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COMMITTEE ON APPROPRIATIONS
February 7, 2006
LB 852, 1145, 1157

The Committee on Appropriations met at 1:30 p.m. on Tuesday, February 7, 2006, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB 852, LB 1145, and LB 1157. Senators present: Don Pederson, Chairperson; Lowen Kruse, Vice Chairperson; Chris Beutler; Jim Cudaback; L. Pat Engel; Lavon Heidemann; Marian Price; John Synowiecki, and Nancy Thompson. Senators absent: None.

SENATOR D. PEDERSON: Next item we have is LB 852. Janet, please proceed.

LB 852

JANET ANDERSON: Good afternoon, members of the Appropriations Committee. My name is Janet Anderson, A-n-d-e-r-s-o-n. I am the legislative aide for Senator Dennis Byars. He deeply regrets that he cannot be here to introduce LB 852; he has been in Washington, D.C. these past five or six days speaking with members of Nebraska's congressional delegation on impacts of federal Medicaid cuts that this will have on the state. He also has been working on national developmental disability issues as well, so he sends his apologies for his unavoidable absence. If there ever was a single issue that could define Senator Byars' career in the Legislature, I believe this would be the one. This is an issue that began in the early 1990's, shortly after Senator Byars first entered the Unicameral. An extensive study was done to compare wages at the Beatrice State Developmental Center to wages that private developmental disability provider employees received based on state hiring rates at that time. The Legislature established a funding methodology that would pay entry level private provider employees the same wage as entry level state employees as BSDC, based on a Tech I position. The pay methodology was not fully funded in the beginning, but has been incrementally increased over the last 15 years. When Senator Byars left the Legislature he continued to work with Senator Dave Maurstad to see that the pay methodology was funded. Senator Byars returned to the Legislature in 1999; the methodologies obligation still had not been fully met. For the past five years he has continued to try to

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bring the state up to its full obligation. Usually it's the private sector that outpaces state wages; this is not the case with this group of private providers. They are paid less for providing the same job as their state employee counterparts. And because the state no longer hires full-time employees at a Tech I rate but at a Tech II rate, private DD employees have fallen further behind. In 2005 the Legislature approved a two percent rate increase for most providers, including DD providers. This increase did not match the increase given to state employees, which was three percent and 3.25 percent. Since the pay equity for DD providers is based on BSDC's state employees rate, the two percent fell short of keeping the private providers on the same pay track as their state employees. Senator Byars offered an amendment last session that would have adjusted the pay rate, but the amendment was not successful, so the private DD providers fell farther behind in the funding methodology. Fifteen years after the initial pay methodology was put in place, it is an obligation still unmet, a financial commitment still not fully funded, a promise not kept. LB 852 would put developmental disability providers back on track with the 1991 agreement and finally reach the 90 percent funding level the state committed itself to so long ago. There will be three people to follow me and provide you with a better understanding of the history of the rate equity, the current status of the private providers, and how DD providers are not similar to other providers in the health care arena. Senator Byars would ask that you make this appropriation request in LB 852 part of your supplemental budget package. With that, I'd be happy to answer any questions.

SENATOR D. PEDERSON: Thank you, Janet. I think you know that there was extensive debate on the floor between Senator Byars and myself...

JANET ANDERSON: Correct.

SENATOR D. PEDERSON: ...concerning this matter. And I would just say that as I told him and told you, too, that this committee was not presented with adequate information concerning the pay equity situation when it was all treated as a group; and we treated everyone in the percentage brackets that we had allocated in a group. So we did not take into account, and nobody called our attention to the

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rate equity situation in regard to the people you're talking about.

JANET ANDERSON: We were remiss in that, Senator, and we intend to correct that today.

SENATOR D. PEDERSON: Okay thank you. Senator Engel.

SENATOR ENGEL: I'd like to make a comment. I've been active in that for several years, too, trying to get that up to par. And so I think it is an obligation that we do bring it up, because the people out on the front line are the ones that their heart...first of all, they're very dedicated people. When you make more money down at the burger shop than you can working with these people that need the help so much, I think that it is something that is an obligation for the state as far as I'm concerned. And I think we will do everything we can to rectify the situation.

JANET ANDERSON: Thank you, Senator.

SENATOR D. PEDERSON: I hope that those following you in testimony recognize our awareness of the situation and not go through the entire history of pay equity.

JANET ANDERSON: Be brief. (Laughter)

SENATOR D. PEDERSON: Thank you. Is the admonition given?

JANET ANDERSON: Yes.

SENATOR D. PEDERSON: Thank you.

DAVE MERRILL: I had brief testimony, it just got briefer. (Laughter)

SENATOR D. PEDERSON: Thank you very much.

DAVE MERRILL: It was just a page and a half, and we're not even going to go through that.

SENATOR D. PEDERSON: Let's get to the half.

DAVE MERRILL: (Exhibit 1) Chairman Pederson and members of the committee, my name is Dave Merrill, M-e-r-r-i-l-l. I'm

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the Director of Region V Services, a member of the Nebraska Providers Network. And we support the passage of this bill. As Senator Pederson knows, there is a long history. The funding for this program started out with block grants; it's evolved a long ways. And the most important part is that the funding system is driven right now by the negotiation of state employees, you know, for each year. And I think the crux of that is that negotiation represents whatever the state of Nebraska's economy is and the need to hire quality employees. And that's the driving point for the current funding methodology; and we hope that you will advance this bill. Any questions?

SENATOR D. PEDERSON: Thank you, Dave. Any questions?
Chris.

SENATOR BEUTLER: Just a quick question, if I might. Remind me how...if we fund it at 90 percent, what does that mean with respect to the entry level workers in your particular industry?

DAVE MERRILL: In our industry it varies quite a bit, I think, from \$7.50 to about \$9.50 an hour for entry level salaries, something along those lines. What it means is that we will be able to...people will be able to be paid a quarter of an hour more probably than if this did not pass.

SENATOR BEUTLER: Well the obligation of the providers to provide a uniformly high entry level rate does not pertain?

DAVE MERRILL: Yeah, we're required to...any appropriation has been 65 percent need to go in terms of salary and benefits for direct support people.

SENATOR BEUTLER: How those benefits are proportioned is not dictated by this formula?

DAVE MERRILL: Not by the state, no, no, by the marketplace. Since the people we support have a choice of providers, the providers do the best that they can to try to come up with what will enable them to recruit and keep good staff.

SENATOR BEUTLER: Okay thank you.

DAVE MERRILL: Sure.

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SENATOR D. PEDERSON: Any other questions of Dave? If not, thank you very much.

DAVE MERRILL: Sure.

ALAN ZAVODNY: (Exhibit 2) You're getting my condensed version as well. Senator Pederson, members of the Appropriations Committee, for the record, my name is Alan Zavodny, A-l-a-n Z-a-v-o-d-n-y, and I'm the Chief Executive Officer for NorthStar Services. We provide supports for approximately 400 people in 22 counties in northeastern Nebraska. I just want to say we received the message from you loud and clear that we didn't make our case very well last year. And I hope to rectify that today. Sometimes being unsuccessful causes you to reflect on what went wrong. And I hope as providers we have pinpointed that place. And I think Janet made a pretty good case of where it was short. I would like to address Senator Beutler's question just really quickly. The 90 percent, for us, of the Tech I is roughly \$7.20 of what the methodology allows us to fund for our staffing, whether it's an entry level or the longest lasting staff we have. So the state is now funding at roughly \$7.20 an hour. We're paying more in the range Dave spoke to...shows cuts in other areas to try to put more money toward the salary part. The problem we're running into is you hear from everyone else that all of the costs are going up. And on the last page what I've provided to you shows percentages and actual dollar amounts of where changes have occurred. The main question that I want to make sure we make clear is for all intents and purposes you are our only funding source. We do receive some money from counties and a few other places, but it's usually very small. And we can't charge more to meet our costs. The one story I wanted to share is that, you know, our rates are set by the amounts set by you. And I attended a meeting last week where licensure and regulation informed us they had to charge us more money for the license required for our group home. The rationale was their mandate is to be self-sufficient and not require General Funds. They had to cover a new three percent salary increase. We didn't get that three percent, but they have to charge us more to cover their increase. That irony was pretty glaring for me. Finally, Janet talked about and I explained it in responding to Senator Beutler's question, so at this point I just want

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to say you've all been open and accessible to learning more about our situation during the interim, and let me thank you for that. And we understand that solving the state's issues is a process. We know that you'll decide on how to address our funding based on the merits of our case as we have presented it, and that's all that we can ask. And we thank you for your consideration.

SENATOR D. PEDERSON: Thanks, Alan. Yes, Chris, you had a question.

SENATOR BEUTLER: Alan, if there were anymore additional funding, in your opinion, would it result in any more training of the front-line people?

ALAN ZAVODNY: We currently provide about 40 hours training within that first year. I don't know that the additional funding would necessarily go for more training. But we certainly have had to be responsive to changes in the industry. When incidents happen we certainly pay more attention to training so those types of things don't get repeated. So more...I think it would be irresponsible for me to say, but we've certainly changed where the focus of some of our training has been.

SENATOR ENGEL: If you didn't have so much turnover, you probably wouldn't have to spend so much in training, right?

ALAN ZAVODNY: That is correct, although we have ongoing training, too, and we visit...

SENATOR ENGEL: I mean you have to have that, but I mean as far as...

ALAN ZAVODNY: You know one of the sad realities in our industry is turnover has been one of the ways that we have stayed solvent. That's pretty sad commentary to how things work, but when you replace someone making \$10 an hour with back to the \$8.75, where we start, there's a savings realized in the 2080 hours in a year.

SENATOR ENGEL: Somebody probably suffers a little bit though, don't they?

ALAN ZAVODNY: It's a bad deal because inexperience is one

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of the areas where bad things happen. People make mistakes and, you know, lack of experience results in some of the bad outcomes that we all want to avoid. And to just emphasize what Janet said, too, you know you can go elsewhere and not have to worry about getting kicked and hit and some of the things that our staff deal with on a daily basis, a lot of places.

SENATOR D. PEDERSON: We admire what your staff does, what you do.

ALAN ZAVODNY: Thank you very much, Senator.

SENATOR D. PEDERSON: Any other questions for Alan? Thank you, Alan.

DR. MONA MCGEE SNYDER: (Exhibit 3) I will be brief, I promise.

SENATOR D. PEDERSON: Thank you.

DR. MONA MCGEE SNYDER: Senator Pederson and members of the Appropriations Committee, my name is Mona McGee Snyder and I'm the President of the Nebraska Association of Private Resources NeAPR, or the DD provider trade association. My day time job is I'm the Regional Director of Mosaic in the Nebraska region. And so we...I really appreciate the opportunity to offer testimony on behalf of LB 852 today. I know that you have faced a very long day and I appreciate your time. Most of what needs to be said about this bill has already been shared. However I did want to visit with you just briefly about the uniqueness of the developmental disability services and of the people in the communities that we support. As DD providers we provide services and supports to our clients under contract with Health and Human Services, and we're reimbursed by HHS to do so. But where we're quite different from any other providers with whom HHS contracts is that the funding we receive from the state is what we're almost 100 percent dependent upon to do everything within our agencies. Other than the very modest amount of funding that comes as a result of private philanthropy for private providers or county assistance for regional providers, the payments we get through the department is essentially our only funding. We have virtually no private pay, private insurance or other

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revenues to absorb the shortfalls between what it costs to provide services and what we're reimbursed by the state for doing so. As such, we're different from hospitals, nursing homes, or other behavioral health professionals, and essentially all other providers in the state. When HHS sets our reimbursement rates we have to somehow identify how we're going to provide care and services to our clients, which is the most important thing for that amount. Two-thirds to three-fourths of our costs are personnel costs, and most of our personnel costs are for entry level staff, called Direct Support Professionals or DSPs. We must compete with other employers, chiefly the food service industry, believe it or not. So we're working...we're trying to compete against McDonald's, Burger King and sometimes Wal-Mart with them growing in our other communities. When our state reimbursement falls behind the labor market, we're left in almost an untenable position. This inability to hire qualified, caring professionals directly impacts quality, the people we serve, their families and our communities, as well as our reputation and our partners with...excuse me, other individuals within the state. I hope that you'll be favorable in your consideration of LB 852 and that you will advance it to the General File, or better yet include it in the mainline supplemental appropriations bill, and will actively support it and the people we support in floor discussions. I really do thank you again for your time. And if you have any questions, I'd be more than happy to try to answer them.

SENATOR D. PEDERSON: Thank you, Mona.

DR. MONA MCGEE SNYDER: Thank you, Senator.

SENATOR D. PEDERSON: This was the method that we kind of decided on as a way to approach this issue was by legislative bill; then perhaps it can be embodied into a...into the mainline budget bill. We'll see what happens; we'll see what the committee decides to do. But thank you very much for your testimony.

DR. MONA MCGEE SNYDER: Thank you, I appreciate your time. Yes, Senator Beutler.

SENATOR D. PEDERSON: Chris.

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SENATOR BEUTLER: You know all of the contracts are with the executive branch of government, right?

DR. MONA MCGEE SNYDER: Um-hum.

SENATOR BEUTLER: And the people closest to your situation that really should be advising us on this are the people in our executive branch of government, right?

DR. MONA MCGEE SNYDER: Um-hum.

SENATOR BEUTLER: What are they telling you, or why aren't they willing to fund this?

DR. MONA MCGEE SNYDER: I haven't been given a rationale, Senator, on that. I know that our needs, not to deflect from your questions, but the clients that we're getting as referrals from the department, you know, we talked earlier today about behavioral health needs. The needs of the people coming into our services now have raised the stakes even higher. And hiring staff that are qualified and able to have a living wage has been important within our organizations. And so, you know, we appreciate any advice that you would give to us on that as well.

SENATOR BEUTLER: Okay thank you.

SENATOR D. PEDERSON: Thank you, Mona.

DR. MONA MCGEE SNYDER: Thank you.

SENATOR D. PEDERSON: Any other presenters?

ROGER STORTENBECKER: (Exhibit 4) Good afternoon, Chairperson Pederson and members of the Appropriations Committee. Thanks for the opportunity. My name is Roger Stortenbecker. I'll see if I can spell my name at least in the same amount it takes to provide my testimony. S-t-o-r-t-e-n-b-e-c-k-e-r. I'm the Chief Development Officer of Developmental Services of Nebraska. I really don't have a lot to add to what has already been said. What I would like to add though goes to Senator Beutler's question about, would this increase staff training? I can speak for the company I work for only. The answer is this would cause...this would give us a method to increase the

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upper end of our training. We provide 60 hours of preservice training now. If we could hang onto our staff longer, we would convert that to higher order training, which would then result in higher quality service, better retention, directly affects the quality of life of the people that we support. If you can imagine if you needed some assistance with your personal care items, having somebody new come to the door every couple of months would be very uncomfortable. You just don't develop relationships. So it's imperative that we are able to pay people that they will stay. I'd be happy to answer any questions.

SENATOR D. PEDERSON: Thank you, Roger. I'm a lawyer; we do name changes, too. (Laughter)

ROGER STORTENBECKER: I have to own up to so many responsibilities with that name, it wouldn't be fair to somebody else.

SENATOR D. PEDERSON: Okay, thank you. Any other proponents? Our three grew to five. Okay.

JANE WILLIAMS: (Exhibit 5) My name is Jane Williams. I appreciate the opportunity to come before the committee. And I want to thank you, Chairman Pederson. I'm here as a member of the Arc of Lincoln/Lancaster and the Arc of Nebraska, which is a support and advocacy organization for people with developmental disabilities and their families. The Arc of Nebraska is a state affiliated chapter of the Arc of the United States. We have 17 local chapters with approximately 2,300 members. I'm here in support of LB 852. Much of what I had to say and you can read, so I'm a retired teacher and I don't like reading to adults, I'm not going to read it to you. (Laughter) I am going to say to you though that the imperative that we hear from our members and our clients is the relationship between the direct service providers and their client. When people are forced to leave a field because they are placed in financial jeopardy by their job, those relationships have to be reformed. And when we are talking about people with developmental disabilities, it is sometimes more than just difficult to rebuild those relationships. Some of our clients do not have families and close friends that can bridge those gaps that are taking place through the learning curve of new

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staff members, and so it's imperative that proper compensation be provided to direct support personnel. That's all I have to say. Thank you.

SENATOR D. PEDERSON: Thank you very much, Jane. Any other proponents? Any testimony against this bill? Any neutral testimony? You want to close? Okay. Closing is waived by Janet. Thank you very much and we close the hearing now that legislative bill. And now turn to LB 1145.

LB 1145

SENATOR BOURNE: (Exhibit 1, 2) Good afternoon, Senator Pederson and members of the Appropriations Committee. My name is Pat Bourne. I represent the Eighth Legislative District in Omaha, here today to introduce to you LB 1145. The purpose of LB 1145 is to guarantee that the Legislature appropriate sufficient funds to develop community-based mental health services. A few years ago the Legislature started the move toward more community-based services. It has been found that services offered at the local level are more effective and more cost-efficient. It is absolutely essential that we provide funding during this transitional period. Last session the Legislature made headway in fighting one of the state's biggest problems, methamphetamine abuse. In 2005, the Legislature, working with the Governor and the Attorney General, introduced and overwhelmingly passed LB 117. The purpose of this bill was to curb the existence of local, clandestine meth labs in this state by limiting the availability of pseudoephedrine, a necessary ingredient to the manufacture of meth. Our efforts are working, the Nebraska State Patrol reported that the number of meth labs busted in the state declined by 70 percent since LB 117 went into effect. But LB 117 is just the first step in fighting against meth.; the next step is providing treatment to those who have gotten caught up in this highly dangerous and addictive drug. As long as there are people addicted to meth, there will be people willing to exploit that addiction by manufacturing and trafficking the drug. Last year the Legislature commissioned and you funded a study that looked at where we are in terms of treatment options and where we need to be. That study, conducted by the University of Nebraska at Omaha, found significant issues with our current substance abuse programs. There are

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500 plus people each year incarcerated in this state that are identified as needing meth treatment. They don't receive the treatment they need while incarcerated, and when they are released they are at huge risk of reabusing. In addition to our meth treatment problems, we are also looking, as a state, at how to protect our communities from sex predators. This session I have introduced LB 1199. Prior to the start of the session I worked closely with the Governor and the Attorney General to determine the best approach to stop these offenders. Again what we found was that we do not have the resources to adequately treat and monitor these individuals. Though LB 1199 calls for much tougher prison sentences, eventually many offenders will be released from the correctional system. Some offenders can be treated while others cannot. Currently some of those people that can't be treated are committed to the Lincoln Regional Center. Unfortunately the regional center is already near capacity. There are 64 beds available for acute sex offenders and those are now full. There are 21 beds available in a transitional unit, 20 of those beds are full. How do we guarantee that meth addicts and sex offenders receive the treatment they need? How do we protect our communities from those offenders that are at high risk of reoffending? The meth treatment report I mentioned earlier suggested utilizing the Norfolk Regional Center as a specialized treatment facility. At this point, there are still a trained staff at the facility, but soon budget cuts will dismantle this potential resource. Regional center staff will eventually move away from the area to find other jobs, much like what has happened in the Hastings area. Senator Brashear introduced LB 1248, which would provide for meth treatment out of the community corrections budget. But, until this bill is debated and passed, we don't know what form this treatment will take. Until we debate and pass LB 1199, the sex offender bill, we don't know how we will effectively deal with the offenders released from prisons. The purpose of this bill, LB 1145, is to guarantee that we carefully examine our currently available resources and that we continue to develop our community-based mental health system through adequate funding.

SENATOR D. PEDERSON: Thank you, Senator Bourne. I notice we have a dollar figure of a dollar XX.

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SENATOR BOURNE: That's right, we have X's in there. And the reason for that is the bill is designed to bring to your attention that there are demands on community-based resources. We don't know exactly what those demands are, but oftentimes committees don't talk to each other enough, and so I wanted to bring to your attention that there is a lack in community-based resources; there's a huge transition going on now, and we have several measures in the hopper, so to speak, that will demand some of these resources.

SENATOR D. PEDERSON: We're glad to talk to you. We have...the three bills that you mentioned, this one and the other two, are going to have to be considered in conjunction with one another, I think, in order to make an effective transition. Let me ask you this, how do you propose we're going to make the transition? Currently the Norfolk Center is dealing, to a large extent, with mental health concerns, and now we're talking about methamphetamine concern in that regard. There's got to be a transitional aspect to all of this.

SENATOR BOURNE: I agree, and...

SENATOR D. PEDERSON: You want to comment on that at this time?

SENATOR BOURNE: Well I agree and I'll tell you part of the reason for LB 1145 is to acknowledge and help us through that transitional period. I don't know what the best way to treat methamphetamine abuse is, but I do know what the study has indicated. So it seems to me that if we provide some transitional money so as to keep all of our options open, we'll be further ahead. I don't know if a treatment facility should be there in Norfolk or not, but the study indicated that it's a perfect (inaudible), if you will. And if we let that slip away, it might cost us more money to rebuild it than if we had provided some dollars today to continue it.

SENATOR D. PEDERSON: There's a time to do things, and somehow if you don't act upon that time you lose the capacity to make a transition.

SENATOR BOURNE: Exactly, and then the point is, as you stated, to take it a little further, it will cost more after

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that point in time passes to rebuild what we dismantle.

SENATOR D. PEDERSON: Well we're going to have to consider this bill along with the others to make an orderly transition. I'm glad to see you're working with the Governor in this connection, because I think this is probably one of our three biggest problems we have to deal with in the state.

SENATOR BOURNE: I agree; thank you.

SENATOR D. PEDERSON: Other questions of Senator Bourne at this time? Senator Beutler.

SENATOR BEUTLER: Just one, Pat. And maybe you can't comment on it, but somebody else can. But the skill sets that are best for treating meth victims, criminals, whatever...however you want to characterize them, are those the same skill sets that the work force at Norfolk has?

SENATOR BOURNE: I'll be honest with you, I don't know. But I do know that the study indicated that that...that we have a resource there and that potential exists to use that resource to treat meth. So I can't say that. There probably is people behind me that could comment towards that (inaudible) to the study. And I'm not going to kid you, I haven't read the study verbatim. It's pretty extensive, but it did indicate that we should contemplate using the Norfolk Regional Center and the trained staff that are there to help solve this problem.

SENATOR BEUTLER: Okay.

SENATOR D. PEDERSON: How many bills do you have in Judiciary this year?

SENATOR BOURNE: I think 92.

SENATOR D. PEDERSON: We're glad you took time to come talk to us.

SENATOR BOURNE: And you know, this is the first time I've ever been in front of the Appropriations Committee, and I think I have one more this session.

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SENATOR ENGEL: Nice experience, isn't it?

SENATOR BOURNE: It's a wonderful experience. (Laughter)

SENATOR KRUSE: We're very gentle; we don't have any lights or (inaudible). (Laughter)

SENATOR BEUTLER: We certainly don't want to set a bad precedent.

SENATOR BOURNE: That's right.

SENATOR D. PEDERSON: Anybody want to be abusive here? (Laughter) Okay, thank you.

SENATOR BOURNE: Thank you, I appreciate your consideration on the bill. Thank you.

SENATOR D. PEDERSON: Thank you. Other proponents?

BRAD MEURRENS: (Exhibit 3) I have some reading materials for you.

SENATOR D. PEDERSON: Good, good.

BRAD MEURRENS: Good bedside reading. Good afternoon, Senator Pederson, members of the Appropriations Committee. For the record, my name is Brad Meurrens, M-e-u-r-r-e-n-s, and I am the Public Policy Specialist at Nebraska Advocacy Services. I'm also including with my supplemental materials, a letter of support from the Arc of Nebraska (inaudible) continue the hearing, so I offer to (inaudible) provide (inaudible) their testimony. We are the center for disability rights law and advocacy (inaudible) protection an advocacy organization for the state of Nebraska. We fully support LB 1145. We strongly supported reform of the behavioral health system, LB 1083, and we fully support the transition from institution to community-based services. In order to fully achieve the benefits of this transition it is critical that funding be allocated to create a strong system of community-based services for persons with mental illness. The political support has been demonstrated. Now is the time for the financial support. However we must move beyond doing things the way we have in the past. (inaudible) developing consumer run and operated services, such as long

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lines, peer support groups...

(RECORDER MALFUNCTION - SOME TESTIMONY MAY HAVE BEEN LOST)

MARY ANGUS: (Exhibit 4).

ROGER KEETLE: ...giving to you is we're not quite sure if LB 1083 is working, and that is, are the community-based services in place to replace the Norfolk Regional Center? And that's probably the summary of what's in here. What this testimony shows you is we've got some warning signs, and that is we are seeing people backup in our emergency rooms, we're seeing post-commitment days, that means days that are in the hospital, go up; and we're concerned about bringing up the services, particularly in Region VI, in Omaha, particularly in one level of care which is basically called subacute care. And we see, for example, I have evidence from North Platte, it's taking us two weeks to get somebody into Hastings. It's taking us a long time to get people out of the hospital emergency room at a level of care that is not the care, not the level they need, not what people need to get well; they're backing up in the emergency room and we're not getting people in the community-based services as we should. We think the administration is extremely optimistic that they're going to be able to turn the lights off at Norfolk and turn the lights on in a new service in the community and have it actually work; if it doesn't work, we're going to have more people in our emergency rooms. It's...this system is very, very tight; it has no access capacity; there is no room to deal with if the system fails. And if the system fails, it's back to my hospitals 24/7 problem, back in the emergency room, and that's where people shouldn't be, that's the most inappropriate setting. We are not established, that is not how care can be given that people need.

SENATOR D. PEDERSON: We've always had this same concern about LB 1083, haven't we?

ROGER KEETLE: Right.

SENATOR D. PEDERSON: ...as to whether it will actually transition into a working event.

ROGER KEETLE: Right. And the other complication to this is

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LB 1083 hasn't planned for the whole system. What I have in my testimony is the statement from the discharge planner at Immanuel Hospital, Alegent-Immanuel Health, reporting their statistics for the last month. And 29 of the 47 patients that they couldn't place within a day were children. And we're going to talk...the next bill talks about trying to fund behavioral health services. What I hear from the hospitals is youth are hard to place, which isn't really what's encompassed by behavioral health reform; but we can't get those youth into residential care treatment, so they sit in our emergency rooms. Bryan Hospital has had this problem; we've heard this problem across the state. It's the kids that we haven't really dealt with that need to get into another level of care, and there is no service available. Again, Norfolk is getting ready to close an additional bed...number of beds in March and May, and we see a lot of go-slow, caution lights. We know the Oversight Commission has said let's...give us evidence; I'm afraid you're going to see a deficit appropriation anyway because I think there's a need to keep Norfolk open longer than the administration plans to really make sure our system works. So with that, remember when we get them on Medicaid there is two for one match. This is a program where we can multiply our dollars if we use them correctly. And with that, I would conclude hopefully brief testimony but really kind of telling you how it looks from our perspective.

SENATOR D. PEDERSON: You've always been the ultimate source of last resort, haven't you, as a hospital.

ROGER KEETLE: That's correct.

SENATOR D. PEDERSON: Okay.

ROGER KEETLE: And the meth problem, the best example I have on the meth problem is the room at the North Platte hospital has plywood walls and a steel door, and the meth patients will beat the door down. I mean that phase of it shows you, you've got to have a system where you have acute care and then you have the treatment to follow them out the door to keep them from reoccurring. And it's going to take a system.

SENATOR D. PEDERSON: And that takes up about a fourth of the North Platte hospital, I think, now that unit.

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ROGER KEETLE: Yeah.

SENATOR D. PEDERSON: Okay. Thank you, Roger.

ROGER KEETLE: Thank you.

DON WESELY: Mr. Chairman, I understand we have two minutes before you turn into pumpkins, (laughter) so I'll be very brief. I'm Don Wesely. I represent Norfolk, but I'd actually like to just be here as a past chair of the Health and Human Services Committee and tell you that all the testimony you've just heard is a prelude to what you'll hear tomorrow with LB 1258, which is a very important bill that deals with the question of Norfolk's future and meth treatment and other issues dealing with community and services in the community to deal with drug addiction. A very comprehensive approach, has a lot to offer, I think, in dealing with some of the concerns that have been raised. But my perspective is this that there is a place and a role for different places to meet different needs. There is a need for institutional care for certain individuals that are not safe in public; whether they are a sex offender, or a drug addict that's committed a crime, been sentenced and sent to jail, they need to be institutionalized. There are other individuals who are better served in the community. And one of the things I admire about Norfolk is they recognize that; they support legislation like this, to have more community-based programs, because there is a right situation for individuals in the community. But there are also situations again, institutional questions you've raised, Senator Beutler, the idea of the meth treatment center is not to institutional meth treatment; it is to take individuals already institutionalized because they've committed a crime; they are institutionalized through the court system into our criminal justice system. Now is it appropriate to leave them there without treatment or sex offenders who have been sentenced to the criminal justice system not being treated? That makes no sense. So the appropriate place we think is in the regional centers, whether they be Norfolk, Hastings or Lincoln; the appropriate place needs to be worked out in each situation. But they did look at the idea that Topher Hansen talked about, which was having treatment in the prisons. We've been trying to do that for 15 years, it hasn't worked. Part

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of it is, going back to the study that was done, if you go into the prisons and try and build up their treatment, you actually take staffing away from those communities where those prisons are located. You've got the staffing now that can be transitioned into providing for meth treatment up in Norfolk. Already they're doing a lot of that with the clientele they have there now. They're ready and available and the facility is there, and so it makes sense. So all I'm saying is on the institutional question is this concept isn't to institutionalize people that aren't otherwise being institutionalized; it's where is the appropriate place to treat people. And that's the question you're going to have to decide in this comprehensive response, as Senator Pederson talks about, where is the right place, where is the right funding, where is the right program to be located in? With that, thank you.

SENATOR D. PEDERSON: It's not easy.

DON WESELY: No, it's very complicated.

SENATOR D. PEDERSON: I can remember, I think I've mentioned this before, I had a letter from a lady in my district, in one of the smaller communities. And she said she was so grateful that her son, he had been put in the Penitentiary so he'd get treatment. He was there for 18 months on a waiting list. And so there just has not been the treatment that was represented. So it, you know, we haven't been doing a very good job in that respect at all.

DON WESELY: Absolutely.

SENATOR D. PEDERSON: Thank you, Don.

DON WESELY: Thank you.

J. ROCK JOHNSON: My name is J. Rock, J. Rock Johnson, initial J, R-o-c-k, J-o-h-n-s-o-n. As we know, salvation of the state is watchfulness in the citizen. I appreciate very much that we have public hearings such as this so that people might be heard. Although sometimes one might come into a hearing such as this one, as I did, with certain assumptions about the purpose of the bill. I had assumed that the monies that would be appropriated, one would hope eventually, would go to inculcating the spirit and the

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letter of LB 1083, that is the recovery-based system and person-centered planning. In my own opinion, I believe at this time what we have is institutionalized decentralization. And I won't belabor this, but we have people who are being served in the community who go to a program rather than creating their own recovery plans. Director Nelson, in his testimony on Agency 26 finance and support, talked about a couple of things that I'd like to bring to you just for information. Personal assistant services is something that we now have in regulation, except there was explicit discrimination against people with mental illness in the regulations. And this is a service that would help people and save money. Also I call your attention to a bill, LB 625, which is still being held in the Health and Human Services Committee. It's a Medicaid buy-in for individuals with disabilities. It's very similar to the parental buy-in that he discussed. He also mentioned cash and counseling. I went to my First Federal Conference around cash and counseling in 2001, it was a Robert Wood Johnson demonstration program in conjunction with the Center for a Medicaid/Medicare Services, I think it's the other way around actually. And now for people with mental illness there is a self-determination program of the same kind of thinking where an individual has a recovery plan, has a life coach, and has money that goes into that recovery plan that that individual chooses how they will spend that money. And I say this again to reinforce, I believe, the promise of LB 1083, and we really have to do some changing around what we think about recovery. Everybody has a role in recovery. Consumers must become informed and ask for what works. We must ask providers about the outcomes they deliver. By cultivating positive practices we may enjoy greater health. Policy people and administrators must read the research about effective services, and at this point I would incorporate by reference the written testimony of Nebraska Advocacy Services, Brad Meurrens, on this point. The laws, rules and policies must be examined to root out discrepancies that do not support recovery. And we must expect outcomes for public dollars. I serve on the subcommittee for Consumer Survivor Issues of the Substance Abuse and Mental Health Service Administration, Center for Mental Health Services National Advisory Council, which...

SENATOR D. PEDERSON: Just rolls right off the tongue, doesn't it.

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J. ROCK JOHNSON: It does, doesn't it, which gives me a SAMSA CHS, it does give me a very broad picture. And I'm extremely concerned about, in part, some of the lack of information around methamphetamine. What I'm hearing from my colleagues is that people are ending up with dementia in their thirties and forties, which means essentially they're virtually brain dead, but their bodies are still functioning. So there is a sense in which here we are talking about a long-term care issue. And the methamphetamine, the sex offender expenditures seem to both be coming out of mental health, and I have an issue with that. As far as the discussion about Norfolk, I believe that I've seen Governor...I don't mean Governor, strike that, I have seen Mayor Gordon Adams on the record that the building there is so full of asbestos that there is not anything that really can be done with it, that's it's not viable as a structure. And I haven't conferred with the 309 Committee on that matter, but this is a statement that he has made. And as far as the study about the methamphetamine it seems to focus, you know, more on geography than on the needs for staffing and the...seems like we're making new words all the time, criminogenic was the new one for me. But to have that kind of background, direct service staff must cultivate their own personal characteristics that support recovery. Again this is coming from the perspective that the focus of this funding will be to carry LB 1083 forward. And as Mr. Keetle said, I think part of the problem is we haven't been able to turn out the light in Norfolk.

SENATOR D. PEDERSON: J. Rock, are you appearing in favor of this bill? (Laughter) I'm having a little problem determining this.

J. ROCK JOHNSON: Well, Senator, when one is presented with a bill that has XX in it and one learns...

SENATOR D. PEDERSON: We have our own set of X's, too, we're not sure what...

J. ROCK JOHNSON: ...that apparently this is to be a convergence or...

SENATOR D. PEDERSON: Yeah.

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J. ROCK JOHNSON: ...or a comprehensive approach to substance abuse, methamphetamine use and sex offenders, I have to step back and say I have to take another look at this, because I'm saying two things. One is about LB 1083, the other is what I know and have heard about methamphetamine and what the projection is from that.

SENATOR D. PEDERSON: This bill is only five lines long, so we have to fill in a few blanks here together with the X's, so it's meant to be a placeholder, I think, in discussing the total issue.

J. ROCK JOHNSON: I wish I knew how many lines there were in the Bill of Rights, Senator. (Laugh) It would be a few more. And in terms of the...I wanted to say about the...there are some folks, I believe, who are working at Norfolk who are in the third and fourth generation, and that's been the tendency of state hospitals is to be a very important economic engine. And I think that that was one of the things that was discussed early on is we have to deal with the economics of these communities. So in closing, I would say that this represents again a confluence of some very difficult issues. I think that money is being taken or through the behavioral health and that the issues of methamphetamine and sex offenders appear to be primarily ones of the criminal justice system. This should be, as Mr. Hansen mentioned, some interrelationship among these two systems. But right now it's draining money, I believe, from the system that so badly needs to become recovery oriented so people can get out of the programs. I really see LB 1083 as being an economic development bill. It's about investing in people and helping folks get out of the system and into jobs. Thank you.

SENATOR D. PEDERSON: Thank you, J. Rock, very interesting testimony. Anyone else, proponents? Any opponents? Any neutral testimony? Senator Bourne left, so obviously he didn't intend to close. So we'll close the hearing on LB 1145 and open the hearing on LB 1157. I guess we have to listen to him, he's one of us. (Laughter)

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SENATOR KRUSE: (Exhibit 1, 2, 3) Mr. Chairman and fellow pumpkins, since we...actually we have talked about this bill quite a bit already this afternoon. So I won't repeat any of that. Have some handouts here, and in view of the time I'm just going to put them out quickly rather than spread them out with the testimony. It's a familiar subject that we're dealing with here. It's rates for providers. The bill provides that for the next biennium we be looking at a CPI increase each year based on the full year from one year previous to that. The white copy becomes the bill. There are very few changes from the green copy, so you can go with either one if you want to. I'm not going to be referring to them because that's basically what it's about. And we've had plenty of illustration of it. I have some...since some providers are really under stress on this, I'm sure there will be some persons that want to testify on this. I will be very brief to give them more time. And they have been urged to be brief and to the point. But recognizing that this is dealing with a subject that we've dealt with before, providers are being crowded. The CPI, since 2000, has gone up 17.6 percent. The rates have gone up around five percent; so those persons, those providers who were under stress at that time trying to meet the needs and were going out after private funds and having bake sales and all the rest of it have been cut by one-eighth. The best scenario that I can possibly see would be one-tenth, or a lot of providers...so can't just be generalized on this. But they've had a huge cut. And I don't have to lecture us on this because I know that you care about it, we've had other bills on it. But I'm concerned because we've said that these rates should relate to the actual costs and to have a study on it. We've heard that that study has begun. I haven't found a single provider who's been contacted to find out what their actual cost is. There may be some, but at any rate that makes me a little nervous. So we talked about the 547,000 dollars for next year, but we've also learned in the process that one of these providers already for this year has been cut. It wasn't covered by some other funds, they simply got shorted in what we directed that they should be paid. We have this kind of stress that we see that they are having to do...that they are having to take care of plus, and it's been documented this afternoon, so I can be very brief about it. Every one of these that I've talked with is dealing with a tougher clientele than 2000, than just six years ago. You got persons who need more

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staff time, not less; you've got persons that have to go out for an evaluation to a professional off the campus, and we don't pay for that; we don't pay for the travel, unless it's quite a great distance; we don't pay for the cost of getting a professional to do that. We have just been plain chintzy and carving them down at every...in every way we can. I'm not trying to be nice to our providers, I'm trying to be nice to us. We've had three providers who have quit this last year and we're going to have a lot more. I wish that we could come to a general consensus. I'm not knocking HHS, they're good people and they're trying to save us money and bless them. But at the same time we're costing ourselves down the road if we're going to lose providers or crowd people out of this area. I hear not the leadership of HHS, but some individuals working there saying well maybe we'll just have to take over some of these things ourselves. No. There is no way that we can pay for the services these providers are providing. We can't afford that. They've got volunteers, and they've got commitment, and they've got a vision, and so on, but we can't hire. So I just urge that we do something. This bill is not stating what the future rates ought to be, it's putting a floor, it's just...what's the cost going to be? I would hope the cost is nothing, because the department would look at it and say this is the rate we're providing and it would meet that CPI. It ought to meet that CPI. If it does, then there is no cost to it whatsoever. But this is saying that after five years that amounted to at least a 10 percent cut, we need to guarantee that there won't be more direct cuts. Thank you.

SENATOR D. PEDERSON: Thank you.

SENATOR ENGEL: You mentioned 557,000 dollars we put in there last year and they did not utilize it for what we put the money in for. Is that what you just said?

SENATOR KRUSE: Well it's 547,000 dollars that was short in the figure; they gave us a figure calculated from the wrong year; and we said pay this; and they said, this is the amount it would take; and it turned out it takes half a million more.

SENATOR ENGEL: So they just...

SENATOR KRUSE: And we're saying, well where is the deficit

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request then?

SENATOR ENGEL: Yeah.

SENATOR KRUSE: And that's kind of what the fuss is about. But at any rate, I think it sounds like they're taking notes and it's being worked on. I don't think we need to take time on it here.

SENATOR ENGEL: Well, no, I don't either but I think somebody should be responsible for that. I don't think they should be passing the buck around like they usually do.

SENATOR KRUSE: It's been pointed out.

SENATOR ENGEL: Yeah, yeah, okay.

SENATOR D. PEDERSON: They're looking into that issue now.

SENATOR ENGEL: Yeah.

SENATOR D. PEDERSON: Okay, thank you, Senator Kruse.

SENATOR KRUSE: Yeah.

SENATOR D. PEDERSON: Oh, you have a question?

SENATOR BEUTLER: Yeah.

SENATOR D. PEDERSON: Senator Beutler.

SENATOR BEUTLER: Lowen, I just read quickly through the amendment and all. And as I understand what you're proposing, there is no mandatory requirement on the Appropriations Committee and/or the Governor, but it simply provides for a careful and consistent and regular calculation of what the price would be that we would have before us to look at. Is that right?

SENATOR KRUSE: Thank you, Senator, that's a very important point and I'm glad you bring it out. This is not mandating a cost that we can't meet sometime. It's mandating that the figures be brought back to us, and then as a committee we're going to look at it, and maybe it's a deficit and so on, and we look at it in our own procedures at that time.

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SENATOR BEUTLER: Okay. Thank you.

SENATOR D. PEDERSON: Other proponents? Topher, are you on this one, too?

TOPHER HANSEN: (Exhibit 4) Chairman Pederson, members of the committee, I'm Topher Hansen and I come before you today as a representative of the Nebraska Association of Behavioral Health Organizations, also known as NABHO. Once again, I'm the Executive Director of CenterPointe, a treatment facility in Lincoln providing co-occurring services. I come also as a proponent for LB 1157. NABHO is a large group of providers who consistently have advocated for responsible community-based services. We also come before you as an unenviable group of providers who are basically caught in the middle. We are here and have been here many times before on rates. We have, as mental health and substance treatment providers, have gone through years and years without rate increases. Prior to several years back, when the tobacco settlement funds and so on were part of the discussion, I think the substance providers went about 16 years without rate increases, and mental health providers went about 13 years. So to the extent any of you then tie that back to a business or your personal life and think of your income being flat for that long, that's the issues that we have faced in seeing very little rate increases over the years. The last year we saw \$50,000 allocated for a study, and after a lot of work and many delays now we're told it won't be done until after the legislative session. And the providers are here as contractors before you. We are the people who have contracted for the services for these individuals who have the issues of mental health, substance and often many other issues. CenterPointe, for instance, is involved in homeless issues and medical issues because that's who's standing in our doorway, not because that's what we chose to do, but because we serve the people before us. Our unenviable position is that on the one hand we are told what the rates are going to be, and on the other hand we're told what our fixed expenses are going to be, and we have to match those. We are not the plumber who says, this is how much it will be, but we try and work with HHSS to coordinate that and come before you with our request. That is a very difficult situation. And what we ask today is that you treat us

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fairly. To give us the opportunity to have fair consideration of what our costs are to provide these services in a comprehensive and competent way. We think that's the ethical approach to providing services for what is largely an indigent population with severe needs. The rates that we charge, and I'll give a for instance, CenterPointe is about \$250 a day for long-term residential treatment, which is an average length of stay of about six months. We have registered nurses, psychiatrists, nurse practitioners, therapists who are licensed for co-occurring treatment, that is they have a mental health and a substance license, and then technicians, recreational therapists, all who play into that. So our costs are pretty low for the level of expertise that we provide for services. The consequences if we don't continue to look at rate increase in the budget are the closure of necessary services in and across the state. I've handed a sheet out that talks a little bit about that. And our system begins to break down. What we want to do is have programs that provide competent services for the people and not have them close. We do not currently have duplication of services among providers. We can barely reach out to touch fingertips with the populations that we're serving. We need, as I addressed in the bill before, more dollars in the system and rates that begin to address our costs. I think as a state what we don't want is a bunch of providers that are hanging on by their fingernails. We want providers who are financially sound and capable of providing the services in an ongoing manner and can handle the ebb and flow of the economy. So if we have strong...that is financially strong providers who are competent at delivering the services. You each can count on those providers being there day in and day out, year after year, and not falling through the cracks, as we saw in Omaha and other places around the state where major providers fall out and the rest of the providers are scrambling, not for their own welfare, to help the people who are really falling through the cracks, the consumers of services. The LB 1145, as I said, builds the capacity, but the long-term solution to building sound financial providers is LB 1157. And we hope that you support that. We believe this is a systematic approach, it will help providers maintain in a healthy manner and serve the citizens of the state with...who are experiencing some of the most challenging circumstances. With that, NABHO urges your support. And if there are questions, I'd be happy to

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answer.

SENATOR D. PEDERSON: Thank you, Topher.

TOPHER HANSEN: Thank you.

MARY FRASER MEINTS: (Exhibit 5) Hello. I'm Mary Fraser Meints, M-a-r-y F-r-a-s-e-r. I'm the President of Nebraska Association of Homes and Services for Children, and I work at Uta Halee Girl's Village and Cooper Village in Omaha. I have prepared testimony and I won't read it, but I have a point I'd like to make. First a little about the association. We represent 18 organizations across the state. We serve children and families in the child welfare system and the juvenile justice system. We provide services from shelter care, group home care, reporting center, tracker, treatment services and family support services, lots of services in home and out of home. One of the points I'd like to make today, in addition to my written testimony, is that the bill is written with broad language. We use the word behavioral health services and the intent is to provide a rate increase for services provided to children and families served by the child welfare and juvenile justice services. So behavioral health services was intended to be a catchall phrase, so its meaning...it should include reporting center, tracker, the shelter care, group home care, as well as treatment services. So that's the only point I wanted to make in addition to my written testimony. Do you have any questions?

SENATOR ENGEL: Can I ask a question?

SENATOR D. PEDERSON: Yes.

SENATOR ENGEL: We had this before here too, the HHS regulation clients, increased licensing fee for every type of health care (inaudible) increase rate from 60 to 117 percent, and you mentioned five percent for anticipated salary raises and administration costs. But where is all the other increases? Why all the...such a huge increase in collections?

MARY FRASER MEINTS: I will tell you what they told us at the meeting. They said that the money used to be in the General Fund and it's no longer there, and so they had to

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use the money from their budget. So, for example, our rate increase went from \$300 to \$650, and we have two facilities, so we have two licensing fees, two fire marshal fees, well actually we have four because we have two licenses, and then we have Health Department fees. So we have a lot of licensing fees, which is a separate issue.

SENATOR ENGEL: I guess Liz can answer this for me later on so I'll ask her.

MARY FRASER MEINTS: But the point was the five percent increase was increased...included in their rate increase; they were able to put a five percent increase. We have salary increases and we don't have anywhere to put them.

SENATOR ENGEL: I understand. Thank you.

MARY FRASER MEINTS: Thank you.

SENATOR D. PEDERSON: Next proponent.

TOM McBRIDE: (Exhibit 6) Good afternoon. My name is Tom McBride. I'm the Executive Director of Epworth Village, Incorporated in York and Grand Island. I have some written testimony to pass out there in support of LB 1157. I'm also here today as the...representing the Children and Family Coalition of Nebraska, CAFCON, made up of 14 provider agencies from across the state that have a whole breadth of provider services. First of all, I want to thank you for the help that you've given providers across the the state in the past, and thank especially Senator Kruse for bringing this bill forward. I think sometimes not-for-profit agencies, such as ours is, have a different look from people, a different perspective and a belief that we're immune to cost increases. And I can tell you that I'm a taxpayer just as you are, that I pay the same for my fuel, for my groceries as everyone else and we do so at the village as well. This last year our fuel costs increased 21 percent, health insurance increased 13 percent, and we had to look at a six percent increase in expenses for this next year's budget. For almost seven years, as you have a wealth of experience in building budgets, we rely on a board of directors to give us guidance and support and to sit down at our annual meeting where we're developing the budget and approving that for seven years in a row, well actually it's

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been more, it's every year, but for seven years in a row, handing them a deficit budget and them saying, how are you going to increase our income? And I said, the only way that we can do that is to, as Senator Kruse mentioned, go out and fund raise to subsidize the care that we currently give to children and families in Nebraska. He had mentioned that we have a much more difficult population than what we did at one time. And I can attest to those statements. We see children with much more severe mental illness, Axis (phonetic) one diagnosis. Just to give you an example of some of the children we're working with, in the past year we had 12 serious assaults on staff within our agency resulting in two concussions, a back injury, a ruptured anterior cruciate ligament, and stitches. Client injuries were zero, but these are the kinds of people that day after day come back to work with these young people. Some of the increased costs that are passed down to us annually that we cannot recoup--translator services, and we're increasingly seeing more need for translator services. In one session, because we're working with an immigrant family who need language interpretation and also sign language interpretation, we're paying around \$100 an hour or \$100 a session for translator services and have no way to recoup that. We have seen, just from my knowledge out of Children and Family Coalition of Nebraska, in the last year Boys and Girls Home of Nebraska closed a treatment group home surrounding funding issues; Cedars closed their family support program around funding issues; they also closed a treatment group home level of care for funding issues; Lutheran Family Services closed their family support and counseling services in Alliance, Chadron and Scottsbluff all surrounding issues of funding. The CPI, I think, is a wonderful tool, it gives us an opportunity to at least every year look at an adjustment, and I think that is, you know, at this point that's a Godsend to us. We appreciate your support of this and moving LB 1157 forward.

SENATOR D. PEDERSON: Thank you, Tom. Lowen, do you want...

SENATOR KRUSE: Just briefly, Tom, and I pick on you, moved up here to pick on you a little bit because I've known Epworth Village for 50 years and you're a lot older than that.

TOM McBRIDE: Personally? (Laughter) Not much older.

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SENATOR KRUSE: Epworth is a long institution. And I'm really curious how you would state briefly what's happened to Epworth in the last 20 years? How's it going? You know, were you hanging on, is it getting worse, or you know what's it like?

TOM McBRIDE: I think that from my own perspective when the state adopted the Medicaid Managed Care Act that was a savior for us as far as being able to add some, you know, increased revenues. It also is a double-edged sword because the requirements are so prescriptive. But each year it's where are we going to find the money, where are we going to go forward? We have, as Topher mentioned, we've got nurses, we've got licensed mental health practitioners, we've got teachers, we've got 70 or 60 percent of our staff at the residential level of care have to have a bachelors degree in a human services field or five years experience. These people need a living wage. And losing them, you know, you lose the continuity of that treatment, you lose the philosophy. And it's difficult, it is tremendously difficult and it's, you know, it's due to giving people, caring people around the state of Nebraska that are willing to step forward and help us continue.

SENATOR KRUSE: These gifts, are they more or less than endowment income?

TOM McBRIDE: We have both; I will say that we had this year, recognizing the need for endowment, that we put a program together working specifically on our endowment. But we could not...we couldn't go year-to-year unless a good portion of those gifts went directly into our General Fund to support care.

SENATOR KRUSE: Thank you.

SENATOR D. PEDERSON: Thank you, Tom. Other proponents with some brief testimony, Roger? (Laughter)

SENATOR KRUSE: We always have him on for brief.

ROGER KEETLE: You bet. And I'm going to be brief.

SENATOR D. PEDERSON: It never turns out that way, but we

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always try.

ROGER KEETLE: (Exhibit 7) Well I'm...this will be brief. For the record, my name is Roger Keetle. I'm a registered lobbyist for the Nebraska Hospital Association. The Association supports LB 1157. You've heard good testimony and we have the same problem; hospitals can't afford to cost-shift these costs to other payers or providers either. We've got expenses, drug expenses, particularly prescription drugs that there's no way close that we match those costs. And if we don't have a system with all of the other providers, again the emergency room, we're serving people in the wrong place. So with that, we would urge you to advance this bill so you at least have a reminder of kind of what the parameter would be for trying to fund the area, at least to keep up with inflation. So with that, I'd take any questions.

SENATOR D. PEDERSON: Thank you. My conclusion, after hearing a number of the people that testified, including yourself, Roger, is I don't see how they do it, I really don't. I mean I'm serious, I don't know how you meet all of the things that are required of you to do with the dollar limitations that you have.

ROGER KEETLE: I think there's some very dedicated people that do a lot of fund raising and the problem is those...

SENATOR D. PEDERSON: Well I'm very impressed, I really am. So thank you, Roger. Who's next? Brendon, are you next?

BRENDON POLT: And I'll be very brief, too. For the record, my name is Brendon Polt. I'm the Assistant Executive Director of the Nebraska Health Care Association. My last name is spelled P-o-l-t. The Nebraska Health Care Association is a trade association; it represents 200 nursing homes and also about 200 assisted living facilities. And I only have one comment in addition to my written testimony, and that is that in the Behavioral Health Reform Implementation Plan there was a provision to develop intermediate specialized services, or ISS services, special care units that would be specially funded nursing home beds for individuals who meet long-term care requirements but also have special, seriously mental health or behavioral health care needs. And the bill would not seem to provide

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for this population, but they also are in the behavioral health plan a necessary component for implementing LB 1083. And there are providers out there that are eager to provide these services. In fact there is a facility ready to go and develop a locked facility in Beverly Facility, and I'm not thinking of the name of the city. But I only ask that the bill be amended to reflect this provider group as well. And I'm open for questions.

SENATOR D. PEDERSON: Okay. Thank you, Brendon. I'm sure Senator Kruse heard what you had to say.

SENATOR KRUSE: Yeah, thank you.

SENATOR D. PEDERSON: Next testifier?

C.J. JOHNSON: (Exhibit 8) Good afternoon. My name is C.J. Johnson. I'm the Regional Administrator with Region V Systems which is one the six behavioral health regions. I do have written testimony. It's odd, number one, that anybody representing a region is up here talking about rate increases because historically that has always been kind of a conflict of interest between the regions, per se, and a lot of times the providers. However with the implementation of LB 1083 we have continued to move forward on improving the public behavioral health system to insure that individuals who experience mental health and substance abuse challenges receive the level of treatment and support based upon individual needs. In providing the annual rate increase, based upon determined methodology, will provide the stability within the public behavioral health system by shoring up the financial resources needed for the behavioral health providers to continue to provide effective services. Providing a specific rate increase methodology will insure that the needed funding to continue the improvements made through reform efforts will be available to the public Behavioral Health System. During the 2005 legislative session the Legislature passed LB 425 which provided for a rate increase for behavioral health and child welfare services. The rate increase for Program 38, the services under the Department of Health and Human Services, Division of Behavioral Health Services, was calculated based on fiscal year 2004 expenditures. During fiscal year 2005, behavioral health reform added more funding and services to Program 38. Due to the utilization of fiscal year 2004

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funding allocations rather than 2005 fiscal year funding allocations for the rate increase calculations, the Nebraska Behavioral Health System is experiencing a shortfall of 494,000 dollars; you've heard 500,000 dollars also today; our calculations are 494,000 dollars this current fiscal year. Due to the way the rates were calculated, fewer people will be served as capacity is reduced in response to the shortfall. If the shortfall is not addressed, every subsequent rate increase calculation will compound the current revenue shortfall. We anticipate that by fiscal year 2007 the shortfall rises to over 1 million dollars. Please consider addressing this revenue shortfall under LB 1157 while ensuring the future rate increases are based upon a standardized method. And I want to thank you for this testimony. I was going to start this out by...the former Director of Health and Human Services, at a presentation in Kearney two years ago, when we were looking at LB 1083, was talking about rates specific to hospital care. And I specifically remember him making a comment when somebody said the rates that you are proposing are significantly lower than what our actual costs are. And the response at that time was, well but these rates will not be as much loss as the hospitals are experiencing now. Now I'm not up here being a proponent to the hospitals, in fact a lot of times we bang heads. But what I am trying to point out is over the years, whether it be hospitals, whether it be providers or the behavioral health regions, we've always had an issue related to rate discussions. However this particular bill is one that we've all come together on. We do believe it's very important. The methodology that was randomly done when you passed the bill to do rate increases did nothing more than to create a shortfall that we're going to have to address. And it may be by addressing the reduction of other services to pay for higher end services as we move forward in LB 1083. We simply are asking that on a regular basis is that it honestly be reviewed--what are the costs of providing these services? And giving us a form then in which we can really look at addressing those when we come before the Appropriations Committee on a regular basis. With that, I will answer any questions.

SENATOR D. PEDERSON: We should have had you promoting the legislative pay bills. (Laughter) and talk about, you know, it's been stagnant for a long time. Yeah, we know about that. Okay, thank you very much, C.J.

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C.J. JOHNSON: Thank you.

SENATOR D. PEDERSON: Any other proponents? Any opponents? Any neutral testimony? And I assume Senator...oh, are you going to be neutral? I thought you were just for it.

J. ROCK JOHNSON: My name is J. Rock Johnson, J. R-o-c-k J-o-h-n-s-o-n and I merely bring this forth as a point of information. I have reason to believe that there have not been many people who fit the new intermediate services category; so I would merely suggest that that be investigated. Thank you.

SENATOR D. PEDERSON: Thank you very much, J. Rock.

SENATOR KRUSE: Thank you.

SENATOR D. PEDERSON: Do you waive your final?

SENATOR KRUSE: I waive at all of you pumpkins (inaudible).
(Laughter)

SENATOR D. PEDERSON: Okay, with that, we close the hearing on LB 1157 and go home.