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Judiciary Committee  
March 18, 2009

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[LB122 LB147 LB237 LB285 LB499]

The Committee on Judiciary met at 1:30 p.m. on Wednesday, March 18, 2009, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB499, LB147, LB285, LB122, and LB237. Senators present: Brad Ashford, Chairperson; Steve Lathrop, Vice Chairperson; Mark Christensen; Colby Coash; Brenda Council; Scott Lautenbaugh; Amanda McGill; and Kent Rogert. Senators absent: None.  
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SENATOR ASHFORD: Senator Dubas, good afternoon. Good afternoon, everyone and welcome to the Ernie Chambers Judiciary Hearing Room. We are here today to hear five bills. The first one is Senator Dubas' bill. Let me introduce my colleagues, Senator Coash from Lincoln; Senator Lautenbaugh from Blair; Senator Rogert from Tekamah. I'm going to get it right. Senator Lathrop from Ralston; Senator McGill from Lincoln; Senator Council from Omaha; and Stacey Trout is legal counsel and Christina Case is committee clerk. With that, we will begin with Senator Dubas. []

SENATOR DUBAS: Thank you, Senator Ashford, members of the Judiciary Committee. My name is Annette Dubas, A-n-n-e-t-t-e D-u-b-a-s, and I represent the 34th Legislative District. Last summer I had the opportunity to take a tour of my local health department, and one of the programs that they introduced me to was the mentoring program for breast-feeding. I was very impressed with the program and actually got to talk to one of the women who was a mentor, and how successful that program has been in their area in providing the support that new mothers especially need when they're making that decision about breast-feeding, and really how important that choice is and how long-lasting and positive those effects are when a mother does choose to nurse her child. In the course of that presentation in our conversation, it was brought up that there is still a stigma attached with nursing and with breast-feeding, and that more often than not, women are still asked to not do it publicly. You know, they're asked to go into rest rooms or find a dressing room or leave the public view to do the nursing, and I was truly blown away by those comments, and couldn't believe that we were still dealing with that kind of a stigma at this point in time. So, you know, it is 2009, and that we should even be having this discussion today I find really rather disturbing, especially in light of the discussions that we've been having in the Legislature in regards to children's health issues. And we have something that is probably the most natural and most important way for a mother to bond with her child is through nursing, and we're causing these women to feel shame or to feel like they have to hide what they're doing from public view. So I think it, really it should be the other way around. We should be ashamed for making these women feel like they have to hide what they're doing in order to take care of their children. So, you know, after some thought and some further discussion with women who are involved with nursing and with programs to support nursing, decided to go ahead and introduce LB499 which is a pretty simple, straight forward bill. It protects a mother's right to breast-feed in public places. There's going to be some great

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testimony following me who will give you a variety of viewpoints as to why this is a good thing, the mental wellbeing of the children and the mother, the physical, emotional, you know, the whole nine yards. So I don't want to take a lot of their time. I'd be happy to try to answer any questions that you may have, but there's going to be some good testimony following me. So I'd entertain any questions. [LB499]

SENATOR ASHFORD: Any questions of Annette? Thank you. First...how many proponent testifiers do we have here? I have a list. Come on up. Is this Danielle? [LB499]

DANIELLE ERICKSON: Yes. [LB499]

SENATOR ASHFORD: Welcome. [LB499]

DANIELLE ERICKSON: Thank you. [LB499]

SENATOR ASHFORD: Who's your buddy? [LB499]

DANIELLE ERICKSON: This is my little Alex. My name is Danielle Erickson, and I'm here before you as a breast-feeding mother of three. I'd like to tell you of my experience which ultimately brought me here today. When she was just a mere few weeks old, I was at Walmart with my two-year-old getting groceries. Amazingly, he was behaving beautifully when I was approached by not one, but two female employees, who asked me to go to the bathroom to nurse. I asked them if they would eat in the toilet stall. We left and never returned. I was later horrified and very indignant at what had happened, but as I left the building with my crying babies, I was terrified. I barely made it to my car before I about collapsed. I was crying and I was shaking uncontrollably. I called my husband and then a friend to tell what had happened. It took me the better part of an hour to be able to even drive. My emotions don't usually cause me such extremes. I was completely blind-sided. I was later glad it had happened to me and not to another woman. This was my third baby, and I knew my decision to breast-feed, what it represented for their health and their future. I also know several new moms who had weaned or would have if put in that position. I have to say that I love Nebraska and I stayed in the area to raise my family by choice. I moved here from college and stayed because it is a wonderful neighborly state. Life here is a little slower. People enjoy each other and their lives. However, I never imagined that something as basic as normal and as uneventful as breast-feeding my baby would ever cause an issue here in the state where most everyone has had some nursing experience. All mammals nurse, and we never bat an eye when animals tend to their young as God intended. Children are naturally curious; let them be. Nursing is normal and accepted worldwide. It will stop being noticed by others when we stop making it an issue and teach our children that breast-feeding is normal and accepted by us. We are our children's best teachers. Please help us all to remember that breast-feeding is normal. [LB499]

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SENATOR ASHFORD: Thank you, Danielle. Any questions of Danielle? Thanks for being here. Doctor. I did not point out that we have a little sort of a light system here that will tell you when we'd ask you to start summing up your comments when the yellow light goes on. [LB499]

KATHRYN LEEPER: Okay, is that yellow? [LB499]

SENATOR ASHFORD: Yeah, it's yellow. [LB499]

KATHRYN LEEPER: Okay. [LB499]

SENATOR ASHFORD: We can have a practice run if you want it. [LB499]

KATHRYN LEEPER: That's okay. [LB499]

SENATOR ASHFORD: Trust me, it is yellow, and then red comes after that, sort of...anyway. [LB499]

KATHRYN LEEPER: (Exhibit 1) Okay. I'm Kathy Leeper, a pediatrician and the medical director of Milk Works, a nonprofit breast-feeding support center here in Lincoln. I have been exclusively practicing breast-feeding medicine for the past eight years. I often see frustrated mothers in our community who have been told by the medical establishment that they need to breast-feed their babies for at least one year, only to find that our culture makes this very difficult by having many unrealistic expectations. One of these is the view that a woman should only breast-feed her baby in private, which a new mother quickly finds out can make it very difficult to leave the house. I am here to speak briefly just about the physical health benefits of breast-feeding. I'm going to present to you information from the U.S. Department of Health and Human Services Agency for Healthcare Research and Quality Report entitled Breast-feeding and Maternal and Infant Health Outcomes in Developed Countries which was released in 2007. This report consists of rigorous systematic reviews and meta-analyses of studies published in the English language on the effects of breast-feeding. Over 9,000 abstracts of studies were screened and nearly 500 individual studies were included. That is the report I have here. If anyone is interested in having it, you could have it. This report cites ten proven protective health effects of breast-feeding for their baby. Ever receiving any breast milk has a demonstrated protective effect against middle ear infection, and the longer a baby is exclusively breast-fed, the greater the degree of protection. Any breast-feeding is associated with a reduction in risk of vomiting and diarrhea during the entire first year of life. There is an overall 72 percent reduction in the risk of hospitalization in the entire first year of life for wheezing and pneumonia in babies who are exclusively breast-fed for four or more months compared with those who never receive breast milk. Exclusive breast-feeding for at least three months is associated with the reduction in the risk of

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atopic dermatitis or eczema in children with a family history of allergy. Breast-feeding reduces the risk of later development of asthma or wheezing as an older child and adult. Being breast-fed is associated with the reduction in the risk of obesity in later life. In one meta-analysis, each month that a baby is breast-fed is found to be associated with a 4 percent decrease in risk of obesity in adulthood. There is a decreased risk of developing type 1 or insulin dependent diabetes which is an autoimmune disease in people breast-fed for more than three months. Any breast-feeding is also associated with a lower risk of type 2 diabetes which is an insulin resistance often related to obesity. Breast-feeding or being breast-fed for at least six months is associated with the reduction in the risk of acute childhood leukemia, and there is also an association between breast-feeding and a reduced risk of Sudden Infant Death Syndrome or SIDS. So that's the list of the ten proven health effects for babies. Oh, my gosh, I'm wrapping up. I have to stop. I thought I had five minutes. [LB499]

SENATOR ASHFORD: You can finish. [LB499]

KATHRYN LEEPER: I can finish. The report identifies three proven protective effects of breast-feeding for the mother. Based on a longitudinal study in the United States of over 150,000 women, a longer duration of lifetime breast-feeding is associated with the reduced risk of type 2 diabetes among women who did not have a history of diabetes during their pregnancy. These data show that each additional year of breast-feeding adds to the effect and exclusive breast-feeding is more protective than partial. There is a statistically significant risk in breast cancer by 4.3 percent for each year of breast-feeding in a woman's lifetime, and breast-feeding for over one year at all in the entire woman's lifetime is associated with the reduction in the risk of ovarian cancer. [LB499]

SENATOR ASHFORD: I would ask you to sort of move towards the... [LB499]

KATHRYN LEEPER: I am. In summary, I must emphasize that today I chose to include only illnesses that have been scientifically proven by rigorous meta-analyses to be less likely in moms and babies who have breast-fed and been breast-fed. The true list is likely much longer. I must also point out that it is difficult to find large numbers of babies in developed nations who never receive any formula, so information about the protective effects of exclusive breast-feeding is lacking. In diseases where it is available, the degree of protection is often shown to be related to the degree of exclusivity. So as moms look into their future and decide how to feed their babies, it is important that they can envision a supportive community that acknowledges the value of breast-feeding by protecting her right to do what is best for her, her child, and the community. Thank you. [LB499]

SENATOR ASHFORD: Okay. No cell phones (laughter). Okay, just wait a second, Doctor. Do we have any questions here of the doctor? I guess not. Thank you very

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much. [LB499]

KATHRYN LEEPER: Thank you. [LB499]

SENATOR ASHFORD: Excuse that interruption. Next testifier. Jane. [LB499]

JANE MILLER: Yes. Thank you. Good afternoon. My name is Jane Miller. I'm a registered nurse with the Central District Health Department in Grand Island, Nebraska, and I have worked 25 years with the Nebraska WIC Program--Women, Infants, and Children. And I'm here today to talk to you a little bit about public health and breast-feeding, and that's investing in Nebraska's future. But just to get started, what does Nebraska have in common with Idaho and North Dakota? We'll get back to that in a minute. The most recent policies recognize breast-feeding as a fundamental public health issue, and this same policy identified barriers to breast-feeding. One of those was a lack of supportive legislation and policies and identified Nebraska as one of those states lacking such legislation. Why should you be interested? I think you've heard a lot of reasons from Dr. Leeper, and you'll hear plenty more, but here's a couple. Breast-feeding is important economically. Research has shown that babies who are breast-fed have a 40 percent lower risk of obesity, and obesity in Nebraska is rising at epidemic proportions. Since 1990 and 2002, the number of obese Nebraskans has doubled. Nearly three out of five Nebraskans report being overweight or obese, and when compared to other states, only 19 states rank lower than us in Nebraska. Currently, the cost to Nebraska for treatments related to obesity, \$741 million, and the treatment related to diabetes which Dr. Leeper referred to, \$610 million; approximately 1,900 deaths per year in Nebraska are associated with overweight and obesity. And as Dr. Leeper went over, research shows a reduction of type 1 and type 2 diabetes. It reduces healthcare costs, and it is as much a public health issue as smoking and seat belts. Federally, the United States has established goals for breast-feeding in its Healthy People 2010 statement. It identifies exclusive breast-feeding as a leading health indicator and calls on policy and decision-makers to include protection in all legislative issues. This includes protection for breast-feeding, and by meeting the public health 2010 goals alone in Nebraska, we could save \$22 million. The CDC has released a report card as to how the states are progressing toward the healthy people 2010 breast-feeding goals. I am here to report to you that nationally, Nebraska ranks above the national average in our breast-feeding goals, in our breast-feeding rates. But, unfortunately, we rank below in the 2010 goals. We've only met two out of the five. Legislation reflects social acceptance of breast-feeding as normal, and concern for all the health and wellbeing of children and the importance of breast-feeding as a public health issue. And in closing, that question I asked at the beginning of my presentation, what do we have in common with Idaho and North Dakota? We're the only states left in the entire United States that does not have this state legislation protection for breast-feeding. Thank you. [LB499]

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SENATOR LATHROP: Okay, thank you. We'll see if anybody has any questions before you get away. Any questions? [LB499]

JANE MILLER: Thank you very much. [LB499]

SENATOR LATHROP: Can I ask you a question if I may? [LB499]

JANE MILLER: Yes. [LB499]

SENATOR LATHROP: Are you familiar with the legislation in other states? [LB499]

JANE MILLER: Yes. [LB499]

SENATOR LATHROP: And do these bills typically provide for specifically something to the effect that the act isn't intended nor will it require an employer to make a special accommodation? I mean, if you read it literally, a woman has the right to be on the job, so does this mean now the employer has to make time and allow for breast-feeding? [LB499]

JANE MILLER: Yes. I was talking with the Center for Disease Control Health Outcomes, one of the indicators that I talked to you about, and they identified the workplace legislation separately. [LB499]

SENATOR LATHROP: But...so this isn't intended to create a right for a breast-feeding mother to interrupt the workday and breast-feed. [LB499]

JANE MILLER: I believe it's an intention towards stepping in that direction, Senator. [LB499]

SENATOR LATHROP: Well, somebody else may have a chance to answer that, because it seemed like a pretty straightforward bill, and I don't see the employers that we usually see at these kind of hearings when they have a stake in this. I guess that's all I have. [LB499]

JANE MILLER: No. [LB499]

SENATOR LATHROP: Thanks for your answers. [LB499]

JANE MILLER: Thank you. [LB499]

SENATOR LATHROP: Next proponent. [LB499]

DR. JEANNE STOLZER: My name is Dr. Jeanne Stolzer. I'm a tenure professor at the

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University of Nebraska at Kearney. I'm also a researcher in the area of human lactation with my research published in medical journals on four continents. [LB499]

SENATOR LATHROP: Could you spell your last name for us? [LB499]

DR. JEANNE STOLZER: S-t-o-l-z-e-r. [LB499]

SENATOR LATHROP: Okay. [LB499]

DR. JEANNE STOLZER: According to the Surgeon General of the United States of America, breast-feeding is one of the most important contributors to infant and maternal health across the life span. I want to start off by saying that I believe that human lactation is a very complex subject as it has biological as well as cultural implications attached to it. Biologically speaking, mammals have been nourishing their babies with milk secreted from their breasts since the beginning of the Mesozoic Era. Culturally speaking, we've constructed particular cultural dictates that tell us as mammals when, where, if we can feed our human children human milk. Let me make it perfectly clear that breast-feeding cannot be conceptualized as a categorical variable. The benefits associated with breast-feeding in my work and in five decades of other scientists' work indicate that the benefits associated with breast-feeding clearly depend on the frequency and duration of breast-feeding behaviors. Clearly stated, this simply means that the more often and the longer you breast-feed, the more benefits there are for maternal and pediatric populations. According to the medical literature, breast-feeding positively impacts maternal and child health. What I want to go over today explicitly is those types of benefits that are associated with mental health for maternal and pediatric populations. As far as the mental health of maternal populations, we see decreased rates of postpartum depression. We see decreased rates of mood disorders. We see lower rates of clinical depression and anxiety. We see lower levels of maternal abuse and neglect in exclusively breast-fed populations. Breast-feeding mothers are physiologically very different than their formula feeding cohorts. Namely, they're secreting very, very powerful hormones called oxytocin and prolactin. These hormones are dependent on how often and how frequently and the longer durations one nurses. These hormones have been associated in the medical literature for over five decades with things like maternal relaxation, maternal serenity, mothers wanting to stay in close physical proximity to their young. I'm not suggesting in any way that human behavior is entirely hormonally regulated. I am suggesting that from the scientific literature, that it's clear that hormones do play a part in maternal behavior patterns. Breast-feeding affects the whole maternal organism. The lactating mother is different physiologically, molecularly, and emotionally. With pediatric benefits, we know from the medical literature over a course of three decades that long-term breast-feeding decreases behavioral disorders. Abraham Maslow actually did the first study on this on 1942. We know that it decreases psychiatric diagnoses. We know that it decreases healthcare costs associated with psychiatric care and psychiatric drugs. We know it increases IQ

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score and, again, as a dose-response specific variable, the longer they're breast-fed, the more benefits we see. We know it increases IQ score average eight to ten points. Breast-feeding facilitates bonding which has been associated with a myriad of positive outcomes in all mammalian populations. Brain development in the human being is not complete until two to three years of age, and it may be that optimal neurological development is dependent on those hormones and bio-active substances found only in human milk. These can't be replicated in the lab. [LB499]

SENATOR LATHROP: We're going to have to ask you to wrap it up so. We have the lights there so that we can get through all the hearings we have today. [LB499]

DR. JEANNE STOLZER: Okay. Okay, it's a scientific fact that breast-feeding is more beneficial than formula feeding. There is not a researcher on the planet that argues this fact. Currently, in the United States, we so sexualize the female breast that we can't even see beyond this, so we started to see breast-feeding as a quasi-sexual activity. Breast-feeding is not now nor has it ever been a sexual activity. It's an innate, primal, mammalian behavior pattern that's ensured the survival of the human species. Throughout human history, the mother-child link has been forged and sustained by breast-feeding. They're physiologically interdependent on one another. Interfering with this ancient link by adopting policies that restrict breast-feeding will produce detrimental consequences and will, in one way or another, affect us all particularly as consumers with health care in the United States. I believe it's the American Academy of Pediatrics that said if women in the United States would breast-feed for six months, we would save \$3.2 billion a year in health care costs alone; one year, \$7.1 billion a year. Okay, sorry. Do you have any questions? [LB499]

SENATOR LATHROP: Thank you. [LB499]

ANNE EASTERDAY: Thank you very much, Senators. My name is Anne Easterday, and I have been working with breast-feeding mothers and babies in the state of Nebraska for the past 16 years as a La Leche League leader. We offer mother-to-mother support for women who are interested in or who are breast-feeding their babies. You've heard a lot about the advantages of breast-feeding economically, health-wise, mental health-wise so I won't go over that again. I just want to encourage you to think about what we see as normal in Nebraska. We go out in public. We see babies with bottles everywhere. If you go down the toy aisle in any store and look at the baby dolls, you'll see that most them come with a bottle to feed the dolly. Bottles have become a universal symbol for babies everywhere. If you want to find a place in an airport to change your baby's diaper, you look for the symbol, the bottle on the sign. Bottle-feeding has become so predominant in our culture that it is not unusual for a woman to become a mother herself without ever having seen a baby at the breast which I find just simply amazing so when we're asking women to breast-feed, especially when we're asking them to breast-feed beyond the first couple of weeks of life, we're asking

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them to do something that is truly counter-cultural. We're giving women a kind of a mixed message. We want you to breast-feed your baby exclusively for six months and for at least a year and beyond, but we want you to do it where we can't see you. This bill will give a clear message that Nebraska is serious about supporting the health of its children. Women will not feel that they need to choose between making that best choice for their child's future and having a life outside their own home. Thank you very much for your time. Does anyone have any questions for me? [LB499]

SENATOR ASHFORD: Senator Council. [LB499]

SENATOR COUNCIL: Yes, thank you, Ms. Easterday. I have a question that maybe I should have posed to one of the earlier speakers, and it relates to the incident that Ms. Erickson experienced at the Walmart. Let's assume that we're able to make this cultural change through this legislation. What programs or services whether it's through your group or Breast Works, how do we actually change the culture? I mean, we can change the legislation, but how do we actually change the culture? [LB499]

ANNE EASTERDAY: That's a really difficult question, I think one that people have been trying to answer for a long time. I think that there's an example in California right now. I don't know if you've seen the promotion. They've got cardboard standees that are up in public places in parts of California that are standees, photographs of women breast-feeding their babies. They're putting these up in public places in order to make it visible, so that the more we see this, the more we understand that this is normal, and we accept this. You know, as a La Leche League leader, we get a call or two every summer usually it is from a woman who's been asked to leave a public place or told to go in the bathroom to nurse her baby, you know, in a cramped bathroom stall somewhere. You know, we've got a lot of work to do, and I think that this is just one piece of the puzzle. [LB499]

SENATOR COUNCIL: Do you know in California who pays for that promotion? [LB499]

ANNE EASTERDAY: I do not know who's paying for that promotion. I believe it's a private group. [LB499]

SENATOR COUNCIL: Okay. Thank you. [LB499]

ANNE EASTERDAY: Any other questions? Thank you. [LB499]

SENATOR ASHFORD: Thank you. [LB499]

LAURA WILWERDING: I'm Dr. Laura Wilwerding, and I am a pediatrician; I'm a certified lactation consultant, the mother of four. I'm a very active e-mail constituent of Senator Ashford's (laugh)... [LB499]

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SENATOR ASHFORD: I love every second of it. [LB499]

LAURA WILWERDING: Oh, I love it. Anyway, and I'm not going to bore you with the same details. You've seen today the presenters have made a great case, why is breast-feeding good? We know breast-feeding is good. It's not a question. Okay, we're not going to insult your intelligence and think that you wouldn't think that it's good. We know it's good. This legislation is not going to turn the culture around on its head overnight, but it's one step towards letting people know that breast-feeding is normal. Once again, breast-feeding is normative behavior. It needs to be seen as that, and if women know that, and they know even though maybe not every woman is going to go breast-feed just everywhere, but right now she knows actually in the back of her mind, she could technically be asked to leave and fined for indecent exposure in the state of Nebraska. So maybe that's not why she's not breast-feeding in public, but it's certainly not a help. We are one of three states in the country that don't have this legislation. I went before a committee three years ago and said the same things, and the argument was, we don't need this legislation. This legislation doesn't do anything. Well, it's like anything else like formula marketing. If it didn't do anything, other states wouldn't have it. If formula marketing didn't work, formula companies wouldn't do it. So the same way we've had money behind formula marketing for years and years, we have got to put money where our mouth is, put laws in place that let women know, let families know that we value their choices to breast-feed. We know we've educated them to do it. It's a good choice, and they need to be made empowered to make those right decisions for their families. And the state legislature needs to be seen as an entity that cares about people, not just about the paper; not just about the words on the page. And that's why this legislation is a no-brainer. It costs nothing. It costs nothing. It saves money. It brings the people together with the Legislature, one big happy kumbaya moment where you can say, we're doing the right thing because it's the right thing to do. We're not doing the right thing, because maybe it's even politically correct, but it's the right thing to do, and we're going to encourage and empower our Nebraska families and make a difference for them. And now if you have any medical questions, I certainly would be happy to answer any questions that you have regarding any of the research, and I'd love to be used as a resource in the future if you have any questions regarding breast-feeding medicine, child health advocacy, anything. I'm happy to be a resource, because I'm a member of this state; I'm an advocate for kids; I'm an advocate for Nebraska families, and I know all of you are too. [LB499]

SENATOR ASHFORD: And a very good one. (Laughter) [LB499]

LAURA WILWERDING: Loud at least. (Laughter) [LB499]

SENATOR ASHFORD: There are other...well, you do a great job, and what, the information is extremely helpful and keep e-mailing, so. Any questions of Laura? Laura,

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thanks. [LB499]

LAURA WILWERDING: Thank you so much. [LB499]

SENATOR ASHFORD: And the fact that there aren't questions doesn't mean we're not interested. [LB499]

LAURA WILWERDING: That's good, and can I answer one thing you did ask? Can I say this one really quick? [LB499]

SENATOR LATHROP: Yeah, you can, because I thought of more. And I'm wondering if the bill doesn't need to say, any place the mom and the baby are otherwise authorized to be because I could see it happening where you say look... [LB499]

LAURA WILWERDING: That actually... [LB499]

SENATOR LATHROP: ...there's a statute. I'm taking the baby to work with me now. [LB499]

LAURA WILWERDING: Yes, and actually, in your...in response to your question, I am the state coordinator for the AAP Nebraska Chapter of Breast-feeding. I'm also a member of the International Academy of Breast-feeding Medicine. I've encountered people from all around the world that are facing these issues, this kind of legislation in Europe, all sorts of places, so it's fascinating. But I know it's more fascinating to me than you perhaps, but (laughter) this legislation is just a very simple way of stating, and I think what you just said is really what it intends to be. Any place a woman is authorized to be, that's really what this is about. It's not about... [LB499]

SENATOR ASHFORD: Which, hopefully, is most places... [LB499]

LAURA WILWERDING: Yes, but it's not about, at this point, I mean, sure in the best of all worlds, we'd love to have workplace...I mean, that's the honest answer. We'd love to have workplace protection, but that's not what this bill is. That's not...there is not...there should not be any controversy regarding that, because that's not what it's intended to be. [LB499]

SENATOR LATHROP: And so, an amendment that says where the baby and the mother are authorized to be, because I can imagine if we just pass this the way it is, then a mom could take a baby into a place like...because they make noise sometimes too, right? So, I mean, it becomes a pass to take the baby wherever mom can otherwise go, and I don't think that's what you intended. [LB499]

LAURA WILWERDING: Well, I would be a little careful about that, and I can hear

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women in the background. And I'll tell you why, because there are a lot of arguments that there are places that babies are not appropriate, say, in a judicial hearing. But, in fact, the issue is that when a woman is lactating, and it's the reason that Nebraska does have a law that does not make women go on jury duty when they're breast-feeding. You're all familiar with that. But there are a lot of situations where women who are breast-feeding need to be somewhere that maybe isn't the best place for a baby, but there is no other option, and that we are looking for protection for that. So are we asking that every workplace expect babies to be showing up? No. But I would be a little careful in limiting it in such a specific way as what you're saying. That's just an opinion. [LB499]

SENATOR ASHFORD: Thanks, Laura, very much. [LB499]

LAURA WILWERDING: Thank you. [LB499]

SENATOR ASHFORD: And any other proponents? Opponents? That's good (laugh). There aren't any opponents. Neutral testifiers? Senator Dubas, you're up. [LB499]

SENATOR DUBAS: Well, I will just take a moment to close. I think the women and the mothers and especially the babies behind me have made the point very clearly. We spent last week and the last few months talking about some very serious issues in regards to children and behavioral health concerns. And I think this dovetails into that discussion very well. These are women who really just want to take care of their babies and want to do it in the most natural way meant, and I think we can make a huge statement to the whole state saying, you know, we do believe in our children, and we want what's best for them. And so if we can give mothers the peace of mind about taking care of their children, again, in the most natural way meant, I think we send a very profound message across the state. So I heard some talk about a possible amendment. I'd be very willing to work with the committee on that, and just appreciate your consideration on this bill. [LB499]

SENATOR ASHFORD: (See also Exhibits 21 and 22) Thank you, Senator Dubas. Okay, that ends the hearing on LB499. LB147, Senator Pirsch. [LB499]

PAGE: He's on his way. []

SENATOR ASHFORD: Okay, LB147, Senator Pirsch. []

SENATOR PIRSCH: (Exhibit 2) Members of the Judiciary Committee, I am State Senator Pete Pirsch representing Legislative District 4. For the record, my name is spelled P-e-t-e P-i-r-s-c-h. I'm also the sponsor of LB147. LB147 authorizes the clerks of the district courts to deliver a copy of any name change order to either the Department of Health and Human Services or the Nebraska State Patrol. The purpose for reporting name changes is to update, as in the green copy of the bill, the Child Abuse Central

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Register and the Central Register of Sex Offenders. We are going to today, and if I can have the page hand out this Amendment 756 to LB147, we are adding an amendment to include the Adult Protective Services Registry through the Department of Health and Human Services as well to protect vulnerable...those who are convicted of elder abuse as well. And just a note on that, Mark Intermill of Nebraska AARP supports this amendment. He's out of the city today and won't be able to attend the hearing, but he does support the amendment. Current procedure requires any person desiring to change his or her name to file a petition in the district court of the county in which they reside. Now we're not talking about women who get married and change their name. We're talking about people who file petitions through the district court. Such petitions for a name change are retained in the journal of the district court. The intent behind the reporting in LB147, my bill, is to allow for the determination, if such name change order is for a person in any of the Nebraska Central Registries. If the order is for a registered individual, the changed name along with the former name will be listed in the registry and used to file or cross-reference the information. LB147 does not alter or remove the offender's requirement to register with the sheriff in the case of the sex offender registry. LB147 is a tool for cross-referencing. We require offenders to register...sex offenders, rather, to register under Section 29-4006 of Section 1(a) of the Nebraska Revised Statutes. The sex offenders are required to list their legal name and any aliases by which they have been known during their lifetime. Additionally, Section 29-4006(6) requires offenders to inform the sheriff of any legal name change within five working days after such change. Here's the problem. Once they change their legal name, it becomes easier for them to disappear under the new alias or new name without complying with the provisions of the Registration Act. There are an average of about 400 and some odd name change requests per year so it is a manageable number. It's my understanding that the clerks of the district court, given this minimal amount distributed over the course of the state, will not come forward with opposition to this bill at this point and I believe they're going to be testifying in a neutral capacity. My intent was, and I think it does achieve no administrative extra type of effort. They can communicate. My intent is and was told they wouldn't have any opposition, because you can simply e-mail these changes of names from the Clerk of the District Court to the Department of Health and Human Services and the State Patrol who are the custodians of those three registries. So, on average, Douglas County averages...it says here, 50 petitions for name changes per year. So I think it's a very minimal requirement. I don't think they oppose that given the minimal requirement of it. The importance of it, if I can read my notes here is, I think, profound because I believe with respect to the sex offender registration, we require sex offenders to...we place the burden solely upon the sex offender should they change their name, and I think that with...that probably isn't the best public policy when it requires such a minimal extra step to just have at the time that the sex offender appears in district court requiring his name change to go ahead and say the district court clerk also e-mail that name to the registry so that the registry custodians can cross-check the old name, look at the new name, see if the old name appears on one of those three registries and if so, then update it so the new name...so,

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in any case, this doesn't create any new registries, if registries are to have any meaning, the reason why they've been created and existed for years, then we ought to make sure that they have integrity and are not avoided, so that's the purpose. I should point out, it's my understanding that with regard to the sex offender registry, the only burden that's placed on the sex offender to report name changes within five days. With regards to the other two registries, the elder abuse...if you're convicted of elder abuse, and your name goes on the registry or child abuse, and your name goes on the registry, I don't think current Nebraska law requires a duty of anyone, either law enforcement or the courts or the person who is convicted to update new name change. So you effectively defeat...I think there's a loophole...you effectively defeat the purpose of having any of these registries. So if the registries are to exist, then I think that they have to be...they have to mean something; they have to have an integrity to them, and so that's the purpose underlying the introduction of LB147. If there's any questions, I'd be happy to answer. [LB147]

SENATOR ASHFORD: Yes, Senator Council. [LB147]

SENATOR COUNCIL: Thank you, Senator Pirsch. In view of LB285 and some other bills that have been introduced with regard to the sex offender registry, my question is, is when I review your amendment, it only...it's only intended to address Section 2. It substitutes what you had in Section 2 which is the beginning of page 3 on the green copy going over to the top of page 4, that's what we substitute with AM756? [LB147]

SENATOR PIRSCH: You know, I'm not sure I... [LB147]

SENATOR COUNCIL: Because that's...I'm having trouble following where AM756..it says, insert the following new section, Section 2 of...is it Section...? [LB147]

SENATOR PIRSCH: Section 2 is on page 3 of the green copy. [LB147]

SENATOR COUNCIL: Right. And on Section 3, excuse me, Section 2 that appears on page 3 of the green copy begins, "Section 28-718 Reissue Revised Statute of Nebraska is amended to read as follows." And your AM756 says, "Sections 28-376 is amended to read as follows," so do we have this in the right? [LB147]

SENATOR PIRSCH: Well, I'd have to take a look at your specific issue, but with respect to...I can tell you what the direction was to the drafters, bill drafters, which was to introduce...my intention all along, and I had thought this was a...I thought that this was in the original, that it would encompass all three registries--the Elder Abuse Registry, the Child Abuse Registry, and the Sex Offender Registry. In looking at the green copy, however, yesterday I noted that it did not encompass the Elder Abuse Registry, so to speak, the...we're talking about the Adult Protection Services. And so we had...the amendment was...the purpose underlying the amendment was to introduce that third

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registry as well as, and add that to the green copies, the other two registries that are in the green copy, the Sex Offender Registry, and the Child Abuse Registry. And so, I'd have to take a specific look at the language and...because you're citing two different statutes here. But my understanding is that's what it would effectively do with the introduction of this...with the draft by bill drafters, introduction of this new language in the Amendment 756. So that's the underlying concept, and if there is...if bill drafters had, and which I don't have any indication...I mean, I don't have reason to believe that they put it in the wrong statute. But if that did occur, I'd certainly be happy to work with the committee to make sure everything was...all the t's were crossed and i's were dotted, but that's the underlying concept. Three registries, in all cases, have the Clerk of the District Court simply at the same time that they...as the name change takes place, just simply e-mail or a simple notification of the custodians of the registries, the respective registries, so that they can cross-check the old names, and if those names need then updating to this new changed name to make sure that that new name is added. So and I...well, very good. [LB147]

SENATOR COUNCIL: Okay, with regard to the remainder of LB147 as originally introduced from page 4 through page 8, there is no really substantive change to any of those sections and, in fact, those sections are the subject of a bill we're going to be considering yet today and ones that we've considered before. So the change that appears on page 8 could very easily be incorporated into one of those other bills. [LB147]

SENATOR PIRSCH: Yeah, and that's a very important part. This isn't a monumental...I'm not really changing the substance of who is now sex offender, who isn't, nothing of a substantive order. I'm just saying, if we're going to have, to the extent that we already have these registries, they should be...they should mean something, they shouldn't be incomplete or, you know, they should...we should have faith that the public should be able to pose faith in those, and so this is just a simple cross-check method that takes...can be done instantaneously via e-mail, cost note, you don't have to add additional workers or...and they're few in number, but they're important that we make sure that that registry is, in fact, valid. So yeah, I would have no objection if you're looking at...if you think that this is part and parcel of perhaps other bills that touch on that, I don't have any...I mean, I haven't seen the other bills, but if that is the way that the committee so chooses, I'd be happy to take a look at that as well and, you know, if that's at all possible, if you're passing on those to see if that's possible as well. The one thing is, there is...I do have another bill that I'll be introducing next, and that is LB285, the so-called Sex Offender Registry Notification Act or the Adam Walsh Act. And I would caution against creating an omnibus or kind of multi-layered bill, a multi-billed...bill within that insofar as it is that bill, and I'll speak to it a little bit more, is in response to a mandate...a federal mandate, and they want to make sure that there is certain language in there and it comports. Otherwise, there is millions of dollars on the line, so I'd be...when it comes to changing the language or somehow jeopardizing

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what's in there, you know, I think a careful look has to be taken in that regard so.  
[LB147]

SENATOR COUNCIL: Okay, but in that...and I guess that's the vein I'm heading in, Senator Pirsch. In that regard, with regard to LB147, the only thing you're doing to the sections of the law that will be affected by LB285 is to add this duty on the Clerk of the District Court to send it... [LB147]

SENATOR PIRSCH: Yeah. [LB147]

SENATOR COUNCIL: ...there's nothing about that that conflicts with Adam Walsh.  
[LB147]

SENATOR PIRSCH: Yeah, and I think you're right. I mean, I strongly feel...I just want to make sure...I mean, I suspect strongly that you're correct, that it has no implications whatsoever, that it would not affect it. But I just wanted to make sure...I mean, I just wanted to put that out there that I can't think of off the way, but I would defer to, you know, perhaps the State Patrol, the attorneys who are...just to make sure...I'm not offhand aware of the exact requirements of the feds with respect to them, so I just wanted to make...I just want to make sure that it comports. I suspect strongly that it wouldn't be any problem whatsoever, but I just wanted to make sure that I put that out there. [LB147]

SENATOR COUNCIL: And I guess my final question, and it's kind of a concern, now that every name change that is granted in any district court around the state is going to be sent to the respective departments, and I guess I really don't have a concern about the State Patrol so much. But what happens if someone misses the cross-check and just places someone on the registry, and they don't...and they're not supposed to be there? [LB147]

SENATOR PIRSCH: You're saying, what if...well, the Clerk of the District Court will send the former name, right, to the custodian of the...so, they'll have that information, and I believe they'll have some other information to cross-check is...they collect information such as the date of birth and the address, and so they'll have some context to more than just the name to make sure that it's the right individual. In other words, you're saying, what if a common name like John Wilson is submitted? [LB147]

SENATOR COUNCIL: Yeah. Because all the bill says is the Clerk of the District Court shall deliver a copy, by hard copy, or any name change order issued pursuant to the court, so if they say...they said John Jones's name has been changed to Fred Smith.  
[LB147]

SENATOR PIRSCH: Yeah, and with respect to that, I'd certainly be interested in, you

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know, if that is a concern, I'll certainly take a look at that specific issue. I know that information is currently being collected at the time of the registration from these individuals, and so if it's not in the bill, if some sort of additional information helps bring assurance that we're locating the right person, I'd be...I mean, that's what I want, so. [LB147]

SENATOR COUNCIL: Thank you. [LB147]

SENATOR ASHFORD: Pete, before you leave, how many testifiers do we have on LB147? How about LB285? Pete, why don't you go ahead and introduce LB285 as well, if you have that material there? [LB147]

SENATOR PIRSCH: Okay. I do. []

SENATOR ASHFORD: That way we can... []

SENATOR PIRSCH: (Exhibit 3) You bet. And I do have an amendment too if I could have... And this is just a simple, self-explanatory amendment that is being handed out, and I don't think it's substantively going to throw anybody, just a change of a word or two. Good afternoon, members of the Judiciary Committee. Again, I'm State Senator Pete Pirsch, representing Legislative District 4; LB957 I am the sponsor of as well. The purpose of LB957 is to bring Nebraska Sex Offender Registration Act... [LB285]

SENATOR ASHFORD: I think it's LB285. [LB285]

SENATOR PIRSCH: Oh, I'm sorry. I apologize. [LB285]

SENATOR ASHFORD: But it might be LB957 but at least on our list it's LB285 (laugh). [LB285]

SENATOR PIRSCH: And I apologize. Thrown for a little bit because I think it used to be LB957. [LB285]

SENATOR ASHFORD: Last year it was LB957. Okay. No, that's all right. I just wanted to make sure. [LB285]

SENATOR PIRSCH: Correct, and I apologize for that. Yeah, LB285...the purpose of LB285 is to bring the Nebraska Sex Offender Registration Act into compliance with the federal guidelines created by the Adam Walsh Child Protection and Safety Act of 2006. The purpose of this law is to protect the public and particular children from violent sex offenders via a more comprehensive nationalized system for registration of sex offenders. Title I of the act establishes the Sex Offender Registration and Notification Act, also known as SORNA, which outlines a comprehensive set of minimum

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registration and notification standards for sex offenders. Legislation is required for compliance with the Adam Walsh Act, also known as the AWA by July 27, 2009, which is fast approaching in a number of a few months. Jurisdictions who do not substantially implement are subject to mandatory 10 percent reduction in Byrne Justice Assistance Grant funding for state and local law enforcement personnel and equipment. My understanding is given the stimulus facet that we're talking literally millions of dollars here that Nebraska would forego if we don't act on this. The AWA establishes a National Electronic Sex Offender Registration program maintained by the FBI. It establishes the list of offenses that prompt required registration to include persons convicted of incest, unlawful intrusion, child sex abuses, and sexual assault of an inmate. Sex offenders are eligible to apply to State Patrol for clean record consideration after ten years. If the person in question has, number one, no sex offense commissions or conviction on an offense punishable by more than one year imprisonment; number two, successful completion of probation or parole; and number three, successful completion of appropriate sex offender treatment program. The length of registration is based solely on the convicted offense rather than risk assessment based standards under current law. Verification of registering for information is in person and is required more frequently. Initial registration at State Patrol facility within three working days as opposed to the current five days. The State Patrol facilities are equipped to collect all required information. Verifications and status changes reported to county sheriff are within three working days. The sheriff submits information to the State Patrol and national registry electronically on date updates are received. Public notification is issued on all registrants. Violation of the registry requirement and registrant cannot be...or if the registrant cannot be located is reported to the U.S. Marshal Service, and an arrest warrant is sought. That's a little bit about the function of LB957. There will be others who testify here after me and so to the extent that you'd like to ask them questions or me, I'd be happy to answer any questions I can. [LB285]

SENATOR ASHFORD: Any questions of Senator Pirsch on either of these bills? Do you know how...there have been a number of states that have adopted language that is not retroactive, and they've applied for compliance determination, and I just wonder if you have any information on whether any of those have been deemed...? [LB285]

SENATOR PIRSCH: Deemed compliant with the federal requirements? [LB285]

SENATOR ASHFORD: Right. [LB285]

SENATOR PIRSCH: Yeah, I couldn't comment on that. I would probably defer to those who testify here after me on that question. But to my knowledge, I'm not aware that that has been deemed compliant. [LB285]

SENATOR ASHFORD: Okay, thanks. Senator Coash. [LB285]

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SENATOR COASH: Thank you, Senator. Senator Pirsch, I just have a few questions about LB285, and if you can answer them, great, or if somebody behind you is more appropriate, I'll ask them again. The first question is, has to do with minors who are put on the registry. As I understand, one of the handouts here, says public notification is required on all registrants. Is the understanding...will that include minors who are on the registry? [LB285]

SENATOR PIRSCH: And I'll defer to those who speak after me for a definitive, but my understanding is that it would not include juveniles if that's your...as I understand it so, but... [LB285]

SENATOR COASH: Okay. Well, that's good. I'll ask it now then. Somebody behind me can answer it. My second question has to do with the registration. The proposed change in the registration; right now it's done at the county sheriff with a proposed change to the State Patrol facility or county jail or Nebraska Department of Corrections. Do you see any problems with access to...for these offenders to register under this act if we'd limit where they can go? I mean, I don't think there's a State Patrol facility in every county or, you know, the county jail may be pretty far. I'm a little concerned maybe we might not have the access needed to carry this out in our state. [LB285]

SENATOR PIRSCH: Yeah. No, and I certainly appreciate that. My understanding is changes are reported to the county sheriff within three working days...the county sheriff within three working days. The sheriff submits the information to the State Patrol and National Registry electronically on the date the updates are received then so that would be passed along. [LB285]

SENATOR COASH: Okay, because the...what I'm reading is is just the county jail, not the sheriff. [LB285]

SENATOR PIRSCH: And if the state...um-hum. [LB285]

SENATOR COASH: So, and they're probably usually together. [LB285]

SENATOR PIRSCH: Yeah, and I tell you, that probably...I will defer for the, you know, kind of the rubber hits the road assessment of that to those who are going to testify here just after me. So I'd encourage you to address that question to them as well. [LB285]

SENATOR COASH: Good. It's out there, and we'll get the answers when they come up. Thank you. [LB285]

SENATOR PIRSCH: Very good. Yeah. [LB285]

SENATOR ASHFORD: Thanks, Pete. Why don't we take the proponents and opponents

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of LB147 first? [LB285]

SENATOR COUNCIL: Can I ask, Senator? I have one... [LB285]

SENATOR ASHFORD: He did leave, but he's there (laugh). [LB285]

SENATOR COUNCIL: Senator, did he go? Senator Pirsch, I have just one question on LB285, and I'm just... [LB285]

SENATOR PIRSCH: Okay, sure, got out of the hot seat too early. [LB285]

SENATOR COUNCIL: And I'm just trying to reconcile it. On page 15,... [LB285]

SENATOR PIRSCH: Is this green...yeah. [LB285]

SENATOR COUNCIL: ...of the green on LB285. Any person who is required to register who no longer has a residence or temporary domicile or habitual living location which I take to mean is all of a sudden homeless, shall report such change within three working days after such change in residence. So if I had a temporary domicile and was evicted from that, I don't have a domicile now. I have three days to report that I don't have a domicile. But if you go back to page...I think it's 10, no on the bottom of page 9, if I have a new address, temporary domicile, or a habitual living location, I have to report that within three working days before the change. [LB285]

SENATOR PIRSCH: This is on page 9. What was the line? [LB285]

SENATOR COUNCIL: Yeah, at the bottom of page 9, it's subparagraph 2 and it continues on the top of page 10. So if...if a person is required to be registered, becomes homeless, and they report that change, and then the next day they're in a shelter, they have...are they thus in violation of subparagraph 2 which is beginning at the bottom of page 9 and the top of page 10, because they haven't notified three days before the change? [LB285]

SENATOR PIRSCH: And I apologize. I appreciate your calling to attention the specific...I tell you, what may be the best way is to...and we did...the paradigm has been changed, right? It used to be within so many days before...I mean after you had to notify, and under this LB285, it would be three working days before. How the two interplay probably is I...I... [LB285]

SENATOR COUNCIL: And that's going to be pretty difficult. [LB285]

SENATOR PIRSCH: Yeah. How these two interplay I suggest is an important question. I'd urge you to ask that of those who are going to follow after me, but my understanding,

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they should be in comport that it is within three days before your planned address change. And so that is the intent underlying...as I understand it, underlying the Adam Walsh Act, so. [LB285]

SENATOR COUNCIL: I'm dealing with an unplanned address change and how do you address it? [LB285]

SENATOR PIRSCH: Right, yeah. And I think that might be the answer there is if it's unplanned and they may give you the leeway, then after...the three days after that comes on page 15, but I'd have to take a closer look at it. I suggest that perhaps that language and addressing that question to those who come after I think is an important thing so. [LB285]

SENATOR COUNCIL: Okay, thank you. [LB285]

SENATOR ASHFORD: Thank you, Pete. Let's take LB147 proponents first. [LB285]

TIM HOEFT: Members of the judiciary, my name is Tim Hoeft, H-o-e-f-t. I'm the Phelps County Attorney in Holdrege, Nebraska, and I'm here to testify in support of LB147 on behalf of the Nebraska County Attorneys Association. The Nebraska County Attorneys Association supports the passage of this legislation, because we recognize that a problem exists that could potentially allow offenders to slip through a crack and avoid detection by changing their names. This problem came to light approximately two years ago. I had successfully prosecuted an individual for child abuse. He was sentenced to a term of incarceration with the Department of Corrections. While at the Department of Corrections, he applied with the District Court of Phelps County to change his name. Fortunately, the name change procedure requires them to publish notice of their intent to change their name. Someone from my staff recognized his name and his request to change his name. We contacted the central registry for child abuse offenders and determined that there was no process by which the child abuse registry was notified when a child abuser changed their name, so that when they were released from prison under their new name, they could potentially take up residence in any community of the state of Nebraska, apply for a day-care license or any other type of health care provider license, and they would go unfounded when those individuals did the central registry check because of the name change. When we discovered that that issue existed, we talked with Senator Pirsch's office, and we believe that he came up with a simply solution to solve the problem which would require the district court clerks to forward name change information to not only the Central Registry for Child Abuse, but also for sexual abuse. And now as I understand from his testimony, the vulnerable adults or adult abuse registry. We believe that it's an important change that needs to be made. These name change documents are all public records. They're open to the public for inspection and what LB147 does is requires the district court clerk to simply share information that's already in the public record with the three registries so that we can

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protect the public from people who have already been convicted of child abuse or other types of abuse from avoiding detection by simply changing their name. I did take the time to check. In 2006, there were 501 name changes across the state of Nebraska; 2007, 498 name changes; and in 2008, 455 name changes. So this isn't an onerous task. It's simply a sharing of public information that's already out there, and it helps ensure that the registry information is current and up to date so that someone doesn't avoid detection by simply changing their name while incarcerated. Are there any questions? [LB147]

SENATOR ASHFORD: Any questions? Yes, Senator Coash. [LB147]

SENATOR COASH: Thank you, Chairman. I'm going to ask you. You seem to have some knowledge in this area. If somebody...if I want to go and change my name, for me I have to go through a process to do that. There's a form and you have to...as you said, that's public record, and it has to be published and all that. Is there anything on that form that would cue me into saying, am I currently on a registry or anything like that? [LB147]

TIM HOEFT: No, there's not. [LB147]

SENATOR COASH: Do you think that might be a different way of getting at this problem requiring someone who's...and you have to...I assume, I've never changed my name so I...but I would assume there's lots of questions that you have to answer. [LB147]

TIM HOEFT: Well, they have to file a petition or an application for a name change, and there's lots of elements that they have to allege or assert to the court in order to achieve that purpose. Includes their current legal name, date of birth, current address. Now when they publish it in the paper, they simply publish their current address and name. They don't publish the date of birth. [LB147]

SENATOR COASH: I'm just wondering if this might be a different way to get at the...if there's already a process in place, your opinion on that? [LB147]

TIM HOEFT: Is the concern that 455 people apply for the name change, let's say only a dozen of them actually are on one of the registries, and you feel like it's some invasion of their privacy to have their name forwarded to the registry or what's the concern? [LB147]

SENATOR COASH: No, that's not it. I'm trying to figure out the most efficient way to get at. [LB147]

TIM HOEFT: I mean, all of the district court clerks with the exception of Douglas County are already tied into the state computer system, so it's a matter of them sending an

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electronic e-mail on the state system from their desk to the desk of the people that operate the central registry, the sex offender registry, or the adult abuse registry. So I guess, to me, this seems like the most efficient way because it just requires the clerk when she has that unique case which they don't come up all that often. I can assure you in Phelps County, they probably do three a year, but when they have that case that comes up, they simply need to make that communication. They have a desk reference book that tells them with a particular case what they need...what steps they need to follow as the clerk, and what steps they need to do and they would just simply add the step of sending notification to the three registries. [LB147]

SENATOR COASH: That's fine. I just want to get your opinion on the efficiency there. [LB147]

SENATOR ASHFORD: Good question. Senator Council. [LB147]

SENATOR COUNCIL: And you were present...my question with regard to the common name situation, because there's not going to be anything in that order that says anything other than Senator Colby Coash changed his name to Senator Colby Council and... [LB147]

TIM HOEFT: And I understand your concern there, and I think the original application for a name change requires a date of birth to be alleged in the application. And I think if the district court clerk simply, along with the name change included the date of birth or a Social Security number, some unique identifying characteristic that's probably already in the court files and that's transmitted electronically within the state system, it will be protected, and it should ensure that someone with a common name, and it does happen where sometimes people with common names have common dates of birth. And so, hopefully, we would ensure that someone's not unintentionally registered on the system. [LB147]

SENATOR COUNCIL: Okay. So the bill as drafted would have to be revised, because all it requires now is for the clerk to send a copy of the order, and the order ordinarily is not going to contain their date of birth or their address. It's going to say, you know, it is so ordered that Colby Coash's name is now changed to Colby Council. [LB147]

TIM HOEFT: And do we need to require...do we need to redraft the legislation or simply make part of the process that the clerk of the district court include that identifying characteristic with the name change when they send the notice? [LB147]

SENATOR COUNCIL: I think you got to change the legislation, because the legislation says the clerk shall send a copy of the order, period. And so if the clerk needs to send something more than an order, then the bill should direct that the clerk send something more than just the order, because if they just send a copy of the order, there's not

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going... [LB147]

TIM HOEFT: And I apologize because I didn't pull an order before I came, and I'm not so sure the order doesn't contain a date of birth or at least now an Appendix 3 attached to the order which contains the date of birth. Appendix 3 is a pleading that we now use to avoid disclosing personal information in the pleadings that are disclosed to the public so. [LB147]

SENATOR COUNCIL: And sometimes they're filed and sometimes they're not (laugh) but I'm just... [LB147]

TIM HOEFT: Yeah, I understand (laugh). [LB147]

SENATOR ASHFORD: Good days and bad days. [LB147]

SENATOR COUNCIL: Good days and bad days. [LB147]

SENATOR ASHFORD: Thanks, Tim. Thanks for coming. [LB147]

TIM HOEFT: Thank you. [LB147]

SENATOR ASHFORD: Any other proponents of LB147? Any opponents of LB147? Neutral? Neutral. [LB147]

JANET WIECHELMAN: (Exhibit 4) Thank you, Senators. My name is Janet Wiechelman. Wiechelman is W-i-e-c-h-e-l-m-a-n. I'm Clerk of District Court of Cedar County and also legislative liaison for the Clerk of District Court Association. Senator Council, thank you for bringing up the issue of the lack of information. In contacting the Clerks of District Court, most of the concerns coming from the clerks is there is not any identifying information in the petitions or orders that are filed in district court. The statute does not require it. Therefore, most of the times, we don't have anything. Most are filed by legal counsel. All we get is the name they're requesting, their current name, and then we have the attorney's name and their address. We would like to have a committee amendment addressing that issue that it be included as a requirement of the filing of the petition that date of birth be enclosed with that. There is a process already by uniform district court rule that that date of birth is not actually a part of the petition, but is an Appendix 3 which is sealed from the public. That information that's included on Appendix 3 would then be added on to our current justice system which is the statewide computer system. Right now HHS and State Patrol already do have authority to access that particular screen that we enter that information on. So if there would be a question, if this is somebody who should be on that list, they could access that screen and see the date of birth to find out if that is, in fact, the individual that they're looking at. We do support the bill. The principle we understand is there. We just have our concerns,

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because there is no other identifying information. [LB147]

SENATOR ASHFORD: (See also Exhibit 19) Thanks for those comments and thank you for being here again as always. Any other neutral testifiers? Let's move to LB285, proponents of LB285. [LB147]

BRYAN TUMA: (Exhibit 5) Good afternoon, Chairman Ashford and members of the Judiciary Committee. My name is Colonel Bryan Tuma, B-r-y-a-n T-u-m-a, and I serve as the superintendent for the Nebraska State Patrol. I appear before you today in support of LB285, and I want to thank Senator Pirsch for sponsoring this bill on behalf of the Nebraska State Patrol and thank Senator Friend for selecting it as his priority bill. The Nebraska State Patrol is the agency tasked with maintaining the statewide sex offender registry. In 2006, Congress passed and the president signed into law the Adam Walsh Child Protection and Safety Act of 2006. The act's primary goal is to set consistent, minimum registration and notification standards for all states, and to create a comprehensive national sex offender registry. Jurisdictions who did not substantially comply with the Adam Walsh Act by July 27, 2009, will face mandatory 10 percent reductions in Byrne Justice Assistance Grant funding and affect future SMART which is an acronym for Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking grants. Nebraska is slated for \$1.7 million to \$1.9 million in Byrne funds in the federal '09 federal omnibus appropriations bill. The Adam Walsh Act does allow for two separate, one-year extensions. However, they come with one major potential caveat, that being the failure to come into substantial compliance after the extension periods could result in a cumulative 10 percent reduction for all three years to be paid in one specific year. This would be a total loss of over one-half million dollars. In accordance with the Adam Walsh Act, LB285 mandates registration length and registry information verification requirements based on crime of conviction. This will be a significant change in the current law which requires the assessment of risk. Under LB285, offenders convicted of offenses that are punishable by less than one year imprisonment would be required to register for 15 years and verify registration information annually. Individuals convicted of offenses punishable by more than one year imprisonment would be registered for 25 years and verify information every six months. Lifetime registration would apply to those persons who have prior sex offense convictions who are lifetime registrants in another jurisdiction and/or who have been convicted of aggravated offenses. These registrants would complete verification every three months. Types of information collected upon original registration and required to be updated has also been expanded to comply with federal legislation. This includes all residency, employment and vehicle information, cell phone, computer, or Internet identifiers and addresses, professional license information, immigration travel documents, digital fingerprints and palm prints, digital photographs and DNA samples. All of the above registration data, and any address, school attendance or employment changes must be reported within three working days. This information then must be electronically forwarded to the National Sex Offender Registry immediately. The State Patrol is

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currently in the process of updating the Sex Offender Registry database technology to accommodate these potential changes and needs. [LB285]

SENATOR ASHFORD: Colonel, I'm going to...we've got your statement so you may very well get some questions, so why don't we stop there and see if we have some questions and. Senator Council. [LB285]

BRYAN TUMA: Okay. Okay, all right, very good. [LB285]

SENATOR COUNCIL: Yes, and thank you, Colonel Tuma, for your testimony and the information, and you were present as well. I have this concern about the three days before a change of address as opposed to three days after. And I just briefly scanned the Walsh Act. And it would not be inconsistent, would it, with the act that the notification be after? [LB285]

BRYAN TUMA: I think what we're proposing is three days prior to an address change unless we have a case where somebody becomes transient. Then we're suggesting that they give us that notification three days afterwards. Some cases becoming a transient or becoming homeless can occur very quickly and unknown to the offender themselves, so we're giving...I mean, technically, we're setting them up for failure to require them to give us three days' advance notice. So we felt that three days after that fact might be fair and more efficient for folks. [LB285]

SENATOR COUNCIL: Okay. I mean, as long as it's applied that way, because I don't want the situation where you have someone who gets evicted one day and four days later finds a new place to live, but they didn't give you the three days' notice in advance of the new address, and be found having been violating the provisions. [LB285]

BRYAN TUMA: Understood. [LB285]

SENATOR COUNCIL: I have a problem with the three days before. I'll have to figure out a way to work through it. [LB285]

SENATOR ASHFORD: Colonel, just...and I guess I'm troubled a little bit by the situation where someone has pled no contest to a misdemeanor in order to avoid being placed on the registry. That was the situation at the time of the plea. I don't know of any other situation in my experience ever in the criminal justice system where we would change the rules for that particular individual after the plea has been entered. And I'm not at all condoning the underlying acts, but I'm, you know, I'm concerned about that, and I wonder what your thoughts are on that, if any. And that's really a legal issue and I'm not...if you don't want to answer, that's fine but. [LB285]

BRYAN TUMA: Well, yeah. Well, I think to be very fair, we are proposing to change the

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current system which is a classification based on potential reoffending for risk and we're moving completely away from that to one of simply conviction. And... [LB285]

SENATOR ASHFORD: What if someone... [LB285]

BRYAN TUMA: Well,... [LB285]

SENATOR ASHFORD: I mean a lot of people...numbers of people are going to have pled to a misdemeanor on a close case, let's say, and not risk having their name. [LB285]

BRYAN TUMA: Right. I understand what you're saying. [LB285]

SENATOR ASHFORD: I mean, in the whole criminal justice system, I've never (laugh) I don't know of that ever being done. And maybe that's a policy issue, and but...and there are a number of states, I believe, and maybe...I was looking through a couple of these states where, around us. Is Iowa...do they require registration going back retroactively, is that what that says? It's on the... [LB285]

BRYAN TUMA: That is one...yeah, that is one of the concepts...there's two issues with regards to Adam Walsh that states are really having problems with. One is this retroactivity requirement, and the other is juveniles. We're proposing that we not register juveniles at this point... [LB285]

SENATOR ASHFORD: Right. [LB285]

BRYAN TUMA: ...and we do register some, and that's only if they come to us from another state and they were required to register in that state. The other issue of retroactivity, we go back to '97. That's when we started the Sex Offender Registry Act. To go, you know, to go beyond that might be problematic. One is trying to find the records. The other is statutes change, laws change. What applied then may not apply now. [LB285]

SENATOR ASHFORD: Right. [LB285]

BRYAN TUMA: And so states have really had a problem trying to figure that issue out. We are of the opinion that perhaps the feds are going to take a second look at Adam Walsh on those two issues, because it is a hang-up for states because... [LB285]

SENATOR ASHFORD: Okay. So your colleagues at your level across the country are also raising some of these same concerns. [LB285]

BRYAN TUMA: Yes. [LB285]

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SENATOR ASHFORD: Yes, Senator Lathrop. [LB285]

SENATOR LATHROP: Can I ask just briefly? I think you'll have a pretty good understanding. I do share the concern Senator Ashford just expressed about the retroactivity and somebody who may have chosen to enter a plea to something that was \$100 fine instead of hiring a \$4,000 lawyer,... [LB285]

BRYAN TUMA: Right. [LB285]

SENATOR LATHROP: And now we're going to put him on a registry when they might have had a defense at the time. The Adam Walsh...the idea that, as oftentimes happens with the federal government, they say you have to have a...make the drinking age 21 or we're going to pull your roads money,... [LB285]

BRYAN TUMA: Right. [LB285]

SENATOR LATHROP: ...or you got to have a seat belt law or we're going to pull your roads money. In the case of Adam Walsh, they offer us money which we can take advantage of if we have certain laws in place. And I'm going to get done with this and then ask you if I got it right. In the case of the Adam Walsh Act, though, if...we can have some variations, and it means that we get some percentage of the Adam Walsh money and not all of it. Right? [LB285]

BRYAN TUMA: I think if we're substantially in compliance with the act, I'm not sure exactly how much that would impact our funding, but it would certainly put us in a position where we can make an argument, we're trying to comply with it. [LB285]

SENATOR LATHROP: And particularly when it comes to the retroactivity which has been a...problematic for other states that have addressed this, so if we did an amendment to this, Senator Pirsch's bill that said, the no-contest pleas or the past pleas to these new classes that we're going to put on the registry, those don't take effect till the passage of the amendment or apply except at convictions or pleas after we pass this. Then we'd still get our Adam Walsh money or most of it. [LB285]

BRYAN TUMA: Well, yeah. Again, I think we'd have to run that past our federal program administrators. And one of the...you know, what we suggested in our proposal was that we go back to the effective date of the Sex Offender Registry Act in Nebraska which was January of '97, and so really nothing changes in terms of people who have been... [LB285]

SENATOR LATHROP: And I saw that in the bill except that we now add a whole bunch of people that were convicted or pled no contest or entered pleas on these

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misdemeanors, thinking they might have done that for a variety of reasons including it's just cheaper to plead...get out of here and not have to hire a lawyer than it is to fight it. [LB285]

BRYAN TUMA: Level 1, Level 2's, right. There could be some of those situations. [LB285]

SENATOR LATHROP: Well, with the understanding that they enter a plea, and they say, well, I'll plead to this, because it's not on the act. I'm not going to end up having to register and then eight years later maybe after they have a family and they've been fine citizens, they find out now they're going to show up on a list somewhere. [LB285]

BRYAN TUMA: Yeah, and our proposal does provide if after ten years the person has a stellar record, no problems, they've completed any treatment programs, completed probation and whatever the case may be, then there's an opportunity to be removed from the registry at ten years. [LB285]

SENATOR LATHROP: And I've had some conversations with the AG's Office, but maybe you could give this committee an answer to that question, does this make a big difference to the...are we in substantial compliance even if we carve out an exception to cover that retroactivity? [LB285]

BRYAN TUMA: I'm not certain about that. Again, I think if we're substantially compliant, that will put us in a better position to make the argument. [LB285]

SENATOR LATHROP: I guess my point is, you know who to ask that question to, maybe you could find out. [LB285]

BRYAN TUMA: Yes. I think we can run that up through the federal folks. [LB285]

SENATOR ASHFORD: Yeah, and I think we've had conversations with the Attorney General's Office, because this is a big concern, and they appear to agree with us that the retroactivity for those first and second level is not the critical part here of the bill, and that moving forward is but... [LB285]

BRYAN TUMA: Right. [LB285]

SENATOR ASHFORD: And I just want to say one other thing. Every time you come here, you give the best testimony, the most candid testimony of any public official I've ever run across (laugh). I have to keep telling you that, because you're good at it. Yes, Senator Council. [LB285]

SENATOR COUNCIL: Real quickly, and, again, Colonel Tuma, I want to thank you, but

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I also want to take this opportunity to thank Captain Maaske, because I telephoned and requested information, and it was immediately forthcoming so I wanted to thank you and your staff for responding. But the Byrne justice grant money,... [LB285]

BRYAN TUMA: Right. [LB285]

SENATOR COUNCIL: ...Nebraska is slated to receive \$1.7 to \$1.9, but that's not all for Adam Walsh, is it? [LB285]

BRYAN TUMA: No. [LB285]

SENATOR COUNCIL: What percentage of that is Adam Walsh? [LB285]

BRYAN TUMA: I have to be very honest with you. We don't know yet (laugh). This is one of the issues that we're dealing with right now, trying to prepare budgets and the impact stimulus money for the budget division. I'll give you an example. Yesterday, in terms of the ICAC, Internet Crimes Against Children, that funding criteria changed yesterday, so we've had proposals submitted to the Governor's Office, and we've had to go back and refine them. So we think we're getting closer. Some of the guidelines have come out now effective March 16; we'll go back, look at those. We may have a better idea in the next few days as to exactly what Byrne would do. But, you know, and then some of the Byrne dollars, there is a spending formula. Some of it goes to the state, and some goes to the local. I'm just not sure what our exact appropriation will be at this point in time. [LB285]

SENATOR COUNCIL: And as a part of that, when that is determined, Colonel, because my question is, is the 10 percent penalty 10 percent of all Byrne funds that the state would be...? [LB285]

BRYAN TUMA: Yes. Yes. Yes. [LB285]

SENATOR COUNCIL: Okay. So it's not just 10 percent of the Byrne funds that are used for Adam Walsh... [LB285]

BRYAN TUMA: Right. [LB285]

SENATOR COUNCIL: ...it's 10 percent of all Byrne funds. [LB285]

BRYAN TUMA: It's the whole thing. Yes. [LB285]

SENATOR COUNCIL: Okay. [LB285]

SENATOR ASHFORD: And just...I'm sorry, Senator Coash. No, go ahead. [LB285]

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SENATOR COASH: All right. Thank you, Colonel. I asked the question earlier about the juveniles and I hear your testimony say that's a problem, so you recommend taking that part of it out. [LB285]

BRYAN TUMA: Well, we have never registered juveniles in Nebraska even under the current system. And our proposal is not to look at juveniles now. We do register some juveniles. Those come to us from out of state, and they're required by that state to be a registered offender. So those we do, but otherwise we don't address juveniles. And once again, we see that issue, retroactivity and juveniles, as being two issues that the federal folks are probably going to take another look at, because they're presenting roadblocks to full implementation of Adam Walsh. [LB285]

SENATOR COASH: Right. Okay. Another question...your handout was very helpful as far as the crimes, the addition of the crimes here. On this handout, one of the crimes listed is unlawful intrusion. I didn't see it on this, and I guess I didn't look for it in the bill, but in your handout about...with the bullet points, it lists expanded registry offenses including incest, enticement by electronic devices, a sexual assault of an inmate, sexually motivated. And then also, unlawful intrusion. And I wonder if that was a typo or something, because that would make me nervous... [LB285]

BRYAN TUMA: If there's a sexual element. [LB285]

SENATOR COASH: If there's a sexual element to the unlawful intrusion. [LB285]

BRYAN TUMA: Right. [LB285]

SENATOR COASH: Okay. All right, so it probably hooks into another piece. [LB285]

BRYAN TUMA: Right. [LB285]

SENATOR COASH: Okay. And then, finally, I'm going to ask Senator Pirsch this. The proposed changes in the registration from what it is now going to, as I read your handout, either at the State Patrol facility or the county jail prior to discharge or Nebraska Department of Corrections. Do you see any problems with access for, you know, for these offenders to be able to register at those places given our state dynamics of that? [LB285]

BRYAN TUMA: No, I would say access is probably going to improve under our proposal. I think, and our subject matter experts on this could probably inform you better. But I believe a majority of our offenders are registered before they even get out of the correctional facility. Most of these offenders are felons, so they serve time before they leave the holding facility. They are registered on the sex offender registry, and then

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they follow up at the local level with the sheriff. We are expanding a number of facilities where they could register. Initial registration would occur either in the correctional facility upon release or at a State Patrol facility. There are six of those locations. We have some other State Patrol facilities other than the headquarters (inaudible) that may have live scanning devices which is the electronic equipment. You can take palm prints, fingerprints electronically. You can put those into the AFIS system, so we have those capabilities to do that. We think we probably will provide better access, and if you look at where most of the offenders are located or they reside, we have fairly significant State Patrol facilities in those areas, and the sheriff's office do too. [LB285]

SENATOR COASH: All right. Thanks for answering my question. [LB285]

SENATOR ASHFORD: Just one last clarification. The Adam Walsh Act doesn't say, go back ten years or include juveniles. That's your determination based on what you believe your group, your team believes sexual compliance to be. It's not...the act doesn't say, go back ten years, go back five years, go back 20 years. You're basing this on what you've been doing so far... [LB285]

BRYAN TUMA: Yes. [LB285]

SENATOR ASHFORD: ...and so what you're suggesting is you go back ten years, pick up all first-, second-, third-degree... [LB285]

BRYAN TUMA: You know, people that have already...they haven't been compliant with the act. [LB285]

SENATOR ASHFORD: Right, and you go back the same amount of time that you have been registering sex offenders under state law. [LB285]

BRYAN TUMA: Yes. [LB285]

SENATOR ASHFORD: Gotcha. Okay. Thanks, Colonel, very much. [LB285]

BRYAN TUMA: Thank you. [LB285]

SENATOR ASHFORD: Thank you. Proponents. How many proponents do we have? How about opponents? Next proponent, I guess, we have. [LB285]

DANIELLE GIESELMAN: (Exhibit 6) Hi, my name is Danielle Gieselman. Kind of nervous, sorry. I'm just going to go ahead and read this. The Statement of Intent breaks down the points in the bill, which I believe need changed or added to better ensure the safety of our children. For a victim of a sex crime there is a personal, emotional, and psychological injustice. With help and support, a victim can work through those issues.

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However, when laws are not in place to appropriately punish and deal with sexual predators, as well as inform society of the sex crime that has been committed, there is really no way to work through a legal injustice. As laws currently are, an individual may violate an innocent child, be convicted, treated, and released only to revictimize his or her victim by telling society that they had consensual sex with someone they did not know was under the age of 16. I have been revictimized in this way. This bill will give citizens a resource to check and/or verify, for the safety of their children, who committed a sex crime and what sex crime he or she committed. Our families do not always do what is necessary to protect us from being victimized or revictimized. For many years, my relatives tried to shut my voice down, basically deny and hide what happened to my siblings and me. Things cannot change if the extent of what goes on is not heard and understood. I am the victim of childhood sexual assault. Travis Spencer, my maternal uncle, abused me. The knowledge of the abuse by this individual began prior to my birth. My sister was two years old, and my mother was pregnant with me when they discovered he had been abusing my sister. Travis was not turned in, and the issue was dealt with within the family. My abuse also began about the age of two and continued for over a seven-year period. My older brother was forced to watch what Travis did to me which included fondling, oral sex, and vaginal intercourse. At the age of 11, I turned this sexual predator in and he was convicted in Paige County, Iowa. My family and myself moved to Nebraska to try to rebuild our lives. My mother's relatives worked their way back into our lives and began pressuring me to allow Travis, who wasn't out of prison, back into my life. Three short years after conviction, he was out of prison, off of papers, and preparing to move into my house. I was confused and completely unsupported, so I allowed him in my life. I pushed him out, and my relatives conned me back into letting him back in. This was an ongoing battle for years to come. It was emotionally and mentally exhausting being ousted by my mother's relatives and my siblings every time I refused to have anything to do with this monster. I was too young and defenseless to stand alone in this world, and to feel and be treated as if I was the one in the wrong. Eventually, around the age of 19, almost 20, I did begin standing alone. I said enough is enough, and I shouldn't and don't have to tolerate this monster. And I stopped attending holidays, birthdays, and any other family event, because he went to them. He was invited and went. About a year ago, my brother moved himself, his wife, his three-year-old son, his two-year-old daughter, and infant daughter into Travis' house. I took every step I could think to ensure these children's safety including trying to get my brother to allow me to take his children until they had more suitable housing. I was denied, and I contacted the Nebraska State Patrol, Child Protective Services, the Crisis Center, anybody I could think of to try to let them know, try to get these kids out of that house. Nothing could be done. My brother told me I couldn't see my nieces and my nephew anymore, and my sister told me that I was disgusting for what I was doing to Travis. And after being ousted again, I decided to remove anybody that had anything to do with him from my life, leaving me no biological family aside of my parents, who when finally given the ultimatum, did stop supporting Travis. This bill is very important. It will help that hidden aspect that goes on right now; it will expose it. It

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will make it so it's not so socially acceptable, because it's understood, it's known what these people have done. [LB285]

SENATOR ASHFORD: Thank you, Danielle. Danielle, can you tell us what your last name is? [LB285]

DANIELLE GIESELMAN: Gieselman. It's G-i-e-s-e-l-m-a-n. [LB285]

SENATOR ASHFORD: Thanks, Danielle. Anyone have any questions for Danielle? Thanks for coming. Any other proponents? Opponents? [LB285]

ROBERT CREAGER: (Exhibits 7 and 8) Chairman Ashford, members of the committee, my name is Bob Creager. I'm an attorney here in Lincoln and president of the Nebraska Criminal Defense Attorneys Association, and I appear today in opposition to LB285. I'm circulating some literature that I'd like you to take a look at. I won't go into detail what that is, but we have a couple of conceptual disagreements. Sex offender registration laws have been in effect for some time, and we've learned a lot about what they accomplish and what they don't accomplish. It's quite clear that registration and identification of violent, predatory sex offenders is a good idea, and I don't know what anecdotal or statistical evidence there is to prove that it's saved innocent people from sexual abuse, but it must be true. I think common sense tells us it's true. On the other hand, we all know from time that people get on this list for a variety of offenses, but they're not ever likely to reoffend; they're not a danger to society, yet they can't find work; they can't find a place to live; they can't live near a church, a school, a bus stop. And we also find that these people find themselves in a downward spiral of registration violations in which their lot in life continues to get worse. They really pose no threat to the public, but they become a burden on society and on their families for other reasons. In the literature that I've circulated, there are studies that tell you to look carefully at expanding things that may not be working as well as you think. Obviously, this is not the forum to debate whether we have these laws. These laws are in effect. But there is an opportunity here for a policy debate if you want to have it. The federal government is once again telling us that if it wants money, we have to do things in Nebraska that we may or may not otherwise want to do, and under the threat of this 10 percent Byrne funding, they say we have to do a whole bunch of things which may or may not make sense in our state. In the literature that I passed out, the Justice Policy Institute has done a calculation of what each state is going to receive and what the cost is going to be to each state to implement. And it's been roundly understood that the cost to implement is going to far exceed the loss of revenues from the 10 percent funding. So you have to ask yourself, do we want to spend a million dollars to not lose \$100,000, but that's a policy decision. We think that that...this committee ought to be careful in making retroactive laws that lack due process, the law of this state, for fear of losing some funding where the evidence will probably indicate that the cost of complying and making it retroactive and enforcing and prosecuting these people, for no other reason than the

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federal government says we should, not because we think we should, is a tough argument to make. If you look at two other documents we've provided, one includes a newspaper article in the Wall Street Journal that says Georgia went through this, and they're now thinking about backing out of it because of the cost, the problems with implementation, and living to the drumbeat of the federal government has made their situation worse. So we ask you to reconsider the policy issues, take a look at the literature we've provided as to the legal consequences of retroactivity. We move away from due process. We're not even talking anymore about finding violent, predatory, repetitive offenders. We're now eliminating classifications without hearing and saying your conviction alone determines registration. That is a backwards step in due process that I learned about in school, and I hope you'll take a close look at it before you make it the law of our state so. [LB285]

SENATOR ASHFORD: Thanks, Mr. Creager. Any questions? Seeing none,... [LB285]

ROBERT CREAGER: Thank you. [LB285]

SENATOR ASHFORD: Any other testifiers, any neutral? Senator Pirsch, I believe... [LB285]

SENATOR PIRSCH: I'll just briefly close on both bills then. [LB147 LB285]

SENATOR ASHFORD: Yes, sir. [LB147 LB285]

SENATOR PIRSCH: With respect first to LB147, I appreciate the questions. Again, with this bill as with both bills, actually, I'd be happy to work with the committee to address Senator Council's concern about making sure you have the right person who's being notified...with the subject of the notification. And that, I should have pointed out, and I apologize for not calling your attention to the amendment that the page handed out, the Amendment 756 to LB147 on that, if you'll refer to page 2, line 2, it includes then through this amendment the address of the petitioner and the date of birth. So with the name and the date of birth on certain rare, once-in-a-blue-moon type of occasions, you might even have the same name. When you add middle name, that makes it, you know, very, very rare. But then after you add the address of the petitioner, I think will eliminate any possibility of, you know, a common name being a problem, problematic to that. So I do appreciate that. I urge you to take a look at the amendment. With respect to Senator Coash's question, is there an alternative form that might be easier with respect to the sex offender when he changes his name? Could we not just include a question on the box that says, have you sir or madam, ever been convicted of a sex offense and/or are you subject to the sex offender registry? The potential harm that we're seeking to cure in this bill is that which is self-interest. We're right now...sex offenders are required to...that individual is required to within five days, go out and notify. What I'm suggesting here is that we need to have a method other than relying on a person who has already

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proven that he's, you know, not to be trusted, somebody who has a self-interest in not reporting, and that's the underlying basis of the bill. So to the same extent that they're checking a box, they, too, are not the type of individual who would not go in and report. So what I'm suggesting is there is something unique about having this third party, the Clerk of the District Court report that. And if you tell, you know, there's...you know, to the extent that you're, you know, the...the...well, I think I've said enough on that. So that's the difference I would posit. With respect to the other bill, LB285, again, I'd be interested in working with the committee. Again, there's a...you know, there are questions here with respect to what is substantial compliance and some concern among the committee about retroactivity, and be happy to work with the committee with respect to that. With respect to the idea that there...you know, currently, if you are convicted of a misdemeanor sexual assault, say touching, you do go...your name currently, under Nebraska law, goes onto the sex offender registry. So you are under today's current paradigm, can be convicted of a misdemeanor and go on the sex offender registry. And should you violate that, you are subject to penalties as well. So there isn't a current division among the paradigm between misdemeanor and felony. With respect to Senator Council's concern is a three-day advance notice requirement necessary for substantial compliance. You know, certainly, we'd be interested in working with Senator Council on that, and, you know,...and, so that said, I would just move to some other comments. I guess the thing that I would posit in my final closing thought is that there is an underlying...I think commonsensical idea or approach here with the...as part of the Sex Offender Registry Notification Act or Adam Walsh insofar as we're moving away from subjectivity and moving towards objectivity in these reporting requirements. Currently, the way Nebraska is set up, we subjectively have an analysis done where...how you can rationally dive into somebody's brain and decide this is...I have an ability to decide whether this person is likely to reoffend again or not. I possess that special power. Boy, I'd love to...you know, I'd love to have that power, but I think that that is not as fair and consistent as moving to an objective standard, simply saying, this person...all this means is, we are reporting that this person was in a court of law, was convicted beyond a reasonable doubt of this particular crime. We're not saying...there's no statement as to we have delved into his brain and think it's likely that he'll reoffend or not reoffend, nothing of that sort. It's just a simple reporting that that occurred and that's a fact beyond a reasonable doubt. And I think that that is a better way to report things, based on facts rather than opinion. I think the case in Washington County that occurred not so very long ago, a number of months ago, illustrates that. Unfortunately, there was a person who sexually assaulted a very...a young girl under the age of ten years old. I can't remember the exact age, six, eight years old, and by attempting to jump into this person's brain and see what it is, you know, through a series of questions on a limited period of time and whatever factors, the determination was made, he's really not a threat. And so based upon that, you know, unfortunately, there was a determination he was a Class I...determined to be a Level 1 sex offender which means there was no reporting requirement. And, thus, when reentering society, the people around him had no indication that sexual assault of a child ever occurred. And as we all know later, in a

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short period of time, went out and sexually assaulted two other young girls. And so, I just think that rather than, you know, relying on a subjective analysis, let's impinge our...what we report to objective things that are facts. And so, with that, I would just open myself up to any questions if you have any. [LB147 LB285]

SENATOR ASHFORD: Thanks, Pete. [LB147 LB285]

SENATOR PIRSCH: Yeah. [LB147 LB285]

SENATOR ASHFORD: (See also Exhibits 17 and 18) That concludes the hearing on LB285. LB122, Senator Coash. Welcome. Oh, you've been here. (Laugh) [LB147 LB285]

SENATOR LAUTENBAUGH: Way to clear a room. [LB122]

SENATOR COASH: (Exhibits 9 and 10) Thank you, Chairman Ashford and members of the Judiciary Committee. For the record, my name is Colby Coash, C-o-l-b-y C-o-a-s-h, and I represent District 27 and I'm here to introduce LB122. LB122 is a...takes a small change in language in our current statute that clarifies our Nebraska Child Abuse and Neglect Registry. Currently--and this is indicated in the sheets I'm passing around--there are three findings for child abuse and neglect: either court-substantiated, which means the court has found the registrant guilty of a crime against a child; court pending, which means that there's an action pending; or as it stands now, inconclusive. This means the Department of Children and Family Services has found a preponderance of evidence of abuse or neglect; that is, the department has concluded that more likely than not the registrant has committed child abuse and/or neglect. The term "inconclusive" is an inaccurate term that does a disservice to those consulting the registry for investigative purposes and to those who are registered. It may lead one, including the offender, to believe that no conclusion was reached with regard to the abuse and/or neglect. On the contrary, inconclusive means that the agency has found a preponderance of evidence that the abuse or neglect has occurred even though the complaint has not been processed by the courts. So for that reason I submit this bill as a way to clear up what it means to have a stamp of "inconclusive" and change that to "agency-substantiated," which I believe more closely reflects the intent of that label. I'll point out there's no fiscal note on this. We're just...and it doesn't change any of the procedures that the department uses. It just changes the final label of that finding. And with that I'll take any questions and I'll come back and close. [LB122]

SENATOR ASHFORD: Any questions of Senator Coash? Yes, Senator Lathrop. [LB122]

SENATOR LATHROP: Can I just ask a couple? [LB122]

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SENATOR COASH: Sure. [LB122]

SENATOR LATHROP: I read this bill and it amends a particular section. There isn't a lot of context in the bill so I don't know where it fits in the big scheme. What are we trying to do? Is this a registry of people that abuse and neglect children? [LB122]

SENATOR COASH: It is. [LB122]

SENATOR LATHROP: And we...the state apparently maintains one of those right now? [LB122]

SENATOR COASH: The state maintains it and...I work in the community-based developmental disabilities field and, as an employer, we are...our contract, for example, requires us to check against that registry for any potential applicants. [LB122]

SENATOR LATHROP: Okay. And so the list that's maintained in this registry, it will have (a) people that are convicted in some kind of a court proceeding? [LB122]

SENATOR COASH: The list has...you'll either be court-substantiated, which means that you've been found guilty in a court of law of this crime, and that would be the first... [LB122]

SENATOR LATHROP: Right. That's the first classification. [LB122]

SENATOR COASH: The second one is court pending, which means there's a crime pending. [LB122]

SENATOR LATHROP: So you've been charged but you haven't had your trial date yet. [LB122]

SENATOR COASH: That's right. [LB122]

SENATOR LATHROP: Okay. [LB122]

SENATOR COASH: And then the third is inconclusive. Now, inconclusive means that, by the department's definitions, that there's been a preponderance of evidence that you did something but it just didn't rise to the level of any type of a crime. And there's a whole...something behind that. [LB122]

SENATOR LATHROP: Now, let me ask...let me interrupt you right there because that's where we're getting to the third category, and you brought up exactly the context of which somebody would look at this. So let's say that--I'm going to make up an example which is not a case but--a bunch of kids in a family and one sibling suspects the other

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one, who has mom living with them, isn't doing...this can be adults too, right, or is it just children? [LB122]

SENATOR COASH: I'll let somebody behind me answer that but I believe it's mainly for adults. [LB122]

SENATOR LATHROP: Whether it's an adult or a child, let's say that it covers adults or we're talking about children. One sibling accuses another one. You know, they look into it. Somebody looks into it. They make a note that there's been a complaint. And nobody files any charges. Now you come along looking...the guy comes along looking for a job, and you look him up on the registry and it says inconclusive or whatever the new terminology is going to be. This can affect somebody's livelihood, right? [LB122]

SENATOR COASH: Yes. But in the case that you're...in the example that you give, the investigator from the department would not find that to be inconclusive unless there was substantial evidence...more evidence than not. [LB122]

SENATOR LATHROP: And maybe this is what I'm getting... [LB122]

SENATOR COASH: So the stamp for that one would be no--and I call it a stamp because that's what people get from a department is a stamp--and in that example the stamp would be "no record found." In order to get the inconclusive stamp there has to be a preponderance of evidence. [LB122]

SENATOR LATHROP: All right. Then let me put it this way. If you are...if somebody believes it's true, how come the person isn't prosecuted? Why we don't just leave this to the criminal system or the juvenile court system. Let a judge make the decision. Because here's my concern: Otherwise I've got a guy in a cubicle at, where, Health and Human Services? [LB122]

SENATOR COASH: Um-hum. [LB122]

SENATOR LATHROP: Reading reports. And I'm not kicking him around; I'm just...it could be my brother or sister doing this. It's not about the person. But you have a bureaucrat reading some reports and now they're going to label somebody? [LB122]

SENATOR COASH: Um-hum. [LB122]

SENATOR LATHROP: And their livelihood or their ability to get a job at an industry is going to be affected without a court proceeding, no due process, no cross examination. [LB122]

SENATOR COASH: I'm so glad you brought this up. I was going to address this in my

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closing, but since you did, let me address it. I see a lot of issues with the exact thing that you are discussing right now. And in the handouts I gave you, it shows the very small guidelines that the department is given in determining whether it's preponderance of evidence. I mean, when it's court it's very clear. [LB122]

SENATOR LATHROP: Exactly. [LB122]

SENATOR COASH: And I agree. And what I will say is that this bill is the first step in many that I believe we need to look at in our processes. And I believe that this clears some things up but it doesn't address the problem that you're discussing, and that's going to be a bill you'll... [LB122]

SENATOR LATHROP: It actually makes it easier to now have somebody find that you ought to be on some list that's going to keep you from getting a job. Because we go from a clear and convincing standard, don't we, down to... [LB122]

SENATOR COASH: The standard doesn't...with my bill here, the standard doesn't change. The standard of findings does not change with this bill; only the label. [LB122]

SENATOR LATHROP: All right. Let me ask you what that label is going to mean. [LB122]

SENATOR COASH: The label goes from inconclusive in this bill to agency-substantiated. [LB122]

SENATOR LATHROP: Okay. So if it's...as it exists today, if they look my name up and it says there was a complaint on Lathrop and it was inconclusive, and I'm trying to get a job with your outfit to care for somebody with developmental disabilities, can you still hire me as an inconclusive? [LB122]

SENATOR COASH: It's interesting. There's an...actually if I were to run you through, all I would know is there's a report. I wouldn't know whether the report on your record was because you were found guilty in a court of law or because it was inconclusive. I just know that there's a report. [LB122]

SENATOR LATHROP: So can you hire me if there's a report? [LB122]

SENATOR COASH: I cannot. [LB122]

SENATOR LATHROP: Any report at all and you can't hire me? [LB122]

SENATOR COASH: No, I can't. What I would do as an employer is I would go back to you and say, you know, I'm sorry, Mr. Lathrop; there's a report here. We are unable, per

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our contract, to hire you. You can now go back, and it's your record, you can go through the due process for expungement. [LB122]

SENATOR LATHROP: And the burden would then be on me... [LB122]

SENATOR COASH: That's correct. [LB122]

SENATOR LATHROP: ...regardless of whether it's a court or just an allegation by a sibling? [LB122]

SENATOR COASH: Keep in mind that if your sibling alleges something, it doesn't mean that you're going to end up with a report on your record. That will start the process but the worker will still have to come out and determine whether or not there was enough evidence of abuse. And then you would get, at this point, a stamp of inconclusive. What this bill is trying to do is change that stamp of inconclusive to a stamp of agency-substantiated. What's happened...what I've seen happen in this field is people will get the stamp of inconclusive, and then you would say, well, that means nobody...I got inconclusive. That means you couldn't find anything, right? [LB122]

SENATOR LATHROP: They couldn't prove it; I didn't do it. Yeah. [LB122]

SENATOR COASH: But in fact, the standard is the agency thought there was enough...or the department thought there was enough evidence to say that you probably did do something. So I'm trying to change just the label from inconclusive to agency-substantiated, because that's, in fact, what they're doing. [LB122]

SENATOR LATHROP: And you know what? I almost agree with that as long as, and anything else falls off the radar, but if any time--and let me make one up. People get a divorce. Wife calls the child protective services and says that guy left the kids alone. He's not feeding them. You know, he takes them on visitation and he takes them to the bar and they're not eating...you know, whatever. And she is saying it...none of it's true but she's trying to get him in trouble with somebody so she has a jump on, in a custody fight. Okay? There's our example. Now is somebody going to go look into this? [LB122]

SENATOR COASH: Yes. [LB122]

SENATOR LATHROP: And is that enough of a report filed by somebody's ex-wife or soon-to-be ex-wife, that now, when you look in the registry, it says report. [LB122]

SENATOR COASH: That call alone would not be enough to put somebody on the registry. That call alone will just start the process of investigating. And the worker still has a responsibility to investigate that and to evaluate the evidence. In the handout it shows you what they have to look at. I don't think it's clear enough and so I want to work

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on that. What I'm trying to do with this bill is just change the terminology so it's more clear to both the offender and the employer. [LB122]

SENATOR LATHROP: And you know, maybe this is my first thought, and that is if we're going to put somebody on a registry, it seems to me that there ought to be some process where they have an opportunity to have a hearing before they appear on there. And when we do the sex offender stuff, we go off of convictions instead of if we ask the city attorney to make another list of people that they've looked at and they thought were probably there but they didn't actually think it was beyond a reasonable doubt, I'd have a problem with that, too, probably. And it seems like what we need with your amendment is...or with your bill, is a process so that we don't put anybody on a list that hasn't been told we're about to put you on the list and here's how you come in and argue about it, establish that you don't belong on the list. [LB122]

SENATOR COASH: I agree with everything that you have just said. Just keep in mind that's not the intent of this bill. It will be the intent of a different bill that you'll see coming from me. This bill just tries to clean up that simple language change so that it's more clear to both the offender who is on this. The offender, for example, is going to say, well, inconclusive; what does that mean? You didn't get me, right? When in fact the standard of evidence is, yeah, we substantiated abuse. [LB122]

SENATOR LATHROP: And maybe what I'm driving at is I'd just probably as soon see the third category out of there and let's just go with convictions or judicial findings, and if there's enough there, let somebody,... [LB122]

SENATOR COASH: Okay. [LB122]

SENATOR LATHROP: ...because you've changed it to a preponderance of the evidence. And while that wouldn't be enough in a criminal proceeding, it's probably enough up in a juvenile court proceeding. And if somebody believed that was there, they could file a juvenile court proceeding against the parent, right, and get the whole family in a juvenile court proceeding based on an adjudication in juvenile court that the person has abused or neglected the kids? And I right about that? [LB122]

SENATOR COASH: I believe so, yes. [LB122]

SENATOR LATHROP: So I don't know why we'd have a category. It just makes me nervous when we have somebody... [LB122]

SENATOR COASH: I don't like the category... [LB122]

SENATOR LATHROP: ...and I don't use bureaucrat in a pejorative way, but we have somebody who's got a stack of files in their in-box like this and they're reading through

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papers and... [LB122]

SENATOR COASH: I agree with you 100 percent. I don't like the category either. I just...this bill, all I'm trying to say is if we're going to have it, let's make it cleaner... [LB122]

SENATOR LATHROP: Okay. [LB122]

SENATOR COASH: ...and let's make it what it really is. And it's not inconclusive. We know what it is. It's substantiated. [LB122]

SENATOR LATHROP: I appreciate your answers to the questions because I didn't know the context, and you've helped me, so. [LB122]

SENATOR ASHFORD: Senator McGill. [LB122]

SENATOR MCGILL: I guess not so much as have a question, just that as I've gotten involved in this issue, this inconclusive, this whole element also concerns me because I've seen parents, including some of the safe haven parents kind of almost immediately put on this registry, and only receive a letter saying you've been put on a registry and not even have it explained to them what specifically they're being put on the registry for. And then parents that weren't safe haven-related have come to me that I've become close with, and then it is a burden of proof on them to prove that...and they're on this registry and yet they never had a due process to get on it in the first place. And so I share the concerns Senator Lathrop has because I've learned the real-life circumstances that are taking place. [LB122]

SENATOR COASH: Thank you. [LB122]

SENATOR ASHFORD: Senator Council. [LB122]

SENATOR COUNCIL: Senator Coash--and perhaps I haven't read far enough in advance--are you saying you have a bill that's been introduced this session that will address eliminating the third category, or is that something we're looking at next session or...? [LB122]

SENATOR COASH: That's something that I am looking at. No, I will not be introducing it this session. But the whole issue surrounding the exact example Senator McGill gave is a problem. The process by which the department makes these findings is not clear. The due process for people is not, I don't believe, fair, and so we have to address that. I just...this is the first step in doing that. [LB122]

SENATOR COUNCIL: Okay. And I think what I'm hearing my colleagues say is that the

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possibility...this bill has provided the vehicle perhaps to address those issues now through amendment to...and then you don't have to look to next year to do it. Because I'm going to tell you, I have problems...I have had far too many clients of mine who've had child abuse charges filed against them, had this inconclusive, and it is really debilitating, I mean. And you force them to retain legal counsel, many of whom cannot afford to do that. So then, you know, hopefully legal aid or someone else can provide assistance. And sometimes, depending upon the case, legal aid won't get involved, so you have these people out there struggling to try to get their names removed from the registry. For those who have had charges filed and the court substantiated, there's no question. For those who have a petition filed, that means that the agency feels strongly enough about it to pursue a court determination. I have no problem with that. The inconclusive one or agency-substantiated, I have problems with, because...for the reasons that have been stated. Because that...it flies in the face of innocent until proven guilty. We shift the burden from the agency to the person to prove...basically to prove their innocence. It just flies in the face of due process, to me, so I would like to, if we could, take this opportunity to fix it. [LB122]

SENATOR COASH: Well, you know, I'm not sure what testifiers behind me, especially from the department, may feel about that. I'll just say that I'm open to working with the committee on that. [LB122]

SENATOR COUNCIL: Okay. Thank you. [LB122]

SENATOR LATHROP: Thanks. [LB122]

SENATOR ASHFORD: Senator Lautenbaugh. [LB122]

SENATOR LAUTENBAUGH: Who has access to this registry? [LB122]

SENATOR COASH: The department does. The way it works, as I understand...and I work in this field and I'm kind of on the other end, so. The company I work with has a responsibility because we contract with the state. Any applicant has to come through and then we have to do these checks. And so I would send, if you were an applicant or even a current employee, on a periodic basis, your name and Social Security number to the department. They just run it and then they stamp it and they let me know if there's a record or not. And then we make employment hiring decisions or continuing employment decisions based on that. [LB122]

SENATOR LAUTENBAUGH: Maybe I misspoke. That's who maintains the registry. Who can search the registry? Who can check the registry? [LB122]

SENATOR COASH: I'll leave that to them behind me. I believe it's just them. It's not a...you can't...I can't go on the...as an employer I can. But to my knowledge it's not

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available out there for everyone. [LB122]

SENATOR LAUTENBAUGH: Because I have to, once again, though not germane to your bill, I have to echo the same comments as they have, a mess terrifying to me. [LB122]

SENATOR COASH: It is absolutely terrifying. Without spilling it, I have personal experience with this and it is a terrible thing to go through. [LB122]

SENATOR ASHFORD: Well, I appreciate you bringing it and your candor in doing it. Thanks, Colby. How about proponents? Any other questions? I guess we'll go the proponents, Todd. How many proponents do we have? [LB122]

TODD LANDRY: (Exhibit 11) Good afternoon, Senator Ashford and members of the Judiciary Committee. I'm Todd Landry, T-o-d-d L-a-n-d-r-y. I'm the director of the Division of Children and Family Services for the Department of Health and Human Services, and I'd like to thank Senator Coash for introducing LB122, and I'm here today to testify in support of it. In the short amount of time that I have I will attempt to answer some of the questions that you have raised and, hopefully, if I haven't, through your questions you will give me an opportunity to try to address those. You have already heard that LB122 would simply replace the term "inconclusive" with the term "agency-substantiated" as a finding on the child abuse and neglect central register. As you know, the department's children and family services specialists conduct a comprehensive safety assessment of a family based on an allegation of abuse or neglect. When a concerned citizen calls into the hotline, information is obtained to determine if the child may be in a dangerous situation. If the child is deemed to be in a dangerous situation, then the specialist responds to the needs of the family by conducting a thorough safety assessment that is research-based and is shared with several other states in the country. This assessment determines not only if the allegation of abuse or neglect is true, but if the parents function in safe manner to meet the needs of their children. The process involves interviews of the family, including the individuals that may be the subject of the investigation; collateral contacts of parties involved with the family, such as schools, neighbors, medical professionals, and others all involved with that family. Only after obtaining enough information, then a case determination is made on whether the allegation is founded or unfounded. The allegation may then proceed to be determined to a court proceeding, and a finding would be entered on the child abuse and neglect central register as court-substantiated. If, however, a petition is not filed but a department specialist determines the incident likely occurred by a preponderance of evidence, the term provided in current law for entry on the register is the term "inconclusive." As you know, many commonly understand that term to mean that no conclusion or definite result was able to be reached, and we know that that is not true. It does mean that there is enough determination to determine if that abuse or neglect occurred. Now to get to your

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question about why it would occur when there wasn't court substantiation. There are many cases where they exist where circumstances do not allow for legal prosecution. These circumstances can include legal issues, include issues of age of the victim, or issues of trauma related to the event that hinder prosecution or court substantiation. A person's cognitive or functioning level could also hinder their ability, and some victims are terrified and not willing to testify against the person who victimized them. This can occur, for example, in domestic violence situations. The department, in those cases, would make a determination of agency-substantiated, or what we currently call "inconclusive," based on the information collected. To give you another example that's not in my written testimony but it happens on an ongoing basis and then I'll stop and you can read the rest of my testimony, but there are several examples where a county attorney may work with the individual, in some cases a parent, and reach a plea bargain and a plea deal where they, in fact, would drop the criminal charges in return, for example, if that individual would voluntarily relinquish parental rights. One of the reasons that I believe that some county attorneys may do that--not all but some--is because they know that the termination of parental rights would occur and they also know that that individual is going to be on the register and so they're not going to be in danger of working with vulnerable children or adults in the future. I'd be happy to answer some of the other questions but my time is up. I'd be happy to address those if you give me an opportunity. [LB122]

SENATOR ASHFORD: All right. Senator Council. [LB122]

SENATOR COUNCIL: Thank you, Mr. Landry. My question is if an employer who checks the register is only told you're on the registry, what...why do you have any of these categories? [LB122]

TODD LANDRY: Well, those categories are important because the individual who goes onto the register is notified of the category that they were judged under. And in that case what happens, they have the opportunity. They're notified in writing that their name is going to go on the register. They have the opportunity for a fair hearing beyond the investigation that has already occurred. They have the option of choosing that fair hearing or not. If they don't like the results of the fair hearing they can also challenge it in court and have it expunged in that way. So there are multiple, for lack of a better term, checks and balances in that respect, but that is the process and that is why it is important to have those categories, so that the individual knows on what basis their name was placed on the register. [LB122]

SENATOR ASHFORD: Senator Coash. [LB122]

SENATOR COASH: Thank you. Todd, could you address Senator Lathrop's example that he gave in my testimony so we can understand a little bit better...you know, if an allegation is made, the process by the investigator will go through. [LB122]

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TODD LANDRY: And I attempted to address that in my testimony and I'll just hit it very briefly. The hotline call comes in. When the hotline call comes in, nothing at that point happens as it relates to the register. And the register finding is usually several weeks, or in some cases months, down the road, because the full investigation has to occur. The full determination has to occur. All of the interviews have to be conducted with all of the collateral contacts, as I mentioned, which could include law enforcement, teachers, counselors, coaches, medical professionals, etcetera, before, then, that determination is made. At the exact same time, there is a law enforcement investigation that may also be going on. That process is also happening at the same time that the county attorney process is making...the county attorney is making their determination as to whether to do a filing in order for the children to be removed or the children to be placed in the department's custody. So those things are all happening virtually simultaneously. Ultimately a determination does have to be made about the register, whether...down the road whether or not it is court-substantiated, agency-substantiated, or in this case inconclusive, or if in fact it is still a court-pending case, in case there is something going on in the court. [LB122]

SENATOR LATHROP: Ultimately though, if the process that's employed to fall into that third category doesn't involve a hearing for the person who is ending up on the list. [LB122]

TODD LANDRY: At their option. They are always interviewed as part of the investigation. But once a determination is made and they're notified that their name is going to go on the central register, they have an opportunity for a formal hearing at that point if they so choose...if they don't choose. [LB122]

SENATOR LATHROP: And who is that hearing in front of, Mr. Landry? [LB122]

TODD LANDRY: That hearing occurs in front of our hearing officers that are part of the legal department, legal aspect, or legal area of the Department of Health and Human Services. Not within the division...not within the Division of Children and Family Services. [LB122]

SENATOR LATHROP: I might be able to buy into this change if we included a change that said you do your investigation; you give notice of a hearing and you set it for hearing. Maybe something that's like an arraignment where they show up and say I contest it or I don't contest it, and then they move on to the next round, so that the process is, you get a hearing unless you essentially acknowledge that you belong on the list. I'm just...I do have concerns about people, especially if we're using it...and I understand why. People that abuse kids ought to be on some kind of a list, provided the process to put them there involves an opportunity for them to be heard and it's made by a neutral sort of a person. [LB122]

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TODD LANDRY: Right. And that is the purpose of the hearing. You're right, it's not a requirement that they have to come to the hearing to say, yes, I contest it, or no I don't. You know, right now it's at their option whether or not they choose to do that or not. [LB122]

SENATOR LATHROP: Where is that procedure a process? Is that in your regulations or is it in statute? [LB122]

TODD LANDRY: I would have to verify that. I believe the concept for that may be, or the overriding piece of that is in statute, but the actual details of it, I believe, is in our rules and regs. But we'll have to confirm that for you, Senator. [LB122]

SENATOR LATHROP: That's the one thing about this bill--and it's not a criticism--it took such a little piece of the statute and amended it, that there's not a big...a larger context. So if you could share the procedural piece with us then maybe we can tweak that and make it all right. [LB122]

SENATOR COASH: I have it. [LB122]

TODD LANDRY: Be happy to do that. [LB122]

SENATOR ASHFORD: Thanks. Yes, Senator. [LB122]

SENATOR MCGILL: And I'll just add that, you know, some of these procedures may be in place, but I'm pretty convinced that they're not always being followed, Todd. You know, some of the families I've been talking to who maybe charges were filed or being investigated, but they were dropped and yet one of the parents still remains on the registry for some reason. And they're sitting there battling the other issues of trying to keep their kids or not, and so fighting the registry thing is the least of their concerns so maybe they don't take that date because they're already in court just trying to keep their kids, which is the priority for them. And it's just a concern that I would like to either try to find a way to tighten it up or something because it's just...I feel that it's too easy to get put on this registry right now. [LB122]

TODD LANDRY: And if I may address that, even if they choose not to participate in the hearing or ask for a hearing at that point, it does not preclude them from ever asking for it again. They can request it whenever they wish. [LB122]

SENATOR MCGILL: Yeah. [LB122]

TODD LANDRY: There's a form to fill out to request for expungement and then they can do that. So it's not a one or done deal. It's at any point in the future. [LB122]

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SENATOR MCGILL: And I know. It's just these battles can last months and years, and so they sit on the registry. They can't become a teacher. They can't...you know, they can be fired if they work at a school in the meantime while they're sitting on that registry. And so I just have some concerns, and... [LB122]

TODD LANDRY: And I appreciate that. I just wanted to... [LB122]

SENATOR MCGILL: ...hopefully whoever replaces you soon here can help us work through it. Thank you for your help, though, too, on this. [LB122]

TODD LANDRY: And we'd be happy to work for you and try to explain the larger context of how this goes in and how this has come about to this point. I would be happy to sit down with you and try to explain that in a more full and complete context. [LB122]

SENATOR ASHFORD: Senator Lautenbaugh. [LB122]

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman. I still want to thank you for coming today, Mr. Landry. I do still struggle with this because we do analogize it to the closest thing we have, which is criminal conviction. And it seems like this almost is backwards, in that if we have a case that's hard to prosecute because the witnesses might be of sensitive age and whatnot, you know. That happens in criminal court too. But we either fight through it to get the conviction we need or we don't. This category just causes me all sorts of heartburn for that reason, that we're opting out of it and letting the agency--and I have no suspicion of your agency. I'm just saying any nonjudicial entity. This is a very serious thing and this kind of determination really frightens me. I'm glad there are procedures to reverse it, but again that seems almost backwards from where we should be. [LB122]

TODD LANDRY: And I can appreciate your perspective, Senator. And a little bit of history. It was really created for those sensitive issues where you may have a child or an individual with limited cognitive functioning, a situation where there is violence in the family or extended family and someone is very unwilling to testify publicly in that kind of situation, but perhaps the county attorney has already made the determination, or through some type of an arrangement, as I described before, where the parental rights are going to be terminated or relinquished voluntarily. And one of the reasons that they may be willing to accept that and not go to court is because they also know that there is the preponderance of evidence and that the name is going to be on the register to protect potential future generations of vulnerable children. And so I think that is one of the reasons--and again this statute has been in place a long time--but I think that's one of the reasons why it was originally put there, in order to ensure protection of other children outside of that exact family dynamic or that family in itself, to protect those other children who may be in day-cares, scouting troops, schools, whatever the case

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may be in those examples. [LB122]

SENATOR LAUTENBAUGH: Okay. [LB122]

SENATOR ASHFORD: Thanks, Todd. [LB122]

TODD LANDRY: You're welcome. [LB122]

SENATOR ASHFORD: Other proponents. [LB122]

LINDA COX: (Exhibit 12) Senator Ashford, members of the committee, my name is Linda Cox, L-i-n-d-a C-o-x. I'm the data coordinator for the Foster Care Review Board. I would like to thank Senator Coash for introducing LB122. The board supports this bill as it does clarify what is now a confusing classification title. I'm not going to reiterate all of the pieces that have been said by the senator or by Mr. Landry before, but I would like to say that in 2002-03 there were a number of child deaths due to abuse. And in 2003, the Foster Care Review Board, under the direction of Governor Johanns, researched 4,262 calls to the CPS hotline alleging abuse and neglect. And we made a number of findings from that research, one of which was the elimination of confusing terms would be the best way to go towards transparency. Now I do agree that there are a number of other issues with the classifications and how that is determined by Health and Human Services, how that is affected by the investigations of law enforcement, the ability to prosecute, etcetera. In my handout we do list some of our other concerns, such as some issues with the way that contractor staff are included or not included on the register. But to recap, I really feel that this is a good start towards looking at this system and making it the best tool it can be to help keep vulnerable children and adults safe. And I thank you. [LB122]

SENATOR ASHFORD: Thanks for your perspective. Any comments? Thanks for spending the afternoon with us. I know you've been here for awhile. Kathy. [LB122]

KATHY BIGSBY MOORE: (Exhibit 13) Good afternoon. I'm Kathy Bigsby Moore, K-a-t-h-y B-i-g-s-b-y M-o-o-r-e, executive director of Voices for Children in Nebraska. And I too am here in support of LB122 and thank Senator Coash for introducing this. Unfortunately, I have been before this committee numerous times on this very bill, and we have gotten it out of committee a couple of... [LB122]

SENATOR ASHFORD: This committee? [LB122]

KATHY BIGSBY MOORE: Well, not this committee as it is currently. (Laugh) [LB122]

SENATOR ASHFORD: Well, this is the only committee I know about. [LB122]

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KATHY BIGSBY MOORE: The Judiciary...a Judiciary... [LB122]

SENATOR ASHFORD: There may have been another committee but... [LB122]

KATHY BIGSBY MOORE: An era of a Judiciary Committee. It may actually go back to when you were here before. At any rate, this is...you can view this, I guess, either as a very simple or a very complex issue, and you can view this from the perspective of the children or from the perspective of the alleged perpetrator. And so I really am urging you to look at this bill from all of those perspectives before you make a decision on it. Yes, there are cases that I too have heard about where someone has been put on the registry for an overly simple issue and should not have been. Unfortunately, I have seen numerous cases also where someone should have been put on the registry and was not. And so in reviewing those from the perspective of a child advocate, I would rather err on the side of protecting the child than the adult. I certainly understand it from the other perspective, though, as an adult who could erroneously be put on that. So I concur that there is a need for some significant work to be done and I've had conversations with Senator Coash and think he will be a wonderful champion of this. But I am hesitant to say, well, let's just wait another year or two before we do anything. If I received a letter saying that I'd been investigated and an inconclusive finding was made, I'd breathe a sigh of relief. Why would I go to a hearing? You know, it's like that speeding ticket where, yeah, I could show up in court but I don't know what good it's really going to do, and I think I would view it from that perspective. If I saw the words "agency-substantiated" and I do know that in regulation there are some definitions of that, I would take it more seriously and I believe we would then have the end result of a more accurate registry and a process that was beginning to be more appropriately handled. Thank you. [LB122]

SENATOR ASHFORD: I think I get the direction. [LB122]

KATHY BIGSBY MOORE: The gist. [LB122]

SENATOR ASHFORD: The gist, the point. Any questions of Kathy? Thank you, ma'am. [LB122]

KATHY BIGSBY MOORE: Thank you. [LB122]

SENATOR ASHFORD: Other proponents? Opponents? Neutral? Senator Coash. [LB122]

SENATOR COASH: Thank you, Chairman. And briefly I just wanted to publicly thank Linda and Kathy. I know they waited awhile to testify, and Todd for being here, as well. That was great. The discussion we had today surrounding this bill is an important one for our state. The bill itself addresses just a little piece of language but the discussion is

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much, much bigger. And the example that Kathy gave about a person getting a stamp of inconclusive and saying, whew, good, they didn't find nothing, when in fact they really did, is the confusion that I'm trying to clarify with this bill. But as I said before, I really do look at this as a first step in addressing several challenges surrounding the abuse registry and look forward to working with the committee to address all those things. [LB122]

SENATOR LATHROP: I will just say that I never even thought about that, but Kathy is exactly right. If somebody got that, now I feel like we need to do something right away, because if you got that inconclusive finding, I'm sure you're thinking, oh good, I'm not going to be on the registry. Now you end up on the registry thinking I don't need to go to the hearing because it was inconclusive. [LB122]

SENATOR COASH: And typically what I've found in my work is...now I don't get to see, as an employer, what the stamp is; I just get to see that there's a record. But, you know, typically we'll send back the applicant, and they'll come back and say, hey, don't worry; it was inconclusive. And I'll say, but what that means is they found evidence and now I still can't hire you. But I can tell you that that probably happens more times than not when somebody sees that label and thinks they're clear. [LB122]

SENATOR LATHROP: I'll bet. I'll bet. And I would say...this isn't going to be anybody's priority probably, so maybe during the interim we can figure out how to fix the process and we can leave that category there if there's some kind of a hearing. [LB122]

SENATOR COASH: It's on my schedule, but that's... [LB122]

SENATOR LATHROP: Okay. [LB122]

SENATOR COASH: ...and, you know, I'm seeing what we can do in this committee to maybe sail it through, at least this language change, and then work on the rest this summer. [LB122]

SENATOR LATHROP: Okay. [LB122]

SENATOR ASHFORD: Yeah. I mean I also appreciate, Colby, this bill and the last bill you brought, because these are things I didn't know about, and you're an invaluable resource so...these are important things that affect Nebraskans every single day, and I'm just...if we had all year every day, all day, to figure this stuff out and think about it, you know, we'd still probably not get it all right. But it's great that you're bringing this to our attention. And maybe there's a way of getting the language or fixing it so that it can go out and get attached to something. But I see what you're...where you're going. Thanks. [LB122]

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SENATOR COASH: Thank you. [LB122]

SENATOR ASHFORD: (See also Exhibit 20) Okay. Senator Lathrop is next; adopt the Interstate Compact for Juveniles. LB237. [LB237]

SENATOR LATHROP: Good afternoon, Mr. Chair and members of the Judiciary Committee. My name is Steve Lathrop, L-a-t-h-r-o-p. I am the State Senator from District 12, and I'm here today to introduce LB237. The Interstate Compact for Juveniles was established in 1955, and is an agreement between the states that provides for the uniform tracking and supervision of juveniles on probation that move across state borders. In 1999, the Federal Office of Juvenile Justice and Delinquency Prevention conducted a detailed survey of the states uncovering many contentious issues within the current compact and asked for recommendations to address these growing concerns. As a result, the Council of State Governments and the Office of Juvenile Justice and Delinquency Prevention developed advisory and drafting groups that created the new Interstate Compact for Juveniles. The newest version of the Interstate Compact for Juveniles seeks to address many deficiencies and inconsistencies that existed within the previous juvenile compact system including enforcement, administration, finances, communications, data sharing, and training. There are many national organizations that support the passage of this legislation across the country including the Council of State Governments, the American Probation and Parole Association, and the National Center for Missing and Exploited Children. At the beginning of this year, 35 states had adopted this legislation which meant that the compact is moving forward without Nebraska's involvement. I introduced LB237 at the request of the Nebraska State Probation Administration. They will testify with additional details on the bill, and why it is necessary for Nebraska to adopt this bill. It's also my understanding that the Department of Health and Human Services will testify in support of the bill and suggest that an amendment be introduced, adopted to include another existing compact that's being revised, the Interstate Compact on Placement of Children. This bill has been introduced on two other occasions. The last time it was advanced to the General File by Judiciary Committee, briefly debated, but never voted on. When it was previously introduced, it was done so after Nebraska had adopted a similar compact on adult offenders. Nebraska was the last state to adopt that compact. HHS has had some concerns about how the compact administrator is to be appointed. It sounds like they no longer have that concern. If they bring it up again, I know I can work with HHS and Probation to resolve it by pulling language from the compact that would make them okay with it. I will also add that this is designated as a speaker priority bill, so I'll ask you to move it to the floor for General File consideration, and encourage you to ask the people that follow me the particulars of this bill. [LB237]

SENATOR ASHFORD: Thank you, Senator Lathrop. Brilliant. (Laughter) [LB237]

SENATOR LATHROP: With that, I'll sit down. [LB237]

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SENATOR ASHFORD: Proponents. Do we have? [LB237]

KARI RUMBAUGH: (Exhibit 14) Good afternoon. I wanted to thank the Judiciary Committee for allowing me this time to speak, and I also wanted to thank Senator Lathrop for introducing this bill. I contacted him about it and... [LB237]

SENATOR MCGILL: Can you say your name and spell it for us? [LB237]

KARI RUMBAUGH: Oh, I'm sorry. I will...I'm sorry about that. My name is Kari Rumbaugh. It's K-a-r-i R-u-m-b-a-u-g-h. And I am the deputy compact administrator for Nebraska Probation Administration. I oversee both adult and juvenile compacts, so I have had some experience with adult compact as well in the new adult compact. I worked with probation and for probation for the last eight years, and have also worked as a juvenile probation officer. So, with both of my positions, I've had direct relations with the Juvenile Interstate Compact, and at this time, I would like to speak in support of LB237, and this is to adopt the new Juvenile Interstate Compact. The purpose of the juvenile compact, as Senator Lathrop talked about, is to regulate the movement of juveniles across state lines who are under court supervision as well as return out-of-state runaways and absconders in a safely and timely manner. The new juvenile compact was enacted on August 26, 2008, when the 35th state enacted it into law. With development of this new compact, we see a formal rule-making authority. Member states are represented by a governing commission so an oversight. Rules will be supported with accountability measures plus the commission can offer training, data collection, and rule clarification for all of the member states. The bill will allow Nebraska to be part of this Juvenile Interstate Compact, thus allowing us to provide for an enhanced community safety and ability to...or accountability for these juveniles when they are relocating. The first Interstate Compact meeting was held December of 2008, and during this first 12-month period, all rules and regulations will be developed. By the end of this transition, the juvenile compact will be complete. Therefore, important decision-making regarding this compact will be done, and Nebraska will not have a voice if we aren't part of LB...or adopt LB237. The greatest concern I have is during this 12-month period, at the end of December of 2009, the compacting and noncompacting states' relationship cease to exist. So the juveniles who are relocating outside of Nebraska will not have in-state supervision, and Nebraska will lose the ability to complete home investigations for juveniles who transfer to our state. We would not have the right to deny probation or paroled juveniles from coming to our state, but most importantly, these juveniles include violent and sex offenders who would be not supervised while living in our state. If we don't pass this new compact, the only way to work with these juveniles is to create agreements with each individual state. Finally, I want to talk about runaways before I run out of time. Out-of-state runaways and absconders--currently, we are working with the other compacting states. We make sure these out-of-state runaways and absconders are supervised the entire way home. They

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are safely returned home under supervision. If we don't pass this, not only will we lose that ability to supervise, we will also have no time frame to mandate the return and the safe return of these juveniles to make sure that they are home. So I think this is of great need. I think leaving the Juvenile Interstate Compact to just state-to-state agreements could become very costly as well as we would have no governing commission to make sure those states are following the rules or working with Nebraska. Thank you for your time, and I'd appreciate any questions. [LB237]

SENATOR MCGILL: Thank you. Senator Council. [LB237]

SENATOR COUNCIL: Yes. Thank you, Ms. Rumbaugh, and I apologize. I was out of the room when Senator Lathrop made the opening statement with regard to the bill, but just based upon your testimony, I think you can correct my understanding. Nebraska currently is party to the compact. Is that correct? [LB237]

KARI RUMBAUGH: We are party to the old Juvenile Interstate Compact which in December of '09, after the first meeting, they say a year from the first commission meeting, that compact no longer exists, and so we no longer pay dues to that compact. So in December, 2009, that compact will no longer exist, so right now we are party to the old compact, but since it will be dissolved, we will no longer be party to any compact if we don't pass this. [LB237]

SENATOR COUNCIL: Okay, so despite the fact that we have legislation, we have statutes that say we are part of this compact, the compact terms are such that if we don't enact new legislation when December, 2009, hits regardless of what's in statute now, we're not party to the new...or even what's in the old...it depends on a state by state... [LB237]

KARI RUMBAUGH: Correct. They're calling it the old and new, but. [LB237]

SENATOR COUNCIL: The old would then depend...if the old language stayed in the statute, then it would be up to us to enter into...us being the state of Nebraska, enter into agreements with various states to carry out what is currently in our statute. [LB237]

KARI RUMBAUGH: Correct. [LB237]

SENATOR COUNCIL: Okay. Now, by enacting LB237, then we would be authorizing our participation in the compact. [LB237]

KARI RUMBAUGH: Correct. [LB237]

SENATOR COUNCIL: Okay. And that would allow us to be at the table as they discuss these new rule makings and make all of these decisions. What if there is something

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that's totally unacceptable to Nebraska that the compact decides on? Are there any opt-out...? [LB237]

KARI RUMBAUGH: With the compact? [LB237]

SENATOR COUNCIL: Or opt out, out of certain provisions of the compact or, and that only certain provisions are applicable or is that possible? [LB237]

KARI RUMBAUGH: Yes. One thing that you'll notice in this legislation, and you notice it with the Juvenile Interstate Compact Rules is that they are very focused on, we want to see this happen, but it depends on state to state, so they're very open to making sure that what they are even presenting on the floor is going to be reasonable in all the states. And so it says in here, if your state can't comply with that, or it, you know, there's just no ability for you to do certain rules, then those rules obviously would not be able to be followed. But what they do is they set up a commission, and then the commission votes majority vote on what rules they enact. And then if there's an issue with those rules, then that can be brought back in the next year where they would vote on amendments and changes to the rule. So there have been times and just with my work with the adult compact, there have been times where maybe there's a rule where there are some issues or maybe after it's passed, there's some concerns, and then those are brought up the following year when rules are developed or amendments, and then these states can vote on those rules. But really, they do a good job of making sure all states...state laws are also in compliance with what the rules are that they have set. [LB237]

SENATOR COUNCIL: Okay, and that's what is getting to the meat of my question. [LB237]

KARI RUMBAUGH: Um-hum. [LB237]

SENATOR COUNCIL: If the commission decides some change that requires legislative action at the state level, then you'd have to come back to introduce legislation that would be enabled by the compact or the compact enables the states then to enact that legislation. But I'm just saying there could be subsequent legislation that would need to be enacted to fulfill maybe some rule-making made at the commission level? [LB237]

KARI RUMBAUGH: Well, I have not seen that happen because the Interstate Compact, when it's enacted, becomes...it's enacted into federal law as the compacting ability with the Supreme Court ruling that they report in the bill, and I could find that for you if you'd like me to. But with that, it becomes state law, and it supersedes state law when they make these decisions, so there's never been a need to present more legislation or change legislation because of the rules or the changes that they make during those meetings. And like I said, they're all voted on, and the rules and the changes are all

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brought up by the states. There's an executive committee which has a commissioner from each state that they are the ones that introduce these new rules. So the commission really is not the rule-making authority; they're not the ones that present the rules. It's the states that present the rules and work together so there's regions that will work together to make these rules and these changes. [LB237]

SENATOR COUNCIL: Thank you. [LB237]

SENATOR ASHFORD: Thank you. [LB237]

KARI RUMBAUGH: Thank you for your time. [LB237]

TODD LANDRY: (Exhibit 15) Good afternoon again, Senator Ashford, members of the Judiciary Committee. I'm Todd Landry, T-o-d-d L-a-n-d-r-y, 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 in support of LB237 regarding the Interstate Compact for Juveniles. You've already heard the opening and some great testimony on what the new compact would do, and so we encourage you to move forward with the passage of the Interstate Compact for Juveniles for all of the good reasons that have already been specified. I would like to take a brief opportunity to bring another compact that's very similar in nature to your attention, and that is the Interstate Compact on the Placement of Children, ICPC. It is very similar to ICJ in that both were written back in the 1950s. Both have gone through a process in the past few years of an updating process. The ICPC or the Placement of Children Compact shares many of the same problems as the current juvenile compact. The ICPC compact, its intent is to ensure that children placed across state lines for foster care, relative placement or adoption are placed with persons who are safe, suitable, and able to provide proper care. And so this compact governs those who are not juvenile delinquents, but who, instead, are more traditionally "wards of the state" in individual states around the country. As I said before, in a manner similar to the new Interstate Compact for Juveniles, the new Interstate Compact for the Placement of Children provides the same kind of commission to write rules, a mechanism to enforce these rules, uniform data collection and information sharing. It also clarifies the purpose of the compact as providing safe placement of children across state lines, facilitating ongoing supervision and delivery service and enhancing communication between states. Now both compacts establish a point at which the currently existing compacts no longer will be valid, getting to your question, Senator Council. For the Interstate Compact for Juveniles, we have essentially reached that point, as you have already heard. For the Interstate Compact for the Placement of Children, approximately nine states have enacted that new compact with additional states introducing it in their current legislative sessions. Similar to the ICJ, upon passage by 35 states, Nebraska would then no longer have the means to deal with interstate placement and supervision of children for foster care, relative care, and adoption, and will lose that ability to have representation on the commission that

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establishes those rules and regulations. So if Nebraska would at the same time that, hopefully, we pass ICJ, if we would pass the Interstate Compact for the Placement of Children, it would avoid these problems and instead Nebraska would be at the table from the very beginning versus the catch-up role if I can use that term that we're in as it relates to ICJ. We also have on the third paragraph to the end, some additional requests regarding terminology that Senator Lathrop mentioned. I'm out of time, and so I won't go through those in detail, but I have attached documents that outlines what the new compacts would do. I would encourage you to forward both compacts to the floor through amendment so that both compacts can be enacted now, and we can address both of these compacts at the same time. And again, I thank you for your time and thank Senator Lathrop for bringing this bill forward. [LB237]

SENATOR ASHFORD: This is slightly...I mean this has to be done...not that, but this has to be done within... [LB237]

TODD LANDRY: The ICJ, in my opinion, I agree with the previous testifier. I think the ICJ has to be done now. If we do ICPC now, we avoid some of the problems that we're in right now with the deadlines with ICJ, and so I would encourage us to do them both, so that we can deal with them both in a constructive manner. Right now, I agree with the previous testifier. We're a little bit behind the eight-ball... [LB237]

SENATOR ASHFORD: Okay. [LB237]

TODD LANDRY: ...if we don't pass ICJ, we're in trouble. We'll be in that same position, in my opinion, if we don't do ICPC. [LB237]

SENATOR ASHFORD: Okay. That sounds like we do need to do something quickly. Thanks, Todd. [LB237]

TODD LANDRY: Thank you. [LB237]

SENATOR ASHFORD: Bill. Any more testifiers after Mr. Mueller? Okay. Take that as your cue. [LB237]

WILLIAM MUELLER: (Laugh) Mr. Chairman, members of the committee, my name is Bill Mueller, M-u-e-l-l-e-r. I appear here today on behalf of the Nebraska State Bar Association in support of LB237. Ms. Rumbaugh was kind enough to contact the bar and provide us background information on this compact. Our committee looked at this compact and does support the passage of this legislation. You know, we've not taken a look at the Interstate Compact on Placement of Children, but we assume that that would fall in the same category and would likely support it. Be happy to answer questions. [LB237]

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SENATOR ASHFORD: Thanks, Bill. Thank you. Steve. [LB237]

BILL MUELLER: Thank you. [LB237]

SENATOR ASHFORD: (See also Exhibit 16) Okay. That concludes the hearing and all the hearings. Thank you all for coming. [LB237]

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Disposition of Bills:

LB122 - Placed on General File.  
LB147 - Placed on General File with amendments.  
LB237 - Placed on General File with amendments.  
LB285 - Placed on General File with amendments.  
LB499 - Held in committee.

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Chairperson

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Committee Clerk