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Health and Human Services Committee
February 18, 2009

[LB172 LB319 LB370 LB458 LB679]

The Committee on Health and Human Services met at 1:30 p.m. on Wednesday, February 18, 2009, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB172, LB370, LB319, LB458, and LB679. Senators present: Tim Gay, Chairperson; Dave Pankonin, Vice Chairperson; Kathy Campbell; Mike Gloor; Gwen Howard; Arnie Stuthman; and Norman Wallman. Senators absent: None. []

SENATOR GAY: Welcome to the Health and Human Services Committee today. We've got five bills, five bills to get through and we'll proceed directly into that. I want to introduce myself. My name is Tim Gay. I'm from Papillion/LaVista and we'll have introductions starting to my right. []

JEFF SANTEMA: My name is Jeff Santema. I serve as committee counsel. []

SENATOR GLOOR: I'm Senator Mike Gloor from District 35 which is Grand Island. []

SENATOR CAMPBELL: I'm Senator Kathy Campbell from Lincoln. []

SENATOR STUTHMAN: Senator Arnie Stuthman from Platte Center, the 22nd District which is northwest of Columbus, a little town. []

SENATOR WALLMAN: Senator Norm Wallman. []

ERIN MACK: Erin Mack, committee clerk. []

SENATOR GAY: Thank you. And others on the committee: Senator Dave Pankonin who's in Retirement Committee right now, and Senator Gwen Howard who's testifying on another bill I understand. Anyway, we will be coming and going throughout the day. If you're new, don't take offense to that. Other senators have meetings and bills that they're introducing still at this time, so we'll continue on with testimony, but sometimes you'll see people coming and going and that's what they are doing. We have light system in place here. Five minutes if you're testifying, opening person can get as long as they want. If we're asking you questions the clock is not running. We'd like to be concise and not repetitive. And the reason we have a light system here is, five bills, if you're starting your bill at 5:00 in the afternoon, it's not quite fair as the person who started at 1:30 because we've only got so much time and attention and quite honestly the day gets long. So we kind of proceed fairly quick. But if we are asking you questions, take as much time as you want. If you're new and you haven't testified before in our committee, we won't cut you right off. But when the red light goes on your five minutes is up. Green light goes until four minutes. Then you'll see a yellow light at four minutes. So that's how we run things. If you have a cell phone and if you could silence

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those at this time, we'd appreciate it. We have testifier sheets over here by the door. I think by both doors, but anyway if you can print out your name and hand it to the clerk when you come up to testify it's very helpful. And also we'd ask you to state your name and spell it out just for the record because it is being transcribed and she has to transcribe that so that makes it easier. I have LB172 up first. I'll turn this over to Senator Stuthman. []

SENATOR STUTHMAN: Thank you, Senator Gay. Senator Gay has LB172. Good afternoon, Senator Gay. [LB172]

SENATOR GAY: (Exhibit 1) Good afternoon. Thank you, Senator Stuthman, committee members. For the record, my name is Tim Gay. I represent District 14. LB172 is a bill that was brought to me by the Attorney General's Office. The bill creates a mechanism for the Medicaid Fraud Control Unit in the Attorney General's Office to recover costs and attorney's fees in the cases that they investigate. LB172 creates the State Medicaid Fraud Control Unit Cash Fund. The Attorney General's Medicaid Fraud Control Unit investigates and prosecutes Medicaid provider fraud, patient abuse and neglect. Federal law requires each state to have a unit unless the state receives a waiver. The Nebraska unit was created in 2004 by LB1084. At that time, the unit was given statutory authority to recover costs and fees with the idea that within time the unit would pay for the state match from its recoveries. Without a cash fund, however, there is no way for the Attorney General's Office to put recovered funds to use to pay the state match. LB172 fixes this gap and will make the unit self-funding. The bill also includes a one-time transfer of \$215,000 from the Health and Human Services Cash Fund. This transfer provides one year of the current state match for the unit and gives the unit one year to recover sufficient funds to meet the state match in the second year of the biennium. After the bill was drafted though, we discovered that language restricting the source of funds that can go to the State Medicaid Fraud Control Unit Cash Fund had been omitted from Section 3 of the bill. My office, working with the Attorney General's Office and Health and Human Services, has drafted an amendment, AM333, which corrects this omission. And I'll hand this out to you. I'd like to thank you for your consideration on this important bill. I'd be happy to answer any questions, although Dave Cookson from the Attorney General's Office is here to provide information on the Medicaid Fraud Control Unit and can answer probably most of the questions you will have. [LB172]

SENATOR STUTHMAN: Thank you, Senator Gay. First of all for the record, I would like to announce that Senator Howard has joined us at this hearing. Are there any questions from the committee? Seeing none, thank you, Senator Gay. [LB172]

SENATOR GAY: Thank you, Senator Stuthman. [LB172]

SENATOR STUTHMAN: Could I have a show of hands of the people that want to testify

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as proponents? We have one. Any in the opposition? Any in the neutral capacity? That's going to be fairly simple. Thank you. Good afternoon. [LB172]

DAVID COOKSON: (Exhibit 2) Thank you, Senator Stuthman. Thank you, Chairman Gay, members of the committee. My name is David Cookson, D-a-v-i-d C-o-o-k-s-o-n. I am the Chief Deputy Attorney General. I appreciate the opportunity to be here today. We thank Senator Gay for bringing LB172 and for working with us and Health and Human Services on AM333 which fixes the drafting error that we made in the original...the green copy of LB172. I'm handing out for a brief memorandum that contains the statistics for what we call the MFCU unit or in Medicaid Fraud Control Unit. Nebraska was one of the last states to adopt a unit. However, in the four and a half years the unit has been in existence we have recovered over \$20 million that has gone back to Health and Human Services from Medicaid fraud created either nationally as part of global settlements with other states or here in Nebraska through criminal prosecutions and civil settlements. It was always intended that the unit would eventually fund itself, but we wanted to make sure that in fact the unit was going to be operational and would be able to handle the cases. So we initially agreed to eat the state match in our General Fund budget without and increase. And at that time, the feds paid 90 percent and the state paid 10 percent. Within a year the feds went to 75-25, and as we have gone on, while the percentage has stayed the same, the amount of our state match is grown from the original \$85,000 to \$215,000. And we can no longer sustain the unit through our General Fund. However, it is clear from the amounts that we have recovered that we can recover sufficient amounts to cover our costs and fees. Now, the interesting thing and the thing you need to know is the federal government requires that before we recover our costs and fees that state Medicaid is made whole and the federal Medicaid is made whole. And then we can recover our costs and fees, then we can recover double and triple damages, which are fines and penalties, which under our constitution go to the State School Fund. So in no respect does this impact the amount of money that Medicaid receives. In fact, they get their full amount back of any recovery that we make. Then we get to recover our costs and fees. However, we know that there is sufficient amount for us to do that because while we've put \$20 million back into the state, a part of that has been double and triple damages. And so we know there's more than sufficient money to make that. We have asked for a one-time transfer, \$215,000, from Health and Human Services fund. That will not come from any money that exists in the fund as of today because that money has been obligated by Health and Human Services. However, we just signed off on a settlement that's going to bring almost \$900,000 into that fund by the end of June which will then give us sufficient funds from which to take our \$215,000 match. With that, I will answer any questions the committee might have. [LB172]

SENATOR STUTHMAN: Thank you, Mr. Cookson. Are there any questions from the committee? Senator Gloor. [LB172]

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SENATOR GLOOR: Thank you, Mr. Chairman. Mr. Cookson, as I'm trying to read through this quickly it appears to me that we are...when we talk about the \$20 million, we're talking about one large, significantly large claim, the rest being reasonably small and intermediate claims that come in. [LB172]

DAVID COOKSON: It's probably more fair to say there's been six or seven large settlements in the four and a half years. The largest that comes to mind was Bristol-Myers Squibb. The state recovered almost \$3 million. That was probably the largest. Typically the national settlements, which are usually with drug companies over off label marketing, deceptive advertising, run in the \$700,000 to \$900,000. The state claims have typically been lower, although you'll see there's an example, the state recovered I believe it was... [LB172]

SENATOR GLOOR: Nineteen? [LB172]

DAVID COOKSON: ...\$3.1 million from a local hospital which had overbilled the state to the tune of about \$1.8 million. Our unit has been very efficient and effective at going about this. At the same time we're not looking at a witch hunt at medical providers. We're typically looking at the people who bill for services that aren't performed. And not only does our office go after them through Medicaid fraud, our license and regulatory unit also then goes after their license with HHS and we prosecute criminally. So we're a one-stop shop when it comes to Medicaid fraud claims. [LB172]

SENATOR GLOOR: And the dollars that are recovered go to underwrite the expense of the unit as well as the school fund? [LB172]

DAVID COOKSON: Right now they do not. Right now the first level of recovery, first level damages goes directly to Health and Human Services and to the feds. The feds take their cut, the state gets its cut. Then if we see double or triple damages, the Supreme Court has said those are a fine or a penalty, which under our constitution goes to the school fund. [LB172]

SENATOR GLOOR: Okay. [LB172]

DAVID COOKSON: What we would be doing is putting in our costs and fees between the level one recovery and the double and triple damages. And given the small size that our recovery would be, it really won't even make an impact on the school funds to speak of, because frankly we'll continue to recover significant amounts. [LB172]

SENATOR STUTHMAN: Okay. Senator Howard. [LB172]

SENATOR HOWARD: Thank you, Senator Stuthman. I'm just kind of curious about do you review all the bills that come in or how do you know which ones to look at in terms

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of a possible fraud? [LB172]

DAVID COOKSON: Typically we work with HHS. They'll be looking at, as they're paying out Medicaid, there are indicators and red flags that their folks are trained to see. And then we get citizen complaints. In fact, we've had senators offices refer complaints to us that then we've turned around and investigated. People have complained about the care a parent has got in a nursing home. We've looked into that. We had a guy out in south central Nebraska who...his mothers' guardian was taking her Social Security checks, not paying her bills, and living off those. And that example is in the sheet here. And he was criminally convicted and had to pay a significant fine. [LB172]

SENATOR HOWARD: Well, I appreciate the information. I may well find that useful. Thank you. [LB172]

DAVID COOKSON: We welcome...anytime we get a complaint or referral, we turn it over to our investigators and they investigate. [LB172]

SENATOR STUTHMAN: Thank you. Thank you, Senator Howard. Any other questions? I do have a question. Do you feel that there's more occurrence of fraud taking place now or is it getting less, the issues and the occurrence because of the economic conditions that we've had in the past couple of years and possibly will get worse? [LB172]

DAVID COOKSON: I'd like to say it's not getting worse, but history shows us that in economic downturns the level of fraud increases. The stress on people increases and they lose their better judgment and take actions like this. So I would anticipate we may not see a large spike, but we'll see a gradual uptick in the number of referrals we get. [LB172]

SENATOR STUTHMAN: And, Mr. Cookson, are the referrals that you get, are they large amounts of money or a lot of small amounts of activity taken? [LB172]

DAVID COOKSON: It's all across the board. A lot of the local referrals we get are small amounts, with the exception of course we had a hospital that was fairly significant. And then the national ones, our unit is part of a national unit that is in conjunction with our National Attorney's General Association. Almost all of these units are housed in Attorney General's offices. And so nationally we cooperate on a number of global multi-state efforts, which typically also involves our consumer division because there's deceptive advertising a lot of times with the drug companies. We've recently been settling with the makers of antipsychotic drugs who have been misselling or misadvertising those as effective for depression and weight loss. And so you have people taking some really serious drugs with really serious side effects Medicaid pays out, doctors mistakenly prescribed based on the misinformation they get from drug companies. So we see a lot of that in this unit as well. And so it's a significant recovery

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that prior to our unit being formed a lot of it went under the bridge and nobody knew it was there. [LB172]

SENATOR STUTHMAN: Mr. Cookson, do you feel that the issues that you're dealing with are intended to fraud the Medicare? [LB172]

DAVID COOKSON: Usually that's what we're looking for. We're not looking for honest mistakes. We're looking for people who are actually, you know, again billing for services that never occurred, people who...physical therapists or other providers who get out and say, I performed X number of treatments on this patient and get reimbursed for whatever the billing amount is. And then it turns out they never even saw the patient. And we get the same thing with across the board. [LB172]

SENATOR STUTHMAN: Okay. Thank you. Any other questions from the committee? Seeing none, thank you. [LB172]

DAVID COOKSON: Thank you, Senator. [LB172]

SENATOR STUTHMAN: Are there any other proponents? And no opponents? And no one in the neutral capacity? Senator Gay waives closing. And that will close the hearing. I would like to also for the record mention that Senator Pankonin has just joined us, so I will turn it back over to Senator Gay. But Senator Nantkes is at another hearing with one of her bills we understand, so we may... [LB172]

SENATOR GAY: Be waiting a little bit. [LB370]

SENATOR STUTHMAN: Yeah. [LB370]

SENATOR GAY: Do we...did we get any information when she is coming or....so efficient, we got done in 15 minutes. Welcome, sorry to... [LB370]

SENATOR NANTKES: (Exhibit 1) Good afternoon, Chairman Gay, members of the Health and Human Services Committee. My name is Senator Danielle Nantkes, representing the "Fighting 46 Legislative District." That's N-a-n-t-k-e-s for the record. Today I am here to introduce LB370. The purpose of LB370, simply put, is to save the state millions of dollars in Medicaid funds while improving the health of thousands of Nebraska women and families. This bill would require the Department of Health and Human Services to apply for a waiver to CMS for family planning services for individuals whose income is at or below 185 percent of the federal poverty level, which is about \$20,000 a year for a single individual. The state match for family planning services is 10 percent with 90 percent being paid by the federal government. This gives Nebraska a real opportunity to save millions of taxpayer dollars. An evaluation of the other states' Family Planning Waivers conducted by CMS showed that these waivers saved millions

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of dollars in all six states that were evaluated. The potential savings in Nebraska are real and they are significant. I want to take a moment to thank the Fiscal Office and specifically Liz Hruska, for the detailed and informative fiscal note that is before you on LB370. I want to speak very plainly about how I got the idea for this bill and the circumstances surrounding the impetus for me introducing such legislation. This issue first came on my radar screen before I joined the Nebraska Legislature and when I was working as a public policy attorney on issues affecting low-income Nebraskans. During that time, Nebraska began the process of Medicaid reform. And thus it was part of my job to monitor those activities. I am so pleased that today Senator Don Pederson, who served as chairman of the Medicaid Reform Task Force, is here to discuss the work of that body and how this bill is integral to completing their legacy of reform. That is the first time I had ever heard about Family Planning Waivers was when they were being discussed by the Medicaid Reform Task Force. Senator Campbell was also a member of that body, so I know she has unique insight as to their process and I want to thank her for her service in that regard as well. In regards to potential opposition that has been discussed in media reports, and in relation to this bill, I want to proactively address some of those concerns. Number one, opponents have contended that they are against this legislation because it amounts to state subsidized contraception. To be clear, these same family planning services are already offered under Nebraska's Medicaid program. This bill does not change the scope of these services, but rather expands the pool of eligible women. Number two, opponents contend that support for this bill will mean that certain healthcare providers will benefit, mainly Planned Parenthood. Again, to be clear, this bill is not designed to benefit any single healthcare provider, but rather to benefit all healthcare providers who are offering Medicaid services in Nebraska. Opponents contend that somehow this bill does not further the goals of the pro-life movement. I respectfully disagree. I am passing around an article dated October 20, 2008, from the Lincoln Journal Star, which talks about abortion rates in Nebraska and why women seek abortions. Half of the women who sought abortions in Nebraska did so because they did not have access to contraception in the last year. Thus, I contend that this bill which seeks common ground on these highly emotional and political issues surrounding reproductive health is the only proven, scientific, and common sense way to minimize the number of unintended pregnancies and ultimately reduce the number of abortions in our state. Finally, out of respect for this committee's time, I am not interested in perpetuating the ideological wars amongst members of the so-called life or choice movements. As such, I have asked supporters of this bill to follow that example and to instead communicate their support to each of you through e-mails and phone calls rather than a parade at this hearing this afternoon. Of course I cannot speak for the opposition's tactics in this regard. In closing, this bill is about two things. One, saving the state of Nebraska millions of dollars, and, two, improving the health of thousands of Nebraska women and families. I have received countless phone calls and e-mails from public health providers in regards to this legislation about how this is really about women's health. The annual exam that many women could access if this bill is adopted ensures early detection of breast cancer, cervical cancer, and other serious health

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issues that would otherwise go undetected and untreated. I am happy to answer any questions for the committee, and we encourage you to advance the bill. [LB370]

SENATOR GAY: Thank you, Senator. Are there any questions from the committee? Don't see any at this time. Thank you. [LB370]

SENATOR NANTKES: Okay. Thanks. [LB370]

SENATOR GAY: All right, we'll hear from proponents. [LB370]

DON PEDERSON: (Exhibit 2) Good afternoon, Senator Gay and members of the committee. Nice to be with you again, it seems like it's a regular occasion; every Wednesday I am here. And I want you to know that before I was in the Legislature, I...my hair looked like Dave Cookson's. (Laughter) I am here today as the chair of the state Medicaid Reform Task Force. Let me give you just a brief understanding as to how that came about. It was the Legislature, but specifically this particular committee, that caused the Medicaid Reform Task Force to be formed. And, you recall that last week I circulated among you the report from the Legislative Fiscal Office that shows that Medicaid to Nebraska is increasing at the rate of 10 percent per annum. And this is something that we all have been cognizant of and this committee, the Health and Human Services Committee, fostered a proposal that there be a committee, a council of people, to look into this matter and see if we could do anything about reducing these costs. The committee was formed by and chosen by the Governor and the chair, the former chair of this committee. And I would like to give you just a brief understanding of who is on this committee. I can't name them all, but I...because there isn't time, but I would like to mention a few. Steve Martin, who is the president and CEO of Blue Cross Blue Shield of Nebraska; Linda Ollis, who is the executive director of the Creighton Med Center; Corey Shaw, who is the fiscal officer in charge for the University of Nebraska Med Center in Omaha; and Pat Snyder, who is in charge of Nebraska Health Care Association. These are a few and of course Senator Campbell was a very valued member of that committee when she was vice chair. But we met after we were formed in 2005, we met for a number of months and we came out with a number of recommendations as to what we thought could be done to help reduce the amount of Medicaid expenses for the state of Nebraska. I have with me, if I can find it, the...this was the last recommendation that we made. A motion was made by Campbell, seconded by Sorrentino, to investigate whether a Family Planning Waiver would be a benefit to the state of Nebraska. CMS has approved waivers that provide for family planning coverage during extended...during and extends out for some period of time. And so on. But anyway, what I am telling you is that the bill that Senator Nantkes has proposed to you was the recommendation that we made for helping to reduce some of the costs of Medicaid. I am sorry to report to you that we have received no support for that particular recommendation. And we asked them to look into it, they won't look into it. So, I recently asked the department why they are not looking into it at all. They said,

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well, we think it might expand Medicaid. Well, if you look at any of the reports that I have just submitted to you, other states, and I'm not sure of the exact number now, but it's in the 20s, have adopted these waiver plans that allows an extension of the Medicaid waiver. And we go currently like two months in Nebraska, but depending upon when a child is born, it may go up, even up to three months. But after that, there is nothing. And the evidence shows that when family planning is extended as has been proposed, that it has saved millions of dollars. You'll see in the reports that I just submitted to you, that some states--well, California you would expect so--\$64 million. But they have...they have all received a benefit as a result of that. And I see absolutely no reason why this state should not be looking into this. Senator Gloor, you asked me last week, if our committee could be more proactive. We have tried to be proactive but this requires the cooperation and the actions by the government of the state of Nebraska in order to facilitate this program. So I am sorry it has to come here as a bill but we have asked politely that they look into this and we have received no response. And I just think that is not a good way to run an organization like this and it's very frustrating for the members of the council who have studied these issues and come out with a suggestion and it is totally ignored. So let me tell you about the cost. I see the light's on, I don't know which one that means. It means I had better start wrapping it up, right? The cost of the Medicaid reform, CMS requires, when an application is made for a waiver program, that it be at least revenue neutral. So you're not going to lose money on this, if it's not at least revenue neutral, they won't agree to extend that waiver. But it's been proven, as you can see by the figures there in each of the states that they have surveyed, that it has been a big financial increase in those particular states. So, it seems to me that it's a matter of...I'm here not for advocacy of anything except the fact that we felt very strongly that we need to do what we can to save Medicaid dollars in Nebraska, and this is our best effort to do that. So thank you very much, and I'd be glad to answer any questions you might have. [LB370]

SENATOR GAY: Thank you. You bet. Are there any questions from the committee? Don't see any. Thank you, Senator. [LB370]

DON PEDERSON: Okay. Thank you. [LB370]

SENATOR GAY: (Exhibits 7, 8, 9, 10, and 11) Other proponents? And we have received letters, while we are waiting for other proponents to come up, from Anita Jaynes, the National Association of Social Workers, Center for People in Need, and Nebraska Appleseed. We have received those letters, and they will be put in the record. And we have one letter of opposition from Nebraska Right to Life that we have received so. Go ahead. [LB370]

RACHEL STAHR: (Exhibit 3) Okay. Hi, I'm Rachel Stahr. Thank you for taking your time today. I am, like I said, I'm Rachel Stahr, I am executive director or People's Family Services. [LB370]

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SENATOR GAY: Can you spell that out for us? [LB370]

RACHEL STAHR: I'm sorry, it's Stahr, S-t-a-h-r, and I am the director of People's Family Health Services in North Platte, McCook, and Ogallala. And I am here, today, as a representative of the Family Planning Council of Nebraska in support of LB370. The Family Planning Council is comprised of nonprofit family planning clinics operating out of Grand Island, Columbus, Tecumseh, Hastings, Fremont, Gering, North Platte, Lincoln, Omaha, and Chadron. Collectively, we operate 35 health centers across the state, most of which receive some public funding under the federal Title X Reproductive Health Program. To help you understand the positive impact this bill would have on the women of Nebraska, imagine, if you will, a young woman aged 22. She is working at a local Kwik Stop as a manager making \$9 an hour. After taxes and minimal benefits, she brings home about \$1,350 a month. She pays \$500 a month rent, \$200 a month in utilities, \$175 a month for a car payment, \$60 a month for insurance, \$60 for cell phone, \$100 a month for car fuel, \$200 a month for food and household items. Any other very basic expenses, such as car repairs, money for clothes, haircuts, spending money, or, now get this one, healthcare, has to come out of the remaining \$55 a month. On our current sliding fee scale, she would still pay about \$20 per month for birth control. If she were to get pregnant, she would qualify for Medicaid, get ADC, and not work for a number of months, if not longer. The state would pay out thousands of dollars in prenatal, delivery, and postpartum, and then continue to pay for Medicaid under Kid's Connection, possibly for the next 6 years. I ask all of you, wouldn't you rather help her with \$20 a month birth control and \$200 every year or so for a cervical and breast cancer screening than the thousands of dollars in public assistance? As a taxpayer, I can assure you that I would. Please understand that this scenario of this young woman I described to you is one of the better ones. Most women with little to no college education don't get paid \$9 an hour. Most can't find an apartment for \$500 a month or have a car payment for only \$175 a month. This scenario, as glum as it may sound, is the exception with the reality being much worse. So now we have before us a bill that will help pay for basic reproductive healthcare for low-income women. It will help keep them healthy, reducing cancer and STD rates. It will help prevent unintended pregnancies, reduce the drain on public assistance, and abortions. It will free up much needed cash for low-income women to help support themselves. Nearly 200,000 Nebraska women are sexually active, fertile, not wanting to get pregnant, and in need of reproductive healthcare and supplies. Nebraska family planning agencies receive comparatively little public funding and are only able to provide services to about a third of the women in need, leaving 70,000 low-income women without access to subsidized contraceptions and other services. In 2008, 86 percent of my agency's clientele were at or below 185 percent poverty level that would be covered by this bill, but only 35 percent of my budget comes from Title X reproductive health funds, and many clinics receive less than that. Because of the heavy share of the cost that must be borne by impoverished women in Nebraska, many find even the sliding fee scale unaffordable,

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forcing them to chose cheaper, less effective contraceptives rather than those which are more effective or best suited for their health and circumstances. In addition, many women put off having cancer screening exams. I guess I would ask you, which would you chose if you were a low-income woman? Would you have an exam that might cost you \$100 or more? Or will you pay for a car repair so you can get to work? Will you put gas in your car or will you pay for a doctor's appointment for a sinus infection? These are the kinds of real life choices that low-income women of Nebraska face. You have an opportunity to set aside the hot spot of pro-life versus pro-choice and make a decision that simply makes good sense and without a doubt will benefit the low-income women you are in office to serve. Fact: Medicaid waivers saves states millions of dollars. Choice: Pay an estimated \$7 million for the waiver or \$23.2 million in Medicaid-assisted births. In these times of widespread economic struggles, making choices that will save taxpayers money has top priority. Sometimes we have to set aside hot political issues in favor of common sense choices. As the state budget is being squeezed by the economic downturn and Nebraskans are losing their jobs and health insurance in growing numbers, I respectfully ask members of the Health and Human Services Committee to support LB370 to extend the safety net healthcare coverage for low-income Nebraska women and save tax dollars. It just makes common sense. [LB370]

SENATOR GAY: Thank you. Are there any questions? I don't see any. Thank you. [LB370]

RACHEL STAHR: All right. Thank you. [LB370]

KATHLEEN BRANDERT: (Exhibit 4) Good afternoon, senators, my name is Kathleen Brandert, K-a-t-h-l-e-e-n B-r-a-n-d-e-r-t. I am here today as a proponent of LB370. And I come here wearing two hats. The first is a professional hat. I have six years of experience in maternal and child health, I have...I work for a national organization so I have had the opportunity to work on a series of local, state, and national committees that address the health of women before, between, and beyond pregnancy. But I also come wearing another hat that's probably more important, and that is that I am a woman of reproductive age, 29-years-old. Statistically speaking, reproductive age is between the ages of 15 and 44 for a woman. And the Institute of Medicine put out a report several years back addressing unintended pregnancy, where they stated that a woman, an average woman wants two children and will spend 5 years pregnant or trying to get pregnant and about 30 years trying to avoid pregnancy. Unfortunately you can't turn fertility on and off like a light switch. So women need assistance being healthy and averting pregnancies when they don't wish to be pregnant. I am privileged because I don't personally need the waiver; I am able to afford access to healthcare, and I have a job that provides me insurance. But I am speaking for a population of women who do not have those same luxuries. And I want to talk specifically about the health benefits of the Medicaid Family Planning Waiver and how it is one step in the right direction

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towards helping low-income women in Nebraska. The first health benefit I want to talk about has already been touched on, so I am going to be really brief about it, and that is healthcare access. Screenings for cancer, screenings for STDs and treatment, contraceptives services, all those things that women need just for basic well-woman care, those are provided under a Family Planning Waiver. I want to spend a little bit more time talking about the next two. The first is better birth spacing. Birth spacing is the amount of time between when a woman gives birth and when she conceives a future child. And it is recommended by experts, doctors, obstetricians, that women wait at least 18 months, preferably two or more years, between pregnancies. And a Medicaid Family Planning Waiver will assist women in being able to do that. There are a lot of health risks associated with inadequate birth spacing and those include low birth weight children and preterm and premature births, both of which are causes of infant mortality in this county. And you can see some of the more adverse effects in my written testimony. And there are a lot of benefits to adequate spacing, both physical and social for mom and baby also listed there. Finally, I want to touch upon the idea of what unintended pregnancy is and why it is such a bad, bad thing. Over half of the pregnancies in our country right now are unintended. And in Nebraska, some unpublished data from PRAMS tells us that about 40 percent of pregnancies to Nebraska women are unintended. We don't want unintended pregnancies. We want planned pregnancies, and I will tell you why in a minute. But first I'm going to tell you a little bit...a little fact that is interesting, and that is that in Nebraska, there is a clear association between insurance coverage and unintended pregnancy. Women who have some form of insurance, whether it is Medicaid or an HMO or something else, are statistically less likely to have an unintended pregnancy than a woman who has no health insurance at all. So why do we care about unintended pregnancies? Women who have unintended pregnancies are less likely to be optimally prepared for pregnancy. They are not taking folic acid like they are supposed to be, they may not be at a healthy weight, if they don't know they are going to be pregnant, they are not seeking early prenatal care, and all of the effects that go along with that. A woman who has experienced an unintended pregnancy, is also more susceptible to risk behaviors that they may be taking, you know, drinking alcohol and smoking tobacco and those types of things because they are not planning to get pregnant. Children who are unwanted at the time of conception are at greater risk for being born at a low birth rate, for dying in their first year, for being abused, and a host of other things. Mom is more likely to be depressed and physically abused, relationship with baby's father is more likely to dissolve, family structure, financial stability, education, and other resources that families need to take care of children are more likely to not be available. Unintended pregnancy is a bad thing and we want to take care of it, and we want to help women avoid unintended pregnancy. And the last thing I want to say is that a lot of times when we bring up bills like this, the term family planning gets a little bit of play, because family planning is thought of as a very negative thing. I don't see family planning that way. We want people to plan their families. We want them to be financially stable when they have a family. We want them to prepare for the healthiest pregnancy possible when they

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have a family and we want them to plan for their futures. The Medicaid Family Planning Waiver is one tool and maybe the only tool available to help some low-income women in Nebraska access basic healthcare, education, screenings, and contraceptive services to help them effectively plan for their families and there future. Thank you. [LB370]

SENATOR GAY: Thank you. Are there any questions? Senator Stuthman. [LB370]

SENATOR STUTHMAN: Thank you, Senator Gay. Kathy, I am truly supportive of the family planning concept of it, and I totally agree with you there. What are the options or what happens when we get these unintended pregnancies? What does you...what are your thoughts on that? [LB370]

KATHLEEN BRANDERT: Thank you for asking. I have a lot of experience in the area of unintended pregnancy. Nationally, I am on a select panel for preconception health, which is talking about the health of a woman before she gets pregnant, through the Centers for Disease Control and Prevention. Unintended pregnancies, you have got to think about it this way. If a woman is planning to get pregnant, she is doing all the things to get ready for it. You know, she is taking folic acid, that's one that everybody knows. She's at a healthy weight. She's financially putting away resources to be able to take care of a kid. She is emotionally ready to be able to take care of a child. And it's not just about mom, it's about families too. You know, dad is ready, too, and the family as a unit is ready. If there are other children already in the family, and the next pregnancy is planned, then usually mom and dad have had a conversation about, you know, how to give adequate attention to all children and not just this new baby. When you have unintended pregnancies, you kind of think that a lot of those things don't happen. And it's not that always...it's not always the case that when that baby comes, that baby is unwanted, but the damage has sort of already been done if it hasn't been planned for. Even if that baby is really wanted, that doesn't mean the financial resources are there to provide for that baby. So, that's why unintended pregnancy is so important. And the report that I mentioned from the Institute of Medicine, is actually a really excellent one on...and it was written 15 years ago, on why unintended pregnancy, we need to be paying attention to this in our country, and I would be happy to provide you with how to find information on that report because it really has additional excellent information. [LB370]

SENATOR STUTHMAN: So Kathy would you say that an unplanned pregnancy, when the child is born it has one strike against it to start with? [LB370]

KATHLEEN BRANDERT: I think that's a great way to put it in my opinion. Yeah. [LB370]

SENATOR STUTHMAN: Okay. Thank you. [LB370]

SENATOR GAY: Any other questions? I don't see any. Thank you. [LB370]

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KATHLEEN BRANDERT: Thank you. [LB370]

SENATOR GAY: (Exhibit 6) Other proponents? Any more proponents that want to speak on this? And we have received...Jeff, did you get another letter? We received another letter of support from Planned Parenthood. Is that the one you've got? So we did receive that as well. All right, we'll shut down the proponents and listen to any opponents that want to speak on this. Come on forward. How many opponents do we have to speak on this issue today? Any one neutral? All right. [LB370]

GREG SCHLEPPENBACH: (Exhibit 5) Good afternoon, Senator Gay and members of the Health and Human Services Committee. My name is Greg Schleppenbach, S-c-h-l-e-p-p-e-n-b-a-c-h, and I am here on behalf of the Nebraska Catholic Conference to urge you to oppose LB370. The conference represents the mutual interests of the Catholic bishops of Nebraska. Contrary to what you might expect, I am not here today to present the Catholic Church's theological perspective on contraception as a reason to oppose LB370. Instead, I ask you to consider a compelling body of social science research that undermines a fundamental argument in favor of family planning expansion programs. Namely, that increasing access to contraception results in fewer unintended pregnancies and fewer abortions. While this argument has some intuitive appeal, a more thorough examination suggests that it is long on estimates and assumptions and short on genuine research findings. For example, family planning proponents point primarily, if not exclusively, to one study commissioned by the Centers for Medicare and Medicaid Services to support their assertion that a Medicaid expansion in family planning will save the state money by reducing the number of unintended pregnancies. This study examines six states that have implemented the family...Medicaid Family Planning Waiver to see if it increased use of family planning and decreased unintended pregnancies. The study claims that every state saved money from averted births but this claim is based on estimates and expectations, not hard data linking an expanded eligibility for family planning coverage to a decrease in unintended pregnancies. In fact, the study admits that unintended pregnancies increased in one of the states and some states didn't even see an increase in family planning use as a result. I actually got a copy of the study I would like to point out and read through it, and I would encourage you to do so as well. There has been a lot of explanations about it, summaries of it, but until one reads the study itself you don't find some of these details. Now contrast this with an overwhelming body of research which is conducted by family planning proponents demonstrating that greater access to contraception does not reduce unintended pregnancy and abortion, and I refer you to the handout that I have given you, with dozens of different studies, again, produced by, conducted by, advocates and proponents of family planning pointing out that it...they saw no reduction in unintended pregnancies as a result. Just a couple of...a few examples. September 2006 editorial in the British Medical Journal, Anna Glasier, a leading contraception researcher said, quote, ten studies in different countries have shown that giving women a supply of

emergency contraception to keep at home increases use by twofold to threefold but has had no measurable effect on rates of pregnancy or abortion. In May of 2004, in the publication Contraception, the same researcher, Anna Glasier, said about emergency contraception, I quote, estimates of efficacy are unsubstantiated by randomized trials. Efficacy is based on rather unreliable data and a great many assumptions and have been questioned both in the past and more currently. While advance provision of emergency contraception probably prevents some pregnancies for some women some of the time, the strategy did not produce the public health breakthrough hoped for, unquote. James Trussell, another contraception researcher who originated the claim that easier access to emergency contraception would quote, reduce, result in a greater than 50 percent reduction in abortion rates, unquote, has conceded that 23 published studies from ten countries disproved this claim. According to everyone of the 23 studies published between 1998 and 2006, easier access to emergency contraception fails to achieve any statistically significant reduction in rates of unintended pregnancy and abortion. It's also worth noting that in 2006, the Alan Guttmacher Institute, which is a research affiliate of Planned Parenthood, issued a report card ranking the 50 states of how aggressively...by how aggressively they promote and fund contraception. The report failed to mention the embarrassing fact that states like New York and California that receive Guttmacher's highest grades, also had some of the highest rates of abortion, teen pregnancy, and sexually transmitted diseases. Conversely, states that rank at or near the bottom of Guttmacher's report, Nebraska was ranked last, have among the lowest rates of abortion, teen pregnancy and STDs. In addition to the above studies, there is also a growing body of social science research linking contraception to an increase in social pathology and poverty. Brad Wilcox is a sociologist at the University of Virginia, has examined the work of several leading scholars from Robert Michael at the University of Chicago to Nobel Prize-winning economist George Akerlof at the University of California, Berkeley, who argue that contraception played a central role in launching the sexual and divorce revolutions of the late twentieth century. Wilcox points out that these scholars are not Christians, and most of them are not political or social conservatives, they are rather honest social scientists willing to follow the data wherever it may lead. I just have a couple more points if that's okay. Michael has argued that about half of the increase in divorce from 1965 to '76 can be attributed to quote, unexpected...the unexpected nature of the contraceptive revolution, unquote, especially in the way that it made marriages less child-centered. Akerlof argues that the availability first of contraception and then of abortion in the 1960s and 1970s was one of the crucial factors fueling the sexual revolution and the collapse of marriage among the working class and the poor. Finally, another concern we have about expanding the use of our tax dollars for contraception is the fact that hormonal contraception can cause early abortions. As the product insert in any package of hormonal contraception spells out clearly, these drugs work in three ways. First, by preventing ovulation; second by preventing fertilization if ovulation occurs, those are both contraceptive properties or methods, modes; and third, by preventing implantation of an embryo in the womb if fertilization occurs. That third mode is an early abortion. There is a growing body of

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social science research that is challenging our assumptions about the impact of contraception on our society. I ask you to take a serious look at this research before you consider further examining family planning...expanding family planning programs in our state. Thank you. [LB370]

SENATOR GAY: Thank you. Any questions? Senator Gloor. [LB370]

SENATOR GLOOR: Thank you, Chairman Gay. Mr. Schleppenbach, assuming we could just pluck out of this the contraceptive component, we are talking about health screenings that we know scientifically will result in the reductions in cervical cancer, breast cancer. Are you saying because of the contraceptive piece we should set aside the other greater good that is also out there as a result of a health screening? [LB370]

GREG SCHLEPPENBACH: Well, certainly we have no problem with the other health screening services. We have...for example, another program that is funded by the state for Pap smears and chlamydia and testing and treatment, we have no problem with funding for that specific purpose. We do sometimes have problems with who gets those funds. But no, we have no problem with those other services and would clearly support those other kind of services. It is specifically the family planning that we have grave concerns about based upon, again, the data that I have presented. [LB370]

SENATOR GLOOR: But yanking those two apart is not possible given the federal government's involvement and the expectation there. So understanding that you still have some concerns about taking these additional funds? [LB370]

GREG SCHLEPPENBACH: We do. Yes. [LB370]

SENATOR GLOOR: Okay. Thank you. [LB370]

SENATOR GAY: Senator Pankonin. [LB370]

SENATOR PANKONIN: Thank you, Senator Gay. Thanks for your testimony and I...these are obviously very complicated issues. Being a fairly new grandparent I am so blessed to have my granddaughter close by and in my life. She is 2 and a half and my son and daughter-in-law are now expecting their second child. I am so glad that abortion rates are going down in our state, and I think that is a positive. On the other hand, to see my granddaughter's--Anne's--care and the planning that went into providing for her is also...I can just see the...her development and her good care and parents that love her and want to help her, and that really makes me feel good as a grandparent. So I think, you know, there are some good points that we want abortions to go down, I think, or at least I do personally, but also I want children to be cared for and provided for. I think that's the other side. Third factor that it may save the state money is, I think, another valid point. But I think when we look at these issues we also

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have to make sure that we are not only talking about the birth phase but that children are well cared for and that...and that starts with prenatal services and that's why some of these services do have great value that people are getting the proper information and health screenings and things like that that they need. So these are always interesting issues. [LB370]

GREG SCHLEPPENBACH: I do want to just respond in the sense that certainly we don't have a problem with family planning. There is a particular method of family planning that my church promotes called natural family planning that utilizes the body's natural observations that is very, very effective contrary to some of the criticisms of it. Very, very effective. And it does so in a way that doesn't put harsh chemicals into a woman's body but rather looks at the signs of her body. So we are not opposed to family planning, at all and recognize that people need to be responsible in that way and having kids that they can afford and handle. The church very much recommends responsible parenthood. That is not an issue. On the funding, on the money savings aspect of this, I strongly encourage you to take a look at this study. They point to one study that claims to have reduced...claims to have saved millions of dollars, and I don't know how they can make the claim other than they have estimated the possible number of averted births. It's not based on hard data, and they have just extrapolated from that a cost savings. It's a mathematical formula, and again if you look at this, even some of the states that they looked at didn't see a decrease in unintended pregnancies, or even an increase in use of family planning. So I don't know how they could say...because the whole basis of cost savings is averted births. And if there are some states that didn't avert births, I don't know how they can claim they saved money. So I urge you to take a closer look at that study and again in contrast with all of the other studies done by proponents of family planning showing no reduction in unintended pregnancy, I find this one study unconvincing even if it did show that result. [LB370]

SENATOR GAY: And we received both sides, different things that we will look at. So we appreciate all the input there. Senator Campbell. [LB370]

SENATOR CAMPBELL: Just one last comment. Sir, I think that some of the cost savings that one would look at are also in the other health areas. I mean if you can get cancer at an early stage or be able to give those good health...that's a great cost savings. So my guess is that some of cost savings...I understand your report deals with one area but there are great cost savings when you can help low-income women with health problems and particularly prevention of health problems. [LB370]

SENATOR GAY: Senator Wallman. [LB370]

SENATOR WALLMAN: Thank you, Chairman Gay. Yeah, thanks for being here. And this is an emotional issue, and I am against abortion period but I guess I don't have that choice I'm not a woman. So I think we are missing the boat on part of this is we got to

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put some of the blame on us, as males. And this family, you know, this education issue for Planned Parenthood or whatever, churches, a lot of kids don't go to churches any more. But when I was going to church as a young person, you know, it was against this abortion, and also we had education on how to raise a family, responsibility, all this stuff. And somehow we are going to have to get this back into society but that's up to you. Thank you. [LB370]

SENATOR GAY: That's a challenge, Senator, not a question. So all right. That's...you could probably run with that but we're not going to let you. Any other questions? I don't see any. Senator, you want to close? Any other opposition that wants to speak? Anyone neutral? There is? Do you want to speak? Come on up. Opposition? You bet, come on up. Anyone else that wants to speak in opposition? Anyone neutral that is going to come up and speak? Okay. Senator, I'm sorry, after this. Go ahead. [LB370]

AL RISKOWSKI: Al Riskowski, R-i-s-k-o-w-s-k-i, from Nebraska Family Council in opposition to this proposal. Ours is similar to the Catholic Conference, some of the concerns that are there, and so I won't reiterate that. Also our great concern was in the area, and I think Greg expressed that, the savings is in regard to not having children. And one of the proponents spoke to the fact of unplanned pregnancies are bad, bad. Our fourth daughter was unplanned. We certainly were in the process of not having any more children after three, but nevertheless she came along, and she's one of the greatest blessings we have ever had. I would say that our President of the United States is probably a blessing to us, and he certainly was an unplanned pregnancy. So, I don't know that you can say they are bad, bad. However, I also look at this from the economic aspect, and I am trying to understand this just as I look at this basically as a citizen. And I did a couple of different Googles. One Google was trying to know what the actual numbers were as far as poverty threshold, and the 2008 federal guidelines in regard to that. And if I understand this correctly, in the proposal under the current guidelines if you are a single individual, currently this type of service would help individuals who were earning \$11,200 or less. And with this proposal it would jump up to \$20,722 annual income. Or if you put it into a family of four, under the current guidelines it's \$21,800. It would jump it up to \$40,392 annual income. I also Googled what in Nebraska was the median household income, thinking a family of four was probably fairly common. And in the 2000 census, the median income was \$38,574, so less than what would become the poverty level under this type of legislation. So I was just trying to rectify that, and we talk about real poor being serviced by this, we are talking, if I understand it correctly, much more than the absolute poor, we are talking about above the average income for a family of four, if I understand this correctly. Just one other comment. When you make the statement that this is not benefitting Planned Parenthood, if you also look up family services, obviously the first one that comes up is Planned Parenthood. And under family services you not only have various ways of preventing contraception, but how to stop a pregnancy shortly after you become pregnant as well, which would be a morning after pill. If in fact we are pro-life, then I

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believe that would be something that we should oppose in regard to this as well. So thank you for your time, and I appreciate it. [LB370]

SENATOR GAY: Thank you. Are there any questions? I don't see any. Thank you. [LB370]

AL RISKOWSKI: Thank you. [LB370]

SENATOR GAY: All right. With that we will...Senator Nantkes will close on this. [LB370]

SENATOR NANTKES: Thank you, Senator Gay. Thank you members of the committee for your thoughtful attention to this important issue and your insightful questions and comments. Just very quickly I want to refocus the committee's attention on the fiscal impact of this legislation, the potential fiscal impact of this legislation. You see a lot of these fiscal notes before the many pieces of legislation that you deal with, and you know that our Fiscal Office and the Department of Health and Human Services are very conservative in their approaches in drafting the...in detailing these fiscal notes. I want to point your attention to the last paragraph in the fiscal note in LB370. The savings would be \$11,210,315 in fiscal year '12. That is just one thing that I wanted to draw your attention to. Study after study, state after state has clearly demonstrated that the fiscal impact that legislation like this has on a state's Medicaid program is real and it is significant. And all we need is science and common sense to tell us that this program works. With that, I want to thank you again for your time, and I urge your advancement of the legislation. Thank you. [LB370]

SENATOR GAY: Thank you, Senator. Are there any questions? Last questions? I don't see any. [LB370]

SENATOR NANTKES: Thank you. [LB370]

SENATOR GAY: With that we will close the public hearing on LB370. And it's my understanding that Senator Flood is not going to be here, and I think that Director Landry is going to introduce LB319. And he is making his way up here so. Welcome. Whenever you are ready. [LB370 LB319]

TODD LANDRY: (Exhibit 1) Thank you, Senator. Good afternoon and members of...good afternoon, Senator Gay and members of the Health and Human Services Committee. My name is Todd Landry, T-o-d-d L-a-n-d-r-y, I am the director of the Division of Children and Family Services for the Department of Health and Human Services. And I am here today to testify and introduce LB319. LB319 was introduced as part of the Governor's budget package. LB319 would amend Section 43-536 to allow the department to set child care reimbursement rates between the 50th and 75th percentile of the most current child care market rate survey. Current law allows the

department to set child care reimbursement rates between the 60th and 75th percentile of the most recent survey. This change will allow the department flexibility when determining strategies to maintain the state's overall child care budget for the upcoming biennium, as well as in the future. During this challenging economic time, the ability to provide flexibility in determining the reimbursement increase is essential. The proposed change does not effect the state requirement of conducting the market rate survey of child care providers in this state every two years. It also continues to allow nationally accredited child care providers to be reimbursed at higher rates. The most recent market rate survey was conducted in late 2008 to determine the rate adjustment for July 2009. The overall rate adjustment is expected to be just over 4 percent to meet the 50th percentile level for child care rates. I would like to reiterate that. If this law is passed and the department sets the rate at the 50th percentile, it will still result in an increase of over 4 percent in the child care reimbursement rate. Now the department in September of this past year included in its budget request for fiscal year '09-10 and '10-11 a \$4.3 million increase to adjust for the market rate survey at the 60th percentile. Now that budget request was made prior to the completion of the market survey. After we completed the survey, we determined that setting the rates at the 60th percentile of that current survey would instead require a budget increase request of \$6.1 million per each fiscal year. We estimate setting the rates at the 50th percentile would cost \$2.7 million each fiscal year. The Governor's budget request included this proposal and the budget request increase of \$2.7 million. Therefore, passage of LB319 providing the department with the flexibility to use the 50th percentile would, in effect, present a cost avoidance of approximately \$3.4 million during each of the next two fiscal years while still providing an average rate increase to child care providers of over 4 percent. I ask that you support LB319 and would be happy to answer any questions that you may have.
[LB319]

SENATOR GAY: Senator Pankonin. [LB319]

SENATOR PANKONIN: Thank you, Chairman Gay. Welcome, Mr. Landry. Just a question on this survey that they do every two years. How many places...how does that work? [LB319]

TODD LANDRY: It's a survey conducted across the entire state. All licensed child care providers receive the opportunity to participate in that study. I don't have the exact rate of return, but I can tell you it is one of those surveys that we get among the highest response rates on because those providers understand that we need to get that information in order to have a good understanding of what the current market rate is.
[LB319]

SENATOR PANKONIN: How do you even know, I mean, if someone gets that survey and they want to fill it out that that is accurate to what the rates are? I mean...and I would think they would want to overstate if at all, wouldn't they? [LB319]

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TODD LANDRY: Well, one of the things that we do is we do checks on it. Keep in mind that one of the things that we have for many of these providers we are currently providing reimbursement rates to them, and as part of that process we do require them to validate some of those. [LB319]

SENATOR PANKONIN: So you know what the... [LB319]

TODD LANDRY: So we are able to do some, you know, quality assurance during the process. There could be some outliers, and part of the reason that the percentile approach is taken is to take into account some of those outliers during the process. [LB319]

SENATOR PANKONIN: Thank you. [LB319]

SENATOR GAY: Senator Howard. [LB319]

SENATOR HOWARD: Thank you, Mr. Chairman. Todd, I want to understand this. Right now we are paying a higher rate to nationally accredited child care providers than we do local? [LB319]

TODD LANDRY: That is correct. It is a slightly higher rate per NAEYC or other nationally accredited providers. [LB319]

SENATOR HOWARD: Who would be an example of that? [LB319]

TODD LANDRY: Many providers are NAEYC accredited. For example, I'm speaking from...a little bit from past history but the YWCA I believe is an NAEYC accredited. Child Saving Institute in Omaha is an NAEYC accredited. I believe CEDARS here in Lincoln is accredited as well as many others across the state. [LB319]

SENATOR HOWARD: And then the nonaccredited would be our licensed child care providers that possibly were single facilities? [LB319]

TODD LANDRY: Correct, any other licensed child care provider, yes, ma'am. [LB319]

SENATOR HOWARD: And we've been doing this, we've been paying them a lower rate. I didn't realize that. [LB319]

TODD LANDRY: Yeah, it...the rate is set, and then those nationally accredited providers can be paid a slightly higher rate; that has been our recent practice. [LB319]

SENATOR HOWARD: So that's interesting that we give more credence to the

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accreditation. [LB319]

TODD LANDRY: We certainly reimburse at a higher rate, yes. [LB319]

SENATOR HOWARD: Thank you. [LB319]

SENATOR GAY: Senator Campbell. [LB319]

SENATOR CAMPBELL: Thank you, Senator Gay. Mr. Landry, can you kind of give us some history here in terms of how long have we been using this kind of scale and what adjustments we have made to it in the past? [LB319]

TODD LANDRY: Right. What I can tell you is, and I have...and we can make a copy. I believe it is actually provided in the Governor's budget proposal that includes information on the child care market rates summary. It goes back to fiscal year '05. And I can tell you in going through those subsequent years, keep in mind that this is done on an every other year basis. From...between...in fiscal year '06 it was a 16 percent change from the prior year. Fiscal year '07 was a 7 percent, fiscal year '08 12 percent, '09 was zero. That was when we put into effect the biennium. I show here the fiscal year '10 agency request would have been the 6 percent, and now we are proposing, based on the Governor's recommendation, 4 percent. [LB319]

SENATOR CAMPBELL: Okay. Thank you. [LB319]

TODD LANDRY: You're welcome. [LB319]

SENATOR GAY: Todd, could you get that, I mean, for us to track down that budget, could you get that to us and then... [LB319]

TODD LANDRY: I'd be happy to do that, yes. [LB319]

SENATOR GAY: And then we can...then we'll distribute that to...just get the copy to Jeff, and we'll distribute that. Senator Wallman. [LB319]

SENATOR WALLMAN: Thank you, Chairman Gay. Thank you, Mr. Landry, for coming. And child care providers, different rates...are we having trouble? Do we have a waiting list for child care providers, you know what I'm saying? [LB319]

TODD LANDRY: Well, that is an interesting point. I know that one of the issues that occasionally gets brought up is Nebraska's ranking relative to other states as it relates to the eligibility determination on federal poverty level. We set our rate at, I believe, 120 percent federal poverty level to qualify for child care reimbursement, for child care subsidy, excuse me. What that allows us to do is it allows us to not have a waiting list

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for child care subsidy. We, unlike other states that have significantly higher FPL rates, without a doubt, many of those states, unfortunately then have waiting lists. And part of that is that fiscal trade-off that those states have made. In our state what we have decided is to set that level at a lower FPL rate, 120 percent of the federal poverty limit, but in return we don't have a waiting list. That does allow us to ensure that the neediest of Nebraskans have the benefit of that subsidy. [LB319]

SENATOR WALLMAN: Thank you. [LB319]

SENATOR GAY: Any other questions? I don't see any at this time. If you can get that information then we'll get it out quicker. [LB319]

TODD LANDRY: We will definitely do that. [LB319]

SENATOR GAY: Any other...thank you...any other proponents of this? I have got a hunch there might be some opponents to this. How many opponents want to speak on this? Okay, this...about four. Okay. Five, all right, Perry, maybe a few more. But anyway, if we can kind of keep it concise and not repetitive really, it helps your cause, too, so we'll get started with opponents then. [LB319]

JIM BLUE: Senator Gay, members of the committee, my name is Jim Blue, B-I-u-e, and I serve as president and CEO of CEDARS Youth Services and president of the CAFCON organization. I will not only try to keep it brisk, but...brief but brisk also for you. And I do have someone who would like to follow me that can talk firsthand so... [LB319]

SENATOR GAY: Yeah, if they could come up next, we'll get them on. [LB319]

JIM BLUE: Certainly. [LB319]

SENATOR GAY: If...we'll do that, whoever that is. [LB319]

JIM BLUE: Child care subsidy, which is still sometimes referred to as a Title XX Program, is not a welfare program or a giveaway program. It is a work force development program. It is available only at times when the parents are working at their job or in school. It no longer pays for study time nor transportation time. It is only while the parent is working or in school. And these young parents also happen to live in very deep poverty. As Mr. Landry said, Nebraska's poverty line, qualifying line to receive child care subsidy is the very lowest in our country. To compound the difficulty of even qualifying for child care subsidy, is the lack of centers that will accept this form of payment from the state because it is lower and more restrictive than what these centers generally receive from private pay parents. Because these families are the priority of the CEDARS organization, and I obviously have an association with CEDARS Youth Services, I'll speak to what this means to us in trying to help these families. Every year,

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CEDARS invests over \$800,000 into our early childhood development center budgets. CEDARS puts in charitable dollars and grant dollars that constitute 40 percent of the actual costs of care, subsidizing the state of Nebraska for this critical work force development program. I certainly appreciate Senator Flood's and the executive branch's interest in responsibly reducing their operating expenses. But in these difficult economic times, which are believed to be around the corner for the state of Nebraska, it is in these times that your predecessors precisely established this formula so that the economic changes would not cause you, as their successors, to change this. So if the question is, okay, there are difficult financial times ahead for us, then what are the good financial times that we can raise this? I would ask you to give some thought to the intention of your foremothers and forefathers and maintain this discipline for these families that they established. I'd be happy to try to answer any questions that you might want additional information on. [LB319]

SENATOR GAY: Senator Howard. [LB319]

JIM BLUE: Yes, ma'am? [LB319]

SENATOR HOWARD: Thank you, Mr. Chairman. Your facility is accredited, correct? [LB319]

JIM BLUE: Yes, we're accredited by the National Association for the Education of Young Children. I think about 7 percent of child care centers in the country have achieved that, yes. [LB319]

SENATOR HOWARD: Okay, so good news for you, you're in the higher bracket of this decrease. [LB319]

JIM BLUE: We receive a higher rate, yes, for that. [LB319]

SENATOR HOWARD: Thank you. I am wondering, too, you mentioned going to school and employment as criteria. There was previously a criteria for seeking work. Is that still in effect? [LB319]

JIM BLUE: I'm not sure about that. [LB319]

SENATOR HOWARD: Okay. Okay, well that's fine. Thank you. [LB319]

SENATOR GAY: Any other questions? I have one for you. On the \$800,000 that you put in, is that just like donation money? Where do you get those revenues to reinvest? [LB319]

JIM BLUE: It is...you bet, charitable dollars donated to CEDARS organization, grants

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that we receive from the Woods Foundation. [LB319]

SENATOR GAY: Charitable donations. Any federal money, though... [LB319]

JIM BLUE: No. [LB319]

SENATOR GAY: ...that you receive that's passed through to this? So this is all generosity, then? [LB319]

JIM BLUE: Yep. It is. [LB319]

SENATOR GAY: Senator Pankonin. [LB319]

SENATOR PANKONIN: Thank you, Senator Gay. Mr. Blue, thanks for testifying today. [LB319]

JIM BLUE: Certainly. [LB319]

SENATOR PANKONIN: In your opinion, if this bill, this initiative is passed and it becomes the new policy, what do think happens then? I mean in a realistic sense, what happens? [LB319]

JIM BLUE: I'll be succinct. I think the availability, excuse me, the number of child care centers that accept state child care subsidy dollars will continue to reduce. I don't know the numbers, but I know that the number of centers which accept child care subsidies has reduced significantly over the past few years. The young lady who will follow me will speak from firsthand experience about how difficult it is to find. So I think that will continue to get very difficult. We as an organization have certainly not expanded our child care services over the past four years. In fact, we have had to contract so that we can make a deeper investment in kids rather than a thinner investment on a lot of kids. [LB319]

SENATOR PANKONIN: Is it because of you can get enough private pay folks or is it paperwork and hassle factor or what? I mean... [LB319]

JIM BLUE: The rate which we can charge we generally can charge private parents is higher than what we receive from the state for child care subsidies, and there are more restriction on state child care subsidy dollars. For example, a...it is general practice for a center which accepts private pay kids that when a child does not show up because they are sick, to continue to receive payments from the parents, with the child care subsidy the center receives nothing when that child is sick or not there. The child physically has to be there, and the parent has to be at work or in school for the center to receive pay. So there are...it is more financially lucrative by a long shot to only market to private pay

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kids. And I think that is very, very unfortunate because these young families are really, really trying to make it in our society. [LB319]

SENATOR PANKONIN: From just a practical question, how...who has to determine whether the parent is at work or school? Is that part of your responsibility? Or how does that... [LB319]

JIM BLUE: That's a role of the state caseworker. [LB319]

SENATOR PANKONIN: Okay. Thank you. [LB319]

JIM BLUE: You bet. [LB319]

SENATOR GAY: Senator Howard. [LB319]

SENATOR HOWARD: Thank you, Mr. Chairman. Well, actually you answered the very question but I wanted to maybe get a little more information on that. It used to be possible for the day-care centers, or they used to use this as kind of common practice to bill for the days when the child was absent, say they were ill, because the explanation was they had to keep the center open anyway and pay staff. [LB319]

JIM BLUE: Um-hum. [LB319]

SENATOR HOWARD: So under Title XX currently, you are not able to do that? You don't bill for the days when the child is not there at the center? [LB319]

JIM BLUE: That's correct. [LB319]

SENATOR HOWARD: But you can charge parents that are paying themselves for those days? [LB319]

JIM BLUE: That's correct. Yes. [LB319]

SENATOR HOWARD: Okay. Thank you. [LB319]

SENATOR GAY: Any other questions? Don't see any, thank you. And then who... [LB319]

JIM BLUE: Thank you. [LB319]

SENATOR GAY: We'll hear from other proponents? [LB319]

JIM BLUE: She's a little nervous. [LB319]

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SENATOR GAY: Oh, that's all right. We're not too mean. Don't worry. [LB319]

CARLY LUEDTKE: Well, I don't have a folder or anything. My name is Carly Luedtke, you spell the last name L-u-e-d-t-k-e, and I am a full-time student at the College of Hair Design. I have worked with CEDARS since my youngest was just born and it is...for having...being a single parent, having three little girls, it's hard to just...there's...it's hard to pay for day care. I have been in a position before where I was working, and I was a single parent and I needed the day care. And with the prices that they...that day care is, it's...I mean, you just can't even work to pay for the day care that you are trying to get to, you know, not be...getting help from the state all the time, you know. And it's just...it's hard out there to find day cares to accept Title XX because a lot of them don't know if, you know, they are going to get their money or anything, you know. So it's hard to find a good or a good quality day care too. [LB319]

SENATOR GAY: Questions? Senator Stuthman. [LB319]

SENATOR STUTHMAN: Thank you, Senator Gay. Ms. Luedtke? [LB319]

CARLY LUEDTKE: Yeah. [LB319]

SENATOR STUTHMAN: Okay. Well, thank you for your testimony. In your testimony you stated it's almost to the point where the day care would eat up all of your paycheck. Is that true? [LB319]

CARLY LUEDTKE: Oh, I wouldn't be...I have...I wouldn't even be able to work. There's...just paying day care costs, I don't even...is...I don't know what they are right now, but I have three little girls and so it's...I'm sure it's... [LB319]

SENATOR STUTHMAN: But day-care services, and I am not aware of it. My children are grown, and we've got the grandchildren and most of them are out of day care except the one. And, you know, I have no idea what day care costs are now at the present time so, but they are not reasonable? [LB319]

CARLY LUEDTKE: Right. [LB319]

SENATOR STUTHMAN: Okay. Thank you. [LB319]

CARLY LUEDTKE: You're welcome. [LB319]

SENATOR GAY: Senator Howard? [LB319]

SENATOR HOWARD: Thank you, Mr. Chairman. Are you a full-time student? [LB319]

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CARLY LUEDTKE: Yes. [LB319]

SENATOR HOWARD: How long have you been going to school? [LB319]

CARLY LUEDTKE: Well, I have already graduated and got my cosmetology...I need to get my cosmetology license. But now I am doing barbering so I've been in school. The first time was for 14 months, and now I am finishing at the end of May. [LB319]

SENATOR HOWARD: Good for you, good for you. [LB319]

CARLY LUEDTKE: Thank you. [LB319]

SENATOR HOWARD: What percentage do you pay of the Title XX, the cost for the day-care? [LB319]

CARLY LUEDTKE: That's...I don't have to. [LB319]

SENATOR HOWARD: You don't pay? [LB319]

CARLY LUEDTKE: No. I don't have... [LB319]

SENATOR HOWARD: Three little girls, it's entirely paid for by Title XX? [LB319]

CARLY LUEDTKE: Because I am a full-time student and I...there's...I don't...I can't work so. Because it's during the day all day. Too long. [LB319]

SENATOR HOWARD: Thanks. [LB319]

CARLY LUEDTKE: You're welcome. [LB319]

SENATOR GAY: Any other questions? I don't see any other questions for you. Thank you for coming today. [LB319]

CARLY LUEDTKE: Okay. Thank you. [LB319]

SENATOR GAY: You bet. Other proponents who would like to...or opponents, I'm sorry, who would like to speak? Any other opponents? [LB319]

TIFFANY SEIBERT: (Exhibit 2) Chairman Gay, committee members, my name is Tiffany Siebert, that's T-i-f-f-a-n-y S-e-i-b-e-r-t. I am the policy coordinator at Voices for Children in Nebraska. Voices for Children, today is here today to oppose LB319 for a couple of reasons. One, we are concerned about the lowering of the reimbursement

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rate negatively effecting child care providers, particularly in areas that are predominantly low-income. So the majority of children they would serve would receive the lowered reimbursement rate. We are also concerned about the cost-benefit analysis of these providers and with decreasing the provider rates, many providers choosing not to accept children whose care is paid for with child care subsidy. We...the current child care reimbursement rates in 2007 were, for infants, \$2.25 to \$5 per hour and for toddlers, preschool, and school-aged children, they were \$2.25 to \$3.50 per hour. I just wanted to make clear of that, and without the safety net of child care providers willing to accept child care subsidies, we're concerned about the ability of parents to attain and maintain secure employment. We are worried about them seeking substandard, cheaper care placements for their children or perhaps, the worst case scenario would be leaving children unattended or with younger children unable to provide proper care for these kids. We also think, as Mr. Blue mentioned, Nebraska does have one of the lowest levels currently at which we reimburse or support childcare for low-income working families. And also, there are some estimates that Nebraska will receive about \$10 million in nontargeted funding in the economic recovery package. So that's something to keep in mind as we consider making this cut this year. I think if what we are very clear about what LB319 is, is with the cost of care rising for providers, we are reducing the rate which they are reimbursed for those costs. And in any other business transaction that sort of business wouldn't be tolerated, so. We would continue to oppose LB319. We believe reducing the reimbursement rate who already accept the low reimbursement would hurt the child care industry and reduce the flexibility of low-income parents to find childcare so their able to maintain employment. And in my testimony I have included a couple of things. One is an estimate from the Center for Law in Social Policy of the amount of child care development block grant dollars that are included in the economic recovery package and will come down to Nebraska. And then I have also included an article about a child care provider in Omaha. She works in a very low-income area, 25th and Leavenworth, if you are familiar with the Omaha area. And she serves about 85 children a day on average. Only three of those families are private pay. So this is exactly the type of provider who is serving a valuable need in her community and would be hurt by this reduction in provider rates. So thank you. [LB319]

SENATOR GAY: Thank you. Any questions? I don't see any. Thank you. [LB319]

TIFFANY SEIBERT: Thank you. [LB319]

KATE BOLZ: (Exhibit 3) Good afternoon. My name is Kate Bolz, that's B-o-l-z. I am the community educator for the Nebraska Appleseed Center for Law in the Public Interest, and I also am here today to testify in opposition to LB319. I believe that child care providers and Nebraska's work force will both be negatively impacted by a decision to decrease these reimbursement rates. I don't want to repeat the testimony already provided by Ms. Seibert and Mr. Blue, but I will reiterate three brief points for you. The first is that the federal standards for reimbursement for child care providers are set at 75

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percent of the market rate. This is necessary both to cover the cost of quality care such as business expenses and utility expenses. But also to provide for staffing and to ensure that quality, trained staff are the ones caring for children. Second, I would just like to point out, as Mr. Blue pointed out, that this keeps working families in the work force. Over 8,000 families in 2006 received this funding and it allowed them to maintain an income and care for their families. The last point is just one brief addition to Ms. Seibert's testimony, which is that my understanding of the economic stimulus dollars is that they do not require a state match so that is really a significant boost to the child care development block grant that will come straight through to Nebraska without requirements for Nebraska to put additional dollars in. The early care industry contributes to our state economy, it provides a valuable service for Nebraska children and families, and I urge you to oppose this legislation to maintain the success of both those businesses and those families. [LB319]

SENATOR GAY: Thank you. Any questions? Don't see any. Thank you. [LB319]

SARAH ANN LEWIS: (Exhibit 4) Good afternoon, Chairman Gay, members of the Health and Human Services Committee, my name is Sarah Ann Lewis, L-e-w-i-s, and I am the early childhood coordinator for Building Bright Futures. Building Bright Futures is a comprehensive community-wide public-private partnership focused on eliminating academic performance gaps and improving educational outcomes. We believe this is the most comprehensive educational reform effort going on in this country. Currently, excuse me I have been sick, currently we are working along side the early childhood community, particularly in Douglas and Sarpy Counties, to increase the supply of high quality early childhood education programs, to increase the quality of existing programs, and to increase families' access to these high quality programs. We strongly oppose LB319 because it proposes to undercut efforts to enhance the quality of care for child care providers who accept Title XX by lowering reimbursement rates, therefore decreasing access to childcare for children from low-income families. When you think of the number of the market rate survey, say we lower it, federal regulations recommend we set it at 75 percent. That means that we are allowing parents access to 75 percent of providers in the community. If we lower that, we are lowering access to the percentage of providers in the community that families can choose from. And might I add that the most at-risk children in our community are from low-income families who utilize the subsidy. So in part, we are decreasing access to our most at-risk children to receive childcare so their parents can work or go to school. Already as we have heard our child care subsidy rates are so low and our state child care policy so draconian that many providers are unwilling or unable to accept children who have subsidies or limit the number of children with subsidies they are willing to accept. As we anticipate roughly \$11 million slated for Nebraska's child care programs to the recovery package of 2009, we see a new baseline, an exciting opportunity to invest some strong early childhood education policies and improve upon the public-private partnerships that are already going strong around early childhood education. I would also like to add that when we

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are talking about the waiting list, prior to 2002, we were at the level of setting eligibility levels at 185 percent of federal poverty without a waiting list. Now I am unsure how long that occurred, but we did not have a waiting list then and the cut was made to...as a cost-saving measure. Unfortunately, and we have yet to restore that cut from nearly seven years ago. And also in relation to the number of accredited centers, there are about 18 in Douglas and Sarpy County, so access to them is not as wide as we would like it to be. And our efforts are to improve this, and to augment the cost of the subsidy so that providers can make up the difference between what the state pays and what it actually costs to provide high quality care. Our collective public and private agendas here are clearly focused on the future and our responsibility is to ensure the health and well-being of all young children as a fundamental objective in its own right. So we urge the Health and Human Services Committee to kill LB319. Thank you, and I am happy to try to answer any questions that I can. [LB319]

SENATOR GAY: Thank you. Senator Stuthman. [LB319]

SENATOR STUTHMAN: Thank you, Senator Gay. Sarah, using this situation...let's just say if this bill would pass and they would drop down the funding rate of that, how would that effect the situation of the testifier, Ms. Luedtke, with three children, going to school? What kind of a financial impact would that have on that family? [LB319]

SARAH ANN LEWIS: Well, when...I'll give you some scenarios. If her provider chooses not to accept the subsidy any more because, as a business person, or as business person in the community, receiving less money to have her three children there, she chooses not to accept children on a child care subsidy, then this mother would be out of, out of care. I mean, she would not have a place to take her children so she could go to school. In 2002 when this cut was made the decrease in child care subsidy rates from 185 to 120, thousands...I think...I don't want to actually...let me not give you an estimate, but many parents lost their child care subsidies virtually overnight and were forced to fall back on full government assistance because this is the kind of policy where it doesn't pay to work. People cannot work and afford child care subsidies when they...if the rates are set so low. And providers won't accept Title XX placements if the reimbursements are even lower than they already are. We're talking to providers who are struggling to make ends meet, and they are taking these children on subsidies out of the goodness of their heart and a lot of times because they are receiving supplements from other sources. [LB319]

SENATOR STUTHMAN: So it could affect the situation where the parent, you know, wants to improve herself, get an education and be an asset to the community in years to come. If this would be changed and she could not get the subsidy and would not be able to take the children to the day-care center, she may have to stay home, not get the education, and just stay with her children and be on welfare. Would that be the situation? [LB319]

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SARAH ANN LEWIS: Bingo. Yes. Yes. [LB319]

SENATOR STUTHMAN: So it would, in my opinion, it would hinder the ability of these young single parents of trying to get an education or trying to improve themselves. [LB319]

SARAH ANN LEWIS: That is absolutely correct. And that just goes back to Mr. Blue's point about this being a work force development program. [LB319]

SENATOR STUTHMAN: And I am very supportive of giving these young people an opportunity to better themselves so that they can be an asset for the rest...the 50 years or the rest of their life. [LB319]

SARAH ANN LEWIS: Correct. And what is more is be a role model for their children. I mean, going to school and working a job instead of staying home and depending on the state to cover their bills and their foods needs and vital necessities. I mean it is just so important for children to see a parent at work or at school. So they know how to do it themselves. [LB319]

SENATOR STUTHMAN: Yes, and I think that's very important because a role model that the parent has is what is taught upon the kids, you know. [LB319]

SARAH ANN LEWIS: Right. [LB319]

SENATOR STUTHMAN: Improve yourself, better yourself, instead of just stay home and continually have another generation of welfare recipients. [LB319]

SARAH ANN LEWIS: Um-hum. [LB319]

SENATOR STUTHMAN: Thank you, Sarah. [LB319]

SARAH ANN LEWIS: Thank you. [LB319]

SENATOR GAY: Senator Howard. [LB319]

SENATOR HOWARD: Thank you, Mr. Chairman. Sarah, I think that what you said is pretty accurate with one exception. With the time frames that we now have in the welfare dependency program... [LB319]

SARAH ANN LEWIS: Oh, five years. [LB319]

SENATOR HOWARD: Yes, so rather than stay home, rather than the old...I think of

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years and years ago where people do just stay home with their children until they were...originally an age of 6-years-old, when the child reached six and you had to look for work. That's no longer in effect. You have a time frame. If you don't actively seek work, then you are not going to be eligible for benefits. So I think what the more true scenario would be is that the mom would seek day care that probably was not the quality that she had had previously. So just to make that real clear. [LB319]

SARAH ANN LEWIS: Correct. Thank you. [LB319]

SENATOR HOWARD: Thank you. [LB319]

SENATOR GAY: Senator Campbell. [LB319]

SENATOR CAMPBELL: Thank you, Senator Gay. Ms. Lewis, Mr. Blue talked about the infusion of money into the program there. As you have looked at the situation in Omaha, how are the centers absorbing those costs? Not taking... [LB319]

SARAH ANN LEWIS: By...well, in a general sense? [LB319]

SENATOR CAMPBELL: Yes. [LB319]

SARAH ANN LEWIS: By not having as high quality programs as we think the children deserve. And that is part of why Building Bright Futures is working, or has this early childhood education piece because we are going out and actually meeting with the providers in Douglas and Sarpy Counties who are accepting the highest numbers of children on the child care subsidy because we want to talk to them about their challenges and their issues. And a lot of it deals with this reimbursement and the low level of child care subsidies. And so one of our goals is to provide scholarships to these families. I mean, but this has to be a public-private partnership. This is not a private long-term, sustainable plan without a little give and take. [LB319]

SENATOR CAMPBELL: Thank you. [LB319]

SENATOR GAY: I've got a question for you. [LB319]

SARAH ANN LEWIS: Sure. [LB319]

SENATOR GAY: How much does Building Bright Futures put into childcare? We talked about \$800,000 from CEDARS. Do you have...do you participate in joint programs with anybody now? [LB319]

SARAH ANN LEWIS: Well, our funding...I can't give you totals but there are going to be millions of dollars invested in the whole educational spectrum for children. Million...I

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think, there is...well, I can easily say there are millions of dollars that are going to be invested in early childhood education. [LB319]

SENATOR GAY: There are going to be or have they invested anything yet into childcare, though? What I am saying is there... [LB319]

SARAH ANN LEWIS: Well, the first... [LB319]

SENATOR GAY: Are you...is there a partnership going on in childcare? [LB319]

SARAH ANN LEWIS: Um-hum. [LB319]

SENATOR GAY: And then do you...getting the child early. And I think the whole idea of what I have heard of Building Bright Futures is to walk them through their whole life clear through college, quite honestly, but... [LB319]

SARAH ANN LEWIS: Correct. And I just started late October to help implement the policies that after two years of community meetings were decided upon. And so my work right now is to recruit the providers that want to improve their quality and become part of the larger network where they can access resources to improve their quality, like developmental, developmental--sorry, I'm blanking--they can access professional development, the scholarship program. But at the same time they will do an independent self-assessment or have a coach come in and evaluate their center. Because we want to...well the idea being that more at-risk children have access to higher quality care. [LB319]

SENATOR GAY: So when they...at what age do you start taking control--taking control is probably the wrong word. [LB319]

SARAH ANN LEWIS: Um-hum. [LB319]

SENATOR GAY: At what age do you think you are the most effective where you can help guide better education and all those programs? Where does it start to kick in? At a... [LB319]

SARAH ANN LEWIS: Pregnancy. [LB319]

SENATOR GAY: Right. So right away? [LB319]

SARAH ANN LEWIS: Well we want to, we want to...I mean... [LB319]

SENATOR PANKONIN: That's early. That's pretty early. (Laughter) [LB319]

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SENATOR GAY: That's pretty early. [LB319]

SENATOR PANKONIN: Clear through high school. [LB319]

SARAH ANN LEWIS: Yeah. Well the largest percentage of the brain develops in the first three years. That is known. I mean, the brain development research is there. It's clear that the early years are the most important years. If we are going to get to them, we get to them early. When we...I mean...we are working with home visitation and service providers and family support programs to get in and find the women that are most at-risk and help them understand prenatal care, help them learn how to parent. Getting into the providers who have the most children on subsidies that are the most at-risk and helping them learn how to work with the parents because we want the parents to be the first teacher. But that has to happen in partnership with these child care providers because parents that are working, their children are spending the majority of their time with these child care providers. So it's an inclusive effort. [LB319]

SENATOR GAY: Yeah. I know it's an aggressive agenda. I wish you luck. [LB319]

SARAH ANN LEWIS: Thank you. [LB319]

SENATOR GAY: With...any other questions? I don't see any. Thank you. [LB319]

SARAH ANN LEWIS: Thank you. [LB319]

SENATOR GAY: Other opponents? How many more opponents do we have that are going to speak? It looks like you are the last one. Any questions we have we're going to save for you. [LB319]

CHRIS BRUNER: Great. (Laughter) Good afternoon, Senators, my name is Chris Bruner, B-r-u-n-e-r. I am a director of a child care center here in Lincoln, and today I am here to oppose LB319. My center has been in operation for 37 years, and I have worked for the center for 27 of those 37. We enrolled our first subsidized student in the late '70s and today, 37 years later, my enrollment is made up of 80 percent of subsidized families. If my math was right--I was never real good in math--but it costs us about \$23-\$25 a day to care for one child in our center. The subsidized rate that we get right now just barely covers that. From 2002 to 2005 we received no increase in our rates from the state. In 2006 we received \$1 a day increase. In 2007, again, if my math was right, about a 35 percent increase, but I had to beg for that. We are still at this current rate. There are thousands of families receiving assistance with an increase every year. The child care centers taking these families are decreasing or at least decreasing the spots that they will hold available for subsidized families. High school students can get paid \$5 an hour to baby-sit, but we as professionals have rates that range from \$2.25 to \$5 an hour for children in an educational and loving environment. And I also find it

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amazing that the state will spend on average anywhere from \$71 a day to \$144 a day for someone who is incarcerated but a measly \$28 to \$35 a day for young children in childcare, that's our future. Again, thank you, and I ask you to oppose LB319. [LB319]

SENATOR GAY: Thank you. Are there any questions? Senator Howard. [LB319]

SENATOR HOWARD: Thank you, thank you, Chairman Gay. Well, I have to ask the obvious. How do you stay in business if you break even? Well, I have always wondered this. When people come in and testify if you're not, you know, because you've got expenses to pay. [LB319]

CHRIS BRUNER: We are a nonprofit. We are a nonprofit center. [LB319]

SENATOR HOWARD: So you're subsidized by other...do you receive any subsidies? Do you receive the government subsidized food? The day-care food? [LB319]

CHRIS BRUNER: We have...yes, the food program we are on. I think I have 22 paying parents, self-paying parents, which of course, they pay a higher rate. [LB319]

SENATOR HOWARD: Which is a higher rate than the \$28 to \$35. [LB319]

CHRIS BRUNER: Correct. Correct. [LB319]

SENATOR HOWARD: Okay, thank you. [LB319]

SENATOR GAY: (Exhibit 5 and 6) Any other questions? I don't see any. Thank you. We also have opposition letters from Lincoln Community Learning Centers and Center for People in Need. Any other opponents? All right. Anyone neutral? [LB319]

JENNIFER HERNANDEZ: (Exhibit 7) Good afternoon, Chairman Gay and members of the Health and Human Services Committee, my name is Jen Hernandez, H-e-r-n-a-n-d-e-z. I am here representing the Nebraska Children and Families Foundation where I do policy work for at-risk children in their first five years of life. Senators, we are in difficult times, and I do not envy the decisions that you have in front of you. I am here in a neutral capacity to simply explain to you what will happen if you cut the reimbursement rate. In 2003, I was a graduate student intern at the Nebraska Department of Health and Human Services, and I conducted every one of the more than 1,000 phone calls to licensed Nebraska child care providers to survey them on the rates they charge families for childcare. And while federal regulations direct each state to set their child care work support at the 60th percentile, in real terms that means that the state subsidizes care at 60 percent of the full market price, it does not mean that the subsidy buys access to 60 percent of the providers that are out there. Lowering the reimbursement rate to 50 percent of the market value means that the state will save

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some money now. It also means our licensed child care providers are faced with difficult business decisions as you have just heard. There are already a number of disincentives for accepting the subsidy as payment and caring for at-risk children. At the same time that those disincentives are in place, we know that children at risk must be cared for in safe environments that support their healthy development if we want to avoid the continued cost in behavioral health, special education, criminal justice and welfare assistance. If the reimbursement rate is lowered, as this bill proposes, we will have fewer providers who will be able to care for the children most at risk, and fewer parents will have choices about who cares for their children while they are working. In 2003 when I was doing the market rate survey I heard two kinds of stories. The first was the provider who cared for at-risk children on the subsidy, but because of freezing or reduced rates simply could not keep their business afloat, and they wouldn't be able to accept the subsidy any longer. The second story was the provider who knew that children they used to care for were at home alone because the provider couldn't accept the subsidy and keep their doors open at the same time, and the family had no alternatives if they wanted to work. Given the economic times that we are in, we need to think differently and smarter than we have in the past. Next week you will have another bill in front of you that takes a different approach to the complicated child care work support issues that we face as a state. LB319 is not our only option, and I will be back to tell you about a plan next week that will increase accountability in the child care subsidy, it will help stabilize providers' budgets and it will encourage them to serve the children we know are at risk of failing in school and later in life. I want to thank you for your time, and I would also like the opportunity to answer a previous question that Senator Stuthman raised, if that's okay. [LB319]

SENATOR GAY: Hold on a moment. What is it? (Laughter) Hey, wait. Senator Stuthman, will you ask that again? [LB319]

SENATOR STUTHMAN: Yeah. I will try to recall. Could you remind me please? [LB319]

JENNIFER HERNANDEZ: Yes, Senator, thank you. You asked about the costs of childcare right now. [LB319]

SENATOR STUTHMAN: Yeah, okay. Um-hum. [LB319]

JENNIFER HERNANDEZ: I have an 8-year-old, a 5-year-old, and a 2-year-old. My 8-year-old and my 5-year-old are both in school, so for them I just pay for a couple of hours until I get off at 5:00 and during the summer. So for those two, and for full-time for my 2-year-old, I pay over a \$1,000 a month, about \$14,000 in one year. [LB319]

SENATOR STUTHMAN: We only get \$12,000 a year. (Laughter) [LB319]

SENATOR GAY: Change careers. [LB319]

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JENNIFER HERNANDEZ: Senator, it's a good think you don't have young children. [LB319]

SENATOR GAY: Any questions? I don't see any other. Thank you. [LB319]

JENNIFER HERNANDEZ: Okay. [LB319]

SENATOR GAY: Thank you. Any other neutral? Would anyone like to close on this? I see no closing, then. All right, we would like to thank you all for taking time out of your busy schedules to be with us today to testify and with that, we will close LB319. Senator Harms is here to open on LB458. Do you want to take a break? Do you want to take a break? Whenever you are ready, John. [LB319 LB458]

SENATOR HARMS: My name is John, J-o-h-n, middle initial, N, Harms, H-a-r-m-s. I represent the 48th Legislative District. Senator Gay and colleagues, thank you for giving me the opportunity to be here to visit with you about LB458. It is not a new topic for us, as Senator Gay knows, and...but I am hoping that we have found a solution to this particular issue. This bill will allow us to move some of the parents of the ADC program into a...demand quality jobs that will help address work force demands while lifting families out of poverty. And the best way to do this is really through the community colleges. This deals with associate's of arts degree, it deals with diplomas and certificates, and gives them an opportunity to be a part of the work force. And that is what community colleges do, they prepare the future work force. And the ADC program will play a very valuable role maybe to us in the future. Because when we project in the future, in the next decade we are projecting that there will be...America will be 10 million workers short. And so we are going to need as many people as we can to come off of any kind of federal program to be a part of our work force. And according to a 2005 report, only about 1 percent of the people that age between 25 years and older in Nebraska with some type of educational background receive public benefits. So what this really says to us is that if Nebraska's ADC recipients pursue a college education, it's very unlikely, very unlikely that they might be back asking for other public assistance. So I think that's really pretty important. I think that's probably...should be our goal, is getting as many people off the federal lines as we can and into the work force. That's critical for us, I think, in the future. Nebraska's current structure makes it very difficult for parents to succeed because it doesn't give them the opportunity to obtain this degree, only allowing a full-time participation in an associate's degree for up to 12 months just doesn't work. We've had that discussion, we've had that argument, and then we've had that debate. And it just doesn't work for us. And it doesn't work for the people there. So what happens to them after the 12 months, this associate's degree program becomes a non-core activity, meaning that parents have to do 20 hours of work beyond the core work activity...as their core work activity rather than the education and then 10 hours left just for educational purposes. And I can tell you that's very, very difficult to do,

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particularly with the background of the people that come into this aspect, into this program and the kinds of problems that they might very well have. Making such a change really does not violate the federal law. The federal Temporary Assistance for Needy Families, is the federal counterpart of the ADC program, and it was designed to give the state flexibility to do the very things that we are talking about today. So if you would look at, just for a moment, if you would look at the green copy that you might have before you, and on page 3 lines 13 through 18. It's pretty simple. And what it really says to us is for the purpose of creating a self-sufficient contract and meeting the applicant's work activity requirements, an applicant shall be allowed to engage in vocational training that leads to an associate's degree, a diploma, certificate. And I will tell you that most likely that a majority of these people probably will get to a certificate level, that's the lowest level, and then maybe go...may...might get to a diploma, but I think it thins out when you get to the associate's degree. But we will just have to see. And for a minimum of 20 hours per week up to 36 months. Now the nice thing about this is that we put a termination date on this. It terminates on September 30, 2012, and I think that will give us, then, the opportunity to have a good understanding of whether this does have an impact on our dollars and whether it is an increase in our dollars. And I don't know, Senator Stuthman, if you remember two years ago we had this debate on the floor, and you and I had...I had introduced some legislation to amend legislation going across the floor to address this issue. And you and I were both concerned about the cost of this. You came over and talked to me, and I said, you know, I'm going to pull the bill, I'm going to pull this amendment because we have got to find out really what it does to us, and we did that. And Senator Gay, the results of all this is when you got behind the issue of doing the LR307, after I read that, it made me much more comfortable with coming back and having this discussion. I would thank you for that because I think it opened the door for some things that we just didn't know. The study was done, which we wanted to have done, and so I appreciate that. When you look at the fiscal... [LB458]

SENATOR GAY: That's actually the whole committee, Senator. [LB458]

SENATOR HARMS: Okay. Well, but you were really pretty excited about that because I had that conversation with you. If you look at the fiscal note, I was really pleased with that. We have gone from \$1 million two years ago to nothing. There is no impact. So that's why by terminating that at the end, that gives us the chance to evaluate this, and it answers the questions I think we have to have. So I would be happy to answer any questions you have. [LB458]

SENATOR GAY: Any questions from the committee members? Senator Gloor. [LB458]

SENATOR GLOOR: Thank you, Chairman Gay. I'm not sure it's a question, but I would applaud you for bringing this forward. I think this is a commonsensical bill. I am biased because of my background in healthcare and the fact that there is such a need for

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people to pursue health careers. And far too many people who head in that direction think they have to get a bachelor's degree when in fact an associate's degree, whether it's in nursing, whether it's in respiratory therapy, lab imaging, these are all career fields that pay exceptionally well,... [LB458]

SENATOR HARMS: Yes, I... [LB458]

SENATOR GLOOR: ...and are career fields that there is shortage in. And the opportunity for people to pursue that will take them so far away from their days of ADC that these people will be taxpayers and fill an important role in our community. So I guess... [LB458]

SENATOR HARMS: I agree with you, Senator Gloor. I think that it is an opportunity here, and we'll just have to see how it works. And with the encouragement of changing the law, I think we'll have that opportunity to open that whole channel. So do you have any other questions that you would like to ask? [LB458]

SENATOR GAY: I've got a question. Senator Harms, who on your staff worked on this over the summer? [LB458]

SENATOR HARMS: Actually we didn't work on this this summer. We took the study that you have here, and we worked with Appleseed and they helped us lay this out. And then Tania Stewart, that's on my staff, helped to put it together near the end. [LB458]

SENATOR GAY: I think she did some work over the summer. [LB458]

SENATOR HARMS: Yeah. Pardon me? [LB458]

SENATOR GAY: She did a good job over the summer. [LB458]

SENATOR HARMS: Yeah. So thank you. [LB458]

SENATOR GAY: You bet. Any other questions? I don't see any. Thank you, Senator. [LB458]

SENATOR HARMS: You're welcome. [LB458]

SENATOR GAY: Proponents who would like to speak on this issue? [LB458]

JENNIFER CARTER: (Exhibit 1) Good afternoon, Chairman Gay, members of the committee. My name is Jennifer Carter, J-e-n-n-i-f-e-r C-a-r-t-e-r, I'm the director of the Healthcare Access Program and a registered lobbyist for Nebraska Appleseed. And as Senator Harms said, this is not a new issue. This is something that we have been

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dealing with for a couple of years, and I would like to thank the returning members of the HHS Committee. And I would also like to thank Senator Gay for his leadership on the interim study that I think really helped us dig a little bit deeper into this issue. And it was a really thorough and meaningful interim, and I think it helped answer some important questions. And I just wanted to raise a few points, and one is to remind us which I think I had talked to all of you about this but I don't know if I have highlighted a couple of things which is that there is a long history of allowing ADC recipients to do education in Nebraska. We have been doing it since 1996 and until 2006, 2006 was really when we had a change in our regulations and this 12-month limit got put on the pursuit of an associate's degree. Some of the benefits of education have already been mentioned. Also a 2007 report from the Nebraska Department of Economic Development listed 15...of the 15 highest demand jobs in Nebraska will require high skill. So we need to have trained workers ready to go. And also a national study shows that 81 percent of associate's degree recipients end their public benefit dependency. In terms of one of the core things that this bill allows ADC recipients is to pursue their education as their core work activity so the majority of their work time. And I think why, as Senator Harms mentioned, I mean I think why that's so important is it really helps increase the chance of success in these programs. And while going back to school can be challenging for anybody, families on ADC are generally dealing with a lot more problems and additional barriers such as coping with domestic violence, overcoming homelessness, grappling with healthcare needs and so it really helps to allow these folks to focus on their education rather than having to do...put in many hours of work and then try to pursue an education on the side. One thing also that we haven't mentioned previously is there is a lot of accountability for these recipients in the ADC program. Before you can even pursue an education you have to show, as part of your self-sufficiency contract, you have to show that you can pay for the program on your own, that the labor market information verifies there will be jobs available in the area, in the field that you are pursuing, that you are physically and emotionally able to participate in education. If you can sign your contract for education, then they...it outlines other obligations you have to meet, including maintaining a passing grade point average, attending classes, making positive progress towards a degree, and while in school the parents have to complete 30 hours of actual class time, study time, additional work activities, and have to turn in weekly attendance verification signed by the teacher and give regular grade reports to the caseworker. So this is not a let's go to college and have fun bill, this is...they really have to be doing work and really making progress in order to participate in this. And also another thing that has been addressed is one of the main concerns was whether we would meet our federal work rate requirement. And as we saw in the interim, the department has really done a commendable job of getting all the credits that it needs, all the maintenance of effort that we need and frankly just engaging the ADC population in work that our work rate was 136 percent last year. So there is more than enough room for the 4 percent and frankly we agree that we would love to see it be higher. But right now it's 4 percent. It's not an easy thing for these folks to do. And so there is plenty of room to allow them to do it. It's the surest path out of

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poverty, and so we're extremely excited about this program, and we would love to see the bill advance to the floor. And I am happy to take any questions. [LB458]

SENATOR GAY: Any questions from the committee? Senator Gloor. [LB458]

SENATOR GLOOR: Thank you, Senator Gay. Jennifer, you and I have talked in the past about some of the old programs like RAMBO and whatnot. What always surprised me about those programs is the average participant was actually older than probably my stereotype. Do we have any idea of what we might be looking at in terms of the average age of people who will participate in this program? [LB458]

JENNIFER CARTER: You know, that's a really good question. I don't know the answer to it, but we would be happy to try to find that out, to see if we've gotten any data or maybe we could ask the department for some. [LB458]

SENATOR GLOOR: I...it would just kind of help dispel a stereotype I had that these were not committed individuals. They have a level of maturity that really had them more career focused than perhaps an 18-, 19-, or 20-year-old would be. [LB458]

JENNIFER CARTER: Right. Yeah. [LB458]

SENATOR GLOOR: Thank you. [LB458]

SENATOR GAY: Senator Pankonin. [LB458]

SENATOR PANKONIN: Thank you, Senator Gay. Ms. Carter, thanks for coming today and it is, it's nice to see this is an issue. I know you're another person that stayed with it for a long time and the three years I have been on HHS, it is nice to see that between the department, the committee, advocates that we had a win-win here. [LB458]

JENNIFER CARTER: Yeah. Yeah. Yeah [LB458]

SENATOR PANKONIN: At one time. [LB458]

JENNIFER CARTER: Yeah. I hope so. [LB458]

SENATOR PANKONIN: At least...and hopefully it's a template for future action. And I appreciate you staying with it as well. [LB458]

JENNIFER CARTER: Yeah, oh, you're welcome. I am the daughter of educators, so I am pretty well passionate about this one so. [LB458]

SENATOR GAY: Anyone else. Jennifer, I would like to say, too, I agree with Senator

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Pankonin. You know, a lot of us had an interest in this but you're very persistent. (Laughter) But anyway, and very professional, too. [LB458]

JENNIFER CARTER: In like not an annoying way though, right? Okay. [LB458]

SENATOR GAY: But I think these are good opportunities I think and hopefully this will work out well. We'll see what happens with the rest of the way through. But you did a great job working on this through the summer and that would go for staff too. There's a lot of staff people, Lisa, I know has worked on it. [LB458]

JENNIFER CARTER: Yeah. [LB458]

SENATOR GAY: So this is kind of a fun collaboration of a lot of people. I think we should see more of it. Maybe, we'll see what happens. But thank you. [LB458]

JENNIFER CARTER: Yeah, I agree. And I forgot to mention that I handed in...we had two clients that we...actually one client... [LB458]

SENATOR GAY: Yeah. [LB458]

JENNIFER CARTER: ...that is hoping to pursue education and someone that is a teacher at Lincoln North Star High School in the parenting classes. And they couldn't be here in the end with child care problems, so. [LB458]

SENATOR GAY: (Exhibit 6 and 7) Yeah, with that then, I'll read those into the record. We did receive those and we have those and also two other letters of support from Nebraska Catholic Conference and the Center for People in Need has submitted letters of support as well. Okay. [LB458]

JENNIFER CARTER: Great. Thank you very much. [LB458]

SENATOR GAY: Thank you, thank you. Other proponents? [LB458]

DENNIS BAACK: Senator Gay and members of the Health and Human Services Committee, for the record, my name is Dennis Baack, D-e-n-n-i-s B-a-a-c-k, I am the executive director of the Nebraska Community College Association here to testify in support of LB458. I have been involved in this from the very beginning, too, and it's something that I think is really, really important to be done. And Senator Gloor, I was involved with the RAMBO Program. I was on the board of the RAMBO as they got organized and as we worked with those folks. And we had some real success stories there. And I think we are going to see some of the same kind of things here, and I think we were really able to help some people get out of poverty and stay out of poverty, which I think is what is really, really important with this kind of legislation. Just for the

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record, you will note that it is 36 months and most associate's degrees, people assume it is a two-year program. You can get it done in 24 months. That's a difficult thing to do, especially in...with the circumstances the students are. And I think Senator Harms mentioned that these are not just your normal out of high school kinds of students that are going to be taking advantage of this program. You're going to have some other barriers there that they are going to have to overcome. That 36 months is going to allow them the possibility of success I think. And we have just completed an economic development study, an economic impact study for the community colleges, and it shows very clearly that getting that associate's degree over your lifetime will give you a lot better chance of getting a lot more income than if you have just a high school degree of diploma or certificate. As you go up in those years of education, it makes a big difference in your ability to earn income. So with that, I would be happy to answer any questions if there are any. [LB458]

SENATOR GAY: Senator Stuthman. [LB458]

SENATOR STUTHMAN: Thank you, Senator Gay. Mr. Baack, with this 36 months and we have a termination date of September 30, 2012, can a person participate in this in 2011 and still get the 36 months? Or... [LB458]

DENNIS BAACK: Well, I would think so. I, you know, I think that it's going to...some of them that are already in the program are going to be able to continue. And so we are going to be able to use those success stories, I think, and in working with Senator Harms, I think what we want to try to do is to be able to show you what kinds of success stories we have and then hopefully we will be able to extend that when 2012 comes around. But we want to be able to show the success of the program and demonstrate that it is successful. [LB458]

SENATOR STUTHMAN: Yeah, I think that is very true. I was just concerned about the fact when I read over it and I forgot to ask Senator Harms that, you know, so we don't get ourself in a bind that we have to get those started now so they complete the 36 months and that will be, you know, 2012 already. [LB458]

DENNIS BAACK: I think it is something that we need to be keeping very close tabs on, and as we see this, if we have got a whole group of students that are going through and we think that that is going to be a problem, then I think we ought to be coming back a year early for sure. [LB458]

SENATOR STUTHMAN: Um-hum. [LB458]

DENNIS BAACK: To make sure that those are going to get to complete the program. I think it's... [LB458]

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SENATOR STUTHMAN: So that we have some that don't...can make the 36, others will be the 24, and the others will be the 12 if we are serious about the 2012 date. [LB458]

DENNIS BAACK: Right, and I...but I think that we are going to see enough success that we'll be able to continue this program. And I think that, you know, I do applaud the department, too, because they have done very well on their work participation rates and stuff where this is not going to harm those, and so I think we are going to be fine with that but I think it's also a program that we need to be able to prove the success of. [LB458]

SENATOR STUTHMAN: And I think this is a program that I think will be very successful. [LB458]

DENNIS BAACK: I do too. [LB458]

SENATOR STUTHMAN: And I think the success there will benefit these people, you know, for the rest of their lives. [LB458]

DENNIS BAACK: I think it benefits them, and it benefits the whole state to have that because part of it is the development of the work force. That's one of the complaints that we hear is we don't have the educated work force in this state. And I think that this serves a dual purpose. It takes people off of the welfare rolls and puts them into the work force, which is a really important feature, I think. [LB458]

SENATOR STUTHMAN: Thank you. [LB458]

DENNIS BAACK: Um-hum. [LB458]

SENATOR GAY: All right, any other questions? I've got one. That report you had mentioned, is that done? Is it complete? [LB458]

DENNIS BAACK: Yeah, we do have it done. I'm...we're preparing some documents to give to each of the committee members and stuff so that they will have it. We just got it last week but we...you will have an executive summary of that, and it will show what happens with salaries with years of education. [LB458]

SENATOR GAY: Okay, that's what I was going to ask you. [LB458]

DENNIS BAACK: And you will be getting that soon. [LB458]

SENATOR GAY: We'll be getting a copy? Okay, great. That's what I was going to ask. [LB458]

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DENNIS BAACK: We just completed it, we just got the actual final results last week. [LB458]

SENATOR GAY: Hot off the press, huh? [LB458]

DENNIS BAACK: So we'll be having those coming. [LB458]

SENATOR GAY: All right. Thanks, Dennis. Any other questions? I don't see any. Thank you. [LB458]

DENNIS BAACK: You bet. Thank you. [LB458]

SENATOR GAY: Any other proponents? (Laughter) We are hearing from proponents. [LB458]

TODD LANDRY: I recognize that. I anticipate that at this point that my friends from Appleseed may be falling out of their chair. (Laughter) [LB458]

SENATOR HOWARD: They are not the only ones. [LB458]

TODD LANDRY: If in fact someone you...someone needs to get up and use the defibrillator, please feel free. (Laughter) [LB458]

SENATOR HOWARD: Doctor, doctor. [LB458]

TODD LANDRY: (Exhibit 2) Good afternoon, Senator Gay and members of the committee, I am Todd Landry, T-o-d-d L-a-n-d-r-y. I am the director of the Division of Children and Family Services in the Department of Health and Human Services, and yes I am here today to testify in support of LB458, which changes the time limit provisions for TANF participants enrolled in vocational training work activities. When the Temporary Assistance for Needy Families program was reauthorized by Congress in 2006, it reinforced the requirement that all states must maintain a 50 percent work participation rate for their TANF recipients. Any states that failed to meet that requirement faced significant fiscal penalties. The work participation rate is calculated based on the percentage of individuals engaged in work activities, plus credit for caseload reduction. Vocational training is defined as a work activity leading to an associate's degree, a diploma or a certificate. Under current federal and state requirements, participants in vocational training activities face a 12-month lifetime limit. LB458 would increase this limit to 36 months, but the federal limitation of 12 months would continue. Nebraska will, therefore, face the possibility of these individuals being engaged in activities that do not count towards our federal work participation rate for up to 24 months. And we're not able to determine the exact number of individuals that this might impact. However, out of 5,400 Employment First participants statewide, we

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average about 290 individuals engaged in vocational training programs each month. The majority of these individuals are engaged in associate's degrees or certificate programs that may be less than 24 months in duration. As you are well aware, the department has, in the past, opposed changes in our definition of postsecondary education as a work activity because of the possible negative impact on our TANF work participation rate. But during the past two years, we have worked in partnership with our private contractors to achieve tremendous success in increasing our work participation rate to more than 50 percent. For example, in federal fiscal year 2007 when our actual engagement rate was 23 percent, we met the 50 percent rate only because of some credit for expenditure of state dollars, the so-called Maintenance of Effort benefit. But for federal fiscal year 2008, we achieved an actual engagement rate of 53 percent, a nearly 30 percent increase. We believe we will have an additional credit for caseload reduction of another 15.2 percent thus achieving an actual work participation rate of nearly 69 percent. And we're on target to exceed this percentage for federal fiscal year 2009. Because of this success, we believe we are now in a position to support this expansion of activities that may have a slight negative impact on that rate, but given the importance of education as a precursor to financial independence, I believe that LB458 is an appropriate expansion of activities which can be sustained with little work participation impact or federal financial penalty. I will say, however, because there is always the possibility that future federal rule changes could have a significant impact on our ability to meet the 50 percent work participation rate, the department may, the department may, in the future, request a change to limit the impact of this expansion. Thank you for the opportunity to testify. I'd be happy to answer your questions. [LB458]

SENATOR GAY: Any questions from the committee? I don't see any. Todd, likewise to you. We had talked to Jennifer and we appreciate the efforts over the summer. I think, you know, you are both in difficult situations but it's nice to...that you worked on this. I appreciate that. [LB458]

TODD LANDRY: Thank you very much. [LB458]

SENATOR GAY: Any other proponents? [LB458]

URSULA ALDRICH: (Exhibit 3) I was told you guys already have a copy of my letter. Hello Chairman Gay and members of the committee. My name is Ursula Aldrich, I am here to testify in favor of LB458 which would provide low-income parents with real opportunities to pursue education. I am a single mom with a 2-year-old girl. My daughter's father passed away this summer. After that happened, I moved to Nebraska to pursue an education. I currently am an ADC recipient, which helps me care for my daughter. I would like to pursue an education in visual arts so that I can be done with ADC. Before I moved, I researched education programs in Nebraska. If I went to Southeast Community College it would take me more than 12 months to finish my degree. As an American in...as...in this land to fulfill your dreams, my dream is to get an

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associate's degree and help kids learn about art and culture. I would like to see the bill pass so that more moms like me could get a chance to go to school for as long as it takes to fulfill their dreams. Thank you. [LB458]

SENATOR GAY: Thank you. Any questions for you? Hold on, we have a question from Senator Stuthman. [LB458]

SENATOR STUTHMAN: Thank you, Senator Gay. Thank you, Ms. Aldrich, for your testimony. Are you attending school already or planning to attend school? [LB458]

URSULA ALDRICH: I'm planning to attend school. [LB458]

SENATOR STUTHMAN: You're planning to attend to school, and that's what your goal is? [LB458]

URSULA ALDRICH: Yes. [LB458]

SENATOR STUTHMAN: And this will benefit you if you, you know, attend the school (inaudible). [LB458]

URSULA ALDRICH: Yes. Because my case worker is like persuading me from doing what I would like to do because it takes longer than the 12 months. So I'm just holding off to get everything taken care of so I can start school, and hopefully if it takes longer than 12 months, I guess, I just can't get help from the state right now. [LB458]

SENATOR STUTHMAN: In order to reach your goal you're going to need the...more than 12 months and you're holding off, right now, you know, and hopefully you can reach your goal and get education in to the best of your interests. [LB458]

URSULA ALDRICH: Yes. [LB458]

SENATOR STUTHMAN: Okay. Thank you. [LB458]

URSULA ALDRICH: Thank you. [LB458]

SENATOR GAY: All right. Any other questions? I don't see any. Thank you. [LB458]

URSULA ALDRICH: Thank you. [LB458]

SENATOR GAY: Any other proponents? [LB458]

ANNEMARIE FOWLER: (Exhibit 4) Good afternoon, Chairman Gay and the members of the Health and Human Services Committee. I would like to thank you all for being here

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this afternoon. My name is Annemarie Fowler, A-n-n-e-m-a-r-i-e F-o-w-l-e-r, and I am here to represent the Advocacy Subcommittee of Opportunity@Work. Opportunity@Work is a statewide coalition that is dedicated to strengthening the financial stability of Nebraskans. We operate through public-private partnerships that balance the needs of working families, businesses, and communities across the state. On behalf of Opportunity@Work I would like to thank Senator Harms for introducing LB458 and, in doing so, highlighting the importance that education plays in providing a skilled work force and employment opportunities to Nebraska's most financially vulnerable families. LB458 will provide a pathway for ADC recipients to complete an associate's degree which can permanently move families from cash assistance to jobs with career ladders, financially stable wages, and benefits. As Senator Gloor mentioned earlier, jobs that are requiring associate's degrees are in high demand and will continue to be so for some time. Such jobs include medical professionals, nurses, engineering technicians, electricians, computer specialists, dental hygienists, and laboratory technicians to name just a few. According to the Nebraska Labor Workforce Development Web site, and the salary calculator that they use for Lincoln, Nebraska, specifically, the salary ranges for these kinds of jobs in February 2009 are anywhere from \$20,949 up to \$59,813. In areas such as electricians or technicians where you might have several different levels of jobs, I used the most entry-level job possible for that median income possibility. Research shows the educational attainment significantly decreases the number of families living in poverty and can act as a stepladder toward financial stability and a more highly skilled work force. According to the 2007 American Community Survey completed by the U.S. Census Bureau, when some college or an associate's degree is attained, compared to those with no college education, the number of individuals aged 25 and over living in poverty drops by over a third. And that's specifically for Nebraska. For these reasons and for those that have been mentioned in previous testimonies, Opportunity@Work is in full support of LB458 and would urge its advancement. It is our hope that Nebraska's ADC eligibility guidelines would recognize the importance of an associate's degree and, in doing so, tailor the program educational limits to reflect the actual length of time it takes to complete an associate's degree. Thank you and I would be happy to take any questions. [LB458]

SENATOR GAY: Thank you. Are there any questions? I don't see any. Thank you. [LB458]

ANNEMARIE FOWLER: Okay. Thank you. [LB458]

SENATOR GAY: Other proponents? If you...come on up. Come on up, one of the two. (Laughter) Come on, work your way up, and we will get you on next. [LB458]

TIFFANY SEIBERT: (Exhibit 5) Well, good afternoon again. My name is Tiffany Seibert with Voices for Children in Nebraska, and I'll be very brief with my comments because I think the points have been made. But we are here today in support of LB458. We

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believe it opens the door to career paths for ADC recipients to become permanently financially self-sufficient and transition permanently off of public benefits. We...despite very high employment in the state of Nebraska we continue to see child poverty rates increasing since 2000. And so this tells us that not just any job will help families transition to self-sufficiency financially. So we...it tells us that the type of job is important, and we believe LB458 moves families to the type of careers and employment that will provide substantial and dependable resources for families to provide the needed resources to raise their children well. So I'd be happy to answer any questions. [LB458]

SENATOR GAY: Thank you. Are there any questions? I don't see any. Thank you. [LB458]

TIFFANY SEIBERT: Thank you. [LB458]

SENATOR GAY: Other proponents? [LB458]

ALFRED PETTINGER: Good afternoon. My name is Alfred Pettinger, P-e-t-t-i-n-g-e-r, and I'm with the Lincoln Action Program, a community action agency here in Lincoln. I would like to thank you for allowing me to speak to you today. I am an educator by profession and I have spent the last number of years working with low-income people trying to help them obtain the education they need to be successful. For several years I taught at Omaha North High School which serves primarily low-income families. As I mentioned, I currently work with Lincoln Action Program where I teach in a program called Career Advancement Training, which is a soft skills and job search educational program. I also am involved with a youth build program aimed at 16- to 24-year-olds, primarily high school dropouts to whom we provide job skills, leadership training, and GED preparation. The issue addressed by LB458 is especially important to me because the people we are discussing are the people that I work with every day. People often mired in poverty, struggling to meet basic needs sometimes count it a great success just to be able to pay the rent every month and sometimes not being able to do it. But the people are trying hard. They want to make a better life for themselves and for their children. They're putting a great deal of energy and a great deal of effort into that. I think it's important not to have illusions about the people we are discussing. Many of them are in the poverty that they suffer from because of mistakes they have made. They behave foolishly at times, and the result is the poverty in which they find themselves today. I think we are more fortunate because we have made different kinds of mistakes. Or because the mistakes that we have made have not caught up with us in quite so devastating a fashion, and so we are able to sit here today and discuss these issues with comfortable jobs and reasonable incomes. But I am reminded of the old line, there but for the grace of God go I. The only question is recognizing that people do make mistakes and do suffer from them. Do we insist that they and their children live in poverty from this point onward or do we give them the opportunity to work their way out of it? The answer we give affects not just them but us as well because in large part it

determines whether they will be a constant drain of the resources of the community or whether they will be contributors to those resources. The TANF and ADC program with its required work activities reflects the decision of our nation and our state that it is in their interest and in ours to help them become self-sufficient. But if we have made that choice it makes sense for us to do it rationally. Our current rules as we have heard several times this afternoon make it virtually impossible to devote the time to earn an associate's degree without losing ADC benefits, and therefore practically eliminates one of the best ways for many to gain success and good paying jobs. A Nebraska resident with an associate's degree will have a substantially higher income and therefore will be able to provide for families much more efficiently, will be able to pay taxes. Instead, because of our rules, many either remain working in low-paying occupations in which they can't support themselves, their children, or else maybe they spend a year or two years pursuing a bachelor's degree that really doesn't fit them well and which they eventually don't get. And that leaves them back in the same position they were in to start, in poverty, with children growing up in poverty and, frankly, a burden on all the rest of us. Current ADC rules make it difficult for people to get the education they need to pull themselves up. These rules deny the people of Nebraska the benefits that getting these degrees and the skills they represent would give to us, as Senator Gloor pointed out. They increase welfare costs by keeping people in dependency who otherwise could pursue the opportunity to become self-sufficient. It reduces the tax receipts that state of Nebraska would receive otherwise with the higher salaries that these people could earn and the increased spending that would result from it. And they help to keep many people in a state of dependency who could, in fact, be independent. Good intentions are not enough to serve the best interest of either ADC clients or the people of Nebraska as a whole; well-crafted programs achieve that purpose much more effectively. If we see that a change can improve our results, I think we can't be afraid to make it. I think amending the law to allow ADC clients to effectively pursue associate's degrees is that kind of a change. It's the right thing to do, and I would urge this committee to please advance this bill so that we can do it. Thank you. [LB458]

SENATOR GAY: Thank you. Any questions? I don't see any. Thank you. [LB458]

ALFRED PETTINGER: Thank you. [LB458]

SENATOR GAY: All right. Any other proponents? I don't see any. Any opponents? I don't see any. Any neutral? None. With that, Senator Harms, do you want to close on this? [LB458]

SENATOR HARMS: Thank you, Senator Gay. I would really urge you to support this bill. I think anytime you can...we can move someone from...off of poverty into the work force, we have been really successful. So I would ask you to do that and hopefully we will get a chance to get it on the floor. So do you have any questions? [LB458]

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SENATOR GAY: Any questions? [LB458]

SENATOR HARMS: I'll thank you. [LB458]

SENATOR GAY: I don't see anything. And you're doing LB679? All right, we're ready to go. With that we will close LB458, and Senator Harms will open on LB679, Legislative Performance Audit Committee. [LB458 LB679]

SENATOR HARMS: (Exhibit 1) Senator Gay and colleagues, thank you very much for giving me the opportunity to discuss LB679 with you. LB679 would require any potential Foster Care Review Board state board member to disclose to the Governor's Office any income he or she receives from the Department of Health and Human Services, and any funding his or her employer receives from the Department of Health and Human Services. This would allow the Legislature to decide what level of Department of Health and Human Services financial involvement they are comfortable with and prior to appointing a new individual to the board. The Performance Audit Committee's decision to introduce LB679 came from our recently released audit report of the Foster Care Review Board. During the course of that audit, concerns were raised about possible conflicts of interest for several current state board members. Due to this, one of the main scope questions of the audit asked if the Foster Care Review Board members have employment or other interest that create a conflict with that responsibility as a member of this state board. In order to determine if any of the current state board members had a conflict of interest, the Performance Audit staff looked at the state's accountability and disclosure laws which are the only legal requirement for Nebraska state employees regarding conflict of interest. While the act does not define the phrase "a conflict of interest," it addresses a relatively narrow set of possible conflicts involving the potential financial impact certain decisions made in the course of public service may have on a state employee. For conflict of interest to be present under the Accountability and Disclosure Act a board member would have to be in a situation in which they could benefit or be harmed financially from an official action they took as a board member. Board members told staff, and their independent research confirmed this, that the votes taken by the state board members from January 2006 to May 2008 did not have a financial impact on any of the state board members businesses association. Consequently, the audit found that none of the state board members had encountered a conflict of interest as defined by the Accountability and Disclosure Act. While several members have links to the Department of Health and Human Services and foster children in various capacities, the members have not been in a position to make decisions as board members that would trigger the provision of the Accountability and Disclosure Act. The audit did raise, however, a policy question relating to the allowable financial connections between state board members and the Department of Health and Human Services, which the board members will receive via the board's review of the foster care cases. Currently, no limits on financial connections for state board members exist. Let me give you a little background information that may be helpful in order to

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understand the current board membership. In 2005, the Legislature adopted LB761 which increases membership from 9 to 11. The bill also added requirements that state board members include a pediatrician, a clinical psychologist, child clinical psychologist, social worker, an attorney, a representative from state child advocacy groups, a director of child advocacy center, a director of a court appointed special advocate, and an individual with some background in business and finance. Through the 2005 membership changes to the Foster Care Review Act, the Legislature intended for board members to have an increased level of experience in the child welfare system which was bound to result in some members having connections to the Department of Health and Human Services. In the audit report findings and recommendations, the previous performance audit committee stated that they believe there should be some limit on the extent of board members affiliation with the Department of Health and Human Services and encourage the current committee to consider introducing legislation to address this issue. LB679 attempts to preserve the policy decision made in 2005 while also addressing the committees concern by requiring a disclosure of any funding a potential member may receive from the Department of Health and Human Services. I've also given you an amendment to the bill. And, Senator Stuthman, I hope this captures what you had suggested that we bring forward to the committee when we were in the Performance Audit Committee. It clarifies "appointment" and "reappointment." It also clarifies the Governor making sure that people who are appointed as members do report this information. I would be happy to answer any questions about this if you would like. I think there are concerns and I think it's going to take us a while to work through this to determine at what level should a person not be on the state board if you're employer is receiving amounts of money. And I think this will be the start of it and I would guess that in the near future we might be back with legislation or at least visiting with you, Senator Gay, asking for advice about what are your thoughts about the things that we're looking at here. This is not in a situation where we're being critical or accusing anyone of anything. It's just something I think that sometimes a perception hurts you more than anything, and so this is what this is about. So I'd be happy to answer any questions if I can, and if not, we can have some staff maybe do that. [LB679]

SENATOR GAY: Thank you, Senator Harms. Senator Wallman. [LB679]

SENATOR WALLMAN: Thank you, Senator Gay. Thank you, Senator Harms, for being here. Do you think we have big problem with this in our... [LB679]

SENATOR HARMS: I don't really know and that's what this is about. I really can't answer that. I've not been involved in any of this discussion outside of that. Maybe Senator Stuthman could maybe share some thoughts on it. But I haven't been, but I think this is a point where we want to make sure that we don't have in the future, and we want to try to resolve any of those issues that we think might exist. I just can't answer that. [LB679]

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SENATOR WALLMAN: Thank you. [LB679]

SENATOR GAY: Senator Howard. [LB679]

SENATOR HOWARD: Thank you, Mr. Chairman. Senator, would it be possible for you to give us an example of what might constitute this sort of a conflict? I'm not sure I'm...I don't know if it would be someone who was employed as a foster...or who was working as a foster parent for the state who was also serving on a board, if that would be? [LB679]

SENATOR HARMS: It possibly could. It all centers around the amount of money that their employers receive, and that's what this is really about. So if you were employed by someone who's receiving \$3 million and you're on that board, that might be a concern that people might have and that's what we're really after. [LB679]

SENATOR HOWARD: Okay. All right. That helps to kind of understand that it's a bigger picture than foster parent. [LB679]

SENATOR HARMS: Yes. Much bigger I think. Is that correct, Senator Stuthman? [LB679]

SENATOR STUTHMAN: Yes. [LB679]

SENATOR HARMS: Okay. So is there any other questions you'd like to ask? [LB679]

SENATOR GAY: Senator Campbell. [LB679]

SENATOR CAMPBELL: Thank you, Senator Gay. Senator Harms, I took a phone call from someone whose question really was, should staff members of the Department of Health and Human Services sit as a member of the Foster Care Review Board. And I didn't know whether they do now or whether that question was raised, but I indicated to the caller that I would raise that question here. [LB679]

SENATOR HARMS: I don't know. When you look at the list of the people that we identify that would be on the board, they would not be on that. I would assume they could be...I'm assuming they would be there as a consultant or to be able to answer questions, but I don't see them being on that board. I think that would be truly a conflict of interest. [LB679]

SENATOR CAMPBELL: Oh no, Senator. The point from the caller was they did not want them to be. [LB679]

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SENATOR HARMS: Oh, great. Yeah. [LB679]

SENATOR CAMPBELL: And they were raising questions that staff members or related had been on the board. And I didn't know whether the committee in its work had discussed that. [LB679]

SENATOR HARMS: I don't know, Senator Campbell. As of now as I understand it, they would not be and are not. [LB679]

SENATOR CAMPBELL: Thank you. [LB679]

SENATOR HARMS: Okay. [LB679]

SENATOR GAY: Senator Stuthman. [LB679]

SENATOR STUTHMAN: Thank you, Senator Gay. And thank you, Senator Harms, for giving the information on here. I just would like to make a comment. And I feel the reason for this has come because, you know, there could be a potential of a board member being actively engaged in a contract service or a partner in a contract service where they could be benefiting financially from that and there could be a real issue. So I think this really cleans it up. You know, I've been thinking if we should have had something in there as far as at what level of the financial engagement, but I think this is a lot better, you know, to take a look at it, you know, and see. And then come up with a figure or a dollar amount that we want to make sure that's something. And it may be something that each case has to be looked at differently. [LB679]

SENATOR HARMS: Yeah. I would agree with that. Thank you for clarifying that for me. I appreciate that. Are there any other questions you'd like to ask? [LB679]

SENATOR GAY: I've got one for you. As we go we're more becoming partners with providers is the wave of the future it looks like, so a lot of these people are going to have an interest, so they will be giving us information. So the way I'm understanding, prior to appointment they shall come in and disclose us. So when we're reviewing and, you know, make a recommendation we're going to see their financial disclosures. But I guess on this at what point...and I can see this, so you're just saying shine the light on it early so there's not preconceived perception of...oh, and the question is this real quick, Senator Harms. Do believe having professionals that are engaged in the day-to-day is a good thing or bad thing, back in 2005 when they did this? What's your or no opinion or what do you think because that's kind of where we're at? [LB679]

SENATOR HARMS: I think it's good to have professional people that are people who have a full understanding, people who are educated and trained should be there and should be at the table dealing with the children's issues and the family issues. I think it's

very difficult if you don't have the background to go into that kind of environment. So you are going to automatically with...because of the expertise you're looking at you automatically set yourself up for this question. And so the question for us sometime in the future will be: What does that amount do we think might bring a perception that's not appropriate? And I can't answer that question. I think we will only know that in time. And the nice thing about this is you'll have to disclose it. And I think on the Governor's application form, I think it will have that...they'll have to disclose it to the Governor. And as you bring the name forward for us to vote on to approve this individual we'll have a much better opportunity to start observing. And I think you'll see that we'll pay a lot more attention to that than we have in the past. [LB679]

SENATOR GAY: Yeah. The concern on that is when I read this, one representative...let me find this, "one attorney who is or has been a guardian ad litem." One social worker which could be in the field, I mean, that drive 100 percent possibly depending on who it is. So I guess that's...the way this is written, it's just up to the committee's discretion making an appointment. That would be released to the floor and people can question. I'm a little bit concerned though that somebody whose going to provide a public service...you know, you go through and...do they have to have a NADC form that we...where your income and all that stuff is derived from? [LB679]

SENATOR HARMS: I don't know, Senator, for sure. I don't know. [LB679]

SENATOR GAY: They don't have to. Okay. So they don't have to do that. I'm just saying so we just have to use our discretion under this bill. [LB679]

SENATOR HARMS: Well, the nice thing about this is you can always amend this bill and tighten this thing up to where you feel really comfortable because I don't think we have any ownership here. [LB679]

SENATOR GAY: Yeah. (Laugh) Yeah, we get you. There you go. [LB679]

SENATOR HARMS: We just want to make it good... [LB679]

SENATOR GAY: Yeah. All right. [LB679]

SENATOR HARMS: ...and appropriate. And whatever you feel, you know, I think you should just go ahead and do it. [LB679]

SENATOR GAY: Yeah. [LB679]

SENATOR HARMS: I think you'll get our support there. It's just what we're after to make it better and smoother. [LB679]

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SENATOR GAY: Thank you, Senator Harms. [LB679]

SENATOR HARMS: Well, thank you very much. [LB679]

SENATOR GAY: You bet. Other proponents? [LB679]

LORAN SCHMIT: (Exhibit 2) Good afternoon, Chairman Gay, members of the committee. My name is Loran Schmit, L-o-r-a-n S-c-h-m-i-t. I'm appearing here today on my own behalf and I hope on behalf of the foster children of Nebraska. It's been a long time since the Foster Care Review Board was established and was established because not of a perceived need, but because of a very real need for someone to identify and track and keep in touch with what was going on with the foster care children in Nebraska. It was an embarrassment to the members of the Legislature in the early eighties when we realized that we did not know how many children were even under foster care in the state. There was estimates made that it might be around 1,800 to 2,000. Interestingly, when we finally got a count we had more than 4,000. Off a little bit, of course, but in government work I guess that's close enough. But not in this instance where children are involved. I think Senator Stuthman and I being livestock persons understand that we count our livestock closer than that. And certainly in the care of children, our second most vulnerable group of children are these children and we ought to make sure that we give them the very best. When the bill was originally passed, there was a lot of discussion as to conflict of interest on one of the board members, and there was specific language in the bill to prevent any conflict of interest. And you and I know what conflict of interest is. It's sometimes when we write it down it is one of those things that's hard to identify. Someone once asked me if I was always an honest politician and I said I thought I was, but no one had ever offered me very much. And it's easy to be honest for a drink or a meal, but when you get into millions of dollars, as Senator Harms has identified, it could be more difficult. I want to commend the committee for bringing this bill to this committee. I think that Senator Harms has outlined very thoroughly the concerns of the committee and the reasons why the bill needed to be introduced. And I believe that it starts well. I don't believe it goes far enough. I believe that...and I have prepared an amendment, which I apologize I do not have copies of. I'd like to give the page a copy. A couple of amendments I think would improve the bill. And I think it's important that, as Senator Harms indicated, it is not just the actual conflict, it is the appearance of a conflict that sometimes causes trouble. And as Caesar's wife, they need to above suspicion. And I think that I've commented on this before, but if the Foster Care Review Board is to function as an independent agency, there can be no connection between HHS and the Foster Care Review Board. The Foster Care Review Board needs to be independent and operate independently. And the comment was made and the Legislature changed the makeup of the board and added some additional members and provided some criteria. I'm not opposed to people with experience on the board, but I remember the early board members came from rank and file Nebraskans. People came from the farms and ranches, business and professions served on that

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board and I think they operated very, very well. It's awfully easy when you get into a designated category to look out for that particular turf, and we wanted to avoid that when this legislation was enacted early on. I'm not saying that would occur, but it is only natural that we protect our own turf. And so I would hope that this committee would consider those amendments and recognize that the Foster Care Review Board has done a lot of work. In the past 25 years, they have conducted more than 80,000 interviews on behalf of children and they have spent hundreds of thousands, volunteer people have spent hundreds of thousands of hours of time on behalf of the children. And I don't think we can put a price on that kind of service. The people who serve on that board and serve with the Foster Care Review Board are dedicated people. And in all honesty I must say that the board was created because it needed existing. The need is still there, the children have increased, the problems have increased, and I would hope that the committee would consider my amendments. Be glad to answer any questions. [LB679]

SENATOR GAY: Thank you. Any questions? I don't see any. Thank you. [LB679]

LORAN SCHMIT: Thank you, Senator Gay. Thank you, Senator. [LB679]

JOHN SEYFARTH: (Exhibit 3) Senator Gay, committee, my name is John Seyfarth, that's spelled J-o-h-n, first name; last name is spelled S-e-y-f-a-r-t-h. And I am here to encourage this bill, but I really think it needs some modification. And I really thank the Performance Audit Committee for surfacing this issue because I think it's very important. A little bit about my background: I am one of those people that has been on a local board and I've been on for 12 years now. And I haven't seen everything, but I have been around the block a few times. And I am very interested...I'm also a past president of the state board. And I was president during 2004-2005 when they changed the bill or changed the composition of the board. During my watch...well, I'm just going to say this. First of all, I think the bill needs some teeth, more teeth than it has right now. And I think the amendments...I really support the amendments Senator Schmit has put in and that Senator Harms has put in. I think they're very important. During my watch I had the nine members on my board. We had eight of us that were regular members of local...all of us participated in the board and a local board somewhere in the state from Scottsbluff to Omaha except our attorney. Our attorney at that time didn't participate in a board particularly, but he did a lot of case staffing at the time, and he also participated in a lot of our project permanency visits, which is very important. And he brought to the board a lot of...a little different perspective as far as what went on with the board. Right now I feel there are about three members that have some conflicts and that's my opinion right now. And I think we get along very well with nine people on the board because it basically is an administrative board. We wanted to guide...and the thing that I think the local board members bring to the state foster care board is that they have a view of what's going on in their area of the state, what the cases are like and things like because it varies. You know, we have 20-some boards in Omaha. We have probably 10

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or 15 here in Lincoln, and we have boards elsewhere in the more...less populated areas of the state. One the things that has kind of bothered me on some of the new members that were appointed as experts, supposedly, is that they have refused to participate as local board members. Now, I realize that people get busy. I am also busy. If you look at my little bio there you'll see that I have a few activities, just a few. But I think it's worthwhile for me to spend seven to eight hours a month taking a look at cases and then reviewing them with my board. And I think it's very important for all our board members to participate as local board members, our state board members. And my problem is that I agree with Senator Schmit. We need to be very independent. We need to be...I really believe the Legislature needs to be very careful to make it independent and assure that nobody has the capability to politically influence or skew the findings of the 300-plus volunteers that we have in the state. It's, by its nature, our board is going to communicate good news about kids and bad news about kids. And of course the person who is...the people who are responsible for carrying those kids is the Department of Health and Human Services. So sometimes we may have to criticize the performance that we see in there or the lack of performance thereof. We need to remember this board needs to be children-centered. We're looking after the children to make sure that they become, they get the kind of childhood that they need to become effective adults, taxpayers and everything else. And so the board needs to be completely insulated from political influence from any outside party. You know, this is kind of the same thing with our national financial situation. We let things get out of hand sometimes, and financially that's where we're at now and we don't want to have to relearn that lesson with our foster children. Are there any questions? [LB679]

SENATOR GAY: Thanks, John. Senator Howard. [LB679]

SENATOR HOWARD: Thank you, Chairman Gay. In listening to your testimony, it sounds like you have two people or maybe more that you feel have conflicts of interest that are currently serving. Am I accurate in picking up on that? [LB679]

JOHN SEYFARTH: Yes, exactly. I feel like...I'm not going to identify people, but I think that one of the things that we have to avoid is to have people that are working for an agency that might want to influence the board one way or the other or to maybe perhaps inhibit its findings or skew its findings, that's what I'm concerned about. [LB679]

SENATOR HOWARD: Has this happened? [LB679]

JOHN SEYFARTH: I don't know, but I just feel that when you have a person working for the agency that you're constantly evaluating, HHS in this case, then there might be a temptation to do that. And this has to do with appearance again. The laws on accountability and so on like that that we have don't really cover a lot of those things. But I'll just give you an example when I was in the Air Force, you know, everything as far as...we had a very strict conflict of interest regulation in the Air Force that I had to

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comply with, and even in appearance you could get court-marshalled for. And it was a good reason for that because the stakes are high. [LB679]

SENATOR HOWARD: Well, this bill was passed, excuse me, this bill was passed in 2005. These individuals were appointed shortly after this bill was passed, so that's 2005, '06, '07, '08, '09. So can you tell me anything during that period of time that would make me think there had been a conflict, a problem, and issue, something you're concerned about? [LB679]

JOHN SEYFARTH: Well, I'm concerned for one thing that we have had a significant decrease in the number of reviews we've had in the last couple of years. That's one thing that really concerns me. So we're not covering as many kids as we had. We've had a significant decrease in the number of project permanency visits that we've had over the last three years as well. And... [LB679]

SENATOR HOWARD: Directly accountable back to these individuals? [LB679]

JOHN SEYFARTH: Well, you know, they have...because of where they work more than anything else. I'm not so concerned about the money as I am the fact that the people they work for may want to influence them as board members to do something that maybe the board should not be doing. That's what I'm concerned about. [LB679]

SENATOR HOWARD: Okay. [LB679]

JOHN SEYFARTH: You know, it's just I think it's a little higher level of...I think we have...stakes for these kids is pretty high. [LB679]

SENATOR GAY: Senator Wallman. [LB679]

SENATOR WALLMAN: Thank you, Chairman Gay. Thanks for coming. I can agree with the amendment with nine. I think you get too many board members and you don't all show up it's hard to get them there. So you're okay with that too? [LB679]

JOHN SEYFARTH: Well, the number doesn't make much difference to me. The main thing I want to do is make sure that we don't have the possibility that there's some of our board members will be influenced to vote in such a way by some outside influence. That's what I'm really concerned about. This board needs to be objective. That's really what I'm after. [LB679]

SENATOR WALLMAN: Sure. [LB679]

JOHN SEYFARTH: And I really feel like...and I think it's really important...this isn't an amendment, but I really think it's important that all board members participate in the

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local board because otherwise they don't have all the vision that they need to have to really know what's going on. [LB679]

SENATOR WALLMAN: I agree with you. Thank you. [LB679]

SENATOR GAY: John, if you were on a local board and you missed so many meetings, can you be removed or...I mean, because I... [LB679]

JOHN SEYFARTH: If you...yes, absolutely. You can be removed. [LB679]

SENATOR GAY: And how do they enforce that? [LB679]

JOHN SEYFARTH: If you have...I don't remember what the number is, Senator Gay, but if you have so many unexcused absences you're off the board. [LB679]

SENATOR GAY: For sure? [LB679]

JOHN SEYFARTH: For sure. [LB679]

SENATOR GAY: So the local board doesn't have to vote to remove... [LB679]

JOHN SEYFARTH: There's a rule... [LB679]

SENATOR GAY: Well, I think that's a good thing and, you know, I... [LB679]

JOHN SEYFARTH: Yeah. Absolutely. Yeah if you're not participating you're off the board. [LB679]

SENATOR GAY: Right because you've got to stay up on the cases and all that. So there is... [LB679]

JOHN SEYFARTH: And you know all the board members were there it was really helpful to know what was happening in Scottsbluff or some of the other places where we had...we worked with this from all over the state when I was on there, and it was really helpful then. [LB679]

SENATOR GAY: Okay. Senator Stuthman. [LB679]

SENATOR STUTHMAN: Thank you, Senator Gay. John, you know, I appreciate your interest in this and bringing forward some amendments. Senator Harms and the Performance Audit, you know, we're trying to get a better handle on what is happening there. And this is just kind of breaking the ice as to what our real intent is, but we want to get some more information. You know, I have some real concerns of issues that I

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went through with the safe haven law and the children being left off and couldn't get information and background on those individuals because they said we couldn't get it. And we're just trying to, you know, move ahead, you know, walking softly and seeing if we can get some of these questions answered. [LB679]

JOHN SEYFARTH: Well, and I think a process like this is very important to be transparent. [LB679]

SENATOR STUTHMAN: Um-hum. [LB679]

JOHN SEYFARTH: And so that the citizens of Nebraska have an idea of what we're really in...that we're competent in what we're doing, whether it's HHS or whether it's us or what ever it happens be. We need to be accountable as a board. I need to be accountable as a board member at a local board, HHS needs to be accountable. And that's, you know, that's where we're at. And let the chips fall where they may. [LB679]

SENATOR STUTHMAN: Yes, that's right. [LB679]

JOHN SEYFARTH: And, you know, if somebody makes a mistake, then what happens is that person should, you know, correct that mistake and figure out some way to prevent it from happening in the future. That's really what we're all about. [LB679]

SENATOR STUTHMAN: Thank you. [LB679]

SENATOR GAY: How many other...all right. Any other questions? All right. Thanks, John. [LB679]

JOHN SEYFARTH: Okay. [LB679]

SENATOR GAY: How many other proponents? [LB679]

JOHN SEYFARTH: I would like to say one thing. If you have not read these two books, I highly recommend you. They're on the back of my bio there. These are firsthand memoirs by two kids that have gone through the foster care system. And these are also...I think, Senator Harms, you have these two books in the Performance Audit Committee, so they would probably let you borrow them too. And they are really, really worthwhile reading. [LB679]

SENATOR GAY: All right. Thank you. [LB679]

JOHN SEYFARTH: Thank you. [LB679]

SENATOR GAY: All right. Any other proponents? Any opponents that would like to

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speak? Anyone neutral? [LB679]

MARTHA CARTER: Good afternoon, Senator Gay and members of the committee. My name is Martha Carter. I'm the legislative auditor. And I just wanted to take a couple of minutes to answer a couple of questions that were raised, and then I'd be happy to answer other questions about the performance audit if you have any. The two questions I wanted to answer was I wanted to address Senator Campbell's question about whether there were staff members on the board. There are not, at this time, any Health and Human Services staff members on the board. There's not a statutory prohibition against staff members for the state board. There is a statutory prohibition that Health and Human Services staff can't serve on local boards, but that's not...at this time it's not an issue. And my understanding is that when the Legislature changed the membership in 2005, that legislation originally included the director or an official of Health and Human Services and that was taken out. So that was I think you can infer legislative intent that there was an intention not to have Health and Human Services staff on the board. The other issue that I just wanted to touch on briefly was, Senator Gay, you had mentioned the disclosure issue. And this bill does really just address disclosure of funds received from Health and Human Services. That was part of several recommendations in the audit that dealt with disclosure, some of them dealt with just having the board disclose internally so that folks knew where their income was coming from and those kinds of things with the belief that there are no secrets then and there's no...you find out later somebody took a position on something and you could perceive, again, with that appearance issue that they might have had a conflict. So that was something that the 2008 committee was interested in as well. Beyond that I think you've hit on the difficulty that the committee struggled with last year. Senator Stuthman knows, it sounds easy to say you don't want people on the board who have connections with Health and Human Services, but where do you draw the line in that? If you have a pediatrician or a mental health professional who gets Medicaid reimbursement, then is that a problem? You know, there just are a lot of devil in the details kind of problems. So with that, I'd be happy to answer any other questions. [LB679]

SENATOR GAY: All right. Are there any questions? Senator Howard. [LB679]

SENATOR HOWARD: Thank you, Chairman Gay. Martha, with the way this bill is written right now without any additional amendments or suggestions do you see any conflict with the individuals that were appointed under that legislation in 2005? [LB679]

MARTHA CARTER: Well, we were pretty careful in the audit, as has been explained, to only talk about true conflict of interest as it applies to the accountability and disclosure statutes. And none of the current board members have been in a position, as Senator Harms described...in order for that statute to kick in you have to be in a position where you take a vote or would be in some way put in the position of making a decision the could have a positive or negative impact on you or your employer. That simply hasn't

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happened. The things that the Foster Care Review Board has taken votes on have not put any of the current members in that position. So in terms of true, you know, using very careful language about what conflict of interest is, those folks have had no conflicts of interest. We did in the audit raise the point that I guess has got the bill before you now, which is a reasonable person might wonder if a member of a board that is overseeing another agency to some extent or parts of that agency, if that person has a strong financial interest in the activities of that agency, a reasonable person might wonder is there a problem there? There are some people on the board who have financial connections to Health and Human Services. That was bound to happen given the legislative change. So it's more...from the audit perspective it was more like is this an unintended or unforeseen, at least, consequence of the 2005 change that if you're going to say we want more people who are involved in the system on the board, you're going to have people who have connections to Health and Human Services. But there are very definite opinions about whether or not those appearances are problems. [LB679]

SENATOR HOWARD: Well, and there is a difference between appearances and reality. In a lot of cases, (laugh) I mean, you can perceive something that's totally not true. But I think if in fact we want the Foster Care Review Board to be professionals that have professional oversight, you're going to have people who are involved in social services. I mean, it kind of goes hand-in-hand. So I would say to have the director of, say, the Sarpy County CASA system as a board...an overseer, if you will, as according to the 2005 legislation. I think that's kind of what you deal with. I think that's kind of how it is. I don't particularly see that as a conflict of interest. That individual isn't getting...she's not running an agency where she's being paid to have certain opinions about the Foster Care Review Board. I think if we have people that are in these positions that are willing to give us their time we're pretty lucky. But thanks for the work you do too. [LB679]

MARTHA CARTER: Thank you. [LB679]

SENATOR PANKONIN: Senator Gay had to go to another meeting, so we'll continue with questions. Senator Campbell. [LB679]

SENATOR CAMPBELL: Thank you, Senator Pankonin. My question has to do...when you took a look at this to try to lay out some language, are there any other boards or commissions in state government that are either appointed by the Governor or appointed by the Legislature in which we require the participants to disclose the financial interests that they might have? And I'm thinking, I mean, we invite people to set the boards of licensure and Board of Health and all these things started running through my mind. Was that looked at at all? [LB679]

MARTHA CARTER: It was. I'm not going to say that we conducted an exhaustive study, so I could be...we may have missed one that's out there. But in general the financial

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statements that were referred to earlier when people have to file financial statements, as you well know, the boards that tend to have requirements that you file a financial statement are ones, for example, the Nebraska Investment Council where you are obviously going to be put in a position of voting on things where it could make a difference if you have a financial stake in something. So the Foster Care Review Board is a little bit of an unusual construct. It actually is in many ways if you compare it to other noncode agencies, the work that the Foster Care Review Board does is just really very hard to compare to anybody else. Ultimately, again, I think that was where the idea came down to that the disclosure was maybe the best first step at least in this area. [LB679]

SENATOR CAMPBELL: Thank you. [LB679]

SENATOR PANKONIN: Senator Gloor. [LB679]

SENATOR GLOOR: Thank you, Senator Pankonin. And wouldn't it be safe to say that disclosure is one thing, conflict of interest or that disclosure meaning that there a problem out there, they're really two separate issues in most ways? [LB679]

MARTHA CARTER: I would agree with that completely. Yes. I think the idea that we were trying to get at in the audit was that if you're trying to deal with the perception issue, which is the most difficult because it's a perception and people are going to have different ideas of what is a problem, but what we can say for sure is that if you don't know that I have a financial affiliation with something that is not a good idea, certainly that could lead to a misunderstanding about whether or not I'm acting out of the best interests of the board I'm on or whether I'm acting out of some other interest. So at a minimum, disclosure seemed like a good idea. Now, in some ways that may just raise more questions, then people may have stronger opinions once they see those connections. [LB679]

SENATOR PANKONIN: Any other questions for Ms. Carter? Seeing none, thank you. [LB679]

MARTHA CARTER: Thank you. [LB679]

SENATOR PANKONIN: Is there any other neutral testifiers on this bill? Seeing none, Senator Harms, would you like to close? [LB679]

SENATOR HARMS: Senator Pankonin, thank you very much, colleagues, for allowing me to be here and to represent the committee. I'm pleased to have presented this particular bill. Please feel free to, as you look at this...you know, the idea about all this is to have a good bill, one that we can defend, one that keeps the intent of what we're after. If you need to make some amendments, please feel free to do that. I don't think

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you'll see a lot of opposition here. I think the important thing is to make sure we've got the right bill, the right law that would be created from this in front of us. So I thank you very much and...yes. [LB679]

SENATOR HOWARD: I thought you were getting ready to leave. [LB679]

SENATOR HARMS: I am. [LB679]

SENATOR HOWARD: Oh, you are. (Laughter) No, no, no. [LB679]

SENATOR HARMS: Excuse me about that. Okay. [LB679]

SENATOR HOWARD: Well, I always appreciate your work because you are always so diligent and sincere in the work that you do. I was here in 2005 when this was passed, and the more we got into this the more it ran a bell with me with me, but your intent with this bill is purely disclosure and information, isn't it? You're not targeting anyone. [LB679]

SENATOR HARMS: No. [LB679]

SENATOR HOWARD: You're not aiming at...there's not an underlying...okay. I just... [LB679]

SENATOR HARMS: No. I have not targets at all. I think what we were after, I think as Senator Stuthman would tell you, we're really after disclosure. [LB679]

SENATOR HOWARD: For full disclosure. [LB679]

SENATOR HARMS: We just want to know is there a point there where if you're getting \$3 million or \$5 million or \$10 million is that...should we allow that? And that's really what we're looking at. [LB679]

SENATOR HOWARD: And if I remember correctly, in 2005 the people that were appointed to the board at that time there was...I mean, it was clearly acknowledged who they were affiliated with and associated with, and there's no, you know, underlying... [LB679]

SENATOR HARMS: I don't know for sure. No. I don't know. I can't help you there. [LB679]

SENATOR HOWARD: Well, I appreciate what you do. Thank you. [LB679]

SENATOR HARMS: Thank you. Any other questions? [LB679]

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SENATOR PANKONIN: Seeing no other questions, thank you, Senator Harms. This concludes the hearing on LB679, and also today's committee hearing. Thank you.
[LB679]

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Disposition of Bills:

LB172 - Advanced to General File with amendments.

LB319 - Held in committee.

LB370 - Held in committee.

LB458 - Advanced to General File.

LB679 - Advanced to General File.

Chairperson

Committee Clerk