the tribes that are headquartered here and all Indian people that live in Nebraska, our agency is tasked with advocating for those citizens, whether they be from the Navajo Nation, from a federally recognized tribe. So we live within the state of Nebraska and we have dual citizenship. And oftentimes we're left out of the dialogue on legislation here. This session, we have a bill that concerns tribal colleges, and we were left out of that-- so for the community colleges gap funding; so we're going to address that. And in this case, the tribe's age is 18 and the state's is 19, so those children who live in our state and have dual citizenship, and that you all advocate for and work for-- our schools here in Nebraska, our tribal schools, our public schools on our reservations. So I think sometimes policymakers don't realize that dual citizenship, so I wanted to address that firstly. And right now, we've been working on a bill dealing with missing and murdered indigenous women. And we're getting ready to have those listening sessions on the reservation lands and in the urban areas. That's LB149 that Senator Patty Pansing Brooks introduced, to address, again, people that are invisible. And oftentimes Indian people-- we're just not on people's radar screen. So what this does is, it addresses those-- that year where when those children aren't covered, they fall between the cracks and they could become victims. We're vulnerable; our children are vulnerable. And we don't want them to become statistics that are trafficked or murdered. So that is why I humbly come before you. And I thank my colleague and friend, Senator Patty Pansing Brooks, for having, as a member of the Children's Commission, the passion and the heart to say, let's do the right thing here and let's be "Standing Bear strong," and let's look out for all of Nebraska's citizens and our First Peoples, to make sure that those

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children have the support systems to stay out of the system. And those that were in, we're trying to get them to be full-fledged, productive human beings and be considered, like Standing Bear, that we are humans. And so with that, I say it's an honor to work on behalf of all of our First Peoples. And I'm so proud, this is my 24th year beginning as a director of the Indian Commission. And we continue to see that we are left out and we have to do this. So we're here to work with you to be a part of the solutions. And this is a good thing for all of us. So as we look at our families, our [INAUDIBLE] pays this. We say, I would just like to say, in my Ponca language, "Wi'Bthu," and thank you for advancing this bill forward and thank my dear friend for introducing that. And I would be happy to respond to any questions, but I believe that my tribal people behind me have more knowledge than I do on the details of such as the question on the court. So I would defer to them, and try to answer questions and bring you those answers.

HOWARD: Thank you. Are there questions? Seeing none, thank you for your testimony today.

JUDI GAIASHKIBOS: OK.

HOWARD: Our next proponent testified for LB849? Anyone else wishing to testify in support for LB849? Seeing none, is there anyone wishing to testify in opposition to LB849? Anyone wishing to testify in a neutral capacity for LB849? All right. Seeing none, Senator Pansing Brooks waives closing. Before she waives closing, I will read the letters for the record. Letters in support: Jason Feldhaus, Nebraska Children and Families Foundation; Juliet Summers, Voices for Children in Nebraska; Joey Adler, Holland Children's Movement; Lana Temple-Plotz, Nebraska Children's Home Society; Laura Opfer, Nebraska Children's Commission. No opposition letters, no neutral letters. And this will close the hearing for LB849. Thank you, Senator Pansing Brooks. All right. We will open the hearing for LB977-- if you have to leave, please do so quietly-- Senator Bolz's bill to change provisions relating to the case management lead agency model pilot project. Welcome, Senator Bolz.

BOLZ: Thank you. Good afternoon, Chairman Howard and members of the Health and Human Services Committee. For the record, I am Senator Kate Bolz; that's K-a-t-e B-o-l-z. Today I'm introducing LB977. LB977 would amend Nebraska Revised Statute 68-1212 and clarify the Legislature's expectation for the assessment that the Department of Health and Human Services is required to reform, to, to determine the readiness of any prospective lead agency contract provider for child welfare case

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management services in the Eastern Service Area. The bill would clarify that: 1) a potential case management lead agency contractor be assessed prior to the transition of cases; and that, 2) such assessment demonstrate that the contractor has achieved full readiness. LB977 would require that each condition of the subsection of the statute, which defines specific indicators for readiness, such as financial readiness and having a board of directors, is met prior to the assumption of any service provision responsibilities by such lead agency. It would further require that the director of the Division of Children and Family Services notify the Health and Human Services Committee of the Legislature when the readiness assessment has been completed, and provide assurance that the prospective lead agency has demonstrated full readiness prior to the assumption of service provision by the lead agency. I think that one of the things that I have been able to watch, over time, is how the lead agency has worked in the Eastern Service Area. I was running for office when some of the first changes happened, and have monitored some of the changes with the existing contracts on the Appropriations Committee, and followed the transition to St. Francis closely. I think some of our responsibility is to make sure that the lessons learned from the past are integrated into the best practices of the future. So what my observation, watching the private contractors' challenges back in 2012, was that the financial oversight and management of these contractors is very important to the overall success of the relationship and the partnership, and to the children themselves, and their safety and well-being. Contracts changed over time, and we've actually had to invest addition, significant additional resources in the lead agency contract, through the Appropriations Committee, over the past few years. So keeping an eye on the financial management of the lead agency contract is very important to me and very important to the safety and well-being of our kids. So this bill is intended just to clarify what the Legislature's expectations are, in terms of the readiness assessment, and provide us that peace of mind that things are taken care of before the responsibility for our children's, children transition. I asked for information when the transition was occurring last fall, and the transition actually started early. However, we received information from the Department of Health and Human Services that the readiness assessment, assessment wasn't fully complete. I received a letter that provided all of us with information about the examples of the completed items in the readiness assessment, the items that were in progress and the examples of future items or items needing attention. To be fair, I think that the transition happened reasonably well, and everything that I have heard has said

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that children are in safe care. However, I think we need to be clear, as legislators, what our expectations are. And my expectation as a legislator is that, when we make those transitions of our kids' health, safety, and well-being, we have the assurances we need to know that they are fully ready to take that responsibility on. So I hope I've been clear. I've passed around a fact sheet that summarizes my point of view, our point of view, and one small amendment that is, that is just a drafting error that, that clarifies a, a small technical change. So I'd be happy to have any dialogue with you or answer any questions.

HOWARD: Thank you.

BOLZ: I would also-- sorry. I would be also, also would be happy to share with you a copy of the letter that I received when the transition began, if any of you would like to see it.

HOWARD: Senator Arch.

ARCH: Thank you. Thank you, Senator Bolz. Is, is the readiness assessment-- I, I don't know how to ask this question exactly. Is the readiness assessment-- is it, is it a list of those things that must be included? Or is it actually a preprinted form that they need to go through?

BOLZ: Again, I think part of the purpose here is to clarify what everybody's expectations are, so the statute says, "The readiness assessment shall evaluate the organizational, operational, and program"-- be patient with me, it's a little bit long-- "programmatic capabilities and performance, including review of: The strength of the board of directors; com-- compliance and oversight; financial risk management; financial liquidity and performance; infrastructure maintenance; funding sources, including state, federal, and external private funding; and operations, including reporting, staffing, evaluation, training, supervision, contract mar-- monitoring, and program performing performance tracking capabilities." And then, have the ability to provide directly or by contract a local network of providers, and provide accountability for meeting the outcomes and performance standards. So there are a lot of things.

ARCH: OK.

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BOLZ: And, and the way they handled that was by developing a metric-- a, a matrix and checking through that matrix.

ARCH: OK. So we develop. The state, the state has the, has the ability to develop as long as it is-- as long as it has these components.

BOLZ: Yes.

ARCH: Thank you.

BOLZ: Um-hum. And I think I saw heads nodding that you would like to see the letter, so I will hand it to a page.

HOWARD: All right. Any other questions? Senator Hansen.

B. HANSEN: Yeah, thanks. Thank you, Senator Bolz. Just a quick question. When you, when they have to notify HHS or the, or the Legislature, does it have to be-- I don't think they'd be specific about how they notify, or does it even-- like do you think it really matters at all in statute, like notifying us in writing? Or is--

BOLZ: That's, that's maybe a good--

B. HANSEN: [INAUDIBLE].

BOLZ: --good clarification that the, that the notification should--

B. HANSEN: They could just like walk by--

BOLZ: --should be provided--

B. HANSEN: --and say: Hey, you know, we got it done; we're good.

BOLZ: --in writing or a report. I, I think, I think that's a fair observation.

B. HANSEN: Just curious.

BOLZ: Yeah.

B. HANSEN: Thanks.

HOWARD: All right. Any other questions? Will you be staying to close?

BOLZ: I'll stick around.

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HOWARD: Thank you. All right. Our first proponent testifier for LB977? Good afternoon.

JULIET SUMMERS: Good afternoon. Chairman Howard and members of the committee, my name is Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s. I'm here on behalf of Voices for Children in Nebraska, supporting LB977. Nebraska children coming into the care of the state through our child welfare system have already experienced abuse or neglect, and deserve a system structured at every stage to promote safety, well-being, and a thoughtful, yet timely, response. Every transition of authority in child welfare creates an opportunity for upheaval, lack of stability, and uncertainty in active cases, and considerations of state contracting should never trump ensuring that every child involved in this system has access to the services and support they need to remain safe and achieve timely permanency in a loving, permanent family. We support this bill because, should another transition in our child welfare case provision occur-- and it is our fervent hope, on behalf of the children and families receiving services in the Eastern Services Area, that the current contract will work well and there will not need to be further disruptive transitions-- it's imperative to ensure that a smooth transition occurs, so-- and that a new contractor be absolutely ready, on day one, to provide the needed services and oversight required. Some older research from the U.S. GAO indicates that transitions in case management affect children's safety and permanency. Staff shortages, high caseloads worker turnover impede progress toward achievement of safety and permanency outcomes. And though this research I'm referencing is actually specific to caseworker retention and recruitment within an agency, from experience I can tell you that the damage of transition occurs just as much or more in transitions between agencies as in transitions between individual workers within an agency. I was a practicing defense attorney in the years of the last transition in the Eastern Services Area, and so I saw firsthand how my clients' cases stagnated and suffered in the period of transition from one provider to another. Information was lost in translation between case managers and supervisory teams, supportive services in some cases had to be recontracted, and hearings sometimes were set back in the confusion. I am hearing from people right now, still working on the ground, that some cases are going through similar setbacks and even potential safety concerns. And without casting judgment on St. Francis, it's just simply a fact that children and families will inherently bear the costs of these types of system upheavals. And if we're going to have an outsourcing model of case management provision at all, the best

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that we can do, as a state, is to ensure that any agency seeking to take the reins is fully prepared to do so on day one. And I would add here, going a little bit to Senator Arch's question, that we know this contract is going to be up in five years. So we know that we're going to be facing potentially a period of transition again, or at least uncertainty in the bidding process. So while potentially beyond the scope of this Legislature's concern, sometime in those next few years I do think it would be a worthwhile venture to look at those factors that you were asking about, and that Senator Bolz outlined, and consider whether both, what's, what the Legislature is asking in the readiness assessment and, also, even in the bidding process, are the right questions in terms of ensuring stability and certainty for our kids in the system. So with that, I'd like to thank Senator Bolz and, as always, this committee for all of your efforts on behalf of Nebraska kids. And I'd be happy to answer any questions, if I can.

HOWARD: Thank you. Are there questions? All right. Seeing none, thank you for your testimony today.

JULIET SUMMERS: OK. Thank you.

HOWARD: Our next proponent testifier?

TIM HRUZA: Good afternoon, Chair Howard. Members of the Health and Human Services Committee, my name is Tim Hruza, last name spelled H-r-u-z-a, appearing today on behalf of the Children And Families [SIC] Coalition Of Nebraska, also known as CAFCON, in support of LB977. I'd like to thank Senator Bolz for introducing the bill. CAFCON represents 12 member organizations who provide child welfare and family services to families across the state of Nebraska. We have a-- I think it's 9 or 10 of our 12 providers provide services in the Eastern Service Area. We're obviously undergoing a period of transition since the contract decision by the state was made. Let me first start by being very clear that my testimony and my appearance here today is meant as no reflection of the way that that transition has gone. Obviously, as Ms. Summers testified, any transition period affects a number of different areas of the system, regardless of who the contractor is or who's providing those services. So I just want to be clear to the current provider, and to the transition process, and to the department's work that by all reports, many things have gone very smoothly in that process. We believe that, to the extent that children and families are working through a transition process, and to the extent that children's and family's safety throughout that transition is, is important, providing a readiness assessment and

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ensuring that it is completed prior to any transition, particularly with the possibility of a future transition, as well, is absolutely important. I think it's also our belief that the intent of the, the provision as it currently exists in statute, when you talk about a readiness assessment, is that it be completed prior to that transition taking place. And as I said, I think that great efforts were made to ensure a smooth transition. I think that a lot of things have been done very positively and been done well by both St. Francis and the department in that transition. But I think that requiring that the assessment be completed prior to, is one of the best ways to ensure a smooth transition and that children and families are taken care of as that happens, if it happens in the future. With that, I'm happy to answer any questions that you might have. And I thank you for your time and your support of LB77-- LB977.

HOWARD: Thank you. Thank you. Are there questions? Do all of your serve, member organizations that are serving families in the Eastern Service Area, do they all have contracts now?

TIM HRUZA: So my understanding is that we have-- oh, there's a conversation-- I think there are three that have signed contracts right now. There are a number that are still working with, or hoping to negotiate with St. Francis on certain aspects. I don't work directly for the organization, so I can't tell you specifically what services or contracts for services they're working on. But I do know that I think three of our providers have. There are another six that are-- do not have signed contracts right now. And then there's maybe one that I don't know for sure whether they provide services in the Eastern Service Area or not, so.

HOWARD: Um-hum, thank you. Any final questions? Seeing none, thank you for your testimony today.

TIM HRUZA: Thank you.

HOWARD: Our next proponent testifier for LB977? Seeing none, is there anyone wishing to testify in opposition? Good afternoon.

STEVEN GREENE: Good afternoon. Good afternoon, Chairwoman Howard and members of the Health and Human Services Committee. My name is Steven Greene; that's S-t-e-v-e-n G-r-e-e-n-e. And I am a deputy director for the Division of Children and Family Services within the Department of Health and Human Services here in Nebraska. I'm here to testify on behalf of the department, in opposition to LB977. As you might know,

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LB977 would amend Nebraska's statutes to require that a lead agency contracted to provide community based care for children and families demonstrates full readiness, as shown by the completion of a readiness assessment, before it begins to provide service, services. In 2019, the department was able to successfully transition child welfare services in the Eastern Service Area from one provider to another by carefully phasing in case management services over several weeks. This required significant coordination and cooperation between the incoming provider, the outgoing provider, and then the department staff themselves. The department felt strongly that this phased plan was the most prudent approach to transfer just over about 1,600 cases. Because-- and, and because of this, the new provider received approximately 100 cases a week for several weeks rather than 1,600 cases all at once. It should also be noted that not all these items on the readiness assessment have to be completed before providers start providing services in order to ensure a child's welfare. Some items in the, in that-- topics address covered in provide, provider proposals while others could safely be completed after transfer. The department is not opposed to notifying the committee when a readiness review is completed. The department regularly updated its readiness review matrix for ESA case management on our publicly-available website during the recent case transfer. The last update was made on December 30, 2019, and noted that the provider had fully completed the readiness assessment. Every decision the department made during this transition process focused on protecting vulnerable children and families. And it's important that the agency maintain its ability to execute any future transitions between case management providers without straining the child welfare system. Thank you for the opportunity to testify, and I'm here to answer any questions that you may have.

HOWARD: Thank you. Are there questions? Senator Walz.

WALZ: Yeah, thank you. Thanks for coming today.

STEVEN GREENE: Um-hum. Thank you.

WALZ: It says in your testimony this week that DHHS regularly updated its readiness review matrix for ESA case management on your public website.

STEVEN GREENE: Um-hum.

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WALZ: So my question is, is that actually a copy of the readiness assessment itself? Is that--

STEVEN GREENE: Yes.

WALZ: --something that we can see?

STEVEN GREENE: It is.

WALZ: The whole assessment?

STEVEN GREENE: And we'll be happy to provide the readiness assessment. But there's about 46 different components that made up the readiness assessment, and not only what it was-- how it was tracked, how it was verified, and then actually the input department staff that signed off on it. So it's, it's everything that we used internally that we would post regularly on the website as we were updating it.

WALZ: All right. Thank you.

STEVEN GREENE: Yeah. Um-hum.

HOWARD: Senator Arch.

ARCH: Thank you. Thank you for coming and testifying. I, I have a-- the, the question that came to my mind was, can't you just complete the readiness assessment and then start your phase-in? I mean, you wouldn't have to throw the switch and do it all at once. Couldn't you do it after you have completed your readiness assessment?

STEVEN GREENE: Well--

ARCH: Are there, I guess, are there elements that would prevent you from doing that?

STEVEN GREENE: Yeah. So there were, there was elements that were, that were tied to case transfer that was important for us to make sure that St. Francis completed prior to transferring cases, if that makes sense. And so it was important for us not to sort of backdate readiness-- completion of the readiness assessment, rather, that as they completed the requirements that were tied to the safety and well-being of a family in a case management, that those were completed. And then there was other, other case-- or sorry, readiness assessment requirements that were more global in scope, for instance, community stakeholder engagement meetings. So it, that, I think that's

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the point that in our testimony, that we're trying to support, is that having that phase-in ability allows us to transfer cases as part of the ready, the full readiness completion. Does that make sense?

ARCH: Thank you.

STEVEN GREENE: OK.

HOWARD: Other questions? I, I have just a couple of questions.

STEVEN GREENE: Sure.

HOWARD: I think I'll-- so I attended a community stakeholder--

STEVEN GREENE: Um-hum.

HOWARD: --meeting In December, and I'm curious because one of the concerns that I heard was that youth were being placed at Project Harmony, on an emergency basis, for three to five nights--

STEVEN GREENE: Um-hum.

HOWARD: --when they're not meant to be kept there. I won't ask you to comment on that because I'm certain that you're not able to, or--

STEVEN GREENE: Sure.

HOWARD: But I think that highlighted to me the need for a readiness assessment to say, OK, we don't have enough emergency placements. We need to build those up before we start taking on cases.

STEVEN GREENE: Um-hum.

HOWARD: Is there anything in the readiness assessment that would address making sure that there are enough emergency placements, such as not a Project Harmony--

STEVEN GREENE: Sure.

HOWARD: --obviously--

STEVEN GREENE: Right.

HOWARD: --but an emergency bed when you do a removal? Because we certainly don't want kids sleeping in conference rooms like--

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STEVEN GREENE: Right.

HOWARD: --we, we have that lawsuit in Kansas--

STEVEN GREENE: Right.

HOWARD: --around Appleseed. We really don't want that happening.

STEVEN GREENE: Right.

HOWARD: And we certainly don't want kids in unlicensed foster home placements--

STEVEN GREENE: Um-hum.

HOWARD: --in, on an emergency basis, regardless of the emergency. We want to make sure that they're in a safe place. And so what pieces of the readiness assessment would address that?

STEVEN GREENE: So I, I appreciate the question, and I think we agree that we want suitable placements for, for all children. There are-- if, if you'd be gracious, there's about 46 different requirements in the readiness assessment. Is it OK, rather than going through and trying to find the-- which ones that suit that specific question, if we respond, if we go through and then respond in a, in a subsequent follow-up to, to show which ones identified to that question about suitable placements?

HOWARD: Sure.

STEVEN GREENE: OK.

HOWARD: Absolutely.

STEVEN GREENE: All right.

HOWARD: And I mean, I know--

STEVEN GREENE: And I apologize. I just don't-- I want to give good information on that.

HOWARD: Yeah. And I know the emergency placements is something that--

STEVEN GREENE: Right.

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HOWARD: --we heard at the community meeting, that I think the community meetings could obviously start before the readiness assessment was complete.

STEVEN GREENE: Right.

HOWARD: And I believe they were started before the readiness assessment was complete. The other piece that I, I want to make sure is addressed in the readiness assessment-- and I think you can speak to this 'cause it's one of the first ones.

STEVEN GREENE: Um-hum.

HOWARD: And that's caseload size. So what we saw in the December report on caseload size was that, for ongoing cases, only 24 percent of them were in compliance with the statute.

STEVEN GREENE: Um-hum.

HOWARD: And so I think-- tell me a little bit about the readiness work that you had done in preparation for December, and help me understand how the caseload compliance was so low for that month, with the work that you had done with the readiness assessment.

STEVEN GREENE: So I will, I will just say that our caseload ratio currently is, is 17.5, so we're, we're, we're just right there, almost, with St. Francis being in, in sort of caseload compliance. So I think that's a--

HOWARD: Is that for ongoing or IA and ongoing?

STEVEN GREENE: I'll check. Yeah.

HOWARD: Yeah.

STEVEN GREENE: Sorry. Yeah. Related to how-- so I think one of the, one of the, the argument-- or not arguments, but one of the things that supports sort of our position is, when you, when we're allowed to phase in case transfer, it allows for, for the-- our team to come back in and make sure that the accuracy of case transfers, from one vendor to the next, is occurring in a seamless manner. Now I know that doesn't necessarily-- what's the word I'm looking for-- ensure that our caseload standards are, are completely up to date. But it does allow, and it did allow for St. Francis to manage their own staff hirings at a reasonable rate, so that as the cases we're transferring

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and as St. Francis was staffing with new employees, that, that it was being done in an, in an, in a ratio that was more, were, was closer to our caseload standards for, what, that are in statute.

HOWARD: I think this-- sort of the way that it had been portrayed to me--

STEVEN GREENE: Um-hum.

HOWARD: --gave me the impression that we wouldn't see a dip in those caseload--

STEVEN GREENE: Yeah.

HOWARD: --sizes. And then it sounds like-- well, it doesn't sound like it, we definitely saw that.

STEVEN GREENE: Um-hum.

HOWARD: And so I'm just curious about how the readiness assessment might interplay with those caseload sizes, 'cause we never want to see a caseload that's too big for a worker--

STEVEN GREENE: Right.

HOWARD: --to be able to manage those cases.

STEVEN GREENE: Yeah. And I think the readiness assessment, in part, just-- you know, I would, I would refer people to definitely check out the public website where you can view the readiness assessment. But it does have competencies for, you know, the case manager making sure that, that, that St. Francis is able to properly fill out paperwork. All those-- I mean, each one of those, you can't take it in an isolation. And, and, and we see it as they're all working together and, and not only helping promote a, a-- and complete a successful readiness assessment, but also with that caseload size, I think there's so many components that are interrelated, for lack of a better word. So I think that really-- how many components were involved, it kind of speaks to how we were trying to manage caseload size.

HOWARD: Sure.

STEVEN GREENE: Yeah.

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HOWARD: Absolutely, but then my last question relates to the readiness assessment and the computer systems--

STEVEN GREENE: Um-hum.

HOWARD: --because we know that PromiseShip had a fairly sophisticated case management system and that St. Francis went back to using the N-FOCUS system, which we know there are a lot of privacy concerns with that; we won't touch on those--

STEVEN GREENE: Sure.

HOWARD: --today. But for the N-FOCUS system, when we were considering the readiness assessment, it's-- it would be a matter then, of-- as, even as you were taking PromiseShip workers, you would have to train them on basically a new system, 'cause most of them hadn't worked in N-FOCUS.

STEVEN GREENE: Right.

HOWARD: And so can you talk to me a little bit-- and maybe in this follow up letter--

STEVEN GREENE: Um-hum.

HOWARD: --you'll be able to speak to sort of how the readiness interplays with preparing those workers to take those cases because, in that regard then, it wouldn't have been able to be really a seamless transition from PromiseShip to St. Francis, even if you had the same caseload, because you're not working with the same--

STEVEN GREENE: Right.

HOWARD: --computer system.

STEVEN GREENE: Right. And I know-- and I, and I will refer to the follow-up letter, but I will add that I know there was training that was provided for, or for St. Francis, my understanding, to help with sort of adapting to a new system that maybe they hadn't been familiar with, and so that there could be accurate recording in within the N-FOCUS system.

HOWARD: Wonderful. Thank you.

STEVEN GREENE: Yeah.

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HOWARD: All right. Other questions? Senator Cavanaugh.

CAVANAUGH: Sorry. Thank you. Thank you for being here today, Deputy Director Greene. So my biggest concern-- and I want to give you the opportunity to maybe address this from the department's standpoint-- is where the kids are.

STEVEN GREENE: Um-hum.

CAVANAUGH: And I'm concerned that we don't know where all the kids are, and that the kids aren't in safe placements under this current change. This happened fairly quickly, considering we are moving a massive ship from PromiseShip to St. Francis, and this LB977 looks to me to really give us more security around, are we doing our due diligence?

STEVEN GREENE: Um-hum.

CAVANAUGH: Because I understand that this is a massive project--

STEVEN GREENE: Um-hum.

CAVANAUGH: --but it's not one that we had to-- or a transition, but it's not one that we had to take; it's one that we chose to take. The Department of Health and Human--

STEVEN GREENE: Um-hum.

CAVANAUGH: --Human Services chose not to continue with PromiseShip and chose to do it on the time line in which they did it.

STEVEN GREENE: Um-hum.

CAVANAUGH: All of that was a choice. And what we are looking at in this bill is that we want to see more time and preparation put into these changes, because I'm concerned-- I think we all can say we're all concerned about these children. So could you speak to that piece of it?

STEVEN GREENE: I'm sorry, which, which piece? I'm sorry.

CAVANAUGH: Well, you're in opposition to this--

STEVEN GREENE: Sure.

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CAVANAUGH: --because of timeliness. But it's a timeliness--

STEVEN GREENE: OK.

CAVANAUGH: --that the department created.

STEVEN GREENE: So I, I think our opposition, again, is, is focused on-- having the flexibility to phase in a transition is important to a successful com-- sort of a total and successful completion. So as we, as we see, read the bill and understand that, that instead, as we phase in, transition and-- of over about 100 or so cases per week, that if the bill, as brought forward, would, would go to pass, then it would require us to complete a full readiness assessment prior to any cases or services being rendered, which for us would-- and for the system would mean that suddenly you have a large influx of cases versus sort of a gradual implementation over time. So for-- I think that's the, sort of the root of reason why we oppose it, is we want that flexibility, going forward, in any future transitions, if it was to be decided.

CAVANAUGH: So you want the flexibility. But with that flexibility, the department currently is rushing a very important process and they're rushing it because they've decided to rush it. So is that flexibility-- is the request for that flexibility warranted?

STEVEN GREENE: I think it's, it, we, we would prefer to have flexibility, as, as stated in our, in our testimony.

CAVANAUGH: Thank you.

STEVEN GREENE: Yeah.

HOWARD: Any other questions? Seeing none, thank you for your testimony today.

STEVEN GREENE: OK, thank you.

HOWARD: Our next opposition testifier to LB977? Seeing none, is there anyone wishing to testify in a neutral capacity? Seeing none, while Senator Bolz is coming up for her closing, there are two letters in support: Lana Temple-Plotz, from the Nebraska Children's Home Society; and Laura Opfer, from the Nebraska Children's Commission. No letters in opposition, no letters in neutral. Welcome back, Senator Bolz.

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BOLZ: Thank you. And thank you for your time and attention to this matter. I'll try to be brief, but there are a few points that I'd like to touch on. The, the first is-- if you'll, if you'll humor me for just one minute-- when the private contractors' system didn't work out the way that it should have, back in 2012, one of my jobs was to oversight a-- was to oversee it and then take an information line at Nebraska Appleseed, that included calls from families of kids in the child welfare system. And I'll never forget taking the call from a foster mom, and she said: I think my former foster child is failing band. And I said, well, that's a new one. I haven't heard that one before. How can I help you with that? We're a law firm. And she said that, because the transition had happened so quickly and so chaotically, he had accidentally left his clarinet behind. And so she knew that he couldn't pass band if he didn't have his musical instrument, and she did not know where to find him, how to get in touch with him, or how to get him his clarinet. That, that is the kind of situation that we should learn from, and that we should understand we should avoid chaotic situations and transfers. That was 2012. That was before the Ricketts administration or the Smith administration or many of the folks who are working on the child welfare assessment now. That is not a poor reflection on anything that happened this time around; it's a lesson learned. And so learning from those lessons, how do we make sure that we have the assurances we need, as legislators, that things are working smoothly for the kids in the foster care system? So the first point I'd like to make is in reference to the statement that none of, that none of the things that we're not yet ready were, were, were related to the health and safety of children. Fair enough, but I think the purpose of having the readiness assess, assessment in statute is, first, about the health and safety of children, but also about our responsibilities and our oversight, as legislators, in making sure that we're complying with rule, regulation, law, federal requirements, and financial responsibilities. So, so that's point number one. Point number two is that I think there was a distinction made about a-- providing the information related to the complete assessment. I think there's a difference between a complete assessment and a finding of full readiness. So you might assess my health today, and you might be able to provide a complete description of my health. That does not mean I am fully healthy. I wear contacts, I probably need a cavity filled, etcetera. So I, I think there's a distinction there. I also want to share that on October 11th, I requested additional information from the department about the status of their readiness, because I had heard that cases were going to begin to transition. I was very interested in this issue

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and was trying to keep up on what was going on. The transition date kept moving, so we needed to make sure we knew where those kids were and, and how things were going. When I asked for that information, I was provided a copy of the template rather than a copy of the assessment. So it was the template of the information to be filled in, the kinds of things that were to be assessed, not the actual assessment. So I think part of my ambition here is to clarify, make clear, make sure that future senators have the information they need, and have the assurances they need. The last thing I will say is that I think there is a big distinction between what is statutorily required and what the components of the internal assessment are. As I heard the Department of Health and Human Services articulate their point of view, what is most important is their ability to phase in a transition. I think that's fair. I think phasing in a transition could, could make a lot of sense and seemed to have worked pretty smoothly this time around. But I don't think that anything in the statutory requirements referenced in the bill would prohibit phasing in. So, you know, what-- for example, we have things like clarifying that there is a board of directors, and that there is financial liquidity, and that there are funding sources. None of those things seem to me to be, to be prohibitive of phasing in a transition of the actual responsibility of the cases. I am sorry to talk too long to you, HHS committee members. This is an issue I care a lot about. Thank you.

HOWARD: Thank you. Are there questions? Senator, Walz.

WALZ: I just have a question. Can you just tell me what happens-- and I hope this isn't a stupid question-- but what happens to children when a contract start date or the transition date is moved further down? What happens?

BOLZ: My understanding of what did happen is that those kids stayed in the oversight of PromiseShip for just a longer period and then transitioned later.

WALZ: OK.

BOLZ: And so I, I, I do not come to this table saying that I think any, any child was imperiled. That's not, that's not my motivation here. I think it's more about responsibility, oversight, and accountability.

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WALZ: OK. All right. Thank you.

HOWARD: Any other questions? Seeing none, thank you, Senator Bolz.

BOLZ: Thank you.

HOWARD: This will close the hearing for LB977 and open the hearing for LB1061, Senator Crawford's bill to change provisions relating to Alternative Response to reports of child abuse or neglect. Welcome, Senator Crawford.

CRAWFORD: Thank you. Good afternoon, Chairman Howard and members of the Health and Human Services Committee. 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. I'm here today to introduce LB1061 for your consideration. LB1061 is a bill about the Alternative Response program and noncourt cases within the child welfare system. And I'm passing out a diagram that we put together in our office to help us understand what parts of the system that we're discussing, and I hope it's helpful as we go through the conversation. Alternative Response is an approach to help families with less severe reports of child abuse or neglect to connect with supports and services they need in order to enhance the parents' ability to keep their child safe and healthy. It's an alternative to traditional response, which involves investigation by department officials and law enforcement, which may or may not involve the court system. In Alternative Response, no formal determination as to whether child abuse or neglect has occurred is made, and the subject of the report is not entered into the central registry child protection cases. Alternative Response provides a different approach to traditional child protective services responses when the risk to children is deemed to be low to moderate. In these cases, the goal of the AR program is to provide early intervention and services to at-risk families in order to prevent them from entering the court system. The intent is that cases in which there is deemed to be a low or moderate risk to children can qualify for Alternative Response. Exclusionary criteria, including physical and sexual abuse, prior reports of abuse, and instances resulting in serious injury help to ensure that more serious cases where the child's safety is at risk are placed in traditional response and are investigated. When a report comes to the DHHS hotline reporting child abuse or neglect, it is screened and then assigned to one of three pathways: Alternative Response, referral to the Review, Evaluate, Decide Team or the RED Team to determine if the case is eligible for Alternative Response, or traditional response.

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The department uses exclusionary criteria to determine which cases can be assigned to Alternative Response, which should be referred to RED team, and which cases are ineligible and thus referred to traditional response. RED Team cases are determined then after further review, to be either eligible for Alternative Response or ineligible and referred back to traditional response. Those cases not screened out as ineligible are referred to Alternative Response and undergo a comprehensive assessment during which a social work approach is used to connect the family to the resources that they need to safely care for their children at home. Those cases that are ineligible for Alternative Response are investigated as part of traditional response. Following investigation, the case goes down one of three pathways: The case is filed in court; the case is closed; or the case is kept open as a noncourt involved case in which the family voluntarily participates in child protective services. The lack of clarity and definitions around what constitutes "noncourt" case and the lack of regulation and oversight in this area and for AR cases has increasingly become a cause for concern. LB1061 contains several measures to help correct these issues and removes a sunset date to allow the state of Nebraska to continue an Alternative Response approach to child welfare. Now for a little history. Nebraska's Alternative Response program was first created as a pilot program by LB853 in 2014 after DHHS was granted a five-year federal waiver to implement the project. That pilot expired and required legislative authorization for renewal. I introduced LR544 in 2016 to examine the effectiveness of the pilot project that had been created in 2014 to determine whether it should be renewed or extended indefinitely-- indefinitely. As a result of that study in 2017, I introduced LB225 to renew Alternative Response and set the current sunset date for the program, which is December 30, 31, excuse me, 2020 and authorized DHHS to complete the evaluation and statewide expansion requirements necessary to maintain compliance with the enabling federal Title IV waiver. Now that the current sunset date approaches this year, the Legislature must now reauthorize the program in order for it to continue. When I began working on legislation to remove the sunset date and reauthorize AR, I heard from child welfare advocates about problems in the "hidden foster care" system that were arising from the use of informal living arrangements in noncourt voluntary cases. The Health and Human Services Committee introduced and held a hearing on LR239 this fall to examine noncourt-involved cases in the child welfare system. At that hearing, you heard compelling testimony from the Foster Care Review Office and other chilled-- child welfare agencies and advocates about concerns relating to the lack of

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regulation and oversight of voluntary informal living arrangements. These included concerns about the voluntary nature of the arrangement, the legal rights of parents and caregivers, the safety of the placements, the lack of services and supports provided to children and families in noncourt involuntary living arrangements. In discussing the issues I heard with advocates, it was decided that we could accomplish the update of AR along with updates and definitions around noncourt cases. That's why I'm presenting LB1061 today. Its objectives are twofold. One is to eliminate the sunset date to authorize the department to continue using Alternative Response while keeping proper safety guard-- guardrails in place; and two, to accomplish some of the necessary related updates to the noncourt child welfare system. The list of concerns associated with our current weaknesses in our statutory and regulatory framework guiding these cases is long. And in interest of time, I will save most of those details to be shared by our child welfare advocates who are here today to testify. As a result of hearing these concerns, we turn to our child welfare advocates to help us understand what areas of statute and regulation needed to be clarified within the current system. LB1061 is a product of those discussions and was developed with a consensus from the Foster Care Review Office, Voices for Children, the child advocacy centers, Appleseed, and provider groups. Additionally, we worked with the county attorneys and the Department of Health and Human Services prior to introducing the bill and made a variety of changes that both of these groups requested. Over half of our child welfare cases are now noncourt-involved cases or Alternative Response cases, and these have been operating without sufficient statutory or regulatory standards. With this shift toward increased noncourt and alternative handling of cases, there is a need for us to set statutory parameters now to protect these kids. Alternative Response has been demonstrated to yield positive results, and the department has expressed a desire to eliminate the sunset and continue the program indefinitely. LB1061 accomplishes this change while reinforcing Alternative Response and noncourt-involved cases with clear definitions, parameters, regulation, and oversight to ensure all children are being served outside the traditional well-- child welfare system are safe and well cared for. Specifically, LB1061 makes the following changes. It eliminates the sunset for the AR program. It provides clear definitions and parameters for report response pathways, Alternative Response, RED Team, traditional response, or dismissal. It defines noncourt case, which is a traditional response case in which the family voluntarily participates in child protective services without a court filing. It defines child advocacy centers, relative and kin

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caregivers and their roles and strengthens definitions of other terminology. It removes old language pertaining to Alternative Response pilot projects. It creates an advisory committee for the for Alternative Response under the Nebraska Children's Commission. It puts ineligible-- ineligibility criteria for Alternative Response and RED Team criteria in statute to help ensure that only lower-risk cases qualify for Alternative Response. It clarifies procedures for processing of reports and investigation under traditional response. It provides for rights and notification to parents of children in noncourt out-of-home placements. It requires cases routed to traditional response as a result of ineligibility criteria to root-- to be reported to the county attorney or law enforcement. It provides for temporary parental authority for kin or relative caregivers to help the caregiver have the authority they need to provide care. And it encourages DHHS to provide resources to kin caregivers and requires DHHS to connect kin caregivers to available government assistance programs. And finally, it requires DHHS to adopt and promulgate rules and regulations consistent with the bill by July 1, 2021. And I will also say in-- we've also had conversation with the Nebraska Children's Commission about the responsibility granted them. And one of their requests was that we consider an amendment that I'll share with the committee later eliminating their psychotropic drug responsibilities, which they feel they've already met and is no longer needed. So that will be something I'll share with the committee later. So those are the changes that are in LB1061 and I appreciate your attention and would be happy to try to answer your questions.

HOWARD: Thank you. Are there questions? Will you be staying to close?

CRAWFORD: I will, yes.

HOWARD: Senator Arch, did you have a question? OK.

CRAWFORD: OK. Thank you.

HOWARD: All right. Our first proponent testifier for LB1061. Welcome back.

STEVEN GREENE: Thanks. It's always nice to be on this side of it. Good afternoon, Chairwoman-- Chairwoman Howard and members of the Health and Human Services Committee. My name is Steven Greene, S-t-e-v-e-n G-r-e-e-n-e, and I am the deputy director for the Division of Children and Family Services for the Nebraska Department of Health and Human Services. I'm here to testify in support of LB1065 [SIC]. This bill

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would, among other things, make changes to the Alternative Response program, including-- including removing the sunset date and permitting the department to use AR on a continual basis after December 2020. The department would like to thank Senator Crawford for sponsoring this legislation and bringing forward-- it forward for discussion today. The department supports this bill. And one area I'd like to comment on is how the department can continue to use Alternative Response. Alternative Response is one approach the department uses in response to alleged child abuse and neglect not involving physical abuse or neglect resulting in serious bodily injury or sexual assault. It is used only when family-- with families assessed to have a low to moderate risk of future abuse or neglect. Many of these families are reported because of concerns about physical neglect. AR differs from noncourt-involved traditional response-- and this is important-- in that it treats parents and other caregivers as partners. Community resources that reflect each family's unique needs and strengths are identified and utilized. No one is labeled a perpetrator or a victim, no findings of abuse or neglect are made-- are made, and no one is listed on the central registry. AR, as it was discussed by the senator prior to this, includes protections for-- for children. Before a case is assigned to AR, it is screened against 22 exclusionary criteria, including certain physical abuse and neglect, sexual assault, child fatality, and more. Once these issues are ruled out, cases are then screened against-- screened against eight additional criteria, including receipt of AR. Cases that meet one or more of the eight criteria are not necessarily excluded, but they are only eligible for AR if four child welfare professionals at the supervisory level or above unanimously agree that cases should be handled through AR. Caseworker subsequent meetings with family members-- family members can also lead to a case being removed from Alternative Response. LB1061 would codify certain criteria that DHHS currently uses in determining whether a case is suitable for Alternative Response. Just of note, we sent out a press release yesterday with the evaluation that was completed at the end of last year. That's on our website as well. But just to highlight some program data that shows Alternative Response strengthens families, thereby reducing the likelihood of future abuse and neglect. Between 2014 and 2019, nearly 6000 families that met the criteria for participation were randomly assigned either to AR or to traditional response. Only 31 percent of families assigned to AR had a subsequent accepted intake within 12 months, compared with 44 percent of families assigned to traditional response. Similarly, only 1 percent of Alternative Response families had a chance or had a child placed in out-of-home care within six months, compared to 5.2

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with traditional response. Surveys of Alternative Response participants conducted as part of a March 2017 interim evaluation suggested also that the program works. Over 60 percent of surveyed caregivers felt they learned skills or received services through Alternative Response that helped them become better caregivers, increase safety, or provide necessities. So again, I'd like to thank Senator Crawford for working with us and the department to make sure we are able to provide a great Alternative Response program to the vulnerable families and families that we serve here in Nebraska. We would respectfully request that the committee supports this bill and moves it to the floor for full debate. And I'm here to answer any questions that you may have.

HOWARD: Thank you. Are there questions? Can you later share with us the list of the exclusionary criteria?

STEVEN GREENE: Yes,

HOWARD: I think that would be helpful. Maybe you could give us some examples of the exclusion criteria--

STEVEN GREENE: Yeah.

HOWARD: -- off the top of your head.

STEVEN GREENE: Yes. So sexual assault would be one of them. The death of a child would be another. If you give me a second, I will-- I have it. I-- I thought that might be asked so I'll give some examples: domestic violence involving a caretaker and the alleged perpetrator has access to the child or caretaker would be another example. But right, there are 22--

HOWARD: Yeah.

STEVEN GREENE: --different exclusionary criteria that we'll be happy to provide.

HOWARD: Thank you. Further questions? All right. Seeing none, thank you for your testimony.

STEVEN GREENE: Thank you.

HOWARD: Our next proponent testifier.

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JULIET SUMMERS: I get to be on the same side as the department. Good afternoon, Chairman Howard, members of the committee. My name is Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s. I'm here on behalf of Voices for Children in Nebraska to support LB1061. Our state systems should be structured to ensure that every child can grow up safe, healthy, and valued, and that our response to child maltreatment should be transparent and clear. Voices for Children has long been a supporter of Alternative Response and the Department of Health and Human Services' efforts to serve more children in their homes in noncourt cases, keeping them safely with parents or extended family wherever possible to avoid the trauma of removal and the damage that foster care placement itself can do to families and communities. We support LB1061 because as our state moves toward fewer court-involved child welfare cases and more Alternative Response and noncourt cases, this bill would provide a clear and understandable statutory framework for this side of our child protective system. We applaud the department's efforts to move toward right-sizing our foster care system, changing Nebraska from a culture of when in doubt pull them out to a state where we recognize how damaging the breakup of families can be for children and prioritize efforts to keep families intact without resorting to court involvement and removal. Attached to my testimony on the third page is a page from this year's Kids Count report with data on child welfare entries and involvement. And as you can see, there's been a marked trend toward noncourt entries in recent years. In 2018, about 3,500 children entered the child welfare system through a noncourt case, and only about 1,900, almost 2,000 entered through a court case. I'll also add that on the wonderful flow chart Senator Crawford's team made for you I do have 2018 numbers I wrote down for myself for each of these different categories. I won't go through them with you unless there are specific questions about that, except to say that of the-- those-- the noncourt side of the system, only 663 went to Alternative Response in 2018. So it is a much smaller fraction still, although that has been increasing each year. Broadly speaking, this is beneficial for kids and communities. Noncourt cases without removal are supported as a best practice and aligned with the federal government's Family First Act, which can provide matching federal funds for supportive evidence-based services. It can also unclog our busy juvenile courts to ensure that hearings are adequate and timely for the cases that need to be there. However, as with any part of our child welfare system, we have to ensure that each child is safe, that every family is receiving the services and support they need to maintain that safety, and that parents and guardians understand what their legal rights are in relation to the government

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involvement in their home life. You can also see on that data page that in 2018 there were 1,871 children who entered foster care, so who were removed, who had had prior involvement in the system. The family's needs hadn't been met in the first go round to adequately maintain safety for those children. So we support LB1061 as the work of a collaborative group of stakeholders to create a beginning statutory framework for this side of our child welfare system that is increasingly utilized. We believe it will provide for greater transparency and accountability in noncourt and Alternative Response cases while supporting our department in managing risks in the family home where possible to avoid that traumatic harm of removal. Senator Crawford already laid out for you all the things that the bill does. So I won't go through them here again with you except to say that we support them all. And we are confident that these provisions will provide a sound statutory framework for the protection and care of children in Alternative Response and noncourt cases. I would like to thank Senator Crawford and her team for their hard work and their patience. They put a lot of time into this bill and care as well as all of the collaborators who offered input on it and also, of course, this committee for your time and your attention to these important issues for kids. So I'd be happy to answer any questions about the data or particular provisions of the bill, if you would like. But I would respectfully urge you to advance LB1061.

HOWARD: Thank you. Are there questions? Seeing none, thank you for your testimony today. Our next proponent testifier. Good afternoon.

IVY SVOBODA: Good afternoon, Chair Howard and members of the Health and Human Services Committee. I'm Ivy Svoboda, I-v-y S-v-o-b-o-d-a, the executive director of the Nebraska Alliance of Child Advocacy Centers. The Nebraska Alliance is dedicated to enhance Nebraska's response to child abuse and neglect throughout our 93 counties. The Nebraska Alliance is the state chapter as referenced in this revised version of the bill. I testify in support of LB1061 on behalf of our seven child advocacy centers across the state. Thank you to Senator Crawford with working with the Nebraska Alliance on this bill and other collaborators. And thank you to the Legislature for your longstanding support of the child advocacy center model. As Senator Crawford's handout displays, LB1061 offers a clear pathway for reports of child abuse or neglect. The Nebraska Alliance supports LB1061 because we want to ensure the exclusionary criteria outlined for Alternative Response exists to delineate between the various tracks. Reports that distinctly need a traditional response are identified by

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the way of this exclusionary criteria for those cases seen at a child advocacy center, for instance. Our community-based child advocacy centers are charged with first providing high-quality trauma informed services to assist with the investigations of child abuse and neglect. Such cases include children alleged to be victims of sexual abuse, human trafficking, serious physical abuse or neglect, children who have witnessed a violent crime, or are found in drug endangered environment, and also those that have been-- that have been recovered from kidnappings. In addition to the investigative services, our child advocacy centers are charged with assisting in the coordination of local multidisciplinary child abuse and neglect investigation and treatment teams. Team membership is outlined in the handout that I provided. In addition to-- in that handout, it shows the types of cases that each investigative team and treatment team review. It is important to note that although county attorneys, law enforcement, and child advocacy centers have access to all child abuse and neglect reports, we aren't readily provided notification on the reports outside of the traditional response. Therefore, this-- there is this access, yet no notification of the reports that go down the track for Alternative Response reports that are reviewed by the RED Team, the read [SIC], Evaluate, and Decide Team, and those reports that are deemed as no action required. Child advocacy centers affirm that children and families deserve high-performing child protection and child welfare services. These systems use research, track, and monitor data and openly share information so that improvements can be made for our children and families. The Nebraska Alliance looks forward to the continued work with the Department of Health and Human Services, law enforcement agencies, and county attorneys in a response that supports children and families. We also appreciate the opportunity to serve on the Nebraska Children's Commission Alternative Response Advisory Committee. Thank you for your consideration and I urge the advancement of LB1061. I'd be happy to answer any questions.

HOWARD: Thank you. Are there questions? Seeing none, thank you for your testimony today. Our next proponent for LB1061. Good afternoon.

KATHERINE BASS: Good afternoon, Chairperson Howard and members of the Health and Human Services Committee. My name is Katherine Bass, K-a-t-h-e-r-i-n-e B-a-s-s. I'm the research director for the Foster Care Review Office and I'm here to provide testimony in support of LB1061. The FCRO is an independent agency responsible for the oversight of children in out-of-home care as defined by Nebraska statutes. The FCRO meets its advice or its statutory duties both at

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the individual case level through completing a case file review process and at the system level through the use of our data and recommendations. The most recent FCRO quarterly report was filed on December 1, 2019, and is available on our website. Attached to my testimony is the report we presented for LR239 regarding noncourt child welfare cases. As stated during that hearing, Nebraska's child welfare system should have evidence-based assessments to evaluate safety and risk, a child welfare model that specifies levels of interventions needed based on the safety and risk levels, services available statewide at every level to meet the needs of these families, an independent third-party oversight to ensure requirements are occurring appropriately. LB1061 addresses many of these concerns. Under Nebraska statutes, the FCRO has the legal authority to review all children and youth in the child welfare system that are placed outside of the parental home, whether due to a court order or voluntarily by a parent. We also review DHHS wards who were placed outside of the parental home pursuant to a court order and have since returned to the care of the parent while remaining a state ward. I've included the Nebraska definition of foster care from statute here, but I'm going to kind of move on from there so that we can get through everything here. I'm here specifically to talk about the approved informal living arrangements or the AILAs that occur when a family is involved in a noncourt voluntary case with DHHS CFS. And as part of the safety plan, the parent places their child or children with a relative or friend. The previous administration for DHHS CFS made a policy decision for many years that AILA would not be used. The previous thought process was that if children were unsafe in their parental home, then court involvement was needed and not a voluntary placement made by the parent. In May of 2018, that policy changed with DHHS CFS through the creation of Policy 2-2018 dealing with the process of initial assessment. As was stated in October at the LR hearing, there were many obstacles to the FCRO receiving the information on children living in approved informal living arrangements through the department. We are working with DHHS, but there are still issues with receiving accurate data. Our data currently indicates that there are 150 children living with a relative or kin through an approved informal living arrangement. However, when examining the quality of the data, we know that, one, not all children in AILAs are being reported to us correctly, and that, two, some of the children have actually returned to their parents' home and that return has not been reported to us correctly. Based on the FCRO reviews that we conducted in February and August of 2019 of children in AILA placements, we outlined several concerns in our testimony to

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the HHS Committee in October and also in our quarterly report in December. Today, I will highlight the concerns that are addressed by LB1061. One is the legal right of parents. A lack of due process, legal support and advice to parents is a major concern of the FCRO in AILA cases. Most parents do not welcome DHHS or court involvement, so they feel like they're getting a great deal when they're offered an AILA. The problem is that they lack the legal knowledge of their rights and options. LB1061 outlines parents' rights when children are in approved informal living arrangements and requires DHHS to provide written notice of rights to all parents involved in noncourt-involved cases. The department is also required to promulgate rules and regulations for appeal of any department action in a noncourt-involved case, further protecting the rights of parents, children, and caregivers. We are also concerned about support for AILA placements. Families that agree to an AILA placement are providing a service that's comparable to foster care. The main difference is that they are not being compensated and may lack the support they need to care for the child or youth in their home. Out of the 56 reviewed children in August, we found only 1 instance where the placement was receiving monetary support and just 15 where the placement was receiving nonmonetary support. LB1061 requires DHHS to notify a caregiver if they're eligible for the child only Temporary Assistance to Needy Families program and any other public benefits that they may be eligible. We also were concerned about support for child well-being. As it shows in the figure in my testimony, about a third of the children who were in AILA placements had behavioral health concerns and this would allow for that facilitation of services for those children. The FCRO agrees that children should remain with their parents if it's safe to do so, and we further agree that many situations involving a family do not need to be filed with the court system and families should receive voluntary services. LB1061 provides the framework to clarify and define appropriate use of voluntary services while making needed progress to ensuring safety for all children who come to the state's attention. If the committee requires further data from the FCRO, I'm happy to provide that on this or any pending legislation. And I'm happy to answer any questions you may have.

HOWARD: Thank you. Are there questions? Seeing none, thank you for your testimony today. Our next proponent testifier for LB1061. Good afternoon.

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SARAH HELVEY: Good afternoon again. 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 for the child welfare program at Nebraska Appleseed. Ten years ago, Nebraska had the highest rate of children in out-of-home care per capita of any state in the country. Since then, the pendulum has swung. And as you've heard, today we have about the same number of children in what's been called hidden foster care as we do children in cases formally filed in juvenile court. Appleseed is generally supportive of the approach of providing assistance and support to families without unnecessarily bringing them into the formal child welfare system. However, this hidden foster care system has been operating without any statutory authorization or guidance for noncourt-involved cases. And earlier this year, the department repealed numerous existing regulations related to Alternative Response. Therefore, we strongly support LR-- sorry, LB1061 because it would establish needed criteria and standards for AR and noncourt-involved cases and protect the legal rights of children and parents in these cases. I won't go through the specific provisions either because Senator Crawford was able to do that in her opening, but we're supportive and we're thankful to be part of a coalition of stakeholders that worked together to provide input on this bill. And we believe families who come to the attention of our child welfare system deserve to be supported and have their rights protected. This bill would put basic structure into our state statutes, and this will impact thousands of children and families who currently come into contact with the system without a clear process. We just want to mention that a recent national report by Child Trends found racial disparities in kinship diversion practices with white children being diverted to kin at a significantly higher rate than African-American children. Not only do we believe LB1061 is legally necessary, but we all are also hopeful that it will be a step toward a more fair and equitable system. Again, we want to thank Senator Crawford and the committee for your ongoing commitment to improving the child welfare system. And I'm happy to answer any questions.

HOWARD: Thank you. Are there questions? Seeing none, thank you for your testimony today.

SARAH HELVEY: Thank you.

HOWARD: Our next proponent testifier for LB1061. Good afternoon.

CINDY KWIATKOWSKI: Good afternoon, Senator Howard and members of the Health and Human Services Committee. My name is Cindy Kwiatkowski,

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C-i-n-d-y K-w-i-a-t-k-o-w-s-k-i. I am a grandparent raising a grandchild in Omaha, Nebraska. I'd like to say that I approve of LB1061 as it does a few important things to give structure in state law. It adds definitions for the terms kinship caregivers, noncourt-involved cases, and relative caregivers. It puts into statute the process for Alternative Response, including what can be allowed and what cannot be allowed. It creates an advisory committee of the Nebraska Children's Commission to have oversight over these cases, which I truly believe is fantastic. It includes when a temporary living arrangement is to be used and discusses the role of kinship caregivers and how they can be supported by the Department of Health and Human Services. It also requires that parents are notified of their rights in these cases. Having said that, I do have a couple of concerns with wording and some content in the part about parents' rights that I believe should be investigated, clarified, or defined further. On page 15, Section 6(a) it states "A parent shall have the right to have his or her child returned to such parent's home upon demand unless the child is seriously endangered by the child's surroundings and removal is necessary for the child's protection." My first concern is what constitutes "seriously endangered" to one person may not be the same to someone else. I've heard through the grapevine that a document is being created that will clarify that term "seriously endangered." I would like to make note that this clarification document, if it's not already created, is needed and should be looked at by the advisory committee to ensure understanding. Also on page 15, Section 6(b) it states: The kin caregiver or the relative caregiver shall have temporary parental authority to exercise powers regarding the care, custody, and property of the child, except the power to consent to marriage and adoption of the child and for other limitations placed on the delegation of parental authority to the caregiver or the relative caregiver by the parent. My issue is with the second part of the station-- statement, I'll read it again: for the other limitations placed on the delegation of parental authority to the kin caregiver or the relative caregiver by the parent. What does that statement actually mean? What rights and how will these rights be used in practice? And again, we're talking about cases where the child has been temporarily placed out of the home. As a layperson, this implies to me that the parents can enact whatever limits or rights they so choose. I have an example of how a statement like this has been applied in an actual case. When our grandson who was 4 years old was placed with us, our lives were turned upside down. Both my husband and I worked 8-5 jobs in offices outside the home. We were empty nesters, so we didn't have any childcare. We quickly had to

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find a babysitter. We were lucky enough to have a trusted, loving neighbor that ran a small daycare across the street from us. She was willing and able to take him in. He loved it there and he knew her from previous being over there and playing. Then about two weeks later, our grandson's mother was informed of her rights, which included the ability to choose his daycare, his school, and which doctor to go to. She promptly texted, stating, and this is a direct quote, Now that I know I have these rights, I'm going to make your life a living hell so you will give my son back to me. She said this as if she believed we actually had the option or ability to return him whenever we wanted. His mother was homeless at the time and not stable. At the time, we lived near 156th and Dodge in Omaha. The childcare she chose for him was near Fremont. The doctor she chose was in Council Bluffs, Iowa. And once he turned 5, the kindergarten she chose was in Bellevue. She had never been to any of these places, so those choices were not about consistency or even near where she lived. They were about inconveniencing us. We were told by the caseworkers there was nothing they could do because these were her rights, as stated by the laws in Nebraska. We were forced to get up very early each day to drive all over the place in order to get our grandson to places where he needed to be and get back to work. If he was at a daycare and needed to go to the doctor, it was an hour drive just to get there. The point is that in many of these cases where the children are removed, the parents and kinship caregivers do not always get along at all times. Children do not normally get taken away from stable, average families. There are histories with mental instability and severe drug use. Common sense and practicality may not come into play when parents are enacting these rights. In actuality, the laws make it easier for these parents, who really are not of sound mind, to wreak havoc on their caregivers and their own children. There needs to be something written in the law to prevent parents who are mentally unstable or on drugs to be able to enforce their choices that are detrimental to their children and those caring for them. The caseworkers and others that are applying these laws need to be able to have the ability to stop the parents from having the right to enforce choices that really do not make sense. At the very least, let's allow for a committee to look at the situation and help enforce a better decision for the children if the caregiver and parents do not agree. Thank you for listening. And if you have any questions, let me know.

HOWARD: Thank you. Are there questions? Seeing none, thank you for your testimony today.

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CINDY KWIATKOWSKI: Thank you.

HOWARD: Our next proponent testifier. Seeing none, is there anyone wishing to testify in opposition? Good afternoon.

CHRIS TURNER: Good afternoon. Good afternoon, Chairwoman Howard, members of the Health and Human Services Committee. My name is Chris Turner, C-h-r-i-s T-u-r-n-e-r. I'm the chief deputy of the juvenile division of the Lancaster County Attorney's Office. And I'm here today testifying on behalf of the Nebraska County Attorneys Association. While we greatly appreciate the work of Senator Crawford on this issue and her consideration of our input prior to introducing this bill, our association does oppose LB1061 as written. As county attorneys, we have an obligation to ensure the protection and safety of children. Prosecutors are certainly passionate about that responsibility, and we recognize that child welfare takes a coordinated effort between the Department of Health and Human Services, law enforcement, child advocacy centers, and county attorneys. When allegations involve serious risk, that coordinated effort is best accomplished from our perspective through a traditional response at the time that allegation is made to the DHHS hotline. LB1061 will affect this critical point of entry into the system and decisions made by the department as to whether a traditional or an Alternative Response is utilized. As we outlined in our letter, the association is concerned that without additional safeguards, not presently within LB1061 that children at serious risk of harm due to domestic violence, drug use or, repeated neglect may not receive the oversight necessary to ensure their safety. Regarding that oversight piece, I think some of the other testifiers have touched on that and the trends within Nebraska that relate to court filings. I think across Nebraska there's multiple jurisdictions, including my own in Lancaster County, that have seen a dramatic decrease in court filings for abuse/neglect cases. In Lancaster County if we compare ourselves to four years ago, our abuse/neglect filings in juvenile court are down about 50 percent. And certainly there are some positives to that. But there's also a lot of concern for someone like me that can see some of the cases that are not getting that court oversight. If we look at why is that reduction so significant, I could point to our own statistics that we keep to a point in time in August of 2017, where prior to that day we would see about 11 referrals per month that the Department of Health and Human Services would deem necessary for court oversight because of the allegations, because of the response by the parents, or their ability to work through the services being recommended. So it went from 11 per

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month around August of 2017, since then, about 4 per month. And so law enforcement are now reporting those cases directly to the county attorney's office. Sometimes it's medical providers, hospitals directly reporting those instances when they feel children aren't being properly cared for, supervised. In cases involving the department, now we're seeing some of that. So that's where our concern comes regarding additional oversights. Through our letter, you will see that we do urge consideration of the following as it relates to LB1061. First, additional-- additional language that would include a comprehensive statewide drug testing policy that would allow DHHS caseworkers to utilize the valuable tool of drug testing to ensure a parent's sobriety when children have been drug exposed. I would just briefly kind of summarize the case that my office dealt with in the last week on this issue. Last week, my office did file for an emergency removal of three children that had been-- included allegations of the parent exposing their children to methamphetamine and drug paraphernalia within the home. That parent was arrested for drug possession. A voluntary case began and that happened in November of 2019. The family again became to my attention through law enforcement contacts with the parent just recently, and that eventually led to law enforcement seeking removal of one of the children. The court did make a finding this week in that case, and I'll quote that: Despite the mother's acknowledgment of use of controlled substances and her own request to drug test NDHHS failed to provide drug testing to the parent, access to any recommended treatment, or testing of the children to determine possible exposure to controlled substances, end quote, The quote then-- the court then found that the department had failed to provide reasonable efforts through that noncourt case to prevent the removal of those children. It then ordered that the department had to provide drug testing, had to provide drug testing of the children to see if they had been exposed and also ordered that the department provide the treatment services that the parent was requesting. Second, through our letter, we are asking that consideration be given to excluding from Alternative Response cases that involve children exposed to domestic violence, drug abuse, or repeated substantiated neglect. Under the current language that is being proposed, there could be cases that would be allowed to proceed through Alternative Response that have had parental rights terminated in the past due to their repeated neglect of their children, failure to correct adjudicated issues in court-involved cases, or their habitual use of controlled substances. In those instances where Alternative Response was allowed, there would be no oversight from the courts. There would be no oversight through

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the county attorneys, through our function using-- utilizing noncourt NDTs in our communities. Our third consideration that we ask you to consider is excluding from Alternative Response those cases involving abandonment or alternatively not requiring that abandonment occur for a period longer than six months before becoming ineligible for Alternative Response. And finally, we would encourage wherever possible the inclusion of our state's child advocacy centers in legislation such as this. We rely upon them heavily as county attorneys to not only monitor, but communicate with us about intakes that they're seeing in our jurisdictions. I appreciate you giving me the time to testify today. I'd be happy to answer any questions.

HOWARD: Thank you. Are there questions? I want to ask you about the drug testing because we had an interim study hearing on drug testing. I don't remember if the county attorneys came to that.

CHRIS TURNER: I did.

HOWARD: You did. OK. And then have you worked with Senator Slama since then about introducing legislation specific to drug testing since then?

CHRIS TURNER: Not to my knowledge, no.

HOWARD: OK because I-- reading this bill, this seems like a new issue for this bill. And so it wouldn't be appropriate for us to put it in here. Or if you really wanted it, we would have to publish an amendment and then have a second hearing sort of public-- it would be like a new bill. This is a new subject. So I think that would be quite challenging for Senator Crawford to manage. I don't know. Have you worked with any other senators to try to get this bill, this type of bill moved forward?

CHRIS TURNER: I would have to communicate that with the rest of the legislative committee, with the County Attorneys Association before I could give you an answer.

HOWARD: Yeah, I think this just presents a real challenge because I think we all agree that the drug testing issue is an issue, but that's not the question that we're dealing with in LB1061. The other question that I had was around and I agree with you that we need to really look at the Alternative Response exclusionary criteria. Right? Can you help me understand the definition of abandonment in state statute?

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CHRIS TURNER: I think that there is not a, an extremely clear definition. There's some-- some case law that sheds light on it when we use the term abandonment in the phrase of termination of parental rights, where it talks about essentially proclaiming through your actions or through your deeds that you no longer intend to have a relationship with that child. You're not providing care. Things like money, food, birthday cards, communicating, having phone calls, all of those kind of failure to perform typical normal parental duties would be evidence in support of abandonment. I mean, oftentimes, though, when we see those cases where I think it's a cut and dry abandonment is a parent has left their child with another person and made no accommodations and is not responsive to attempts to contact the parent, whether it's just for regular communication or seeking out, you know, medical, ability to get their kids enrolled in daycares and education, those things.

HOWARD: And do you know, do the abandonment statutes for the state sit sort of-- which section of law do they sit in?

CHRIS TURNER: The ones I'm referring to are in 43-292. They're in the child welfare juvenile statutes.

HOWARD: So would you feel more comfortable with a reference to those statutes in this bill--

CHRIS TURNER: I think our--

HOWARD: --to verify abandonment?

CHRIS TURNER: I think our primary concern really is the length of time. We could see scenarios where an infant is dropped off at a hospital or dropped off directly after birth with someone else. And that case could go Alternative Response because it hasn't been six months yet. In a case, you know, a child could be left with a caregiver for five months. And that case could still be under DHHS's discretion allowed to go to Alternative Response. And we'd be very concerned with situations like that.

HOWARD: OK. I think I'm struggling to sort of-- because I think honestly, this bill does you quite a lot of good with the definition.

CHRIS TURNER: Absolutely.

HOWARD: Right. And so I think I'm struggling with maybe some difficulties that are really more related to the department and their

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decisions and their ability to decide the exclusionary criteria versus what's actually in the plain language of this proposed legislation. I'm going to see if there are any other questions from the committee. Are there any other questions for Mr. Turner? Senator Williams.

WILLIAMS: Thank you, Chairwoman Howard, and thank you for being here. We have some experience now because the pilot program started in '14 and it's been implemented in all [INAUDIBLE]. And I think without a doubt, everyone is here caring about these kids and these families and trying to do the right thing, a little bit like problem solving courts--

HOWARD: A little bit.

WILLIAMS: --in doing that. But at the same time, having that oversight is important. So I am listening intently to that. Now that we have done this and you have seen this drop in these caseloads, can you document that we've got kids now in worse situations than they were before? Or are we doing a better job than we were before? Can you respond again to the-- I know you had some testimony on that, but a little further those.

CHRIS TURNER: And I can testify from having juvenile court involvement, being a juvenile court prosecutor about 10 years ago and seeing how the system functioned then and seeing the way in which the department would-- would seek out court involvement for cases and I can compare that to what I see today, and I do have major concerns with that. I do. I am concerned with some of the policy decisions that have been made that keep cases from judicial oversight as well as through noncourt treatment team oversight. That's a team that I'm a part of. And I think that the team itself can work very well. There are certainly cases that they're designed to do well with. Same thing with Alternative Response. And I think to one of the other commenters earlier, what sort of exclusionary criteria are currently in place? There are some very sound exclusionary criteria that HHS has in their rules and regulations, those 22. But I know over the summer they're proposing and showing their proposed regulations and they were going to strike eight of those regulations, including children born methamphetamine positive in hospitals, that they wanted those cases to be allowed to go Alternative Response; domestic violence, a lot of those cases that really for county attorneys we've become very concerned about. And we want additional oversight to ensure not only

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that the children are safe, but the parent getting the services that they need and they're getting them timely.

WILLIAMS: So, again, focusing back on, on Senator Howard's question, those limiting factors, or is that the crux of your concern?

CHRIS TURNER: Yes. I think the County Attorneys Association overwhelmingly appreciate what Senator Crawford is doing through this bill. We're just asking that the committee consider some additional exclusionary criteria, taking away some of the discretion from HHS that would allow them to review cases and send them to Alternative Response through that RED Team.

WILLIAMS: Thank you.

HOWARD: I just want to clarify then the notice that you're requesting. So when we look at the chart, your-- what type of notice are county attorneys hoping for?

CHRIS TURNER: I think that what the letters were referencing are some of those specific cases, including drug endangered children, domestic violence, and involve cases that we be given specific notice from the department of Health and Human Services, if they're going to, through their RED Team process, have a case go to Alternative Response. That's not something that we have right now. But certainly that would be something that could trigger us to review that what we have available ourselves to determine whether we think that that's an appropriate response or whether we think that that case may need some additional oversight, either through a noncourt treatment team or through even a court filing.

HOWARD: So currently, though, for Alternative Response, you're not getting notices of the RED Teams at all?

CHRIS TURNER: I can say through my jurisdiction. I've never been contacted about participating in a RED Team. I think it's allowed by statute. But it's not happened in this jurisdiction where I, as a county attorney, participated with some sort of RED team review.

HOWARD: OK. And then for number four, the CACs came and testified in support. Is there a piece of this that says that they're not getting all the hotline reports?

CHRIS TURNER: No, I think that they certainly have access. And that's what Ms. Svoboda was testifying to. They have access to all of those.

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That's a great deal of work for them to go through and read each intake and summarize each intake. And I couldn't-- I couldn't do my job without the CAC here and my CAC coordinator that does that for us. But certainly, if there's-- these cases that are going to have what we identify as very serious high risks of harm, a logical Alternative Response, we're asking for some additional notification that would allow for kind of target those cases for the CAC.

HOWARD: So where-- OK. Where in the statute, because I've read this several times, where in the statute are you looking for additional notification to the CACs?

CHRIS TURNER: My-- I know we've identified that and I could provide that separately, which section we propose adding that language to.

HOWARD: OK, perfect. I think I'd like just a better understanding of your RED Team notice that you'd like to have because you don't have it now. And so we would be giving you sort of access to a new-- a new type of notice. And then where you feel the CACs need more access as well.

CHRIS TURNER: We'd be happy to do that.

HOWARD: OK. All right. Any other questions? Seeing none, thank you for your testimony today.

CHRIS TURNER: Thank you.

HOWARD: Our next opponent testifier to LB1061. Seeing none, is there anyone wishing to testify in a neutral capacity? Seeing none, Senator Crawford, you are welcome to come close. While you're coming up, we do have some letters in support from the Nebraska Alliance of Family and Child Services Providers, signed by Mike Betzold, Jackie Meyer, Jeff Schmidt, Ryan Stanton, Laurie Millard, Brian Essen; a letter from Mary Jo Pankoke from the Nebraska Children and Families Foundation; and a letter from Jason Prokop at First Five Nebraska. No letters in opposition; no neutral. Welcome back, Senator Crawford.

CRAWFORD: Thank you. And thank you, committee, for your serious time and attention to this issue. It is an important task for the committee to really shape the statutory guidelines for Alternative Response and noncourt response. I appreciate your time and attention to considering these considerations. I think part of that balance is deciding what-- how involved are law enforcement or county attorneys to be. And I

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think that's part of our-- our intention when we decide how, how engaged that they would be specifically in those RED Team cases, because the RED Team is department-- department team at this point. And I'm willing to talk to the department about notifications to county attorneys. On the other hand, I think we still have to think about that carefully because I think Alternative Response is supposed to not be involving law enforcement. And so I would be concerned if we were doing something with Alternative Response that appears to be involving law enforcement when our idea is that that track is supposed to really be a social services response. And if there is anything that is of considerable danger to the child or that we feel needs that law enforcement response is supposed to be going to traditional response where they would be notified and would be getting that information. So I have just a caution about considering that notification and what the implications of that would be in terms of the philosophy of Alternative Response. I do think it is the case that our-- the outline of the, the way this works does put important responsibility on the RED Team because they are really deciding in those cases whether it should go to Alternative Response or traditional response. And so we're relying on them to put those cases that require law enforcement oversight in traditional response. And we're putting that responsibility on the RED Team. I think that's the way it is designed to be right now. I agree that the issue of drug testing is an important issue. I agree with the Chair, really that I think is a different bill, not this bill. And so I don't think that it would be appropriate to put that issue in this bill. And so I agree that it is an issue the committee needs to wrestle with, but it's not something that I would plan to address. And again, I appreciate the grandmother who came to testify and tell about her personal experience, because that's definitely an area we'll look at again with care to see if we can make sure to try to avoid any unintended consequences there. With that, I'd be happy to try to address any of your questions.

HOWARD: Thank you. Are there any final questions? Senator Williams,

WILLIAMS: Thank you. Would you, Senator Crawford, would you refresh me one more time on the sunset provision?

CRAWFORD: Sure. The sunset is December 31, 2020. And so we are getting rid of the sunset.

WILLIAMS: Right. So this goes away.

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CRAWFORD: It would go away and it would be indefinitely. Yeah, it would just be no sunset. Correct.

HOWARD: OK. Any other questions? Seeing none, thank you, Senator Crawford..

CRAWFORD: Thank you.

HOWARD: This will close the hearing for LB1061. The committee will take a five-minute break. We'll reconvene at 3:40.

[BREAK]

HOWARD: If you have some conversations, you take them outside. All right. We will open the hearing for LB759, Senator Kolterman's bill to require consultation with school districts regarding placement of children. Welcome back, Senator Kolterman.

KOLTERMAN: Good afternoon, Chairman Howard and members of the Health and Human Services Committee. My name is Mark Kolterman, M-a-r-k K-o-l-t-e-r-m-a-n. I represent the 24th Legislative District. I'm here today to introduce LB759, a bill that will address the longstanding issue regarding the lack of communication and cooperation between the Department of Health and Human Services and our local school districts, concerning the placement of a child within a given school district. As of today, as of today, there is no requirement the Department of Health and Human Services consult with a school prior to placing the children within the district's boundaries. Most times a school is only told a child will be placed in attendance within it, at most, 48 hours of the child arriving, without any additional background information about the student. This leaves schools scrambling to research the student on the student's challenges and successes with other school districts without DHHS assistance. LB759 is a simple bill. It requires DHHS to communicate with school districts prior to making a final plan regarding placement, if the receiving school is not in the student's resident school district. This plan must include a determination as to whether necessary educational programming services-- or could be made available from the receiving school district and the identification of the resident school district that is responsible for the costs of the educational programming services at the receiving district. I believe the input of the receiving school district must be considered regarding the difficulties in providing or hearing personal need-- personnel necessary for additional educational programming services, such as

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specialized personnel or specialized facilities, which may very well result in substantial financial burdens for the resident school districts and the receiving school district. Due to concerns we have heard from the judicial branch, we are submitting for your consideration AM2184, which removes the courts from the conversation regarding the placement of children in the school districts. I want to be clear that LB759 does not give school districts authority to deny foster students from attending schools, and It does not prohibit a student from attending while waiting for the meeting. School districts would continue to work with emergency placements, but the placements cannot be finalized prior to consulting with the school. But, but the LB759 does mandate that all agencies at least sit down and discuss about what is in the best interests of each and every individual child placed in this situation. In the packet I handed out, I have also included a couple of letters of support my office has received. With that, I would welcome any questions that you might have.

HOWARD: Thank you, Senator Kolterman. Are there questions? Senator Cavanaugh.

CAVANAUGH: Thank you, Chairwoman Howard. Thank you, Senator. Kolterman. Could you maybe elaborate on what "consult" means in this bill?

KOLTERMAN: Sit down and talk to the school districts.

CAVANAUGH: OK. And so there's no-- like they don't need approval from the school district. It's just that they're not currently having conversations, and now they need to have a conversation?

KOLTERMAN: Here, here's the bottom line to this whole bill. You have some of these school districts in rural Nebraska that maybe don't have the resources even available to them to take care of a certain child because of the types of or nature of whatever their situation might be. And so in some of these communities, they're scrambling to find paras that could even take care of a child one on one or-- or sometimes they have to transport them many miles to get the kind of services they need. All that-- and we're not saying they don't want to take care of kids. That's not the issue here. But what we are saying is there ought to at least be a conversation. If you're going to place a child in a, in an area that's going to take significant resources and maybe an additional para or additional services that have to be transported an hour one way each day, that ought to at least be talked about before you make that placement. That's what it's all about. And

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so I think you'll hear from some school districts, some organizations that have dealt with the issue. And again, there's nothing in here that says it can't make a placement, even after they have the conversation. All we want to do is be abreast of what's going to happen.

CAVANAUGH: Thank you.

HOWARD: Any other questions? Senator Walz.

WALZ: I have a question. Thank you. Thank you for bringing this bill. Senator Kolterman.

KOLTERMAN: You're welcome.

WALZ: So if a child moves into another school district and is placed in foster care, for example, whose responsibility is it to get the child enrolled? Is it the foster care parent? Or is it--

KOLTERMAN: I don't, I don't know. But somebody--

WALZ: OK.

KOLTERMAN: --behind me will have the answer to that.

WALZ: All right.

HOWARD: Other questions? Seeing none, Senator Kolterman, will you be staying to close?

KOLTERMAN: Oh, absolutely.

HOWARD: Wonderful. We'll now invite our first proponent testifier up for LB759. Good afternoon.

BRAD BEST: Good afternoon. Chairwoman Howard, members of committee, Senator Kolterman, my name is Brad Best, B-r-a-d B-e-s-t. I have nearly four decades of experience in Nebraska schools, 30 of those years in school administration. And out of respect for your time on a Friday afternoon, we're going to-- I've been asked to represent not only my home school district of Heartland Community Schools in Bradshaw and Henderson, but also speak on behalf of the Nebraska Council of School Administrators, the Nebraska Association of School Boards, and the Nebraska Rural Communities Association [SIC], in support of LB759. There are many amazing people across this state who

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open their homes as dedicated foster parents, and I hold the highest respect for those that work in that area. Many would agree that the school component of a child's life is at least as important as their foster care family, given the percentage of their day spent with the school's predictable routine of support. One of the unfortunate factors relating to a change in child placement is that current practices in Nebraska do not ensure that the receiving school district has a seat at the table when formulating a comprehensive plan for success. At the beginning of the school year, I received information that DHHS would be placing a foster child in our district, and that this child would need a full-time person to be with him, as he had a very severe behavioral issue. When I explained to the caseworker that I was already two paraprofessionals short, they replied that they didn't know what to do, as the child's bags were already packed. He had already met the foster family. This placement occurred without any regard for our lack of available staffing. We ultimately needed to remove services from other children with lesser needs in order to work with him. This seemed so illogical that it left me wondering why wasn't there a simple phone call to make sure that we were in a position to serve this young man and his needs? Why wasn't that discussion and our input important parts of this placement decision? I set out to determine the pervasiveness of this practice, and I have emails from dozens of school districts who share their frustrations and desires to improve the way that we serve foster children. Their top concerns were not having the opportunity to discuss a child's needs and, instead, of being forced to make do with current services or staffing, and having to put forth hours of work to gather background information on the educational needs of a child. The only official correspondence between DHHS and the school district comes in the form of what's called a superintendent's letter. I provided you with a copy of that letter today. Aside from the oftentimes receiving this letter days or even weeks after the placement has already occurred, you'll notice that the highlighted portion at the top of page 2 says that DHS has determined that it is in the child's educational best interests to attend a particular school district. This determination typically occurs without even a phone call to evaluate whether or not a school has the necessary educational, behavioral, or mental health services. The second part of this bill would require that a student's educational history be presented to the school prior to the mandatory consultation meeting. Currently schools receive little or no information about a child, and are often told that they, DHHS, want them to have a fresh start. This withholding of information isn't how you treat professionals. Educators need as much

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information as possible when it comes to working with children. Once this information reaches the courts, it becomes confidential. But there's no reason schools should not have this valuable information prior to the court's placement, determination, and upon enrollment of the student. Some may argue that taking this additional time to share the information and meet prior to finalizing a placement would result in a child being bounced from district to district. I would argue that if we do it right the first time, students will be more successful and not need to be moved as often as they currently are. One of the key components to the federal Fostering Connections to Success Act of 2008 [SIC] is to support educational stability within the foster care system. From the Fostering Connections implementation toolkit, the Legal Center for Foster Care and Education has published guidance related to this act. They write: School stability can only be achieved for children in care if the education system is a full partner in this reform. Through legislation and policy guidance, states can and should establish clear mandates and promote positive collaboration between the child welfare system and the education agencies. Only then will this important objective be achieved for these educationally at-risk youth. Other states have enacted legislation, such as Virginia's unanimous passage of a bill directing the local child welfare agencies-- and I quote-- to make the best interest determination jointly with the local school. This bill would ensure that the adults acting on behalf of a child actually share information and talk about whether or not a particular school district is able to do what is best for the child and those students that they already serve. There is a common goal in the schools in the-- across the state of Nebraska: Always do what's best for kids. LB759 will go a long way in helping us reach that goal with those children who need it the most. I sincerely appreciate your time today, and hope the main question on your mind is the same one that I have: Why aren't we already doing this?

HOWARD: Thank you, Mr. Best. Are there questions? Senator Arch.

ARCH: Thank you. And thank you for coming and testifying. I-- my question is, does this, does information ever catch up with this child? Do you ever get previous assessments, educational assessments, any of that information?

BRAD BEST: We do receive that information if we made direct contact with the prior school district. Then we can eventually--

ARCH: Not, not through DHHS.

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BRAD BEST: --get it, not through-- typically not through DHHS at all.

ARCH: Do you know where the prior school district is?

BRAD BEST: We are informed of, of the prior school district, yes. But then oftentimes that can take days, and that's why we've asked for at least 48 hours for to consider that information to see whether or not that's the best spot for that child, prior to a final determination, rather than doing it after the fact.

ARCH: If, if, if what's the best spot, if your school is the best spot for that child?

BRAD BEST: Correct.

ARCH: Although--

BRAD BEST: Whether or not we have the services available to serve that child, a lot of times that, that could be days and days before we consult with the prior school district. And that child's already in ours, in our district and had been placed with the foster family prior.

ARCH: You said in your testimony that that is this not a matter of saying you can't send the child here--

BRAD BEST: Correct.

ARCH: --but, but rather to determine what's the best way. So if, in your assessment, you say, we don't have the resources, we don't have the program, we don't have-- we're not be able to care for this child, that still would-- right now within our statutes, the child would still be sent to your school. Is that--

BRAD BEST: Could be, yes.

ARCH: --what you're saying?

BRAD BEST: We're asking for the consideration to take those factors into consideration prior to making a final determination.

ARCH: Have, have the discussion.

BRAD BEST: Have that discussion ahead of time so that that child has the best chance to be successful rather than struggling to try to adapt to a new family, new siblings, being away from other people, and

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all of that, that goes along with that. But then also being able to have programming in place for that child in the school that is supported, as well. And if that's lacking, it just compounds the issue.

ARCH: Thank you.

HOWARD: Other questions? I'd like to ask you-- what your vision for consult is. Is it a phone call? Is it participating in a family team meeting? What does that look like?

BRAD BEST: Quite honestly, I think that the majority of cases, at least in my experience, would or could be something no more than a phone call with a school administrator or superintendent, whoever it may be, to say: Here's a foster child, we'd like to place them in your school district. We have no prior knowledge that they are going to need anything additional. They just need a safe home. They're good in school. They aren't requiring any special services, things of that nature. Then it's, it's a slam dunk and you move on. You know, we're-- that's not the issue. So a simple consultation would, would certainly be appropriate in those cases. The more involved child that maybe needs additional counseling services or behavioral interventionist or, you know, because they are--they're more violent or have a very serious disability, things of that nature. It's not saying we won't serve them or we don't want to serve them. We just want to make sure we have things in place for them so that we can do the best job that we can. And if we don't, there may be another school down, down the road, so to speak, that does have those services already in place, that would be better to serve that child. That meeting would probably take a sit-down or even a teleconference type of consultation. But I don't think that it would be a long, drawn-out process by any means.

HOWARD: When, just in terms of the language, when you think about the department consulting with you, does-- would it be a case manager who would be doing that consult? Are you-- or are you envisioning like an administrator or a supervisor who would be letting you know that the transition would be taking place?

BRAD BEST: I-- currently, again, with my experience, is that we, almost 100 percent of the time, work with the caseworker--

HOWARD: Um-hum.

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BRAD BEST: --and that they would bring that information to us and have that sit-down meeting. And if, you know, under that consultation, if they decide, you know what, maybe this isn't the right spot for this child to have their best experience out of the gate, then they would be in a position to start looking elsewhere. And if it's, if it's an easy one, then it's done and we move on.

HOWARD: And then when we think about the superintendent's letter that you're getting, you mentioned that you're getting it days after, weeks after sometimes.

BRAD BEST: Sometimes weeks after, yes. And as you can see on the letter that I gave you, for example, it's dated the first part of September--

HOWARD: Um-hum.

BRAD BEST: --at I believe 9/3 or something like that, that child was in our building in mid-August when we started school.

HOWARD: OK. Do you know, are there statutes around the superintendent's letter, or is that just a policy?

BRAD BEST: There, there is a requirement that we be notified bound by this--

HOWARD: Um-hum.

BRAD BEST: --the superintendent's letter. As far as the timeliness of that, that I can't comment. I'm, I'm not 100 percent sure on that.

HOWARD: OK. Thank you. Any other questions? Senator Walz.

WALZ: I just have a quick question. Do you know-- thank you so much. Do you know if the case worker has access to information regarding any special needs that child may have from that previous school? So do they have those records? And--

BRAD BEST: They-- if they don't, they should. You know, as a split-- as a school district, we can request those records once a student enrolls, or once we think they-- we know that they're going to enroll, we can request? But just as an example, there is a form called a Nebraska-- the "Juvenile Courts: Education Court Report" that has to be provided to the court system. And that information does include special needs of the child, educationally as well as, you know, the--

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and the focus around that is to try to create educational stability, to not bounce the kid if they don't have to, type of thing. Once-- the problem was, and Senator Kolterman addressed this in the amendment, is that once that information goes to the court system, then it becomes very difficult for us to get our hands on it because it's confidential information. What's included in that report would be a huge start to that communication piece. So they're, they are to provide this information to the court. What I would suggest is that they have that conversation with us prior to submitting that same information back to the court system.

WALZ: Um-hum.

BRAD BEST: I, I don't see that it-- they typically know, as like I said in that first conversation that I had and this young man that, that I used as an example, the caseworker knew that that child was going to need a full-time person on them, because that's what he had in the prior school. So we knew that the first time we ever talked with them.

WALZ: Um-hum.

BRAD BEST: So I do believe they have access to that information, yes.

WALZ: OK, thank you.

BRAD BEST: Um-hum.

HOWARD: OK. Any other questions? Seeing none, thank you for your testimony today.

BRAD BEST: Thank you.

HOWARD: Our next proponent testifier for LB759? Good afternoon.

JOSH FIELDS: Good afternoon, Senator and Chair-- Senator Howard. My name is Josh Fields, J-o-s-h F-i-e-l-d-s. I am the superintendent of Seward Public Schools, and I'm also representing STANCE and Nebraska ASCD. Nebraska ASCD is the Association of Supervision Curriculum and Development [SIC]. Schools Taking Action for Nebraska Children's Education-- STANCE-- is comprised of 19 mid-sized state-- or mid-sized school districts, free of lobbyists, that represent over 25,000 school children. STANCE is unique in the fact that we have districts representing the entire state, from Chadron to Blair, and enrollments raising-- ranging from 863 to 3,928. I'm also serving as a board

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member of Nebraska ASCD, which has 350 members who are comprised of teachers and administrators. We are representing Nebraska education, and we don't take lightly in our position with the Legislature. We submit this testimony of support for LB759 proposed by Senator Kolterman. Both organizations want to begin by thanking Senator Kolterman for championing LB759 and working with the education community to develop this essential legislation for the welfare of our at-risk children across our great state. We'd have hoped that LB759 was not needed, but as we continue to gather testimony from schools within our organizations, it is clear there is a strong need for collaboration and clearer lines of communication between DHHS and school districts across the state of Nebraska, to better serve the needs of our most at-risk students. We also acknowledge the huge responsibility of DHHS with placing children into foster care in our area group homes. But leaving school districts out of these important conversations is not in the best interest of these children that are impacted by these placements. Example of this lack of communication can be seen in Seward Public Schools, with the placement of a high-needs foster student this year within our district, with no prior communication from DHHS about the severity of the needs of a student-- of this student and the current, current supports that this student was receiving to be successful. In some cases, these students are coming from a highly structured placement like Yankee Hill in LPS, with the student receiving a variety of supports like LMH counseling, behavior coaches, social workers, and highly trained teachers specializing in the area of behavior management to being placed at Seward High School, where we do not have the same resources for-- or staffing to support the student. In many cases with this, Seward Public Schools is in contract with BEST, which is located here in Lincoln, and then transport that student to Lincoln, where the student will have to start a new routine, develop new relationships with teachers and peers, which make a difficult transition. As STANCE and NASCD organizations, we believe in doing what's best for all students, but the resources at each schools vary for support, supporting high-needs students. That communication with DHHS and schools is vital to the success of students that are in the foster care or wards of the state. It would-- both of our organizations hope that the communication will happen prior to placing a student in a school. We would have a better, clearer picture of the needs of that student, what supports were utilized in previous schools, specific concerns at this the schools need to be aware of, and also, what are the staffing needs of that student to provide that time, like Mr. Best talked about. In conclusion, STANCE and NASCD are in support of LB759, and we

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hope that you vote to move LB59 [SIC] out of committee. Be happy to answer any questions.

HOWARD: Thank you. Are there questions? Seeing none, thank you for your testimony today.

JOSH FIELDS: Thank you.

HOWARD: Our next proponent testifier? Good afternoon.

JOHN SKRETTA: Good afternoon, Chair Howard and members of the Health and Human Services Committee. My name is John Skretta; that's J-o-h-n S-k-r-e-t-t-a. I am the ESU 6, Educational Service Unit Number 6, administrator, headquartered in Milford. We serve 16 public school districts comprising about 1,300 teachers and nearly 14,000 students. The education community is unified in its support for Senator Kolterman's proposal, embodied in LB59--LB759. It is simple and concisely stated. It meets a clear, apparent, and pervasive need. It is an overt expression of social contract theory. It is articulating the responsibility of each stakeholder in the care of our children. Simply put, schools just want a heads-up. We want to have sufficient advance notice. That is so we can plan effectively and coordinate the programming and logistics to support each and every individual student. What if-- let's play hypotheticals, and I'm going to mention just a couple scenarios I have witnessed repeatedly, with a mind-numbing regularity, during my two decades as a school administrator. What if a foster child, ward of the state, needs a behavioral interventionist to support the school in which he or she has been placed because the student coming in is SED, i.e., has a severe or serious emotional disability? What if the student needs an LMHP to address acute mental health needs? What if the student needs a board-certified behavior analyst, or BCBA, in order to effectively assess the classroom conditions, norms, and expectations that will best support the student because the student has an autism spectrum disorder and is entering the school? What if the student is low functioning or oppositional, and will require the assistance of a one-to-one highly trained paraprofessional in order to succeed in a mainstream educational environment? These are shortage areas. They strain the service and capacity of Nebraska's schools. None of these positions are abundantly staffed in our schools. They are vital. ESUs can help. We are the service agencies. We can offer contracted staffing supports and consultation, but we are all behind the proverbial eight ball if the school does not know the student needs in advance. The fact LB759 compels us to acknowledge is that advanced

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communication is a logically prior step to ensure we have continuity of care and compassionate wraparound support for every student. DHHS is trying to find good, suitable placements for kids in need. Foster families and group homes are often doing heroic and altruistic work. Schools strive to ensure every child succeeds. We can do more and better if we activate more thorough and sufficient advanced communication from HHS, through Senator Kolterman's LB759. Thank you.

HOWARD: Thank you. Are there questions? Seeing none, thank you for your-- oops, Senator Williams.

WILLIAMS: I [INAUDIBLE] it. Thank you, Senator Howard.

HOWARD: Sure.

WILLIAMS: I'm sorry I was slow on the trigger there. Dr. Skretta, thank you for being here, and with your experience as administrator, and now what you're seeing in, in--

JOHN SKRETTA: Um-hum.

WILLIAMS: --in a bunch of homes, you know, all, all of your what-ifs would be the same what-ifs DHHS goes through to find a foster parent to start with.

JOHN SKRETTA: Right.

WILLIAMS: Those are going to be tough questions. There's a very limited group out there that would be willing to take, under their wing, any of those--

JOHN SKRETTA: Um-hum.

WILLIAMS: --what-ifs. Do you have any schools in that you work with that would have those services available,--

JOHN SKRETTA: Yes.

WILLIAMS: --those what-ifs?

JOHN SKRETTA: Yes. Yeah. We have--

WILLIAMS: So there [INAUDIBLE]--

JOHN SKRETTA: --schools that receive the support of LMHPs that they've got contracted services with. And in a case like I mentioned, in one

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of those hypotheticals, then it would be a more suitable placement, if one's available, to be able to access said school.

WILLIAMS: And if-- with your school groups, there are some schools that would not have those things,--

JOHN SKRETTA: Right.

WILLIAMS: --too. OK. That's what-- and all you're asking for in this bill is prior notice, not a veto power that we don't want that child in--

JOHN SKRETTA: No.

WILLIAMS: --this school.

JOHN SKRETTA: We don't have veto power and we don't want veto power; all means all.

WILLIAMS: You haven't met my wife [LAUGHTER].

HOWARD: Senator Cavanaugh.

WILLIAMS: It's Friday afternoon. I'm [INAUDIBLE].

CAVANAUGH: She's delightful. I have met her.

WILLIAMS: She is.

CAVANAUGH: I have just a follow-up. Is it-- have you had the opportunity, or would you be willing to share a list of schools that do have these services available, so that DHHS has that--

JOHN SKRETTA: Um-hum.

CAVANAUGH: --information readily available?

JOHN SKRETTA: Yeah, and some of that is available through SIMPL-- if you look at the Service Implementation Model Process Log [SIC], it's a accessible website that ESUs use to record a service inventory, and you can-- it's searchable by school so you can identify which schools are accessing or utilizing, which schools in terms of programing and specialized personnel.

CAVANAUGH: OK, thank you.

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JOHN SKRETTA: Yeah.

HOWARD: Senator Murman.

MURMAN: Yes. Thanks a lot for coming in. I'm, I'm sure some of these change of placements with families would happen on a-- very quickly, you know, maybe one day to the next. This bill says prior notice. Now the new family, I suppose, would be able to care for the child for a day or two, you know, until the school situation was figured out. So what-- how much prior notice are we talking about?

JOHN SKRETTA: That's a, that's a great question, and I'm not sure what is most feasible. I would reference Brad Best's initial testimony and assert that most of the time a simple phone call would suffice. Any-- here's, here's where we're at. The sad state of current affairs would be that any prior notice is a huge level up.

MURMAN: Um-hum. Thank you.

HOWARD: All right. Any other questions? Seeing none, thank you for your testimony today.

JOHN SKRETTA: Thank you.

HOWARD: Our next proponent testifier? Good afternoon.

KRAIG LOFQUIST: Good afternoon. I, too, wish to thank the committee. Thanks, Senator Kolterman, for introducing the bill. Esteemed senators, my name's Kraig Lofquist, K-r-a-i-g L-o-f-q-u-i-s-t. I am currently the executive director of the Educational Service Unit Coordinating Council, so I work with Nebraska's 17 ESUs. The 17 ESUs each employ a special education director, and they're very, they're very aware of the issues that we're discussing today. In the past, I was employed as the director of special education at Wayne Community Schools in Wayne, Nebraska. Wayne is unique because it has several group homes where children are placed by the Nebraska Department of Health and Human Services. Each of these students have some form of special needs, ranging from mild to severely disabling conditions. I want to make it clear that no one wants to preclude a student's attendance or be discriminatory in any way. To the contrary, getting to know these children has been educational and enriching. I do wish to support the need for a defined communication process that will greatly help schools in the planning process so schools can be prepared to meet the needs of the students and not be disruptive to

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the educational process. These needs include, but not are not limited to, hiring additional staff, purchasing equipment, as well as providing transportation services, etcetera. So that's as brief as I can be. But I'd be happy to take questions if you had them. I will say, you know, is there a perfect time line? I think on the other side of the coin, DHHS is under a lot of pressure and, at the same time, I've actually lived this like my colleagues have, and it puts incredible amount of pressure on the public schools. So is there a perfect time line? I don't know. But like Dr. Skretta said, ASAP would be the best.

HOWARD: Thank you. Are there questions? Seeing none, thank you for your testimony today. Our next proponent testifier? Good afternoon.

AMY SHANE: Good afternoon. Chairwoman Howard and senators of the Health and Human Services Committee, my name is Amy Shane, A-m-y S-h-a-n-e, and I'm superintendent at O'Neill Public Schools in O'Neill, Nebraska. I'm here today to express my support for LB759. I would like to applaud Senator Kolterman for introducing this bill that has the potential to benefit some of our most at-risk students, those that have been removed from their homes and placed into the care of the state, through placement with suitable relatives or the state foster care system. These students have often been traumatized by events or situations experienced in their homes, and, accordingly, they bring many mental health, learning, and behavioral challenges with them. Currently, schools in our state are basically at the mercy of Health and Human Services when these students enter our districts. Often the district is given no notice that the student ward with high needs is enrolling. They then must scramble to ascertain what needs those students bring and how best to meet those needs with their available resources. By having a consultation with Health and Human Services-- and I personally think a sit-down is best. You know, a phone call is better than nothing but, especially with students that have extremely high needs, I think a sit-down meeting is better. If we could do that, preliminary plans could be put into place to ensure that that student's transition to a new school is as smooth as possible. The portfolio of educational information provided for district review at least 48 hours prior, I think, is key to this. It will assist in ensuring that needed personnel, including specialized teachers, paraeducators, physical or occupational therapists, licensed mental health practitioners, etcetera, are available to meet the needs they have. Unfortunately, I feel frustration with the Department of Health and Human Services, maybe at an all time high, as I visit with

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fellow administrators. Communication is often nonexistent unless initiated by school personnel. It feels like schools are really breaking their backs to meet the needs of all of the students, and they're trying to provide educational mental health services. And it's easier to do those things if you've had time to plan for that. So I really think LB759 is a good first step toward building a more collaborative relationship with Health and Human Services. I think that, considering-- I hope you consider my testimony today, and really encourage you to move LB759 forward.

HOWARD: Thank you. Are there questions? Seeing none, thank you for your testimony today.

AMY SHANE: Thank you.

HOWARD: Our next proponent testifier? Good afternoon.

CHIP KAY: Thank you, Senator Howard and Health and Human Services Committee, for hearing my testimony. I'm going to fall right in line. I'm superintendent of Shelby-Rising City Schools, a rural school just south of Columbus. I will bring a rather unique perspective to your committee.

HOWARD: Could you state your name and spell it for the record?

CHIP KAY: Yes. Chip Kay, C-h-i-p K-a-y.

HOWARD: Thank you.

CHIP KAY: It's so short, I forgot. I will bring a rather unique perspective to the committee, and then I'm also a foster parent. As a superintendent, it's important that everybody understands that not all schools are the same; and that's been told by the other superintendents. And if we're going to best provide for students, we need to have the consultation so we have the ability to properly provide services. In our district our size, this is likely going to mean contracting out or trying to find other services or adding additional staff. The sooner we know to do that, even within 24 to 48 hours, we can potentially find the right type of placement or we can work with surrounding school districts to potentially assist us. We do get walk-ins, which we don't know if it'll be the foster parent, sometimes it's the caseworker. We have had situations where we never hear from the caseworker; it's the foster parent that handles it all. And then we've had, we've had vise versa. Because of our location to

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Columbus, we have a lot of option foster children. Columbus is about 20 miles away. A lot of times it's because it's a fresh start, smaller district-- might be a little easier to keep track of the student or what's going on. But the flipside of that is we don't have the same services at Columbus. In fact, as my wife and I found out-- we're one of two foster care families in our school district so-- yet we have a rather large-- I would say a larger population than two families have. And I want to share that part of the thing-- one of the topics that's not come up is the safety and the well-being of everybody in the district. We have a K-12 building, about 400 students. So our elementary, middle school, and high school students share the same building. And while it's important that we provide services, what's also important that we know what type of students we have in the building. Last year we had an incident where a foster mom came up after having a foster son for about a month, to tell us that, after a month of having the foster son, they found out that he was there because he was-- he had sexually assaulted his siblings.

HOWARD: Hmm.

CHIP KAY: For a month that student had been in our building. We probably would not have made a lot of academic changes, but we certainly would have made some other type of supervisory changes, having that student in the building, especially with elementary. What was more disturbing is that the-- this child's siblings were also in the home and also in our building. This is a good example of some collaboration, some conversation prior to the placement would have helped for them to better understand that our school district is a single building, and that to have them in a single building may not have been the most productive or safe environment for everybody. As a foster parent, I can tell you that at times I was in the dark. And as an administrator, I used to think, why don't the foster parents tell us what's going on? And I found out that foster parents don't always know. We got to know our caseworker. We had a fantastic caseworkers that we've worked with at DHHS. They've got a lot on their plate and they're overloaded. But the dissemination of information certainly is something that has to be worked on. It's one thing for a foster family,-- in our case, caring for two twin girls, we can be very flexible and be very responsive. Now consider a school. Without that information, it's difficult to be flexible and responsive when you have a lot more moving parts than just your wife and you. Like I said, we get a lot of option. Oftentimes my question, when we are asked, is, do you understand how our district works? Do you understand the size

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of our district? And so whether they're a resident or a nonresident student, option or not, we've accepted all of the students that are in foster care, and we've done our best to provide those services. It is sometimes a little bit scary because transportation, and the location of the foster parents could be as far as 20-25 miles away-- can make the responsiveness for our school district and those needs very difficult to meet. We had a situation this year with a foster child who was placed and was a risk to run after a court date. There was some discussion of reunifying with their parents. The student was very clear in the court situation that they were going to run the next day at school because they didn't want to be reunified. We didn't so much as receive a phone call that that was a possibility. We care for our students. You can imagine the panic when this student is gone, shows up to school first hour, but has gone at some point during that period. Those are just, I think, some examples of what we'd like to know. You know, we don't, we don't have bias; we want to serve everybody we can. We have challenges, like every other district, and we're willing to do what we can. Communication and collaboration is free. It doesn't cost anybody any more money to spend the time to have the discussion to properly serve these students. But if we don't have this communication and collaboration, it's going to be the student's well-being that suffers in the long run. Thank you.

HOWARD: Thank you. Are there questions? Senator Walz.

WALZ: Thank you. Thank you for coming today.

CHIP KAY: Um-hum.

WALZ: Once the child is placed in foster care under the DHHS system, is it then the department's or the case manager's responsibility to oversee the education and make sure that child's needs are met? Or is it--

CHIP KAY: So ours is-- remember, ours is a unique situation. So the, the students that we've typically had in foster care in our family have been students at our school. And so by being placed-- we're obviously a resident of the district-- education just continues as normal. So I can't really answer, if the students moved to another district, how particularly that conversation worked. I will tell you that we've had conversations, as an administration, with foster parents or caseworkers. There's-- it's not really been a consistent pattern.

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WALZ: Hmm, OK. Thank you.

HOWARD: All right. Other questions? Seeing none, thank you for your testimony today.

CHIP KAY: Thank you.

HOWARD: Our next proponent testifier for LB759? Good afternoon.

JANE DAVIS: Hello. Hello to Chairwoman Howard and members of the Health and Human Services Committee. I'm speaking in favor of LB759. My name is Jane Davis, J-a-n-e D-a-v-i-s, and I am the superintendent of Hershey Public Schools. During my tenure as superintendent of Hershey Public Schools, we have had many students placed into foster families that live in our district, and they have attended Hershey Public Schools. Our motto is "Every Student, Every Day, Every way" [SIC]. However, I am going to discuss a particular foster student that had very particular needs. And DHHS just did not consult with the school district before placing the student with us. The foster parent and 7th grade student showed up at school to register for classes. They met with our guidance counselor and assistant junior high principal. They told the principal that the student was a special education student with some concerns. Our high school principal and junior high SPED teacher were out of the building that day, and we asked-- they asked the foster parent and student to return the next day to finish registration. A request of records was sent to previous schools. The next day, the SPED teacher met with the foster parent and student. The foster parent gave our SPED teacher the phone number of the DHHS caseworker. To gather information, the SPED teacher started calling the student's previous school, which we found out was an out-of-state residential treatment center for sexual offenders. This student had spent the past two years there with same age, same gender students in a small group setting, only leaving the facility once a month. The SPED teacher then called the student's caseworker. The following information was obtained from the caseworker, after we asked for this information: The student is a high-risk repeat offender. The student had not been in public school since second grade, attending a residential treatment program for the previous two years. And prior to that, the student was in a shelter for two years. The residential facility at which the student was placed until a few days ago, again, was same age, same gender students. The treatment center's protocols call for the student to be-- only be allowed to use the bathroom facilities alone, with no other students present, while being monitored by an adult. The caseworker also stated that the student was

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not to be around any children that were two years or more younger than the student. So basically any student in grade-- 5th grade and below. We obviously raised concerns with the caseworker because our building is a K-12 building. The SPED room where the student would be served is a room of students in grades 1 through 8. Other concerns include the fact that we have no restroom in the building that is not used by all of our students. Each entrance, in and out of the building, and each hallway in the building is used by K-12 students. The SPED room where the student would be taught is next to the entrance where our K-4 students travel three times a day to go in and out for recess. It's also right next to the speech therapy room for students in grades K-6. We do not have-- we did not have a room in our building that was unoccupied that we could move this student into. Once we discussed more information with the residential facility, we were told that the student was being served in a self-contained classroom. That means the student stays in the classroom the whole day, for five hours a day. I requested a best-interests determination letter from HHS. This basically tells the district that HHS has done some homework on the student's educational needs, and that the school district can provide those services to the student. I received this over a fax machine. All the letter said was that HHS determined it was the student's best interest to attend Hershey Public Schools. The IEP team met. It was determined the most appropriate means of serving the student's needs was to provide, was to provide in-home service, one-on-one, for five hours a day, five days a week. I received an email from HHS, stating that they were not confident that we were meeting the needs of the student, and wanted the school district to consider paying for the student to be contracted to a different district that had a middle school or a junior high school. I sent a letter to this official, stating that I did not feel confident that DHHS spent any time considering how attending a K-12 building would be in the student's best interests. If any agency had set the student up for failure, it was DHHS. I said: you made a best interests determination without considering the needs of the student or the resources of the district. They replied to my email by saying that the public school should have been a part of the transition process before the student left the residential setting-- for that DHHS just takes full responsibility. The permanency goal for this student is to remain in the foster parent who resides in my district. The search for the foster parent had taken over a year. For the record, I had reached out to a neighboring district that had a K-- or a junior high building, and they denied my request to contract the student. To wrap this up very quickly, the student could have been placed in a middle school or junior high

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setting if we would have had more information or if DHHS could have understood what a rural K-12 district is. This wasn't a typical-- this wasn't a local DHHS just worker-- caseworker that I worked with. This was someone from an urban center, and I don't really think they understood what a K-12 rural district is, and how we all use the same buildings, and all of our teachers teach the same kids. So this is just one example of many that I could discuss. But with LB759 in place, communication could be improved, and the best interests of the students could be obtained.

HOWARD: Thank you. Are there questions? Senator Arch.

ARCH: Thank you. Thank you for your testimony. Am I assuming correctly that-- and, and this may be a question for DHHS, not, not the school systems-- but the, the finding of the foster parent is first and the school system, is second?

JANE DAVIS: Under this, under the example that I gave you, that was correct.

ARCH: And finding the foster parent that would take a child like that would be a challenge to begin with-- and then, and then, then to find the school. However, perhaps neighboring school districts may be a better placement with--

JANE DAVIS: Sure.

ARCH: --something like that.

JANE DAVIS: There was a, there was a-- I'm 12 miles away from a, a school district that has a middle school--

ARCH: Right.

JANE DAVIS: --program.

ARCH: OK, thank you.

HOWARD: Other questions? Seeing none, thank you for your testimony today. Our next proponent testifier for LB759? Good afternoon.

SADIE COFFEY: Good afternoon. My name is Sadie Coffey, S-a-d-i-e C-o-f-f-e-y, and I'm the superintendent at Shickley Public Schools, where I also serve as the special education director. Prior to being at Shickley Public Schools, I served as the elementary principal and

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special education director at Heartland Community Schools. And before that, I was a special education teacher, reading coach, and alternative education coordinator with Holdrege Middle School. Through my 11 years in education, I have dealt with DHHS and the placement of children in foster care situations. I have also personally dealt with DHHS through some of the services and programs offered for assistance. When I became a single mother the week before my second year of college, I also became a recipient of WIC, ADC, SNAP, Employment First, Medicaid, and Child Care Subsidy, from that point in time until I received my first teaching position with Holdrege Middle School. In my personal experience, effective communication has never been one of DHHS's strengths. In fact, I found it very difficult to navigate the DHHS services and programs, and the requirements thereof, as someone within the system. Now as a superintendent, I continue to struggle with DHHS and its ineffective communications. At Shickley Public School, our mission is to prepare students for success. In reviewing the current DHHS business plan, I found the mission of DHHS to be, "Helping people live better lives." I hope today your committee can help us find ways to move forward with DHHS, no longer as siloed entities, but entities seeking the mission of helping and preparing our children, not only to be successful, but to live those better lives. DHHS materials outline that the organization values excellence, integrity, positive and constructive attitude and actions, openness to new learning, and dedication to the success of others. DHHS and school districts need to work together to make sure these values are demonstrated within the schools across the state of Nebraska by focusing on one of DHHS's core competencies: the demonstration of productive communication. Productive communication occurs when information is shared clearly and accurately, all parties have been heard or listened to, and a shared goal has been developed and has become the focus of the decision-making process. At all the schools I have been a part of, our shared goal has been to do what's best for kids; and I truly believe DHHS wants that, as well. When it comes to education, educators are the experts. I'm asking you, as the committee, to support this legislation so that conversations occur and information is shared, so that together schools and DHHS can help determine what is best for each individual student, on a case-by-case basis. Each and every student deserves just that. They deserve our best; we're not doing our best. What they sent-- DHHS superintendent letter notifying a school that they're going to have a new student the next day, and that we, as educators, will have no educational records in hand. This fresh start approach is not what is best for kids, and I can tell you that this ineffective approach directly led to a student

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in foster care being involved in an ongoing sex trafficking investigation. Kids thrive on structure and routine. How can we provide that without initial effective communication and sharing of information? Award winning author and children's rights advocate L. R. Knost once said, "When little people are overwhelmed by big emotions, it's our job to share our calm, not join their chaos." Without intentionality on the front of communication between DHHS and the receiving school district of a student in foster care, DHHS is not only joining their chaos, they are ignoring it and, therefore, not doing what is best for kids-- and in this case, not doing what is best for some of our most vulnerable individuals. Choose to make a difference and help DHHS live out their core competency of productive communication by supporting LB759. Thank you.

HOWARD: Thank you. Are there questions? Seeing none, thank you for your testimony today.

SADIE COFFEY: Thank you.

HOWARD: Our next proponent testiferg for LB759? Good afternoon.

BRENDA TRACY: Good afternoon. Chairman Howard and the Committee for DHHS, first of all, my name is Brenda Tracy, B-r-e-n-d-a T-r-a-c-y, and currently I serve as the special education director and curriculum director for Norris public schools. And I've been there for 19 years in the special education department, and previously, in 2015, I was the past president of our state organization NASES, the Nebraska Association of Special Education Supervisors. And at that time, we had set up meetings with DHHS and DE and NASES to discuss this same situation, that schools were not necessarily getting the communication. And what could we do to better that situation? I don't know what happened with that, those meetings because, as after a year, I was off of that committee as a past president. But everything that has been said here today, I agree with and have experienced something similar with that, with dealing with students that are made wards of the state. Districts often know very little about the students when they're enrolled. What I'm going to do is-- I know they've shared specific situations, and I'm going to share. I'm coming at it a little bit different way of what's best for our students for social and emotional issues. We have students that are placed-- I'm just gonna give you a couple personal examples that have happened in the last year, either in our district or a district close to ours. And we have some benefits because we're close to LPS, so we can work. We've got a lot of small districts around us. We're not out in a rural area like

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some of the districts that have testified. Last year, we had two students in the high school that were placed in foster care at the beginning of the school year. Without consultation with the district, the students were determined their best educational placement was Norris public schools. The foster mother-- or their home district was Beatrice. The foster mother came in at the end of the semester-- or sorry, at the end of September, and told the school district that she no longer was going to be working with these students, and was releasing her rights as a foster parent, that the parent-- that the students were placed into respite care in Lincoln the night before. What happens then is that those students are no longer residents of our district, so they no longer have a right to attend school at Norris public schools. So what we did is our, our quarter was ending in a couple weeks. And so what we did is we said the students can finish out the quarter and then, at that time, they would have to go to LPS, if that's where they're in respite care. So the disturbing part was that those students had been Beatrice the year before, came to Norris for about six weeks, then went to LPS.-- I'm assuming-- and then I don't know what happened to them. So they had three school districts that they attended in less than two semesters. The second situation was we had a student in middle school last year, registered with us at the beginning of second semester, so January of 2019. The student had already been in school with LPS that semester, then was transferred to Seward because the foster family in Seward said they were going to adopt this child. Before the end of the semester, that foster family decided that they no longer wanted to adopt that child. So then they were put with a foster family in Norris at the beginning of January 2019. That family then also told the district that they were going to adopt that child. At the end of the 2019-- '18-19 school year, that student was no longer with us, and have come to find out that she has been in residential treatment and back in LPS, and that adoption also did not go through. So we're talking four different districts in less than a year's time. Another situation that happened in a different district is that we had a student move into a district. The program in his previous school was mostly general education classes-- a couple suspensions here and there, not really a big deal-- but only had been at that school for a short time. Come to find out, after the student already started classes, that news, new school-- so their third school-- found out that the student had been in residential psychiatric treatment for a good portion of his life, and that his foster parents stated they did not know anything about that placement. And he ended up shortly after that being expelled from school for bringing a knife. So when you ask that question, can you

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get the, can you get the information from the previous school, yes, we can. But the issue becomes, if they're in two, three, four schools, you get the information that they were at that school. But then when you have to start digging for where they were at in the second, third, or fourth school, it becomes very difficult. We know that changing schools can be harmful to a no more, normal child development and adolescent development by disrupting relationships with peers and teachers, as well as altering the students' educational program, specifically students who change schools more frequently, so four or more times. The research shows they have lower test scores on reading and math, and have a higher dropout rate. In closing, we cannot control the negative events that happen to these students in their homes prior to becoming a state ward. But what we can do is provide a stable environment when those lives are being turned upside down, and at least give them the opportunity to stay in their home school where they're at, instead of moving them from school to school to meet the needs of the foster families. I can't tell you how many times I've heard, in conversations with foster families or caseworkers, that the reason a child's being moved from, for example, LPS to Norris, is because the foster family cannot provide transportation. So it's hard for me to understand how that's in the best interests of the child, moving them to another district because a foster family can't provide transportation. I think we need to look at the social well-being of that child. Thank you. And I encourage you to pass this bill.

HOWARD: Thank you. Are there questions? Seeing none, thank you for your testimony today.

BRENDA TRACY: Thank you.

HOWARD: Our next proponent testifier for LB759? Good afternoon.

KEVIN WINGARD: Senator Howard and committee members, my name is Kevin Wingard, K-e-v-i-n W-i-n-g-a-r-d. I know it's late on a Friday. I won't-- I handed you a, kind of a lengthy letter and several attachments. I'll just-- I'll be concise, hopefully, when I'm, when I'm presenting. I won't read you that whole letter, due to the time of the day. I'm superintendent of Milford Public Schools. I'd like to start by thanking Senator Kolterman and Superintendent Brad Best for their work on LB759. I do want to start by recognizing the work that DHH-- DHHS does for families in Nebraska. I know that there's some shaking of heads and smiling back there, and we apologize the-- at least I apologize if my-- I know that not always caseworkers get the information, and you-- as you've already heard, and, and some of these

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comments are a bigger picture than with, with individuals that we deal with every day. We all know that they have the daunting task to pro-- of providing placements for children. Working with the local foster parents and their students is nothing new to us at Milford Public Schools. We have a number of foster parents in our school district. We have several foster students every year, and in fact, we have several that get adopted every year. We just had three in the last-- well, two months ago-- get adopted in our district, and it's, it's pretty special when that happens. But in my opinion, and our opinion as a district, there needs to be changes in the process when communicating with school districts, especially when the student being placed has special education needs or special service needs. We understand that, in many situations, DHHS needs to make emergency placements. But school districts also need time to develop and implement educational plans for the students, especially when those plans involve hiring of specialized staff or rearranging our current staff, like you've already heard. We believe that this consultation with the school district is critical when making a best-interests determination for those students. I'm going to do quick-- two quick examples, which are in your packets, but I do, I do want to cover those. The first one, this, this involves one that we actually did receive a several-day notice right before school started this year, on August 8th. But you'll see throughout this-- through this first example-- communication then stopped. On August, August 8th, our guidance counselor received notice that a foster student would be enrolling in a high school. We requested the required superintendent's letter at that time, because I had not yet received it. When I did receive it, it said "Millard Public Schools," so we're a little confused if it was Milford or Millard. That same day, we were notified by our foster family that the, that the student was being placed with them, would be enrolling in Milford Public Schools, and that the young lady, because of the special circumstances, circumstances, would be transported to a metro-area school for her education daily. So that same day, after hearing that from the foster parent, I emailed the caseworker and-- for four simple things: the D-- explained that the DHHS letters stated Millard and not Milford, and asked for an updated one; I attached a copy of the school Education Court Report document which is attached to-- it was talked about earlier, that that court document, it is attached to my packet-- to see if we get get a copy of that and understand why the transportation to Omaha was going to take place; I asked for an IEP, if that was available or appropriate; then I asked who was responsible for the finances for this prearranged transportation. And I received no response. I know, from the foster

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parent, that this young lady lives in our school district and is being transported to the metro area to receive educational services. I have not received one contact from DHHS since my initial email. The second example is, is going on right now in our district. On December 5th, received a phone call from a foster parent in our district. On this, she was gonna be receiving a, a student in the second semester, and so my elementary principal followed up. And she shared with us that the foster student currently attends a metro-area school district, Omaha area, was residing in a medical facility and, and actually for two years had been in two different medical facilities, that this student was attending a Class 8 school district, elementary school that was providing all services required. So the foster parent-- in a follow-up phone call, the foster parent shared, received more information and shared the medical needs and requirements for the student. As you can see, the list is quite lengthy: a full-time one-on-one registered nurse because of a trach, feeding tube, catheter-- and the list goes on: We need to meet ADA requirements because there is a wheelchair; a full-time-- one paraeducator; physical therapy services; speech services, as the student has limited services and as a communication device, which goes into the next bullet; and then we'll have special transportation needed because of the wheelchair, and we were going to be responsible for providing transportation to and from school. Multiple messages were left with the caseworker. The answering system said that we'll get a return phone call in 24 hours; we have still not received a phone call. According to the foster parent, home healthcare has already been arranged. After multiple attempts to reach the caseworker, we sent the attached email; that's attachment number two in your packet, and that was on 1-9-20. In our email included the intro, the introduction of this bill, LB759 by Senator Kolterman. Within 18 minutes, we had a response, not only from the caseworker, but the caseworker's supervisor. Since then, we've received substantial communication from medical staff from both hospitals, the current school district staff, Westside public schools, and the foster parent. To this point, we've only received two email communications from the caseworker. Not once have we had the opportunity to talk in person or over the phone with the caseworker regarding this potential placement, nor has anyone visited our school building in Milford Public Schools. But yet every other agency involved is telling us this student is coming to Milford Public Schools. We requested that the Educational [SIC] Court Report be completed and be included in all meetings of possible placement for this student. We've been informed that a meeting did take place to discuss school placement, but we weren't invited. We haven't been invited to any others, as well. We've

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been told by DHHS that they cannot complete the documents that we requested until court action and other final decisions are made because the court system is involved in this placement. This process needs to be changed or clarified.

HOWARD: Mr. Wingard, we'll ask you to wrap up your final thoughts. You've got the red light.

KEVIN WINGARD: What? Sorry. Changes need to be made, and you can see why. This, this student-- I, I have a paragraph in my document. You'll see-- we serve lots of students. We're going to serve. We're a public school. We're going to-- we love all our students, we serve every student, we go above and beyond. But in this situation, I have every agency and the foster parent telling us we're getting a student, and I have not been notified by DHHS we're receiving a student that will, as you can see, cost our district significant finances and cause us to create several positions and contract with Mr. Skretta at the ESU.

HOWARD: Thank you. Are there any questions? Seeing none, thank you for your testimony today.

KEVIN WINGARD: Thank you.

HOWARD: Our next proponent testifier for LB759? Seeing none, is there anyone wishing to testify in opposition? Good afternoon.

SARAH HELVEY: Good afternoon. 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. In 2008, Congress passed the Fostering Connections to Success and Increasing Adoptions Act. Among other things, the act requires states, as a condition of receiving federal foster care funding, to provide assurances to the federal government that a child in foster care remain in the school in which the child is enrolled at the time of such placement, unless doing so is not in the child's best interest. There's also a school stability requirement codified in Nebraska law, at Nebraska Revised Statute 43-1311(4), which LB759 proposes to amend, among other sections, that requires juvenile court-- sorry-- which LB759 proposes to amend. We believe that LB759, as written, may, might violate federal law and potentially put the state at risk of losing federal foster care financing, because the financial interests of school districts are outside of the standard of placement decisions, which is best interest of the child. We certainly understand all of the concerns about the need for communication and collaboration, and I have had experiences,

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myself, with the lack of communication necessary from the Department of Health and Human Services. But that is not what this bill does. It does not simply provide-- I have not seen the amendment; I will say that. My understanding is the amendment takes the courts out of the process. This bill states that there should be consideration of the financial burden to school districts and placement decisions. A bill that would provide notice could simply state the Department of Health and Human Services shall provide notice within seven days, or what have you, to the receiving school district, and provide, you know, specified information unless they're unable to do so in exigent circumstances or something along those lines. Instead, this bill is focused on a consideration of the financial resources of the school district and placement determinations. We understand that school districts have obligations to educate children or-- sorry-- we understand that school districts' obligation to educate children, particularly those with disabilities and special needs, can be costly, and that school-- student mobility is difficult, not just for children, but for teachers and school districts, as well. But school districts have an obligation. I heard lots of testimony about access to resources, and I under-- I know that that's a significant issue, particularly for the rural school districts. But school districts have an obligation, under federal special education law, to meet the needs of these children. And so Appleseed would like to see a bill that is more, more focused narrowly on the communication and collaboration issues. We believe that placing children in a setting that's in their best interests and protects their health and safety will result in better educational outcomes for children and youth. And then finally, I just wanted to note, because I've sat through the proponents' testimony and there were certainly some situations where children were placed and in a school district where there wasn't safety provided; and that is certainly a concern. But I would say that, under our existing law, the safety of the child should certainly-- should already be a consideration in those placement determinations by the juvenile court. We want to thank, thank Senator Kolterman for the opportunity to, to talk about the challenges here, and the committee for all the work that you do to ensure stability for children. But we respectfully request that you vote to indefinitely postpone this bill.

HOWARD: Thank you. Are there questions? Senator Williams.

WILLIAMS: Thank you, Senator Howard. And thank you, Ms. Helvey, for being here again. Two quick questions. So your concern is about the financial part. If the, if the legislation was only concerning prior

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notice, in your judgment, would that violate any current federal or state law?

SARAH HELVEY: No.

WILLIAMS: And would you be here in support of the bill if that's all it did?

SARAH HELVEY: Yes, and in fact, I think that would be consistent with existing--

WILLIAMS: Thank you.

SARAH HELVEY: --federal foster care law that I am familiar with.

WILLIAMS: Thank you.

HOWARD: Any other questions? Senator Arch.

ARCH: Thank you. Do, do all schools have the obligation to accept a child, regardless of the services that are available in that school?

SARAH HELVEY: That's my understanding.

ARCH: OK, [INAUDIBLE]. Thank you.

SARAH HELVEY: Public school, if that child is a resident of their district.

HOWARD: Senator Murman.

MURMAN: Thank you for testifying. And I just want to go a little further on that question. Even if it's an opt-in student, they, the district would have the obligation to take them in all circumstances?

WILLIAMS: No.

SARAH HELVEY: I'm not sure about that. I think it's that-- are you referring to the-- no, I think I'm not, I'm not sure how that-- I'm familiar with Omaha's learning community, but I'm not sure how that operates across the state. I'm sorry.

MURMAN: All right. We heard from some testimony that a student, a special needs student could be an opt-in student. So that's the reason I'm asking.

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SARAH HELVEY: I'm sorry. I'm not--

MURMAN: OK.

SARAH HELVEY: I'm not able to answer that question.

MURMAN: Thank you.

HOWARD: Other questions? Seeing none, thank you for your testimony today.

SARAH HELVEY: Thank you.

HOWARD: Anyone else wishing to testify in opposition? Good afternoon.

JULIET SUMMERS: Good evening. Chairman Howard and members of the committee my name is Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s. I'm here on behalf of Voices for Children in Nebraska, to oppose the underlying version of the bill. I have also not been able to see the amendment yet, so I don't want to speak out of turn regarding that. Ultimately, I want to say we absolutely respect and understand the issue that the bill is seeking to address. I just want to put our concerns on the record about the initial drafting of the bill that we were able to look at, because we were concerned in reading that that it appeared to displace or, at least, disturb the best interests of the child as the primary consideration of the court when making the placement decision. So like I said, I understand there's an amendment. And to be clear, we share that concern about ensuring districts are aware of and able to meet the sometimes challenging and even costly needs of the children who may be transient in their education due to court processes and placements. And we also absolutely not opposed to notice and the opportunity for planning, in fact, strongly support that and better communication, because ensuring smooth transitions in education is crucial to ensuring that children in foster care don't get lost in their education along the way. So that's what I do want to register exactly why, what our initial concerns were, and say that I would love to look at the amendment and be happy to work with Senator Kolterman's office on that, as well as the committee, on any possible changes moving forward, because by our reading, it appears, it appeared initially to prioritize the perspective of the receiving school district over the broader court considerations of what's in the child's best interests, because that initial version allowed for a weighing of costs and benefits to school districts prior to the court's placement decision, rather than mandating a smooth and

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comprehensive transfer of information after the court had made a placement decision based on the best interests of the child, which is a global consideration. And so in doing that, it also seemed to task the juvenile courts with releasing confidential information about the child and their educational history to a prospective new district, even prior to making that placement decision, so prior to the finalization of that consideration. And it was not clear to me how that would even be accomplished. The juvenile court doesn't-- can't really consult with outside entities unless that entity is a party to the case and all other parties to the case are present in the form of a hearing. Otherwise it would be an ex parte communication. So my understanding, from the sounds of it, the amendment-- it appears to be more about the department and their communications with receiving school districts. And in fact, I had written that a more appropriate path would be to include this sort of information with the department or guardian ad litem. So you know, so we absolutely would be supportive of something more to that effect, of ensuring that there is, you know, time-limited, good, comprehensive communication of a child's needs as they are being moved into that new school district and new placement. So I did-- I, I messaged Senator Kolterman earlier this week and was able to speak to him briefly. His main request was to be brief, so I hope that I have [LAUGHTER]. But I do want to say again, I would, would be very happy to continue working on this, because we share the interest, from the perspective of the best interests of those children and their education, not getting lost in the process of the foster care proceeding. So thank you to Senator Kolterman and to this committee-- and be happy to take questions if you have them.

HOWARD: Thank you. And do you know, is the superintendent's letter a policy? Or is it in statute?

JULIET SUMMERS: I, offhand, cannot think of a statute that mandates that. I don't want to say for certain, so I'd have to take a look. But my-- off the cuff, I would, I would think it's a policy. But there may be someone following me who might be able to answer that even better.

HOWARD: Thank you. Any questions? All right. Seeing none, thank you for your testimony today. Our next opponent testifier? Good afternoon again.

STEVEN GREENE: Good afternoon. Good afternoon, Chairwoman Howard. Members of the Health and Human Services Committee, my name is Steve-- or Steven Greene, S-t-e-v-e-n G-r-e-e-n-e, and I am the deputy

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director for the Division of Children and Family Services within the Nebraska Department of Health and Human Services. I'm here to testify in opposition, on behalf of the department, for LB759. And before I get started, I really want the committee to understand that our opposition to this is what has been noted with others in the opposition, which is our serious concern that this would conflict with federal legislation, which we'll get into in the body of the testimony. And that no way negates obvious further collaboration and communication within these school districts and across the state of Nebraska, and the need for improved communication with our department and with school districts. I just want that to be very clear that that's not what we're opposing. Collaboration is a good thing. And one thing, if I can just go off the cuff, that I appreciate the passion and the dedication that these superintendents shared and wanting to do what's right for kids. We want the same, and so I just wanted to say that. LB759 requires, prior to making a final determination regarding placement of a child, the court, the department, or any other person in charge of the child, conduct a consultation with the receiving school district that the child will be attending as a result of the placement, if the receiving school district is not the child's, child's resident school district. This includes a determination of educational programing, costs for the programing, and the sharing of information within a designated time frame. While the department believes that there is value in coordinating the educational needs of a youth being placed in the receiving school district, that was, this will not always be able to occur for many children under the care of the state. A change in a child's placement is urgent, often over a concern for the child's safety. In those cases, the department needs to make a placement determination on the best interest of the child, child, which may include keeping them in their current school district or placing them in a relative or kinship home outside their current school district. The department believes that LB79-- LB759, as others have, have noted, would or could potentially violate federal law, specifically the Every Student Succeeds Act, or ESSA. ESSA states that when a foster youth does not remain in the school of origin, the student must immediately be enrolled in a new school when a child's placement in state custody has changed, even if enrollment documents and school records cannot be immediately produced. While the department can help support the transfer of educational records under ESSA, the enrolling school must contact the school last attended by the child for obtaining educational records and other relevant information. A child's best interest determination must be based on all factors relating to the child's best interest, including

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consideration of the appropriateness of the current education setting, the child's wishes, the proximity to the school in which the child is enrolled at the time of placement. Federal child welfare law already requires child welfare agencies to collaborate with education, with education agencies to ensure school stability when it is in the best child's interest-- or child's best interest. ESSA creates reciprocal obligations on educational agencies. Under ESSA, the cost of the educational service services should not be a factor used to consider whether changing schools is in the child's best interest. It is important for the community-- committee again to understand that these protections have been required by the federal government to ensure the best interests of children, by promoting stability and normalcy of a child in the child welfare system. The department is open to further collaboration with school districts, and I can-- I just want to say that there will be, there will be further collaboration and communication with school districts after this hearing, about this, this discussion. And so we, we look-- we, we want to collaborate with local school districts to strengthen protocols regarding communication and coordination with the receiving school district. However, that said, the department opposes LB759, as we believe, as proposed, this conflicts with the best interests of a child in the care of state law. Thank you for the opportunity to testify, and I'd be happy to answer any questions that you may have.

HOWARD: Thank you. Are there questions? Senator Cavanaugh.

CAVANAUGH: Thank you. Thank you for being here, Deputy Director Greene, and for providing some clarification on the process. In, in your, your testimony, when you're talking about ESSA-- .

STEVEN GREENE: Um-hum.

CAVANAUGH: --and the department, is there anything in the federal act that precludes the department-- DHHS from automatically providing those records? Assuming a lot of what we were hearing--

STEVEN GREENE: Um-hum.

CAVANAUGH: --from school districts today is that these weren't children coming from the courts. They were at a-- like at a regional center--

STEVEN GREENE: Um-hum.

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CAVANAUGH: --or maybe a YRTC.

STEVEN GREENE: Right.

CAVANAUGH: So they were, they were being educated,--

STEVEN GREENE: Right.

CAVANAUGH: --theoretically, by the state--

STEVEN GREENE: Um-hum.

CAVANAUGH: --by the department actually. So it would make sense if the department could readily--

STEVEN GREENE: Yeah.

CAVANAUGH: --transfer those documents with them.

STEVEN GREENE: Yeah.

CAVANAUGH: Is there a reason that that's not happening?

STEVEN GREENE: So I'm not familiar with that specific case. But, but we should, to the best of our abilities, provide the records that are necessary to complete sort of the transfer of placement from one school district to the next. What I do know or understand about ESSA is that, despite-- what's word I'm looking for-- that there is a factor or an emphasis on immediate place-- or enrollment. So when a youth-- or a foster youth-- does not remain in the school of origin, the student must be immediately enrolled in the new school, regardless of whether the youth can produce the records typically required for enrollment. And that's not a state law; it's-- rather that's a federal requirement--

CAVANAUGH: Sure.

STEVEN GREENE: --under that.

CAVANAUGH: But what efforts are being made by the department? I mean, we heard from the ESU--

STEVEN GREENE: Um-hum.

CAVANAUGH: --that they actually have resources listed online as to--

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STEVEN GREENE: Right.

CAVANAUGH: So is the department checking if there is a high need with the student? Are they going online and checking what are the available, within a reasonable area of their--

STEVEN GREENE: Yeah.

CAVANAUGH: --placement?

STEVEN GREENE: Yeah. So there would be coordination with the child placing agency to make the-- to work with the foster family that's receiving the child, to make sure that that appropriate-- that placement is appropriate or that their educational needs are met. But the educational component would be one-- and, and I think this has been noted with ourselves and then others-- but that's one component of the best interest of the child that there is. There's multiple factors that would, would go into that consideration. And, and as the testimony noted, a lot of times a placement can change. And I think a couple of questions have been asked, you know-- it's 6:00 at night and a home is needed there-- a child needed to be placed as soon as possible. And so those, those create their own unique challenges of getting records in a timely manner.

CAVANAUGH: OK. Thank you.

STEVEN GREENE: Um-hum.

HOWARD: Other questions? Senator Arch.

ARCH: Thank you. Thank you. Just, just to help me understand. So a child needs to be placed.-- and this is a question I asked previously.

STEVEN GREENE: Um-hum.

ARCH: The foster family--

STEVEN GREENE: Right.

ARCH: Or the kin--

STEVEN GREENE: Right.

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ARCH: -is identified. The child's place-- is it automatic, then, that the school district that that, that address is in, automatically then receives the child?

STEVEN GREENE: Correct. So if I understand your correct-- are you-- or if I understand your question correctly, it is-- under ESSA, immediate enrollment is required whether there is lack of records to accompany the child.

ARCH: Right.

STEVEN GREENE: So the-- so in that case of a foster parent, the next day they could show up to a school and would be required to enroll the student for participation in the school.

ARCH: And it, and it's an automatic enrollment in the district where that address of wherever that child--

STEVEN GREENE: That's my understanding.

ARCH: --is placed. OK, thank you.

HOWARD: Other questions? I have two. Is the superintendent letter that you send out, is that a policy? Or is it--

STEVEN GREENE: I--

HOWARD: --fall under statute?

STEVEN GREENE: I had a feeling-- it's not in statute, but I would assume it's a policy. I know it's something that we did in collaboration with the Nebraska Department of Education, as well, and was, was vetted with them. So I will-- I'm assuming it's a policy. I know we're working on a standard work instruction to, again, a leap-- we see some gaps in our communication and making sure that we're getting proper placements for these kids and having their-- meeting their educational needs. And so there is a standard work instruction that we're currently working on with the Nebraska Department of Education, as well. But I'll, I will-- I, I'm assuming it's a policy. But I know it's not a statute.

HOWARD: You'll share that with us?

STEVEN GREENE: Of course.

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HOWARD: Thank you.

STEVEN GREENE: Yeah.

HOWARD: The other piece that I heard that was concerning was an issue of disclosure when the child that's being placed in this school has a history of harm to other children.

STEVEN GREENE: Um-hum.

HOWARD: And I know we've run into this in the past before. We've had several lawsuits--

STEVEN GREENE: Um-hum.

HOWARD: --about it.

STEVEN GREENE: Yeah.

HOWARD: What is the department's policy around disclosing to the school when we know that we have, maybe, a sexual predator or a child with a history of violence? What is the department able--

STEVEN GREENE: Sure.

HOWARD: --to share?

STEVEN GREENE: I don't, I don't know the answer to the question. That doesn't mean it doesn't exist. I'm just-- I don't want to, to speak off the cuff. I know there is-- in the court reports, there is information that we'd include about the prior history of the child and problematic behavior that would go in consideration for placement in the court setting, but within the educational space, I'm, I'm not, I'm not aware of personally. That doesn't mean that something doesn't exist.

HOWARD: And we have something that requires you to tell a foster parent.

STEVEN GREENE: Right.

HOWARD: Right,--

STEVEN GREENE: Yes.

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HOWARD: --if there's harm? So I think we did that recently.

STEVEN GREENE: Correct.

HOWARD: So. OK. OK. All right.

STEVEN GREENE: Yeah.

HOWARD: Thank you.

STEVEN GREENE: Thank you.

HOWARD: Any other questions? Seeing none,--

STEVEN GREENE: All right.

HOWARD: --thank you for your testimony today.

STEVEN GREENE: Yeah, thank you.

HOWARD: Our next opponent testifier? Is there anyone wishing to testify in a neutral capacity? Seeing none, Senator Kolterman, while you're coming up, we do have some letters for the record. Letters in support: Dr. Larianne Polk, Educational Service Unit 7; Mark Norvell, Fillmore Central Public Schools; Colby Coash, Nebraska Association of School Boards; Dr. Richard Hasty, Plattsmouth Community School District Central Office. No letters in opposition. One neutral letter: Nancy Thompson and Kathy Moore from the Foster Care Review Office. Welcome back, Senator Kolterman.

KOLTERMAN: Thank you. I know it's like 5:10 on Friday afternoon, and it's been a long, long week for all of us. I have just a couple of things I want to touch on, and then I'll take any questions you might have. In regards to Senator Murman, emergency placements are still allowed to happen. That's-- we're not trying to mess with the emergency placements. But we would like final determination to be with, at least with the consultation. In regards to the amendment, I met with Corey Steel and an attorney yesterday from the Chief Justice's office, and we talked about the amendment. And it was never our intent to ask for confidential information from the courts, and they said if they had to do that, it could take several weeks to get it. And so that's why you see the amendment the way it is. And I apologize to Appleseed and Voices for Children for not getting that out sooner, but I just got it this morning. They were working on it, and I wanted to introduce that to you. But we have agreed that that's

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not necessary. As regards to a couple of things, my brother adopted five kids from the foster care system. And they all went to school in Seward-- Seward Public Schools. And there were some major challenges with several of them. I don't think there's any school district in this state that would deny to pay for what a kid needs. That's not what you were hearing here today. Kids need stability; they need a loving, caring home. When they were placed in Seward Public Schools, they knew exactly what they're getting into. And they had consulted with the school district, and they accepted that challenge. But what we are talking about here is the need for conversation. You heard it. And I know it's Friday, and it's late, and everybody wanted-- wants to get out of here. But the reality is, these kids need a good home, and they need a good education, but they deserve the right to be put in an education system where they're going to succeed and not be in a school bus or in a vehicle for an hour each way, some days or every day. And so all we're asking here is, talk to the school districts. That's all we're asking. Give them a call and say: Hey, we have this child., we're going to try and place him in your community, they're going to be part of your district. That's not asking a lot. If we can't communicate with one another, we're setting a lot of these kids up for failure. It's not a matter of resources, and I don't think you heard one person here say that they aren't willing to take kids, because there's nothing in this bill that says that they won't take them. All this bill says is, we want the conversation to happen, so at least we have a clear understanding of what we're getting into and we can deal with it in a fair, in a fair manner. And if it's not in the best interest of the child, we want to be able to help get that child what is going to be in their best interest. So with that, I thank you for your time. I would like that you advance this bill. I'm willing to work with anybody. I-- but I will talk to the opposition. I knew that DHHS was going to be in opposition today, and I understand that. But it's a problem that needs to be solved. So with that, thank you. Have a nice weekend. If you have questions, I'll be glad to take them from you.

HOWARD: Thank you. Are there questions? I just have one related to-- the superintendent that we heard from and the, and the education folks that we heard from today are all from rural areas. We didn't hear from, sort of, Omaha or Millard. Do we know, is this also a problem for them, as well?

KOLTERMAN: You know, I, I, I doubt very seriously that it is, Senator Howard, simply because they're in, they're in communities, where

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they're-- as an example, in, in Columbus, Nebraska, they have a special unit in Columbus, Nebraska, that a lot of these children come to on a regular basis. So if you're in-- let's use Heartland Schools down in Henderson-- you might have to drive that child to Columbus every day, or like in Seward, they'll bring them in to the best program here in Lincoln. So I think that your metropolitan areas are, are able to take care of them. And in some cases, the schools are set up automatically to do it. But again and again, it's not that they're trying to run from their, from their abilities, but the resources just aren't there. Just to hire a para, you heard what Dr. Best said about-- they had, they were two paras short to start with, and then they brought another one in. Every kid hurts. The other two kids that were short a para, now you're, now you're spreading those kids over less paras, and it's just, they're just not-- nobody's winning. All that could be handled with a little bit of communication. But I, I, I believe that the metropolitan areas are set up to handle a lot of these problems.

HOWARD: OK. Thank you. Any final questions? Seeing none, thank you, Senator Kolterman. This will close the hearing on LB759, and end our hearings for the day.