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HILGERS: [00:00:01] [RECORDER MALFUNCTION] started. It's 12:00. Good afternoon, everyone. Welcome to the public hearing of the Executive Board. My name is Mike Hilgers. I represent District 21, which is northwest Lincoln and Lancaster County. I'm the Chair of this committee. To my right is legal counsel of the committee, Janice Satra. To my far right is Paige Edwards, our committee clerk. Our page today is Kelsey Loseke from Blair. She'll be assisting us throughout the day. We'll turn next to introduction of members. Senator Lowe.
[00:00:23][21.9]

LOWE: [00:00:23] John Lowe, District 37: Kearney, Gibbon, and Shelton.
[00:00:27][4.0]

BOLZ: [00:00:28] Senator Kate Bolz, District 29. [00:00:29][1.3]

HUGHES: [00:00:30] Dan Hughes, District 44. [00:00:32][1.4]

HILGERS: [00:00:33] Senator Vargas is the Vice Chair of this committee. The other members of the committee include Senator McCollister, the Speaker, and Senator Chambers. Let me ask before we begin what-- who intends to testify today for Senator-- for Walz day? OK. Senator Walz, it is your day today. So that what we will do, this committee meets over the lunch hour, as you obviously know. Due to the HVAC construction, we are actually limited in our time. At 1:25 we will be kicked out of this room for the Natural Resources Committee. So to ensure that everyone's voice is heard, we will do three minutes for those wishing to testify, whether it's opposition-- in-- in favor, in opposition, or in a neutral capacity. As I've mentioned in previous hearings, this committee, like others, has a 5:00 written testimony submission deadline, 5:00 the day before the hearing. Because of the unique circumstances of this committee, we actually will waive that deadline or that, that requirement. So if you would like to have your voice heard and you're here, I think we should be able to get through everyone. But in the event that we don't, since we do have four bills today, or-- or in the event that you're concerned that you may not, please, I'd encourage you to put-- fill your name out on the white sheet. You will be able to submit a letter past the deadline and your name will be reflected in the letter. If you do come up to testify, please fill out the green form, say and spell your name for the record. As I mentioned, we will-- we will start with an opening, then do proponents, opponents, and neutral, and a close. And it will be Senator Walz day, so with that, Senator Walz, please begin with LB572.
[00:02:04][91.8]

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WALZ: [00:02:08] It's not very often that I get a Senator Walz day. Good afternoon, Chairman Hilgers and members of the Exec Board. For the record, my name is Lynne Walz, L-y-n-n-e W-a-l-z, and I proudly represent District 15. Before I begin, I would like to note that all the bills we are talking about today came from discussions I have had with the Ombudsman's Office over my LR296 Committee. And just to refresh on what that was, it was a committee that investigated facilities for people who have mental health issues. The Ombudsman's Office believes that there are gaps in the oversight that do not allow them to get a full picture of some of the issues that we are looking into. There were a number of times when the committee felt that there was more oversight that was needed. We encountered some truly horrible living conditions. There was black mold, bedbugs, people sleeping on the second floor and in basements without any escape route, four to six people sharing a bedroom, and a lack of adequate resources and supports, not to mention that the reports were not filed, including the official report that was completed in July of 2017 on the Palmer facility. That report wasn't released until November, nearly two months after a veteran had died in a facility. Most of the facilities we went into had little to no substan-- substantia-- substantive daily activities for these residents, and the ones that did had very low participation rate. Staff training was extremely inadequate. When the committee submitted a list of questions to DHHS, more than half of them came back unanswered, based off what I deem to be evasive confidentiality concerns. Guardians for these individuals were absent and were not taking an active role in supporting the individuals they are meant to be advocates for. In one case, the guardian was an administrator of a facility. And the individual wanted to move away from that facility into a different one but was unable to do so because the guardian had control over where that resident lived. That is a conflict of interests and a direct violation of policies. Now on to the bill. It is obvious, obvious that there has to be more oversight so that people are safe, number one, safe; free from abuse, neglect, and extortion. LB572 gives the deputy public counsel authority over all assisted-living facilities. DH-- DHHS surveyors are required now to visit a random sample of 25 percent of these facilities in-- annually with no facility going more than five years in between inspections. Facilities may have more inspections than that, based on the number and types of complaints received regarding the facility. What the LR296 Committee found was that this job is not being done in a timely manner. There are definitely not enough surveyors to handle the amount of complaints with simultaneous-- while simultaneously fulfilling their random sampling requirement. Therefore, the committee suggested they hire additional staff to meet these requirements. To my knowledge, there was no budget request for

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the additional staff. The job is not being done right now, and this bill would give us another avenue to investigate issues we are dealing with here. This is really about making sure that people are safe. Currently the Ombudsman's Office is not-- is only allowed to visit these state-licensed facilities in conjunction with a DHHS surveyor. This bill would allow them to be able to visit these facilities and report back to the Legislature on any issues they find. I believe, though, the work that the 2-- LR296 Committee has done and what I have demonstrated to you here is that this bill is necessary to continue the oversight into these facilities. I want to thank you for your time and your consideration today. I'd be happy to answer, try and answer any questions that you may have. If I'm not, I know that I'll be followed by Jerall Moreland, who will be able to give you a better perspective on the gaps in the oversight. Thank you. [00:06:39][271.4]

HILGERS: [00:06:40] Thank you, Senator Walz. Are there questions? Seeing none, thank you very much. I assume you'll stick around-- [00:06:46][6.4]

WALZ: [00:06:47] Sure. [00:06:47][0.0]

HILGERS: [00:06:47] --for most of the day. OK. First proponent. Welcome. [00:06:49][1.7]

JERALL MORELAND: [00:06:51] Thank you. Good afternoon, Senator Hilgers, members of the Executive Board. I am deputy ombudsman for institutions, Jerall Moreland, J-e-r-a-l-l, Moreland, M-o-r-e-l-a-n-d. It is my plan to make testimony on all four bills today. However, I'd like to-- I believe all the bills are related to LB572, so I'd like to make my testimony on LB572 and I can provide comments, as necessary, when the other three bills come up, if that is okay with the committee. [00:07:30][38.5]

HILGERS: [00:07:30] That's fair. Please proceed. [00:07:32][1.7]

JERALL MORELAND: [00:07:37] I am testifying in support of LB572, which would begin the process of creating a nexus from the Ombudsman's Office to assisted-living facilities. Essentially, the nexus would allow an independent form of inquiry for concerns regarding the actions of caregivers, individual caregivers, state agencies, and those stakeholders involved with licensed assisted-living facilities. As Senator Walz has shared with you, what we found in many of the places was not only extremely disappointing but highly inhumane. Due to these findings, we are of the opinion that increased oversight should be considered in this area to effectuate a more robust view of the problems associated with licensed assisted-living facilities.

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LB572 and other bills that you hear today will help position the office to examine the entirety of issues surrounding assisted-living facilities, which include the temperate conditions of these licensed facilities. Although the Ombudsman's Office has had direct oversight over administrative agencies since 1971, it wasn't until 2008 that Senator Ernie Chambers introduced LB467 which created the deputy ombudsman for institutions. The purpose of this bill was to provide the Ombudsman's Office a dedicated staff to look into facilities in those community-based behavior health services that contract with their regional behavioral health authority to provide services for individuals who are a patient within 12 months. This bill we believe is particularly important given the current challenges being faced by our assisted-living facility system and the relationship it has with the state's mental health system. For example, the Ombudsman's Office has spent a significant amount of time working on oversight and accountability issues surrounding Nebraska's state assisted-living facilities. In particular, we continue to work on individual complaints brought to the office, and recently participated and in LR296 which created the State-Licensed Care Facilities Oversight Committee. As a reminder, LR260-- LR296 was created in response to the death of a resident at one of these facilities, and DAHS [SIC] handling of the incident. Without going into all the findings of the LR296 Committee, I will highlight the findings that, as a result of LB1083, a significant segment of the population with seriously mental illness have turned to assisted-living facilities to fill their housing needs. Consequently, assisted-living facilities are not well suited to serving individuals suffering from serious mental illness. While many facilities do a good job, others fall far short, even to a point of posing a health and safety risk for the individuals living in them. Public awareness concerning behavioral and mental health continues to grow in Nebraska. With the population in Nebraska increasing each year, we also are challenged as a state with providing sufficient mental health services across the state. I'll close with this office has spent a significant amount of time working on accountability issues in state facilities operated by the Department of Health and Human Services, nonstate facilities contracted with D-- DHHS to provide mental health services, and nonstate facilities licensed to operate by the state. I can provide some of the related issues that I have in working with members on a legislative [INAUDIBLE] and would be happy to cover several pinch points of the system. [00:11:08][211.5]

HILGERS: [00:11:10] Thank you, Mr. Moreland. I would note I-- I appreciate your courtesy in trying to combine your testimony mostly in this bill and would reflect certainly your testimony for the other

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bills as well. So I let you go over the time a little bit. But are there questions? Senator Lowe. [00:11:23][12.8]

LOWE: [00:11:24] Thank you, Chairman. Thank you, Mr. Moreland, for being here and your service to our state. This bill does not carry much of a fiscal note, \$3,500. And-- and with over a hundred assisted-living facilities, that's 35 bucks apiece. Is there a reason why just \$3,500 in this fiscal note? Do you know? [00:11:49][25.3]

JERALL MORELAND: [00:11:51] Senator, good question. I think the \$3,500 relates to the transportation cost to go out and visit these sites. In terms of necessary resources for the expansion of our jurisdiction, as you know, the Public Counsel has the ability to bring on resources, with Executive Board approval, to carry out its duty. And so that is going to be one of the areas that we would need to come back to the committee on to-- if the committee decides to extend the jurisdiction on assisted-livings. [00:12:26][34.3]

LOWE: [00:12:26] So you may need more-- more staff in order to undertake this in the future. [00:12:32][5.8]

JERALL MORELAND: [00:12:32] That is correct. [00:12:33][0.8]

LOWE: [00:12:35] Yes. Thank you. [00:12:35][0.0]

JERALL MORELAND: [00:12:35] Sure. [00:12:35][0.0]

HILGERS: [00:12:35] Thank you, Senator Lowe. Are there other questions? [00:12:37][2.1]

BOLZ: [00:12:39] I have a couple. [00:12:42][3.2]

HILGERS: [00:12:42] Senator Bolz. [00:12:39][-3.6]

BOLZ: [00:12:39] Thanks, Jerall. Two questions. The first is your testimony references additional pinch points. I think it would be helpful for the committee to-- to just hear a rundown of some of those areas. [00:12:51][12.3]

JERALL MORELAND: [00:12:53] One-- Senator Walz had mentioned the process of surveying. Currently the department utilizes two surveyors to survey approximately 238 facilities. I believe if-- that last year they didn't hit that percentage of 25 percent. So we surveyed zero of your primary three-day type of surveys. That's a problem. And I think that's one of those areas that needs to be addressed, and we need to figure out how to make sure we have coverage, appropriate coverage, on the licensure and regulation design. Another area has to do with

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currently we saw, during our visits, a lot of residents standing. In other words they were a lot-- there was a lot of unstructured time. And what we find and some of the feedback we received from the residents is that that tends to be a problem as well. You're looking at health issues, we're looking at public safety issues. And so the committee had looked at that piece. I know they made several recommendations in regard to that area. The conditions, as I mentioned, were-- were "implorable." There were-- obviously there were bedbugs in-- in many of the facilities that we went to, or it's a issue that the facilities fight on a regular basis. One of the things we found is a lot of the residents are at facilities on short-term basis. In other words, they move from one facility to another facility. So one of the challenges some of these facilities have is how do we create a-- a intake system that allows for them to combat bedbugs, combat-- there's issues as far as property, controlling property, etcetera. We are aware of an increase of exploitation. In fact, we worked on several of those, those cases. And there needs to be a further look into what the department reviews to determine the viability of-- of facilities operating as assisted-living facilities.
[00:15:23][150.9]

BOLZ: [00:15:25] That's-- that's really helpful. My other question for you is-- thank you for that rundown. My other question for you is on-- on other related bills, on other bills of this type, we've heard feedback or testimony kind of describing some of the other oversight of Health and Human Service institutions. For these bills could you just describe how you perceive your role to be unique and added value in addition to those other oversight systems? [00:15:56][30.5]

JERALL MORELAND: [00:15:58] Uh-huh. Uh-huh. We need to understand the system. One of the other roles that this position has is Lincoln Regional Centers and the-- and the patients residing at the regional center. We also have the ability to follow those patients for a year when they are discharged from the regional center. And so I believe this is very relate-- is related to our mental health system. It's a piece that needs to be looked at. At the same time we need to examine some of the residents' ability to-- to obtain appropriate services. We need to look at if some of these residents have the necessary wraparound services with them when they move to these different placements. What we don't-- what it appears we don't do well is once they are discharged from the regional center, our discharge plan lets us know where they are going but what we've found in the system is many of them do move, and that's when we start seeing some issues as far as wraparound service, following individuals and some of the

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issues we're having as far as making sure we can provide mental health and dental type services. [00:17:17][79.8]

BOLZ: [00:17:18] Thank you. [00:17:19][1.0]

JERALL MORELAND: [00:17:19] Sure. [00:17:19][0.0]

HILGERS: [00:17:19] Thank you, Senator Bolz. Any other questions? Seeing none, thank you very much for your testimony. [00:17:23][4.0]

JERALL MORELAND: [00:17:24] All right. Thank you. [00:17:24][0.0]

HILGERS: [00:17:24] Thank you. Next proponent for LB572. Welcome. [00:17:34][9.9]

BRAD MEURENS: [00:17:36] Welcome. Good afternoon, Senator Hilgers and members of the Executive Board. For the record, my name is Brad, B-r-a-d, Meurens, M-e-u-r-r-e-n-s, and I am the public policy director for Disability Rights Nebraska. I'm here today in full support of LB572 and I will be extremely and unusually brief. Given the egregious incidents at facilities like Life Quest and others like them, increased direct oversight is needed. This legislation we feel would go a long way to meet that need. It would provide an additional layer of protection, another avenue for persons with disabilities to report incidents, and an entity expressly identified as having direct authority in this area. And thus, we fully endorse the advancement of the bill. [00:18:15][39.1]

HILGERS: [00:18:15] Thank you for your testimony very much. Is-- are there any questions? Seeing none, thank you. [00:18:21][6.6]

BRAD MEURENS: [00:18:21] Thank you. [00:18:22][0.2]

HILGERS: [00:18:22] Any other proponents for LB572? Seeing none, anyone wishing to testify in opposition? [00:18:28][5.9]

DARRELL KLEIN: [00:18:46] Good afternoon, Chairman Hilgers and-- [00:18:48][2.4]

HILGERS: [00:18:48] Welcome. [00:18:48][0.0]

DARRELL KLEIN: [00:18:48] --members of the Executive Board. My name is Darrell Klein, D-a-r-r-e-l-l K-l-e-i-n, and I am deputy director of the Division of Public Health for the Department of Health and Human Services. I'm here to testify in opposition to LB572. It adds assisted-living facilities to the authority of the deputy public counsel for institutions, and in the department's estimation this goes

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beyond their typical jurisdiction and into the affairs of private businesses, which could have implications for the department. For background, assisted-living facilities are privately owned and operated. DHHS does not own or operate any of this type of facility. However, we are responsible for their-- their licensing credential under the Health Care Facility Licensure Act. The Licensure Unit and the team members within that unit triage complaints, inspect facilities, and provide corrective action plans and/or disciplinary actions when state statutes and regulations are not met. In my prior life, I prosecuted healthcare facilities such as this. In situations where a resident is in immediate jeopardy, in other words, immediate danger, the Licensure Unit works with local law enforcement, Adult Protective Services, and other appropriate entities to enter and inspect the facilities and address the concerns. While the public counsel currently has the ability to enter and inspect DHHS's 24/7 facilities, it is currently beyond their scope to inspect a private facility without permission from the owner. And LB572 would expand the reach of the public counsel into the affairs of privately owned and operated assisted-living facilities, which is a large expansion that goes well beyond their current jurisdiction. Beyond the philosophical debate of whether or not it's the place of the public counsel to have jurisdiction over private entities, we have concerns regarding what it could mean for DHHS if this jurisdiction would be expanded, whether the findings by the public counsel would have implem-- implem-- excuse me, implications for the Licensure Unit, what-- what would it create new duties for the division and other divisions within the department? And our concern is the new jurisdiction would put us in the position to be involved beyond our current role and into the day-to-day operations of privately owned and operated facilities. And in our estimation, this goes beyond the jurisdiction of the state, and the department in particular. Thank you and I'll answer any questions.

[00:21:12][144.1]

HILGERS: [00:21:12] Thank you for your testimony, Mr. Klein. Are there questions? Seeing none, thank you for coming down. [00:21:23][10.3]

DARRELL KLEIN: [00:21:23] Thank you very much. [00:21:23][0.6]

HILGERS: [00:21:23] Thank you very much. Other opponents for LB572? Seeing none, anyone wishing to testify in a neutral capacity? Welcome. [00:21:30][7.0]

ASHLEE FISH: [00:21:40] Hi. Good afternoon, Chairman Hilgers and members of the Executive Board. My name is Ashlee Fish, A-s-h-l-e-e F-i-s-h, and I'm the advocacy coordinator for the Nebraska Health Care

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Association. The Nebraska Health Care Association is a family of associations providing a statewide continuum of long-term care services for Nebraskans. On behalf of our over 200 nonprofit and proprietary assisted-living members across the state, I am here today to provide neutral testimony on LB572, which would give an additional office the authority to investigate assisted-living facilities. We understand the need for oversight of facilities that care for some of the most vulnerable Nebraskans, and in any profession there are bad actors, even if they represent the minority. We believe-- and we believe they should be held accountable. Currently assisted-living providers must meet state licensure requirements and the Department of Health and Human Services Division of Public Health has the oversight authority to ensure compliance. Facilities that are found to be out of compliance with state requirements can be subject to stiff penalties that include fines. All of the information on an assisted-living facilities' cited deficiencies is publicly reported and easily available on-line. If an assisted-living facility is one of the 73 percent of the Nebraska's providers that is certified by Medicaid's age and disabled waiver program, there is an additional layer of oversight provided by the Division of Medicaid and Long-Term Care and its contractors. These providers are inspected annually and the residents who participate in the waiver program are typically asked monthly if the facility is meeting their needs and if they have any concerns. Facilities that do not comply with the Medicaid waiver requirements are no longer able to participate in the program. If there is any suspicion that an assisted-living resident may have been abused, neglected, or exploited, the facility is obligated to self-report and is subject to an additional investigation by the Licensure Unit and separately by Adult Protective Services. Additionally, if there is a concern or complaint related to an assisted-living facility or the care or rights of a resident, the federally required Office of State Long-Term Care ombudsman has the authority to conduct-- conduct an independent investigation. As there are already four offices with the authority to investigate assisted-living facilities, it seems "duplita"--duplicative to give the authority to a fifth office. Thank you for the opportunity to testify today and I'm happy to answer any questions you might have. [00:24:05][145.0]

HILGERS: [00:24:05] Thank you very much. Are there questions? Seeing none, thank you for your testimony. Anyone else wishing to testify in a neutral capacity on LB572? Seeing none, Senator Walz, you're welcome to close. [00:24:18][12.8]

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WALZ: [00:24:22] Thank you, Senator Hilgers. I guess that I feel if-- if this-- if everything was good and I didn't feel like there was anybody being abused or neglected, I wouldn't have brought this bill in the first place. But it's very obvious that there are some things happening in our facilities that should not be happening. And I think the number one priority for us, as legislators and leaders of Nebraska, is to make sure that people are safe and free from abuse and neglect. Again, that's the priority for me, making sure that the-- and-- and you as well. This is not a bill about infringing on somebody else's turf. Or, you know, expanding jurisdiction is something that I feel that we have to do in order to support people who have mental health issues, and also to make sure that we're supporting the providers who are providing the-- the programs and the care for people. I did hear that they felt this was an overstep into private businesses. The issue is that these facilities are currently licensed by the state. When we, as a body, say that the department has the ability to oversee these facilities, in the same manner we should also allow, I believe, the public counsel to have the same ability to double-- double-check their work or initiate their own investigation. It is not happening on an annual basis. It is not even happening to meet the 25 percent that is required. The first step to figuring out how we solve this problem is by understanding the entirety of the issue. Giving the public counsel more oversight is just one way to get a better grasp on what we're dealing with. So with that, I want to thank you. [00:26:25][122.3]

HILGERS: [00:26:25] Thank you, Senator Walz. Are there any last questions? Senator Bolz. [00:26:27][2.0]

BOLZ: [00:26:30] I just think it's maybe worth a little bit of a discussion because this is our public hearing and our public discussion on it. They may be private facilities, but these facilities are accepting public dollars. Correct? [00:26:43][12.3]

WALZ: [00:26:43] Correct. [00:26:43][0.0]

BOLZ: [00:26:43] And they're accepting public dollars, sometimes they're accepting Medicaid dollars, sometimes they're accepting aged and disabled waiver dollars, sometimes they're accepting dollars that come to individuals through the Social Security Act. But there is a relationship between the public taxpayer and these private facilities through the-- the payment for the services. Is that-- [00:27:07][23.4]

WALZ: [00:27:07] Correct. [00:27:07][0.0]

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BOLZ: [00:27:08] --at all accurate? [00:27:08][0.1]

WALZ: [00:27:08] Yes. [00:27:08][0.0]

BOLZ: [00:27:08] OK. Thank you. [00:27:09][1.3]

HILGERS: [00:27:09] Thank you, Senator Bolz. Any other questions? Seeing none, we do have one letter in support from Mary Sullivan of the National Association of Social Workers, Nebraska Chapter. That will close the hearing on LB572 and we'll plow on with LB598. Senator Walz. [00:27:19][10.1]

WALZ: [00:27:24] Thank you. [00:27:25][0.6]

HILGERS: [00:27:25] You're welcome to open. [00:27:26][0.7]

WALZ: [00:27:27] Again, good afternoon. And for the record, my name is Lynne Walz, L-y-n-n-e W-a-l-z. LB598 is a bill to require the department to provide access to any data contained in the Adult Protective Services central registry to the public counsel upon request. I have all-- I also have an amendment that will strike the language "on request" on page 2, lines 25 and 26. It's my intent behind this bill that the public counsel's office have unfettered access to the computer database that is currently available to DHHS without having to go through a middleman. Not only is this more efficient, but we are providing additional oversight to this registry. Assisted-living facilities have to report abuse to the Department of Health and Human Services. The department then refers these reports to specific divisions within the department. Adult Protective Services investigates and intervenes in situations of abuse and neglect. This happens when an individual reports to APS saying that they suspect such abuse is occurring. Staff and administrators at these assisted-living facilities are required to report such abuse to APS if they see or suspect such abuse is occurring. APS then investigates this report and informs law enforcement, if necessary; makes a referral to a specific service; and helps arrange needed items. What this bill is doing is requiring that any data, documentation, or computer system be made available in their registry, is also made available to the public counsel, a critical, crucial step to determine any further issues we may encounter. With that, I would be happy to try and answer any questions. [00:29:09][102.7]

HILGERS: [00:29:10] Thank you, Senator Walz. Are there questions? Seeing none, thank you very much. First proponent for LB598. I'll-- I'll have the record reflect that Mr. Moreland has given us his written testimony in support of LB598, and given the timing

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constraints we appreciate his courtesy to submit that in writing. Anyone else wishing to testify in support? Seeing none, anyone wishing to testify in opposition? Welcome. [00:29:36][25.5]

MATT WALLEN: [00:29:50] Good afternoon, Chairman Hilgers and members of the Executive Board. My name is Matt Wallen, M-a-t-t W-a-l-l-e-n, and I'm the director of the Division of Children and Family Services for the Department of Health and Human Services. I'm here to testify in opposition to LB598 on behalf of the department. This morning our DHHS team met with the Office of Public Counsel and Senator Walz's office to better understand the intent of LB598. Based on the discussion, it became clear exactly what information the Ombudsman's Office would like to access. I want the Executive Board to know that CFS is committed to working with the Ombudsman's Office to ensure they are able to access the necessary information reviewing any concerns. Thus, I am testifying today in opposition to the green copy of LB598 as introduced. LB598 is unnecessary as current state statute and practice provide for the privileges sought in the proposed legislation. I'll forgo most of the written statement in the interest of your time. I'll just note that the public counsel already has access to the Adult Protective Services central registry through N-FOCUS. Through existing access to N-FOCUS, the public counsel can access the narrative section of the case file to review the determination of substantiated cases for inclusion on the Adult Protective Services central registry. Improved access to those files can be achieved maybe with some additional training. I thank you for the opportunity to testify before you today, and I'm happy to any-- answer any questions that you all might have. [00:31:21][91.7]

HILGERS: [00:31:22] Thank you, Director Wallen. Are there questions? Senator Bolz. [00:31:25][3.3]

BOLZ: [00:31:26] I do have a question. I just want to make sure I understand. I'm trying to get clear on the distinctions I'm-- I'm hearing, I think. So your-- your argument is that the-- the public counsel already has access because they are accessing the information on behalf of individuals who approach the public counsel. Do they currently have access to systemwide information? What I'm trying to ask is would they be able to identify trends? Would they be able to put their fingers on certain types of people who are-- who are in different geographical areas who might be experiencing different things? Could they see a more systemic level, or is your argument that this isn't necessary because they can always-- already see it in a one-on-one manner? [00:32:14][48.3]

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MATT WALLEN: [00:32:16] No, I would say that they have access both kind of through that third party, if you will. But they also have access to N-FOCUS, in general, through 81-8,245; would give them essentially unfettered access to-- to the N-FOCUS system.
[00:32:34][18.3]

BOLZ: [00:32:35] So they would be able to access the systemwide information to identify if, for example, in the winter complaints went up or there's been a rash of bedbugs. They'd be able to identify what those complaints are. In other words, they can see it and analyze it on a big picture level, not just on an individual. [00:32:54][19.0]

MATT WALLEN: [00:32:55] That's correct. They have-- [00:32:56][0.8]

BOLZ: [00:32:56] OK. [00:32:56][0.0]

MATT WALLEN: [00:32:56] --they have-- they have that-- [00:32:56][0.8]

BOLZ: [00:32:57] Thank you. [00:32:57][0.1]

MATT WALLEN: [00:32:57] --unfettered access to N-FOCUS.
[00:32:57][0.4]

BOLZ: [00:32:58] That's what I was asking. Thank you. [00:32:59][1.2]

HILGERS: [00:32:59] Thank you, Senator Bolz. Are there other questions? Seeing none, thank you for your testimony. [00:33:01][1.8]

MATT WALLEN: [00:33:03] Thank you for the opportunity. [00:33:04][1.0]

HILGERS: [00:33:04] Anyone else wishing to testify in opposition to LB598? Seeing none, anyone wishing to testify in a neutral capacity? Seeing none, Senator Walz, you're welcome to close. [00:33:14][10.4]

WALZ: [00:33:17] I was going to waive, but I just wanted to make a clarification real quick. The amendment deletes the "upon request" language. That's what the amendment does. So no longer would they have to ask for it. They would just be able to do it. The other thing is that the focus on the testimony was on substantiated reports and we are asking that we are able to see unsubstantiated reports as well.
[00:33:42][25.1]

HILGERS: [00:33:42] Thank you, Senator Walz. Did you say there was an amendment or is that-- were you reference-- is there? [00:33:45][3.2]

WALZ: [00:33:46] Yeah. [00:33:46][0.0]

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HILGERS: [00:33:47] OK. I'm sorry, I missed that. OK. So we have an amendment. And we have it? OK. OK. Any questions on LB598 for Senator Walz? We do have one letter in support, also from the National Association of Social Workers, Nebraska Chapter. And I will close the hearing on LB598. And we will continue with LB599. Senator Walz,--
[00:34:06][19.0]

WALZ: [00:34:11] Hi. [00:34:11][0.0]

HILGERS: [00:34:12] --you may open. [00:34:13][0.4]

WALZ: [00:34:13] Once again, my name is Lynne Walz, L-y-n-n-e W-a-l-z. LB599 is another bill to give the Office of Public Counsel more-- more oversight in DHHS in order to help fill the gaps they are seeing. More specifically, this bill gives them access to any Children and Family Services data available upon request, including any triage complaint data. Again, I have an amendment to strike the language "upon request" from page 2, line 8. This would give them access without having to go through a separate individual, increasing their efficiency and giving them a better perspective on the whole situation. For your information, the Division of Children and Family Services includes child welfare, Adult Protective Services, economic support programs, and youth rehabilitation and treatment centers. This is needed purely to ensure access to the current data that is available and is not intended to serve as a substitute for the work the department is already doing. The intent behind this bill is to give the Ombudsman's Office access to any database that CFS is using to manage complaints in their department. Thank you for your time and I'd be happy to try and answer any questions. [00:35:26][73.4]

HILGERS: [00:35:27] Thank you, Senator Walz. Are there questions? Seeing none, thank you very much. First proponent for LB599. I will note again that we have the written testimony from Mr. Moreland in support of LB599. Anyone else wishing to testify? Seeing none, anyone wishing to testify in opposition? [00:35:46][19.6]

DARRELL KLEIN: [00:35:56] Good afternoon, Senator and--
[00:35:57][0.9]

HILGERS: [00:35:57] Welcome. [00:35:57][0.0]

DARRELL KLEIN: [00:35:59] --members of the Executive Committee. My name is Darrell Klein, D-a-r-r-e-l-l K-l-e-i-n, and I am deputy director of the Division of Public Health for the Department of Health and Human Services, and I'm here to testify in opposition to LB599 as written. And as Director Wallen indicated, the department

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representatives met with Senator Walz's office and then subsequently with the public counsel, so I'm going to jump to the final paragraph, which is the root of this. It was our understanding that the information and access sought is for complaint data primarily for assisted-living facilities. And the-- the complaint data, the triage system when we were first looking at this bill, we saw the reference was seeking data from Children and Family Services. But the phrase triage complaint database seemed to us to be referencing what public health maintains. And so the focus of my testimony would be, especially with the amendment removing the "upon request," the-- for public health for a complaint database that we keep for assisted-living facilities. It's part of the ASPEN Complaint Tracking System, and that's part of the ASPEN System which is provided to the department, to many states' use, for tracking facility complaints. And CMS provides it and it contains a lot of information about other types of facilities that are federally certified, and CMS maintains ownership, access, and control over that. So that would provide a difficulty to the Division of Public Health if the information sought is direct access to that ASPEN database. And I'll answer any questions you may have. The rest, the previous testimony was based upon the language of the bill and our understanding of it. So we do remain in opposition to the green copy and we identify a problem with an amendment if what's being sought is a public health complaint data from the ASPEN database. [00:38:06][127.7]

HILGERS: [00:38:07] OK. Thank you, Mr. Klein. Are there questions? So to clarify, we have an amendment. And even with the amendment on, you're still-- you're opposed. You're suggesting-- [00:38:16][9.0]

DARRELL KLEIN: [00:38:16] Yeah. [00:38:16][0.0]

HILGERS: [00:38:16] --there may be another amendment that could clarify that. [00:38:18][2.0]

DARRELL KLEIN: [00:38:19] The-- the way I understand it right now, basically CMS interprets the regulations as making its agents, state survey and certification facilities, employees. And since we maintain and employees of CMS have to refer requests for information to the regional office, so the net effect is since they provide us this database which we use, we have to route requests for information to them. So it's-- it's a little bit problematic even if it's an "on request." And I anticipate that they would cry foul if it was direct access. [00:38:55][36.5]

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HILGERS: [00:38:55] OK. Thank you very much. Seeing no other questions, thank you for your testimony. [00:38:59][3.8]

DARRELL KLEIN: [00:38:59] Thank you. [00:38:59][0.4]

HILGERS: [00:38:59] Others wishing to testify in opposition to LB599. Seeing none, anyone wishing to testify a neutral capacity? Seeing none, Senator Walz waives closing. We do have one letter in support also for the National Association of Social Workers, Nebraska Chapter. That will close the hearing on LB599, and we will turn to our last bill of the day, LB600. Senator Walz. [00:39:23][23.2]

WALZ: [00:39:23] I am still Lynne Walz, L-y-n-n-e W-a-l-z, and I'm here to introduce LB600. LB600 modifies the authority of the deputy public counsel for institutions to follow up with individuals who were patients within the prior 24 months of the state owned and state operated regional center. The bill allows for a more robust examination of mental health needs and systems changes-- challenges. The bill also appropriately clarifies that the veterans' institutions is no longer under the Department of Health and Human Services but is now operated by the Department of Veterans' Affairs. Some of you may be aware we continue to have problems with the Lincoln Regional Center in terms of its waiting list. The latest data on this showed a waiting list of 36 people waiting to go to a regional center for a mental health competency evaluation or restoration. If we have a waiting list of 36 people, then we have 36 people waiting to be discharged. Where are those patients needing to be discharged through a transition plan going into the community? And what challenges do the regional centers have with placement? The bill, this bill, allows for more follow-up with these individuals who have been released from these regional centers to see if they are receiving the necessary supports and services they needed. This bill also allows for more follow-up with these individuals who have been released from these regional centers to see if they are receiving the necessary services and reports. With that, I would be happy to try and answer any questions.
[00:40:58][94.8]

HILGERS: [00:40:59] Thank you, Senator Walz. Are there questions? Senator Chambers. [00:41:02][2.8]

CHAMBERS: [00:41:02] Senator Walz, you might be too young to remember this, but there was once a song. It was it said you keep coming back like a song. Had you ever heard of that song? Anyway, that's what I dedicate to you this afternoon. [00:41:14][12.5]

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WALZ: [00:41:15] Thank you, Senator Chambers. [00:41:15][0.3]

CHAMBERS: [00:41:16] OK. [00:41:16][0.0]

HILGERS: [00:41:17] Thank you, Senator Chambers. Any questions or other songs that you'd like to dedicate? [LAUGHTER] Thank you, Senator Walz. Any proponents wishing to testify for LB600? I would again note Mr. Moreland's testimony he submitted in writing, appreciate his courtesy again today, in support of LB600, which the committee has. Any others wishing to testify in support? Seeing none, anyone wishing to testify in opposition? Seeing none, anyone wishing to testify in a neutral capacity? Seeing none, we have no letters on LB600. Senator Walz waives closing and that closes our hearing and Senator Walz day for the day. Thank you. [00:41:36][20.0]

CHAMBERS: [00:41:53] Senator Walz, could you bring some bills before the Judiciary Committee? [LAUGHTER]