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COMMITTEE ON HEALTH AND HUMAN SERVICES
January 25, 2006
LB 944, 915, 869, 999, 1016

The Committee on Health and Human Services met at 1:30 p.m. on January 25, 2006, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB 869, LB 915, LB 944, LB 999, and LB 1016. Senators present: Jim Jensen, Chairperson; Dennis Byars, Vice Chairperson; Doug Cunningham; Philip Erdman; Gwen Howard; Joel Johnson; and Arnie Stuthman. Senators absent: None.

SENATOR JENSEN: Good afternoon, ladies and gentleman. Welcome to the Health and Human Services Committee. We have five bills before us today. I'll briefly explain the procedures that we'll follow here today and then we will proceed. First of all, if you're carrying a cell phone I would ask that you turn the ringer off. These proceedings are transcribed and recorded, so it's better if that doesn't go off in the transcriber's ears. Also we take testimony, first, proponent testimony, then opponent testimony, and then neutral testimony on each bill. If you have something to pass out or you'd like to leave with the committee members, the correct number is 12. If you don't have that many, we will make copies for you. Also when you come up to testify, give us your name, spell your last name for us to ensure that we have it correct, and then also let us know if you're testifying in your own behalf or that of an organization that you may represent. There is a testifier sheet like this that is over here on this table. Please have that filled out ahead of time, and when you come up, drop it into the box so we have, again, the correct information. The members of the committee that we have with us today are: Senator Doug Cunningham, who's walking in from Wausa, Nebraska; next to him, to my right, is Senator Dennis Byars who's Vice Chairman of the committee from Beatrice; to my right is Jeff Santema who is the committee counsel; I'm Jim Jensen, from Omaha, serving as Chairman; to my left is Joan Warner, the committee clerk; next to her is Senator Joel Johnson from Kearney area. The other senators will be joining us. As you know, this is bill introduction time, and some of our colleagues could be in other parts of the building introducing bills, just as that is the procedure that we follow here today. The order of bills will be as printed. The first bill that we will hear is LB 944, Senator Sznowiecki. We appreciate you coming, John.

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SENATOR SYNOWIECKI: (Exhibit 1) Thank you, Senator Jensen, members of the Health and Human Services Committee. I am John Synowiecki. I represent District 7 in the Legislature. Today I bring LB 944 for your consideration. It's a bill to change family size provisions under welfare reform. LB 944 removes the family cap provision from Nebraska Aid to Dependent Children program. The family cap policies exclude children conceived while their mother receives public assistance from the calculations of the family's monthly cash grant. This deviates from basic public policy surrounding the public benefits system in which a family's cash grant is typically based on family size independent of when a child is conceived. Since 1977, the family cap in Nebraska has been applied to all children born in ADC units 10 months or more after the family's application for ADC. After the current calculations, each additional child would increase the family's monthly cash grant by only \$71. The family cap further reduces the standard of living of families that are already living on income which is less than 30 percent of the federal poverty level. If a family of four were at 30 percent of the federal poverty level, their annual income would be about \$5,805. Under the current policy, a family who has a child after the 10-month period will not see an increase in their payment, even though there is another mouth to feed and body to clothe. Currently there are about 20 states that have a family cap in effect. The intent of these laws during the time of welfare reform was to reduce the incidence of out-of-wedlock births and limit the state's welfare caseloads. In recent years, there has been a trend among states to repeal these provisions for a variety of reasons. The primary reason states have reconsidered the use of family cap policies is that after having been in effect for almost 10 years, research shows that these policies have not produced the intended results, according to a September 2000 report from the General Accounting Office. In fact, independent analysis shows the only real effect of these laws is to force more children to live in poverty. Moreover, according to a study by Rutgers University in 1998, it was estimated that the family cap policy in New Jersey had resulted in

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1,400 abortions over a four-year time that would had not otherwise occurred. There is anecdotal evidence that the same thing is happening in Nebraska, as these provisions may encourage poor women to terminate their pregnancies. Considering that it is questionable whether family cap policies are delivering their intended results, I see no good reason in continuing this economically punitive policy with children being subjected to profound poverty. The intent of this bill is to improve the standard of living for children and families who are already considered severely low income, at or below 30 percent of the federal poverty level, and to ensure that they have the resources to provide for the basic needs of their children while transitioning from welfare to work. Additionally, this bill seeks to ensure that in the state of Nebraska our public policy does not provide an economic incentive to terminate a pregnancy. I want to thank you, Senator Jensen and members of the committee, for your full consideration of this initiative.

SENATOR JENSEN: Thank you, Senator. Any questions? Yes, Senator Stuthman.

SENATOR STUTHMAN: Thank you, Senator Jensen. Senator Synowiecki, what do you see would be a downside to this? What would be a negative of this? I'm very much in support of what you're trying to do but where would you see any part of this by doing this that would be negative?

SENATOR SYNOWIECKI: Well, Senator, I think our current public policy is what is negative, what we're doing right now. It presumes that...and I think we're more sophisticated than this now...it presumes that a mother will undertake to have a baby, to conceive a child, for the purposes of garnering \$71 more a month in ADC benefits. I don't think that anyone is doing that, quite frankly. I think we're more sophisticated than that. No mother would undertake to have a child for \$71 more in ADC benefits a month, particularly with a two-year limitation on benefits now with welfare-to-work policy. So to kind of turn your question around, I see no good or no merit in continuing with our current public policy, and I think that's all the more reason why LB 944...it's come now time to look at this and evaluating the studies that have have come in...we didn't hurry to change this policy...the evidence is coming

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in that the family cap is not receiving its intended result. So my question is, why continue to have these children live in this level of poverty? I hope I'm answering your question.

SENATOR STUTHMAN: Yes. Yes. So in your estimation, what we have right now is not good...

SENATOR SYNOWIECKI: Yes.

SENATOR STUTHMAN: ...and you're realistically trying to prove it with this.

SENATOR SYNOWIECKI: It's precisely why I'm bringing LB 944.

SENATOR STUTHMAN: Because what we have is not going right.

SENATOR SYNOWIECKI: Right.

SENATOR STUTHMAN: Thank you.

SENATOR JENSEN: Senator Johnson.

SENATOR JOHNSON: As the last of nine kids (laughter), I think I'm going to be for your bill. But you know, basically one of the things that is tried with all bills, really, is either a carrot or a stick approach, or both. And obviously this is the stick approach and you've got pretty good evidence that it hasn't worked. Are you aware of any studies where they have tried the carrot approach? In other words, instead of taking away \$71 a month, you gave them \$71 a month for...

SENATOR SYNOWIECKI: For not having a child? No, I'm not aware of that, Senator Johnson, happening.

SENATOR JOHNSON: I'm not either, and as I was sitting here it kind of popped into my head.

SENATOR SYNOWIECKI: And, Senator, there will be people testifying behind me that may have more information relative to what's been done in terms of innovative programming in other states relative to welfare reform.

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SENATOR JOHNSON: You stated it much better than I. Thank you.

SENATOR JENSEN: Senator Howard.

SENATOR HOWARD: Senator, is there any evidence that this program has saved dollars for this state? Were you able to get any financial information regarding that?

SENATOR SYNOWIECKI: Yes, we do, and there will be others to speak to that. I believe it's 700-and-something children right now are subject to the cap, which means that those families are deficient at \$74 a month for that child. So we do know the number of children in the state of Nebraska that are, if you will, subject to the cap.

SENATOR HOWARD: Sure. Is that offset by any other program? Food stamps, for example?

SENATOR SYNOWIECKI: I don't know, Senator, but I can find out for you. If you can't get that question answered with the additional testimony today, my office will certainly get that for you.

SENATOR HOWARD: Okay. I appreciate that, thank you.

SENATOR JENSEN: Senator Byars.

SENATOR BYARS: Thank you, Senator Jensen. I'll just take a moment to lobby a little bit as far as TANF because the TANF funds, everybody within listening or visual sight, Congress is going to be cutting Nebraska's allocations of TANF funds substantially, and the millions of dollars under the reconciliation bill that will be in the House and voted on next week...so understand that we are going to have a very visible effect on funding. That's one of those issues Congress is pushing down to the states, so I just want everybody to be aware of that, and lobby your congressmen and let them know that.

SENATOR SYNOWIECKI: Thank you, Senator Byars.

SENATOR JENSEN: Any other questions? Seeing none, thank you, Senator. May we have the first proponent, please?

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BECKY GOULD: (Exhibit 2) Good afternoon, Senator Jensen, members of the committee. My name is Becky Gould. I'm a staff attorney and registered lobbyist for the Nebraska Appleseed Center. LB 944 repeals a provision in Nebraska's welfare reform law known as the "family cap." The family cap policy locks in the amount of ADC cash assistance a family can receive based on the number of children in the household at the time of application for assistance. For example, if there's one child in the household at the date of application, the mother and child will be considered a household of two and be given a maximum of \$293 a month. If the mother has a second child while receiving assistance, her ADC grant will not increase to cover the additional child. This policy originated out of a myth that ADC recipients were continuing to have additional children to increase the amount of their ADC grants. However, ADC grants only increased by \$71 a month for each additional child. Seventy-one dollars is simply not enough money to meet the basic needs of an additional household member, and provides no economic incentive to have additional children. Several other states that enacted family cap policies, including Illinois and Maryland, have since repealed them. The trend in eliminating the family cap is based on data indicating that the family cap policy has not caused a significant reduction in birth rates among ADC recipients and concern over increased rates of abortion associated with these policies. Furthermore, the one thing the family cap does do consistently is force more children to live in deeper poverty. While \$71 will not meet all the basic needs of an additional child, it is certainly better than no additional income to cover things like diapers, clothing, and bedding. Appropriate incentives already exist within Nebraska's ADC program to encourage families to focus on self-sufficiency rather than family expansion. Nebraska has a two-year time limit on the receipt of cash assistance and a mandatory work requirement. The two-year time limit creates a huge incentive for families to begin making progress on a plan for self-sufficiency and the mandatory work requirement of 30 hours a week ensures that parents are immediately engaged in activities that will help them achieve self-sufficiency. Together, these policies provide adequate incentives to keep families moving forward without leaving already poor families with less resources to meet

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basic needs. It is sometimes argued that the family cap maintains reality for families on welfare because working families do not receive a raise when they decide to have additional children. Putting the differences between ADC families and working families aside, working families do receive a benefit when they have an additional child in the form of tax relief, such as income tax exemptions, child tax credits, and childcare tax credits. This form of public assistance, just like the increase in ADC for an additional household member, seeks to assist working families in meeting the expenses of an additional child. LB 944 repeals the punitive family cap policy and helps ensure that Nebraska's children receive the critical assistance their family needs as it transitions to self-sufficiency. Therefore, we ask that you support LB 944 and advance it out of committee. I guess what also got passed out to you was a fact sheet that we have put together on the family cap, and then a report that contains more data about the studies Senator Synowiecki mentioned concerning the family cap and what's been done in other states. With that, I would be happy to answer any questions that you have.

SENATOR JENSEN: Thank you, Becky. Any questions from the committee? Seeing none, thank you for your testimony. I do have a letter of support, also, from the Nebraska Domestic Violence Sexual Assault Coalition in support, and that will be entered into the record. Thank you. (Exhibit 3) Next testifier in support, please?

JIM CUNNINGHAM: (Exhibit 4) Senator Jensen and members of the committee, good afternoon. My name is Jim Cunningham. That's spelled C-u-n-n-i-n-g-h-a-m, the same as the senator from the 40th District. I'm here as a matter of representing the Nebraska Catholic Bishop's Conference in support of LB 944. And, indeed, this is a matter of *deja vu*. In 1994, we opposed this part of the Welfare Reform Act, which is the family cap child exclusion. So the position we have today is the same as the position we took back then. We said then, and we are compelled to repeat it again today, by discriminating against a child solely because of the circumstances of his or her conception, this policy violates the child's human dignity and the common good of assisting those in need without regard to where they live, their race or ethnicity, who their parents are, or

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what their parents did. In our view, it is unjust, as a matter of social and public policy, to single out these children and to withhold incremental income assistance on their account as punishment in an attempt to modify the sexual behavior of their parents or to teach the parents a lesson in responsibility. This policy aims at the behavior of the parents but it strikes defenseless children, thereby perpetuating the poverty into which that child or children were born. It is obvious that with the child exclusion policy, already impoverished families face a greater income deficit. Thus the only assured result of the policy is to deny extremely modest incremental increases in cash assistance that are needed to support a child at a subsistence level, which is what ADC is designed to be. And that result is to increase the hardship for impoverished children. Children suffer the most. The excluded child born while his or her mother was receiving cash assistance is punished, and so is the child or children already born or conceived at the time that the assistance began. A key point to keep in focus is that AFDC is not a program established or designed to discourage poor women and poor families from having additional children. To regard it as such immorally weighs the lives of children in the scales of their parents' poverty rather than by their individual dignity as human beings. We also are concerned that the punitive nature of the child exclusion policy can pressure a poor woman's decision to turn to abortion rather than to carry her child to term. The welfare-eligible woman in this situation faces the financial penalty of giving birth to her child, and it is well established over the years that abortions often are attributed to socioeconomic considerations. From a strictly theoretical perspective, the family cap child exclusion may seem to relate to the goals of promoting self-sufficiency and reducing long-term welfare dependence. But at what human cost? At what cost in terms of respect for life and individual human dignity? The idea of testing theories of behavior modification at the expense of hardship for innocent children, both born and unborn, strikes us as being extremely difficult, if not impossible to defend on ethical, social, and public policy grounds. Thus, LB 944 should be enacted to repeal this policy. Thank you for your time and attention.

SENATOR JENSEN: Thank you, Mr. Cunningham. Any questions

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from the any committee members? Senator Howard.

SENATOR HOWARD: Sir, would you feel that \$71 is sufficient to care for an infant?

JIM CUNNINGHAM: Probably not. But under the current AFDC system that is the current level of the incremental increase.

SENATOR HOWARD: Would you see that is the only funding mechanism?

JIM CUNNINGHAM: Oh, no. No. You asked before. I assume there are other public assistance programs which these families often will qualify for--food stamps, Medicaid coverage. But AFDC is intended to be a subsistence cash assistance for the basic needs of clothing, food, shelter, housing, based on some type of formula or arrangement that seeks to determine what subsistence levels are.

SENATOR HOWARD: I appreciate that. I spent three decades working in that field. What I'm asking and what I'm hoping that we'll be able to realize is, what other avenues for financial assistance are there for this infant?

JIM CUNNINGHAM: There are other avenues, obviously, both inside and outside of government programs. I don't know though...I certainly don't subscribe to the notion that that somehow justifies the policy of ADC by excluding a child based on when that child was born.

SENATOR HOWARD: I appreciate that.

JIM CUNNINGHAM: And the other thing, Senator, I think that just struck me...I was back reviewing the efforts that we made back in 1994...and we had multifactored efforts on welfare reform, not just this one...but I was struck by the fact, in reviewing this, that in 1994 the additional child incremental increase was \$71. It's still \$71. That seems rather amazing to me that over that number of years there has been no increase in that amount.

SENATOR HOWARD: I think you'd agree with me in that case that the state is a poor funder to rely on as your sole

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source for supporting your infant. Would you also agree with me that the father has a responsibility?

JIM CUNNINGHAM: Yes, and part of this policy, Senator, is that, as I understand it, is that there is a discount for whatever level of child support goes to the AFDC-recipient family. I'm by no means an expert on that, but that's my understanding. I would be willing to be corrected if that's wrong but my recollection of the policy, as it was established as part of the Welfare Reform Act, was that there was to be an offset or somehow that the amount of child support to be paid would not be discounted because of the additional child.

SENATOR HOWARD: Then I sense from your testimony that you'd be in support of diligent efforts to recover child support from these individuals?

JIM CUNNINGHAM: We have not been one of the out-front leaders in those efforts but certainly have been a proponent of that for quite a number of years.

SENATOR HOWARD: Thank you.

JIM CUNNINGHAM: It just makes sense.

SENATOR JENSEN: Any other questions from the committee? Thank you.

JIM CUNNINGHAM: Thank you, Senator.

SUSAN HALE: (Exhibit 5) Good afternoon, Senator Jensen, committee members. I am Susan Hale, that's H-a-l-e, public policy educator and registered lobbyist with the Center for People in Need. I have a letter from the director of the Center, Beatty Brasch. Because some of it would be redundant, I'm going to pick out particular points. Beatty notes here that this policy denies a small amount of dollars, which is approximately \$2.30 a day to families when an additional child is born. I do not recall the discussion in 1998 when the policy was enacted. I assume, in part, it was to discourage women from having additional children while receiving ADC. Regardless of the intent and the underlying reasons, the impact is greatest upon a child--a

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vulnerable child. Although meager, an additional \$71 per month, for those who have a child, obviously is sorely needed in a mother's efforts to meet basic needs. We agree with Jim Cunningham in that this is a punitive measure. I urge you not to punish children due to what might be the opinion or judgment of their mothers. We urge you to support LB 944. Any questions?

SENATOR JENSEN: Thank you, Susan. Any questions of Ms. Hale?

SUSAN HALE: And I do have copies of the letter.

SENATOR JENSEN: Yes. Senator Johnson.

SUSAN HALE: Yes, Senator.

SENATOR JOHNSON: It just popped into my head, how old was your relative when he was hung?

SUSAN HALE: Nathan? (Laugh)

SENATOR JOHNSON: Nathan Hale.

SUSAN HALE: I don't remember. We had this discussion about Nathan.

SENATOR JOHNSON: Well, I got to thinking whether they would qualify for the \$71.

SUSAN HALE: Probably not then, no. No. But I'll check on those dates for you. Thank you, Senator.

SENATOR JOHNSON: All right. Thank you. What we're talking about is she is a relative of the Nathan Hale.

SUSAN HALE: You don't have to point out he's a traitor.

SENATOR JENSEN: Next proponent, please.

JENNIFER HERNANDEZ: (Exhibit 6) Good afternoon, Senators. My name is Jennifer Hernandez, H-e-r-n-a-n-d-e-z. On behalf of the National Association of Social Workers Nebraska Chapter, and our 600 members statewide, I am here to testify

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in support of LB 944. There are over 1,500 licensed social workers in our state, and we are active in every legislative district. Our primary mission is to enhance human well-being and help meet the needs and empowerment of people who are vulnerable, oppressed, and living in poverty. The intent of LB 944 is to improve the standard of living for families and children who are already considered severely low income, as you heard from Senator Synowiecki. LB 944 repeals a provision in Nebraska's Welfare Reform Law known as the "family cap." The family cap policy prevents a family's cash assistance grant from increasing if an additional child is born into a family 10 months after completing their application for assistance. This policy is contrary to the purpose of Nebraska's welfare program, also known as ADC. If you look at the Nebraska Administrative Code, it states and I quote, "The purpose of ADC is to maintain dependent children in their own homes if possible and to assist parents to provide care essential to healthy growth and development of children. Assistance through ADC provides financial aid to needy dependent children and to needy parents. The purpose of this assistance is to strengthen family life and help parents to reach and maintain self-sufficiency and independence." In effect, the family cap policy works against this stated purpose and, as you have already heard from a number of proponents, it is a punitive policy that keeps more children in poverty. Senators, the family cap policy hinders our program's ability to help parents reach and maintain self-sufficiency and it certainly hinders the program's ability to strengthen family life. I urge you to support LB 944 and the repeal of the family cap, and move this bill out of committee. Thank you.

SENATOR JENSEN: Thank you, Jennifer. Any questions from the committee?

JENNIFER HERNANDEZ: You had mentioned or asked, Senator, if there were any other forms of assistance that the child might be eligible for if they were family capped. Was that the essence of your question or...?

SENATOR HOWARD: Well, actually I'm very familiar with the forms of assistance, my point being that I feel strongly that there is a paternity responsibility, as well as a

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state's.

JENNIFER HERNANDEZ: Absolutely. Yeah, and certainly the child would be eligible for that child support hopefully collected.

SENATOR HOWARD: And that is the key.

JENNIFER HERNANDEZ: Yeah.

SENATOR JENSEN: Any other questions? Thank you. Next proponent? Anyone else who wishes to speak as a proponent?

CHUCK BENTJEN: Good afternoon, Senator Jensen and members of the committee. My name is Chuck Bentjen, and I serve as director of Justice and Advocacy Ministries for the Evangelical Lutheran Church in America in Nebraska. And I'm here today to strongly support LB 944. In Matthew 10:42, Jesus said, "Anyone who offers even a cold cup of water to the least of these does it for me." I grew up near Thurston, Nebraska, which is a small community in northeast Nebraska, and it was a great experience. And part of the reason that it was such a great experience was because of the sense of community that I experienced there. And in many ways, our state is just a larger reflection of those small communities throughout Nebraska. And I can't think of anyone that I've ever met in Nebraska who would refuse a cold cup of water to someone in need. In so many ways, LB 944 represents a collective cold cup of water, if you will. It gives people the opportunity for life-sustaining refreshment. It's so necessary to assist people who are in extreme need. And I think it's our responsibility as a society to do that. It doesn't cost us all that much, just like a cold cup of water doesn't cost very much to give to a person in need. LB 944 won't cost us very much as a people. I think that LB 944 reflects the values that we as Nebraskans hold so dear, and I would strongly urge the committee to pass it on to the full Legislature. Thank you.

SENATOR JENSEN: Thank you. Any questions? Thank you for your testimony. Anyone else who wishes to testify in support? Any opponent testimony? Anyone in opposition? Any neutral testimony? Senator Synowiecki, do you wish to close? He waives closing. That will close the hearing on

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LB 944. The next bill is LB 915, Senator Aguilar. Welcome, Senator.

LB 915

SENATOR AGUILAR: (Exhibit 1) Thank you, Senator Jensen, members of the Health and Human Services Committee. I apologize for being late. We had a full house in Judiciary today. I couldn't get out. My name is Ray Aguilar. I represent District 35 from Grand Island. LB 915 defines a meth lab and requires Nebraska Health and Human Services System to set rules and regulations for cleaning up a property after a meth lab. This is to assure safety for the next occupant of the property and to give the property owners some guidance. Where a chemical residue remains, there is a danger to children and to chronically ill adults and even healthy adults. These chemicals, in and of themselves, are both common household items and toxic. During the cooking process to create methamphetamine, toxic fumes permeate walls, carpeting, even metal surfaces, and get poured down drains. The National Jewish Hospital in Denver concluded through their research that the aftermath of a meth lab can be strong enough to cause burning of the eyes, nose, throat, and skin, and continued exposure can lead to damage of the internal organs. When law enforcement officials go into a lab to gather evidence and clean up the aftermath, they wear full protective gear, including a gas mask or air tanks, because of the airborne particles. The airborne particles can be dispersed by a thorough airing out of the property but further deep cleaning is necessary. The goal of this bill is to encourage, and, yes, mandate, proper cleanup. I cannot imagine letting children live in these conditions, and yet I'm afraid that without standards it will happen. It is not my aim to make a property unusable or unmarketable. It is my goal to assist those responsible property owners who already are asking state agencies for guidance, and to ensure safety of the next occupant. This bill would make it illegal for a property owner to allow occupancy of the property until it has been rehabilitated. I did not specify a penalty because most property owners are responsible and want to provide a safe environment for renters. The bill creates a reporting requirement. Law enforcement would be mandated to report the meth labs to

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their local health department and to the Nebraska State Patrol. Local health departments would compare the cleanup plan prepared by the property owner and then post test results against the standards set by Health and Human Services to determine if the standards are followed. The bill gives them the authority to set a fee to cover this cost and to contract with other departments for this service. I expect rules and regs to address cleanup procedures, posttesting procedures, and chemical standards. Other states have a variety of regulations that range from a strict mandate that the state do all the assessment, cleanup, and rehabilitation, to allowing the property owner to do the cleanup and/or allow them to hire professionals to do the work. I feel the latter of those options is appropriate for Nebraska for two reasons: one is our Nebraska pioneer spirit where we take responsibility for our land and our homes; the other is simply because our state agencies are strained enough without adding this task to their list, and I don't think the state has the manpower available to readily do this cleanup procedure. I understand the frustration some property owners may feel if their property is identified as having a meth lab. That's why I have another bill addressing restitution through the courts. Property owners also have civil remedies, if they choose to use them, and can somewhat protect themselves through rental agreements and leases. On the other extreme, I also understand those who feel that only professional hazardous material contractors should do this cleanup. However, the aftermath of a meth lab doesn't necessarily fit the federal definition of hazardous waste, so I don't think we have to go to that level either. I think I've taken the middle of the road, sensible approach to this problem. Health and Human Services and the Department of Environmental Quality have already begun working on this issue, and I think they have a good handle on what is needed. You were given a large notebook of information in the interim hearing that was demonstrative of their efforts. This bill would legitimize the work they've already done and authorize them to formalize and further that work. In continuing to work on this bill since it was drafted and to make some clarifications, I have an amendment to offer the committee. It doesn't change the goal or the intent of the bill but it makes some necessary clarifications. A copy of the amendment along with some related information is in the

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packet with the orange cover sheet. Briefly, the amendment puts a deadline of 30 days on the reporting requirement for law enforcement but removes the list of chemicals from the initial reporting requirement and places it in a secondary requirement with a deadline of 30 days after they receive lab analysis of the chemicals. The extra time for the analysis may not always be necessary but it is part of the time. Plus it places a requirement on the State Patrol to notify the local health departments, the property owner, and the DEQ. It is currently the Patrol Department policy to notify DEQ and property owners on labs they work. This will standardize notification to property owners across the state and add local health departments to their notification procedure. The amendment also slightly changes the definition of a meth lab to clarify that for the purpose of this regulation we are only applying it to enclosed areas meant for human inhabitation or use. That way, we leave outdoor dump sites out of the regulation. They are already covered by federal clean water and soil regulation. The amendment changes the deadline for rules and regulations. Health and Human Services felt that July instead of January 2007 was more realistic, so that's included. It also clarified that the rules and regs need to specifically address cleaning procedures and testing procedures along with the standards. The last thing it does is places the list of contaminated and clean properties with the local health department, not HHSS. I would be happy to answer any questions you may have, and I ask for your strong support of advancing this bill.

SENATOR JENSEN: (Exhibit 2) Thank you, Senator. You're aware of the letter that we received from HHS, or were you?

SENATOR AGUILAR: I'm sorry. I'm aware of what?

SENATOR JENSEN: We received a letter from Dr. Schaefer just suggesting a couple small changes. Were you aware of that or what I really want to know, was that included in the amendment or not?

SENATOR AGUILAR: I'm not sure of the letter. My staff is telling me, yes, that we are aware and it is in there.

SENATOR JENSEN: Okay. Thank you. Yes, Senator Byars and

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then Senator Erdman, please.

SENATOR BYARS: Yes, I like your legislation, Senator. One question I have, and we can have some conversations as a committee also as far as public health departments are maxed on the amount of money that they have, that we've given them to operate at this point. And I know you have allowed for a fee schedule as far as monitoring cleanup but I'm worried about FTEs that they might have to have, and so I think probably we need to have some more conversation about funding for those public health departments. They need more money as it is and whether they're going to be able to handle that additional responsibility, I'd think they'd be willing to. It's a matter of getting the appropriate funding. And that's just my own personal...

SENATOR AGUILAR: And I agree with you, but we also have in place within the legislation that they would have the authority as well as law enforcement to try to be able to get some of the costs back from the person responsible for the lab. That's part of the restitution requirement that we have in LB 914, kind of a follow-up legislation to this.

SENATOR BYARS: I just wonder about initial cash flow as far as getting set up to be able to handle it and having the appropriate staff that's trained to be able to do...

SENATOR AGUILAR: Yeah. And we've had discussions with the Health Department, and, as a matter of fact, I think there's one here today from my district that's going to testify and speak to that directly...

SENATOR BYARS: Okay.

SENATOR AGUILAR: ...but as far as any extra staff, they don't think that that would be necessary.

SENATOR BYARS: Okay. Thank you, Senator.

SENATOR JENSEN: Senator Erdman.

SENATOR ERDMAN: Senator Aguilar, I read the letter from the Department of Health and Human Services about contacting the Regulation and Licensure, and their comments are on

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Section 4, that the local health department would contact them who is responsible for maintaining the statewide data base. I do not see that language in the amendment, and so that may be something to visit with, if you haven't seen the letter, and maybe I'm just not reading the amendment correctly but I don't see that concern addressed in the amendment.

SENATOR AGUILAR: And we've been having continued conversations with them, and I apologize if that isn't in there exactly, but we're more than willing to work with any suggestions that come about through them. We want to make this process as painless as possible and, you know, less restrictive on some of those agencies if we can.

SENATOR ERDMAN: And, like I said, it may be just that I'm misreading how this is drafted compared to what they're reading the original bill, but just for your knowledge I don't know that I see it. So it might be my problem but it might be someone else's.

SENATOR AGUILAR: Very well. Thank you, Senator.

SENATOR JENSEN: Any other questions? Senator Howard.

SENATOR HOWARD: Senator Aguilar, as a cosponsor of this bill with you, I always feel an additional responsibility to be careful of what we're looking at. And I would have to be in unison with Senator Byars regarding a concern of placing any additional costs or responsibility on the Health Department. We so often have just a tradition of placing new responsibilities and new expenditures on systems that are already in place to the point where we make them pretty inadequate. So I appreciate that regard on that, in that arena.

SENATOR JENSEN: Any other questions? The Health and Human Services Committee did have an interim hearing in Grand Island on this issue and it was very informative, and certainly convinced me of the need that we have across the state. It is interesting when you look at the counties and where the labs have been, thus far anyway, found; we have no idea how many are out there that we haven't yet. But there is a dangerous situation that's going on and there needs to

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be a way to address that. I thank you for staying on this issue.

SENATOR AGUILAR: Thank you, Senator. I'll try to stick around for the close, but if I have to leave...

SENATOR JENSEN: Okay. Good enough. Thank you. May we have the first proponent, please? Any proponent testimony? I didn't mention, by the way, but we kind of have a standing policy here that we'll take two pages of testimony. If it's over that, please condense it so that it is not over two pages. You can print that many but, as far as testifying, we like to hold it to that. Thank you.

JEFF KUHR: (Exhibit 3) Good afternoon, Senator Jensen, members of the committee. My name is Jeff Kuhr, spelled K-u-h-r. I'm here today in support of LB 915 on behalf of the 300-plus members of the Public Health Association of Nebraska. We have reviewed the original bill, as well as the amended version. This bill proposes that local public health departments take on a significant role in the rehabilitation of clandestine drug lab sites in their respective jurisdictions. We feel that including the local health departments in this bill and assigning them to take on such a great responsibility is a testament to the fine work they've done, as many of local health departments have been in existence less than five years. And certainly this opportunity is in line with the overall vision of Nebraska's public health system where local health departments work with local partners to take care of local needs while operating under the guidance of and with assistance from the Nebraska Health and Human Services System. LB 915 provides an opportunity to further develop the local public health structure, as well as the statewide public health system. You, as state senators, are to be commended for your support of our public health system. Advancing this bill will be consistent with the positive efforts we've made for public health over the past several years. So on behalf of the Public Health Association, I thank you for your consideration.

SENATOR JENSEN: Thank you, Jeff.

JEFF KUHR: You bet.

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SENATOR JENSEN: Any questions? Yes, Senator.

SENATOR BYARS: You heard me, Jeff, talk about the financial considerations and my concerns relative to having the resources in your department to have...

JEFF KUHR: Yeah, that's a great question, Senator Byars. We actually struggled with that a little bit. However, I think to us it's more important to address the vision than to pass this opportunity up. And as far as the development of the rules and regulations go, I mean we do realize there's work to be done with that, but I think we hold true to what we would like to see as the public health system for the state of Nebraska.

SENATOR BYARS: I'm very impressed with you coming in to testify, and I think Senator Jensen and myself and those of us who have been in the Legislature while we did the public health, establishing the departments and the funding, this is what we envisioned. And we went from dead last in this United State of America to one of the top 10 public health systems in the country. And I am very proud of that, so thank you for your positive testimony.

JEFF KUHR: You bet. I'm honored to be a part of it. Any other questions?

SENATOR JENSEN: Thank you. Any other questions for Mr. Kuhr? Thank you for your testimony.

JEFF KUHR: Thank you.

SENATOR JENSEN: Next testifier in support, please?

COREY O'BRIEN: Thank you, Mr. Chairman, members of the committee. My name is Corey O'Brien, and I'm an Assistant Attorney General with the Nebraska Department of Justice. I'm one of the two prosecutors that the Unicameral voted to fund for the Attorney General's Office three years ago. I come to you today to voice the Attorney General's Office's support for LB 915. In particular, there are two strengths of LB 915. Essentially, legislation of this kind is not unique. Neighboring states that have suffered similar harms

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as a result of methamphetamine have passed similar legislation. Nebraska needs to, too. The reason why is essentially to protect children--our children. The hazards caused by clandestine methamphetamine labs are yet in doubt. We don't have firm scientific and medical evidence to suggest exactly what those harms are. We have anecdotal evidence indicating that the hazards are extreme. In fact, when many of my friends who work in clandestine laboratories as law enforcement officers go to training, they are often instructed that their life expectancies will be cut short as a result of the hazards they face, even in the presence of chemical suits. We do know that the harms are substantial and that they're even more substantial to children. The noxious, toxic chemicals that are produced, the unseen gases, they permeate the walls, the carpeting of homes that have had clandestine labs operating in them. What LB 915 does in terms of its strengths is mandates that my friends in law enforcement continue their current policies of notifying local health departments, notifying the State Patrol, about what was found in particular drug labs. Most of Nebraska's law enforcement agencies that undertake this task right now are doing exactly as LB 915 commands, some maybe not as good as others. We need to make sure that there is uniformity. That's what LB 915 does is make sure that there's uniformity and that uniformity continues. The second strength of LB 915 is that it puts properties that have been subjected to these unforeseen harms that can cause future medical and scientific problems for people exposed to them, that they are given notice of the presence of a methamphetamine lab. They are placed on a list for a period of five years so that an unknown buyer can look on that list and see exactly whether there are those potential harms there. Again, that is not a unique facet to legislation in surrounding states. Some actually mandate that that information be placed on titles of properties. Those are the two reasons why the Attorney General's Office has come to you today in support of LB 915. And I appreciate any questions you may have.

SENATOR JENSEN: Thank you, Corey. Any questions from the committee? Thank you for your attendance.

COREY O'BRIEN: Thank you, Mr. Chairman.

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SENATOR JENSEN: Anyone else wish to testify in support? Let's see a show of hands of anyone else who wishes to testify after this young lady? One more. Thank you.

BETH BAXTER: (Exhibit 4) Senator Jensen and members of the Health and Human Services Committee, my name is Beth Baxter, B-a-x-t-e-r, and I serve as the regional administrator for Region III Behavioral Health Services in Kearney. And I'd like to take this opportunity to thank Senator Aguilar for his active participation in our regional methamphetamine coalition. It's continued work of the Governor in addressing methamphetamine and understanding the multifaceted problem that this is for the state and for communities. As you've heard earlier, that methamphetamine is one of Nebraska's greatest challenges, and the cost to our state and communities is staggering. It negatively impacts the lives of those who abuse and become addicted to methamphetamine, as well as children, family members, their neighbors, their employers, and the communities in which they live. Meth labs contaminate property and leave dangerous residue on properties that will be inhabited by people oftentimes unknowing that that property was a former meth lab. The long-term effects on children and those exposed to these toxic chemicals are unknown but we believe that they're severely debilitating. An average of 5-7 pounds of toxic waste are produced by each meth lab. Concerted efforts must be enforced to ensure that these contaminated properties are cleaned up and the risk of harm to others is minimized and ultimately eliminated. Effectively addressing the epidemic of methamphetamine requires a multifaceted collaborative approach of numerous state and community stakeholders. And LB 915 provides a means to involve the local health districts, the Nebraska State Patrol, the Health and Human Services System, and community leaders in efforts to ensure that property owners clean up and rehabilitate contaminated property before it's rented to others. I would like to thank you for your time and allowing me to testify in support of LB 915, and I urge your support. Thank you. Any questions?

SENATOR JENSEN: Any questions for Ms. Baxter? Yes, Senator Stuthman.

SENATOR STUTHMAN: Thank you, Senator Jensen. Beth, you're

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with the Regional...

BETH BAXTER: Uh-huh.

SENATOR STUTHMAN: Do you think that there's any chance in the rural areas that owners of the property are not going to go to the expense of cleaning it up if it's determined that that was a meth lab, or are they going to just destroy the property and burn it? Are they going to be into some real violations then with the hazardous material?

BETH BAXTER: You know, I don't know the answer to that question. I think that's an issue that probably needs to be further studied. I think honestly engaging property owners, realtor associations, and so forth, in discussions around this issue and methamphetamine is needed.

SENATOR STUTHMAN: Okay. Thank you.

SENATOR JENSEN: Any other questions? Thank you for your attendance. Next testifier, please?

RYAN KING: Good afternoon. I'm Ryan King. I'm the assistant director of the Central District Health Department located in Grand Island, Nebraska. Our district covers Hall, Hamilton, and Merrick counties, which consist of both urban and rural areas. I am a registered environmental health specialist with the state of Nebraska and I've worked in the field of public health for eight years. The Central District Health Department has been in existence for over 50 years and provides comprehensive services which include nursing, environmental health, the WIC program, and a laboratory. First, I would like to thank you for the opportunity to share my thoughts and suggestions on this important topic. I would also like to commend Senator Aguilar for introducing this bill, since it's extremely timely in view of the growing enormity of the meth issue. The Central District Health Department supports this bill and the positive impact it will have on the residents of Nebraska. I would like to thank the senators for having the foresight to provide for comprehensive coverage of the state by public health districts. This bill appropriately incorporates a public health network into the solution by offering a means of assuring the health and safety of the

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public. This bill would also build upon existing infrastructure, resources, and personnel while strengthening the relationship between law enforcement and public health. Law enforcement has done a tremendous job in battling the meth problem, and we believe public health can lend a hand to ensure Nebraska families do not live in homes that can be harmful to their health. Nebraskans are not alone with this issue. Many states have a problem. Many have made the choice to address it, and others have not. The data on meth rehabilitation is incomplete, but over time we're learning about the labs and the lasting effects on the environment. More importantly, we're learning more about the effects on the health of those living in apartments and houses once occupied by meth labs. What we know is that the residue and contaminants left behind constitute a public health hazard for those who live there. We also know that the residents of buildings previously housing meth labs often consist of vulnerable populations including low-income families with young children and infants who have become innocent victims to the chemical remains. This bill provides a homeowner with the tools needed to responsibly meet the standards of rehabilitation of a home and keep the property safe for occupants. If we lived in a perfect world with unlimited resources, we could establish laws that allow only certified professional agencies to conduct rehabilitation activities. If we lived in a perfect world, we would have an unlimited and readily available pool of certified professionals. We could pass laws that stipulate testing at each lab by these agencies. In this perfect world, certified professionals would then determine the form of cleanup. And in this world they would actually clean the meth up themselves. But we don't live in that world. We live in an area where certified professionals are hard to find, if not impossible to find, outside the urban areas of our state. What we know about the world in which we live is that sometimes for a variety of reasons meth labs don't get reported. We know that people unknowingly move into homes that are dangerous due to labs, and that little is being done to address the problem. If the labs are reported, the bulk chemical containers and equipment are removed. Once this is complete, the furnishings in the homes are not considered hazardous waste by definition. New residents are allowed to reoccupy the home and become subject to a needless health risk. Central District Health Department envisions the

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process as follows: that law enforcement would discover a lab and report it to the State Patrol. The State Patrol would report that home to the local health department. The homeowner would follow clear and concise rules established by Nebraska Health and Human Services. The owner would then submit these plans to the local health department for approval. That local health department would compare the homeowner's plans to the set of standards for rehabilitation. Following rehabilitation and testing, the results would be reviewed by the local health department and compared against the set standards. The home would then be released for occupancy. We continue to learn more about meth labs and their effects. If we wait five to ten years, we may have very different information that we have right now. But if we wait five to ten years for that information, how many residents of Nebraska will be unnecessarily exposed to this chemical? While we don't know everything there is to know about meth cleanup at this time, we feel it's important that the Legislature act now in order to protect the health of the public. And again, I'd like to thank you for taking a look at this difficult issue and for the work you've done to protect the public's health.

SENATOR JENSEN: Thank you, Ryan. Any questions from the committee? Seeing none, thank you for your testimony. Anyone else wishing to testify in support? Anyone in opposition?

KORBY GILBERTSON: Good afternoon, Chairman Jensen, members of the committee. For the record, my name is Korby Gilbertson. It's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing today as a registered lobbyist on behalf of the Nebraska Realtors Association. Let me first start by saying I had hoped that I would not be here in an opponent's position this afternoon. However, late this morning we received a copy of the proposed amendment, and some issues we thought would be dealt with in that amendment have not been addressed. So I'd like to discuss those with you so that you understand that the realtors are in no way, shape, or form opposed to the concept provided in this legislation. We feel that there needs to be some changes made to address some drafting errors or omissions. Let me start by saying this is kind of same song, second verse. Last year, we were in front of the Banking Committee with LB 149. This bill,

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I'm happy to say, is a huge step in the right direction. The realtors think that almost everything in here is a great idea and support it wholeheartedly. However, there are a few issues with the bill and the amendment that was introduced this afternoon by Senator Aguilar. First and foremost of those concerns is whether or not a five-year listing on what I would call the "scarlet M list" is a necessary amount of time to be contained on that list. Secondly is where that list would be contained. In the original draft of LB 915 that list was going to be maintained by the State Health and Human Services Department. Under the proposed draft it would be maintained by the local health department. We would think it might be a better idea to have some type of statewide registry that everyone could get onto to view these things rather than having it be just locally. Because, as with the real estate market, everything is not just locally and it might work better, if you want to look at this from a statewide perspective, to have it somewhere on a statewide registry of some type. But we do think that five years is excessive and would like to look at some type of amendment to address that issue. Secondly, one thing that was brought up this morning after we received this amendment was it does do some changing in the way that reporting would take place. And looking at the initial fiscal note, we thought that the committee might want to request a second fiscal note because now it does require more involvement of the State Patrol to make sure that those duties could be absorbed by the Patrol without needing to have an A bill. Thirdly, and this is kind of an issue that might take a little bit of explanation, Section 5 of the amendment says that "no property owner of property contaminated by a clandestine drug lab shall allow a person to inhabit the property until it has been rehabilitated and released for occupation..." The issue with that statement is, first of all, the original draft said "it shall be illegal." We questioned that. That is one thing that was addressed in the amendment. However, it still says "you shall not..." We're wondering what the offense is. I believe Senator Aguilar said that we just hope that people act on good honor, and that might be enough of an answer for that. However, when you look at a property, if you have got to evacuate the entire property, you might have a property that has an outbuilding where the drug lab is. And the people living in the home on that same

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property might not know that drug lab is there. So under this drafting, those people would have to leave their house and move out until everything was cleaned up and the property was cleared for them to go back in. We think that that is excessive. I did some checking, made a few phone calls after I received this, to ask, are there times, if you have a drug lab in a separate building, could people still live in the house that is not attached, not the same unit, without having health risks? And the answer was, yes. So we think that something should be done to say maybe that the site where the drug lab is would not be able to be inhabited. But if you're going to have a farmstead or something like that that would have to be cleared up and people would lose their home, even if they did not know there was a drug lab there, we think that's one potential problem. Another issue would be is if you have an apartment building with multiple tenants, you would have to evict all of those people because of one unit. So those are things that we think should be addressed, and we would hope to be part of the process and would like to work on some amendments, and then we would hope we could support the bill.

SENATOR BYARS: Thank you, Korby. Any questions? Senator Erdman.

SENATOR ERDMAN: I had written some notes, Korby, about the definitions in the bill. If you look at the amendment, a clandestine drug lab is defined as an enclosure meant for human habitation.

KORBY GILBERTSON: Right.

SENATOR ERDMAN: So the outbuilding would not technically be a clandestine drug lab unless someone was intending to live there, correct?

KORBY GILBERTSON: I think that's part of the definitional problem because then later it says that the whole property shall be emptied out, in Section 5.

SENATOR ERDMAN: Based on if there's a clandestine drug lab, which may not qualify that property at all depending on how the language is interpreted to apply, so...

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KORBY GILBERTSON: And I think that would be a further issue that should be clarified because obviously if there's a drug lab in a garage that's detached, I would say that the state would want to have that cleaned up, as well, because there could be health risks for people that would buy that property or live there.

SENATOR ERDMAN: And there may be other provisions, and I'm sure Senator Aguilar will speak to that in his closing, but I thought that was appropriate to point out as well.

KORBY GILBERTSON: Um-hum.

SENATOR BYARS: Thank you, Senator Erdman.
Any other questions on the part of the committee? Senator Howard.

SENATOR HOWARD: I remember you mentioned that you thought five years was excessive. I'm just wondering what you would think would be a reasonable time frame.

KORBY GILBERTSON: I'm not sure. Obviously, one comment that was made, I don't know if there's a magic time in which any residue could affect a person. I don't know enough about the chemicals that are used in the production of methamphetamine. But if this is just a number that was pulled out of the sky, we think that maybe...because, obviously, if you have a property that has been ruled okay for people to live in, then we think that it's kind of overkill to keep these people's property on the list because, obviously, if someone looks at a list and says, oh, that house has the scarlet M on it, it's going to very much hurt the possibility of selling it or renting it.

SENATOR HOWARD: Thank you, Korby.

KORBY GILBERTSON: Um-hum.

SENATOR BYARS: Thank you. Senator Stuthman.

SENATOR STUTHMAN: Thank you, Senator Byars. Korby, in the rural areas, you know we've got a lot of vacant farm places, a lot of farm places that have homes on them that

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realistically are inhabitable but there are people living in them. And most generally there does become a meth lab in those. The property is not worth anything; that building site is really not worth anything. If it is reported that they have a meth lab in there and the property owner is responsible for the cleanup, you know, he does not want to put very much money into it. If he bulldozed it together and lights it, he's probably in violation. So I think we need to put something in this bill also...and I'm truly supportive of this bill but I'm really looking at the practicality of what's realistic in the rural communities.

KORBY GILBERTSON: Right. And I know that some states, in discussions with Senator Aguilar's staff, that some states just go in, do the cleanup, and then charge the property owner for that cleanup. So I think this is kind of a middle-of-the-road solution to try to help the property owners to have the ability to do that. But I think that you need to have legislation that has enough teeth to make them proceed with it and, like you said, not do something like bulldoze it.

SENATOR STUTHMAN: But do I want to get assessed a bill of \$5,000 for something that I tried to help out a poor individual with housing and all I got out of him was \$50?

KORBY GILBERTSON: Yeah. That's an issue.

SENATOR STUTHMAN: It's a real issue. I mean, I know how to solve the problem. Bulldoze them all down before anybody's...

KORBY GILBERTSON: And I think part of that can be addressed through rules and regulations or just what types of things could constitute cleanup, what things that they could not do because of the potential for contamination.

SENATOR STUTHMAN: And that's a real concern of mine also, you know. Out in the rural community, we're kind of caught between the hard stone and the rock. Thank you.

SENATOR BYARS: Thank you, Senator Stuthman. Any other questions of Ms. Gilbertson? If not, thank you for your testimony.

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KORBY GILBERTSON: Thank you.

SENATOR BYARS: Any other opponents to LB 915? Any other opponents to LB 915? Anyone testifying neutral?

GARY KRUMLAND: Senator Byars, members of the committee, my name is Gary Krumland, it's spelled K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities. I'm here in a neutral position just to let you know I've been contacted by a couple law enforcement agencies recently, and they just wanted to pass on some comments about LB 915. First of all, I want to thank Senator Aguilar and the sponsors of this bill for taking the lead in addressing the meth problem. That's one of the major issues facing law enforcement across the state. The comments that they have asked me to relay to you is that...and you're probably aware of this...but law enforcement developed protocols for dealing with meth labs based on the Federal Drug Enforcement Administration and Nebraska State Patrol guidelines. If they don't follow those protocols based on the guidelines, it may jeopardize some federal reimbursement for doing some of this meth enforcement. They just want to make sure that when the regulations are developed, they don't inadvertently interfere or change the protocols that they're dealing with. And they understand that this is for the property owner but they just wanted to make sure that it doesn't inadvertently do something that would interfere with what they're required to do. They just wanted to make sure they have an opportunity to provide input and work with HHSS when they develop the regulations to make sure that everything is coordinated. And that's what they've asked me to pass on.

SENATOR BYARS: Any questions of the committee? I just have a comment. Isn't it correct again that Congress is eliminating the funding for our task forces across the state of Nebraska (inaudible)?

GARY KRUMLAND: Yes, some of that is being eliminated, yeah. I mean, it's greatly reduced.

SENATOR BYARS: Are you looking at the municipalities to assume from local property taxes, from local tax dollars, to assume that responsibility?

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GARY KRUMLAND: We're looking at several different things. If we're going to continue enforcing, it's going to have to come from somewhere, probably local sources.

SENATOR BYARS: Okay, so I'm not incorrect in...?

GARY KRUMLAND: No.

SENATOR BYARS: Okay. I appreciate it. Senator Erdman.

SENATOR ERDMAN: Gary, I'm looking at the...I think it's in the language of both the green copy and the amendment where it talks about law enforcement agency means the police department or town marshal in incorporated municipalities? Is the term "town marshal," is that a term that is in statute that's just never been addressed?

GARY KRUMLAND: Technically, well, town marshal may not be correct. It would be village marshal.

SENATOR ERDMAN: Okay.

GARY KRUMLAND: Village is the classification of municipality for the lowest number of population, and their law enforcement official is called a marshal. So I suppose, technically...

SENATOR ERDMAN: Is it your understanding that it is "village marshal" in the statute or it is "town marshal?"

GARY KRUMLAND: It would be village, because town, I assume, applies to a township. I'm not sure.

SENATOR ERDMAN: Okay.

GARY KRUMLAND: Town is not a term....

SENATOR ERDMAN: I just saw that term and I thought it was unique enough to ask about.

GARY KRUMLAND: If you're talking about incorporated municipalities, village marshal would be the correct term.

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SENATOR ERDMAN: Okay. Thank you.

SENATOR BYARS: Thank you, Senator Erdman. Any other questions or comments? Thank you. Anyone else to testify neutral? How many others to testify on LB 915? This will be our last testifier.

SHANE FLYNN: Good afternoon. My name is Shane Flynn, F-l-y-n-n. I am employed by the Nebraska State Patrol and currently serve as the clandestine laboratory coordinator. I'm here today testifying in a neutral capacity on LB 915. I have been involved with drug investigations at both state and federal levels since 1997. I have served as the Nebraska State Patrol Clandestine Laboratory Coordinator for the past two years, overseeing all aspects of illicit drug lab response. Methamphetamine is easy to manufacture, using commercially available products. This ease in manufacture is compounded by the fact that meth manufacture can and does occur anywhere a closet chemist chooses to set up shop. These locations are often subject to both drug and chemical residues being left behind. Aside from the addictive and dangerous properties of the drug itself are the monumental dangers of the makeshift lab where methamphetamine is produced. Law enforcement, fire and rescue, innocent bystanders, and children exposed to meth labs are under a constant threat of fire and explosion, asphyxiation, poisonous gases, corrosive liquids, and chemical burns. These issues don't necessarily get corrected as a result of an initial investigation. Law enforcement throughout the state have taken the necessary steps to train themselves in the proper methods for the safe investigation, dismantling, and removal of items related to the illicit manufacture of methamphetamine. Law enforcement has two primary responsibilities, as related to drug lab investigations. Those are crime scene documentation and public safety while the operation is being conducted. The issue of crime scene documentation involves collecting evidence of a crime and removal of lab-related items. Anything that is observably connected with a meth lab, as well as items suspected of being contaminated, are taken from the site and set aside for destruction by a DEA hazardous waste contractor. Due to the nature of chemical processes and substances used in a methamphetamine lab, toxic substances are left behind that aren't readily

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apparent to officers working at the site. Solvents and gases are frequently used in the manufacturing process. Unknown liquids and powders get spilled during the cook. Airborne methamphetamines saturate the environment surrounding the meth production. These toxic substances come in contact with and settle on hard surfaces such as counters, tables, and walls. These substances saturate porous materials like exposed wood, carpet, drapes, and pillows. As many of these poisons are visible identifiable, they are not taken from the site. Law enforcement does not have the training or testing equipment required for site remediation. That being said, officers are unable to declare a lab site clean and cannot advise occupants or landlords as to the dangers of living in a structure known to have housed a methamphetamine lab. Once gross contaminants and lab equipment are removed, officers apply a red or orange self-adhesive placard to the property advising persons entering in the future of the discovery of an illicit drug lab. Any inquiries concerning safety and cleanup of the property are referred to local health department personnel or the Nebraska Department of Environmental Quality. The dangers of what officers can't see are left behind with the potential of causing future occupants illness as a result of chemical exposure. Thank you for your time. I would be happy to answer any questions you might have.

SENATOR BYARS: Trooper, thank you for being here and thank you for your professionalism and what you do for all of us in Nebraska.

SHANE FLYNN: Thank you, sir.

SENATOR BYARS: This is tough work. Now, you can't be too clandestine, though, with that tie.

SHANE FLYNN: It's a little bright, sir.

SENATOR BYARS: That tie is going to give you away every time. (Laughter) And please forgive my humor. Senator Stuthman.

SENATOR STUTHMAN: Thank you, Senator Byars. Shane, has there been a decline in the amount of meth labs discovered

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since we enacted the meth bill or anything like that that you've noticed?

SHANE FLYNN: We are seeing a decline, yes.

SENATOR STUTHMAN: Okay. Thank you.

SENATOR BYARS: Would you say that part of that is because of the task forces that we have had operating throughout the state and the wonderful job that they're doing relative to discovery and the...?

SHANE FLYNN: I think there's probably a lot of factors associated with it. The state of Nebraska has done a good job with training law enforcement in general. We have taken the approach of training as many possible enforcement officials as we can, so that we just have more people in the field to be able to enforce those activities and watch out for the activities surrounding meth production. Second, the media in the state of Nebraska has done a very good job of keeping the issue of illicit drug labs kind of on the forefront, and it has allowed people within their own communities to be able to identify suspicious behavior associated with that. So I think both of those things kind of tie together to help reduce the numbers.

SENATOR BYARS: Thank you very much, Trooper. Senator Erdman.

SENATOR ERDMAN: From your testimony, I gather the idea that there may never be a way to completely eliminate the substances that are left over after a meth lab is discovered, is that correct, where it gets into the porous items?

SHANE FLYNN: Not entirely.

SENATOR ERDMAN: Okay.

SHANE FLYNN: And I'll just expound on that. When law enforcement goes in to process a clandestine drug lab site, we go in and we document the crime itself and ensure that we don't have potential problems in the future from large volumes of explosive chemicals. So we go in and we remove

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gross contaminants or, again, those things that we can see, that we can tell that doesn't need to be here; that was part of a meth lab. What we can't see, the things that as methamphetamine is manufactured in an environment and it settles on things like glass, on the walls, in the furniture; we can't see that. We don't have the means to test that on site, and to then go in and do an actual cleanup of the site. That is something that would have to be done at a later time by somebody with the proper testing equipment and the proper cleanup equipment. None of it is too technologically difficult or hard to come by, but that's not a function that law enforcement performs right now. A lab site can be cleaned up. Carpet can be removed. Drywall can be replaced. In some instances, the walls can be washed with a detergent solution and then repainted to coat the methamphetamine or other drug lab residues. And it depends on which method they're using to manufacture as to what degree they're going to need to clean up a property. Pillows and those other porous substances like draperies and things like that can be removed from the property. So, yes, the property can be cleaned up. It's just not done as a result of the initial investigation.

SENATOR ERDMAN: Okay. I was just making sure that the testimony wasn't that we couldn't do this, it was just that it wasn't the responsibility of law enforcement based on the training and the responsibility that you have to perform that.

SHANE FLYNN: That's correct.

SENATOR ERDMAN: In the event that you labeled the property with a placard, when is that removed? Is that removed at a date to be determined after the property is cleaned currently, or is that an infinite time?

SHANE FLYNN: It can be removed by the property owner or the person that's dwelling at the property at any time. The placard is simply there to advise anybody entering that site, once law enforcement leaves, that, yes, we've found components of an illegal drug lab at that site. So it can be removed at any time. There's not a time frame associated with it. It could be, if we take a meth cook to jail and they immediately bond out, as soon as they get home they may

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take a razor blade to that window and scrape it off so anybody else entering after that will have no idea.

SENATOR ERDMAN: Thank you.

SENATOR BYARS: Senator Erdman, thank you. Senator Howard.

SENATOR HOWARD: Sir, am I correct in assuming that you are involved in the initial investigation or the initial call regarding a meth lab?

SHANE FLYNN: Yes.

SENATOR HOWARD: Have you have situations where there were children involved?

SHANE FLYNN: Yes.

SENATOR HOWARD: That you removed children?

SHANE FLYNN: Yes.

SENATOR HOWARD: Do you feel that your office is the best prepared to provide for the needs of those children upon removal? And that's a tough question.

SHANE FLYNN: What we normally do...now, we cannot...the Patrol and law enforcement itself, do we have the necessary facilities available? No. That's why we also take the steps of, if we know kids are going to be involved, we'll take every means available to notify somebody from Child Protective Services, from a child advocacy center from one of the 1184 teams to come in and assist us with that so that there is somebody there that's not in a big scary Darth Vader suit trying to calm down a child. That rarely works.

SENATOR HOWARD: I really appreciate you testifying to that. I would certainly agree with you. Do you feel it would be of benefit in these situations to have a trained professional, a social worker with you?

SHANE FLYNN: Yes. And that is going to vary from case to case. It depends on at what stage we involve them but, yes, I believe they need to be involved.

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SENATOR HOWARD: I appreciate you saying that. As you know, CPS, Child Protective Services isn't 24/7 in this state but I share your observation that a social worker would certainly be supportive to the child and you as well. Thank you.

SHANE FLYNN: Thank you.

SENATOR BYARS: Thank you, Senator Howard. Any further questions or comments from the committee? If not, thank you very much for being here.

SHANE FLYNN: Thank you.

SENATOR BYARS: One more time, anyone else in the neutral position? If not, that will conclude the hearing on LB 915...oh, you want to close? (Laughter) Minor detail. Senator Aguilar to close.

SENATOR AGUILAR: Thank you so much, Senator Byars. I just want to try to address some of those questions that were asked. Senator Stuthman, you asked about the possibility of burning the property, a possibility that it had less value than what it would cost to clean up. That will be addressed in rules and regulations, I'm sure. My personal opinion is, if that's the easiest way to go and it's allowable environmentally, heck yes, burn it down. That doesn't bother me by any stretch of the imagination. Korby brought up the point about the five-year time period for the list. That's not carved in stone. And, quite honestly, yes, we did pick something out of the air that we thought was really, really safe, so that's negotiable if the committee felt and wanted to work with the realtors and myself on a different time frame, I'm more than willing to do that. That's not a problem. As far as should it be posted locally or on a state level or nationally, you know I really didn't have an opinion on that. I guess I was thinking in terms of most of the time a house is sold or rented locally, so the local health department to me would be the best people to post that information with. The question about the outbuildings: Should the property be condemned if the lab actually was located in an outbuilding? I think a point that wasn't mentioned there that is extremely important is

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that that meth cook may be doing it in that outbuilding but he's walking back into that house. And when he walks back into that house he tracks a residue with him. So it's extremely necessary that the home and its occupants are protected from that as well. I think I've addressed all the questions. If not, are there any more that the committee has?

SENATOR BYARS: Senator Cunningham.

SENATOR CUNNINGHAM: Yes, Senator Aguilar, the question that Korby also brought up was the apartment building. I mean, if an apartment is a lab...

SENATOR AGUILAR: What would happen there, Senator.. I know where you're going with that...what would happen there is that testing may be necessary in the adjoining apartments if they shared a ventilation system, for instance. A quick test of those properties...

SENATOR CUNNINGHAM: But they could test for that to find out if it...

SENATOR AGUILAR: Yeah. I think the important part is here, safety, you know? Nothing would sicken me worse if Senator Erdman bought a new house and moved into it and his beautiful little child was crawling around on carpet that's contaminated because we didn't do the right thing; we didn't make sure it was cleaned up. Thank you.

SENATOR CUNNINGHAM: But they wouldn't come in and automatically close down a 50-unit apartment building?

SENATOR AGUILAR: Like I said, the first thing that would happen is, if I was that apartment owner I would insist that the adjoining apartments were tested immediately to find out if they're all right.

SENATOR CUNNINGHAM: Yeah, but I'm saying the way the legislation is written, beings it happened in one apartment, would the state just come in and just close down the whole apartment building?

SENATOR AGUILAR: It's certainly a possibility. It

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certainly would be.

SENATOR CUNNINGHAM: I mean would they do it automatically or would there be testing or something that happened first?

SENATOR AGUILAR: I'm sure there would be testing on something that grand, simply because...I think it's necessary because they share ventilation systems and neighbors go back and forth between each other's apartments. It would definitely be necessary to test that ahead of time.

SENATOR CUNNINGHAM: Okay, thank you.

SENATOR BYARS: Senator Erdman.

SENATOR ERDMAN: Senator Aguilar, I need to clarify because I think the letter that the department sent was applying to the green copy. The way that this is drafted, I think their issue is resolved because of the fact that in the green copy they would have been the responsible party to notify the property owner, and then there was nothing in the fourth section that would have created the statewide registry. I think that the way that the amendment is written changes that to the local department with the law enforcement making it, so I think that's fine. But I do still wonder if there is a different policy or if there is something else that addresses that outbuilding, because the way that your bill is written, unless that lab was found within the home or the place where the family was living, it would not be defined as a drug lab under your bill. And I wonder if there isn't a more appropriate definition that extends that beyond just the actual enclosed area for human habitation to include those outbuildings or other structures that would be on that same property. So I think there may be some technical things that could be addressed because the way that I would read the bill, everywhere that clandestine drug lab is referred to, it means an enclosed area for human habitation. If it was a garage or an old outbuilding on a farmstead, that technically would not be defined as a clandestine drug lab, which may or may not be covered under some other provision that either is federal or otherwise. But I think it's appropriate to look at that as we move forward to make sure that it's appropriately defined.

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SENATOR AGUILAR: We'd be more than glad to look at that but there are federal regulations as far as clean air and water contamination and all that. Federal regulations do cover a lot of that.

SENATOR ERDMAN: Sure.

SENATOR BYARS: Thank you, Senator Erdman. Any other questions? Would you like to close again, Senator Aguilar? (Laughter)

SENATOR AGUILAR: Once is enough. Thank you very much.

SENATOR BYARS: Thank you, Senator. That will close the hearing on LB 915. And I will open on LB 869. Senator Johnson, will you lead the committee, please?

SENATOR JOHNSON: Senator Byars, let's take just about a half a minute and let the room clear so we can hear you.

LB 869

SENATOR BYARS: Senator Johnson, members of the Health and Human Services Committee, I am Senator Dennis Byars, B-y-a-r-s, representing the 30th Legislative District, the "Caring and Sharing District." Today I bring you a bill that is a reflection, LB 869, of a bill that I brought and was passed two years ago that would require the state's ICF-MRs, and there are only two of those left: Beatrice State Developmental Center and Mosaic. That bill provided for a provider tax for those ICF-MRs that was very similar to the intergovernmental transfer monies, the IGT funds that you have heard about...some of you worked with, some of you did not but that we as a state accessed a few years ago that helped to establish our healthcare cash fund that was basically used to build assisted-living facilities across the state. This tax was established to, and was set up to be reimbursed to the providers, to generate additional federal dollars through Medicaid. At that time, the director of Medicaid, Bob Seiffert, and the Health and Human Services System worked with the Legislature and the ICF-MRs to create a win-win situation, and it has been. Of the additional federal money that was generated at that time,

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and which has happened, Mosaic would receive an additional \$300,000 in funding, community-based services in the state would receive \$312,000 for that given year that the bill went into effect. Those increases then became a part of the base funding for Developmental Disabilities Services and continue at that same rate today. LB 869 would replace those specific dollar amounts that we put in the legislation that are currently listed in statute with a percentage that would reflect growth. The rationale for that is that the 6 percent provider tax that is paid is based on net revenues, and as those revenues increase, the amount that the provider tax generates increases also. As a matter of fairness, it doesn't seem fair to leave the fixed dollar amount the same and not increase the funding to the ICF-MRs with a percentage of the increases. As it is set now, none of the community-based services or the ICF-MRs receive additional benefit. Section 1 of the bill would tie the ICF-MR reimbursement to the skilled market basket index that has been averaging 3 percent. Currently, I know Mosaic's reimbursement is 2 percent. I would like to work with the committee and the Department of Health and Human Services who have been very cooperative in talking with us and trying to work some solutions to how we can do this fairly, to figure out a way to provide adequate funding for Mosaic and the community-based services. I would ask the committee...I'll have testifiers that will get into details and have much more details about the exact dollar amounts that follow me, but I think it's a matter of fairness. Mosaic allowed themselves to be used for the provider tax and to generate these dollars, and I think they're only fair that those dollars go back into the developmental disabilities system. So I would thank you for allowing me to introduce LB 869 in the issue of fairness, and I would take any questions but probably those people who have CPA behind their name would be more appropriate when they follow me.

SENATOR JOHNSON: Questions of Senator Byars? Thank you. We do want to take a little roll call here. How many do we expect for proponents? One? Anybody else? Okay, opponents? One? Neutrals? Okay. Let's go ahead with the proponents.

SCOTT HOFFMAN: Good afternoon. My name is Scott Hoffman,

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H-o-f-f-m-a-n. I'm here today representing Mosaic as its finance director for the Nebraska region. Mosaic is the only private provider of ICFM services in the state.

SENATOR JOHNSON: Scott, did you spell your name? If you did, it went by pretty quick.

SCOTT HOFFMAN: Sorry. H-o-f-f-m-a-n.

SENATOR JOHNSON: Okay, thank you.

SCOTT HOFFMAN: Mosaic is the only private provider of ICF-MR services in the state. We are currently operating three ICF-MR facilities: a campus setting in Beatrice, a 9-bed group home in Grand Island, and the Bethphage Village in Axtell. In total, those services support approximately 240 people. As the sole private provider of the services addressed in this proposed legislation, we are testifying in favor of LB 869. We are in favor because the amendment would provide a level and floor for the ICF-MR reimbursement methodology. First, I'd like to point out in the amendment on page 2, line 19, we would recommend the deletion of the phrase "for fiscal year 2004 and 2005." The amendment should just read for that sentence, "proceeds from the tax imposed under section 68-1803 shall be allocated as follows." That was an oversight on our part. Mosaic partnered with the Department of Health and Human Services during the 2004 legislation session to pass LB 841, which originally created the ICF-MR Reimbursement Protection Fund. Currently, ICF-MR providers pay a tax equal to 6 percent of their net revenue. These funds are placed into the ICF-MR Reimbursement Protection Fund and are currently being distributed in the following order. First of all, \$55,000 goes to the department for administering the fund; second, the repayment of the tax paid by the ICF-MR providers for the cost of the tax; third, \$300,000 is used to increase the nonstate-operated ICF-MR reimbursement rates; fourth, \$312,000 is to be used for payment to providers of community-based services to address the waiting list; and fifth, any money remaining in the fund after 1 through 4 shall be transferred to the state general fund. It should be noted, \$1.3 million was transferred to the state general fund in the state fiscal year of 2005. The first part of the amendment addresses the need to establish a floor for

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reimbursement to the nonstate-operated ICF-MR providers. The amendment would require that the ICF-MR reimbursement methodology be sufficient to compensate providers for the reasonable and necessary cost of providing services to the residents. Historically, the private ICF-MR system has had an approved methodology for funding services. The methodologies have all been based on prior year facility cost reports, which contain caps on certain costs plus an add-on inflation cost. In the recent years, there has been no methodology employed for establishing the add-on inflation factor. It appears in recent years the state has been backing into the inflation factor based upon a percentage recommended by the Governor, regardless of the reasonable and necessary cost. The state ICF-MR, however, is funded based on their total expenses without even caps. To alleviate this scenario, LB 869 proposes that the annual reimbursement rate shall be increased by at least the previous year's percentage increase in the skilled nursing facility market basket index published by CMS. The skilled nursing facility market basket index was 3 percent, 2.8 percent, and 3.1 percent respectively for fiscal year 2004, 2005, and 2006. This change will create stability in the reimbursement methodology by establishing an agreed upon inflation factor that is universal. It is our understanding that the fiscal note attached to this bill shows a financial impact of \$175,000, with \$70,000 being the actual general fund match for Medicaid. In HHS correspondence dated November 3, 2005, we were informed \$19 million has been appropriated to the private ICF-MRs for state fiscal year 2007. However, given the budget approved by the Governor, HHS is currently tied to only a 2 percent increase for state fiscal year 2007, which is projected to be \$17.9 million. It would appear that there is more than enough money to support LB 869. The second part of the amendment would change the set amounts of \$300,000 to the nonstate-operated ICF-MRs and the \$312,000 to the community-based to the 25 percentage amount. This change is needed due to the fact that the tax is currently based on percentage of net revenue with those dollars going up annually. It makes sense that if the tax being paid in is based on a percentage amount, then the same methodology should be used to distribute the funds, which should also increase annually. Without this change, the tax amount being paid in will continue to increase each year as net revenue increases, but the funds

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being distributed will remain the same. The provider tax was originally intended to be an ongoing funding source for ICF-MR and community-based services, as well as the general fund. Mosaic continues to advocate for using 100 percent of the funds generated by the provider tax to support people with developmental disabilities on an equitable basis, as well as to address the waiting list. Thank you for your time and consideration.

SENATOR JOHNSON: Questions? Thank you very much. Any other proponents? Any opponents? Mr. Nelson.

DICK NELSON: (Exhibit 1) Senator Johnson and members of the Health and Human Services Committee, my name is Dick Nelson, N-e-l-s-o-n. I am the director of the Department of Health and Human Services Finance and Support. I am here today to testify in opposition to LB 869. The bill has two primary purposes: first, to establish an entitlement to reimbursement for ICF-MR providers, and, secondly, to change the allocation of funds provided by the ICF-MR provider tax. I will address the issues separately. Section 1 of the bill, lines 1 through 5, provides that ICF-MR facilities shall be reimbursed "their reasonable and necessary costs of providing services to their residents." This language is intended to and most likely does establish a legally enforceable right to reimbursement. It is the same reimbursement language that we used in the 1960s, '70s, and '80s by the federal Medicare program. It proved to be inherently inflationary and was abandoned by the federal government years ago. The federal Medicaid program also used to provide an enforceable reimbursement level for ICF-MR and nursing facility providers that was reasonably cost-related. That level of reimbursement, the most recent iteration was referred to as the Boren Amendment. Congress repealed that entitlement language in the late '90s. We do not believe the state of Nebraska now wants to enshrine reimbursement language that could well lead to litigation. Continuing with Section 1, lines 6 through 10, this then builds upon the proposed reimbursement flow with a COLA, cost of living adjustment-type adjustment, that will automatically increase reimbursement rates by not less than the previous year's skilled nursing facility market basket index. Nebraska currently looks to the Appropriations Committee and to the Legislature to fund cost increases

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based on revenues and competing needs. For the state fiscal year 2005-06, ICF-MR facilities received a 2 percent increase. The SNF market basket for that same period of time was approximately 3 percent. We know of no studies that validate the use of the SNF market basket index which is based on costs for elderly and disabled persons in skilled nursing facilities as the appropriate index for measuring the impact of inflation on the cost of intermediate care facilities for the mentally retarded. Section 2 deals with the ICF-MR provider tax and distribution of funds. The current provider tax makes use of a funding mechanism recognized by and allowed under federal Medicaid law. When the state provider tax law was originally enacted, it established the ICF-MR Reimbursement Protection Fund in subsection (1) of 68-1804. Subsection (2) distributed the funds collected in that cash fund for state fiscal year 2004-05, and subsection (3) distributed the cash funds for state fiscal years 2005-06 and beyond. The language is very clear. One portion of both the initial distribution and the future distributions formulas is limited to \$300,000 for ICF-MR providers and \$312,000 for developmental disability community services. The balance of the funds is credited to the general fund. The result is that both the providers and the general fund benefit from the ability to obtain additional federal funding. Section (2) proposes to change this existing distribution. We believe the intent of the bill is to use the new formula to increase funding to ICF-MR providers and developmental disability community providers. Doing so would create an adverse impact on the general fund. We must point out, however, that as worded on page 3, lines 19 through 21, and 24 through 25, do not accomplish that purpose. All they do is shift the funding from the currently used general funds to the cash fund. As Mr. Hoffman remarked, our fiscal note shows about \$170,000 total impact as a result of this bill, \$70,000 being general funds. That \$170,000 is basically the 1 percent increase that would be provided by the skilled nursing facility market basket. Section (2), as we read the bill, does not increase the funding to the ICF-MR facilities or to the community providers, therefore the overall impact on the state budget is minimal. For the reasons we have given, we ask the committee not to advance LB 869, and I would be pleased to answer any questions.

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SENATOR JOHNSON: Questions? Senator Byars.

SENATOR BYARS: Mr. Nelson, where do the currently used general funds come from in this situation? In other words, of the general funds generated by the ICF-MR provider tax that we established in prior legislation?

DICK NELSON: There are funds that are actually paid over into the general funds, Senator Byars.

SENATOR BYARS: From the provider tax that was generated through that legislation.

DICK NELSON: Okay. There are a number of steps, and I've got some provider tax people in the room with me in case I get myself in trouble, but we'll try this. The ICF-MRs, both the three private locations as described, plus BSDC, pay a 6 percent tax. That money goes into the cash fund. Then the state portion or 40 percent of the total dollar amount, roughly 40 percent, is paid back to the private ICF-MRs so they get their state portion directly reimbursed. BSDC does not. Okay? So now we've already created a pool of money. Then in addition to that, the funds that have been raised are used to generate the additional federal funding. So the portion left over from BSDC plus the infusion of the federal funding that is now left is distributed according to the formula.

SENATOR BYARS: Which is a fixed dollar amount.

DICK NELSON: Yeah. The department gets \$55,000 for administration. Each of the community providers gets \$312,000 fixed dollar amount. The ICF-MRs get \$300,000 fixed dollar amount. The balance goes into the general fund.

SENATOR BYARS: But the dollars are generated originally and still and into the future by the ICF-MRs, the dollars with the intent of the language on the floor was that they were to be used for that purpose. I goofed on the language on putting the fixed dollar amount, but I want to change that so that these people are treated fairly. What isn't fair about giving them a percentage increase to what we get in

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additional federal Medicaid dollars?

DICK NELSON: Okay. A couple of things, Senator. First of all, as you understand, and we did deliver a letter to your office, we don't think this bill increases the funding for the ICF-MRs, which we wanted to point out to you.

SENATOR BYARS: But you'd be in favor of that?

DICK NELSON: We wanted you to know that it did not do that.

SENATOR BYARS: You would be in favor of that change?

DICK NELSON: At this point in time, Senator Byars, two things happened to be the case. Now I was not involved in the negotiations. This predated me. The language in the bill is pretty clear. And I will tell you the impact of what it says. It says that in the first year that the provider tax is enacted, the ICF-MR providers and the community providers will receive an increase in funding. In future years, that increase in funding will be protected by the ongoing distribution formula. There is no indication in the bill that there was ever an agreement that the amount going to the ICF-MRs for rates would continually increase over time. The senator...we met earlier in the fall and so when I first read the bill, I read it with the kind of eyes we all do. We thought we knew the bill was going to say and that's what we thought it said. And so until we read for more carefully, we realized that this did not increase the funding. To increase the funding at this point, Senator Byars, would have an adverse impact on the general funds. And at this point in time, as we all know, there are a number of competing issues in the Legislature about how those general funds are to be distributed.

SENATOR BYARS: Thank you.

SENATOR JOHNSON: Other questions?

SENATOR HOWARD: Sir, did I hear you correctly? Did you say \$55,000 was utilized for administrative costs?

DICK NELSON: Within the Department of Health and Human Services Finance and Support, yes.

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SENATOR HOWARD: What is the definition of administrative costs? What is that in real life terms?

DICK NELSON: I'm sorry. Can you ask the question again?

SENATOR HOWARD: When you describe administrative costs, what does that consist of?

DICK NELSON: It consists of the personnel that are involved in the Department of Finance and Support in administering this fund, overseeing the collection of the funds, the placement in the cash fund, doing all the negotiating with the federal government to get this particular kind of funding mechanism improved. I mean, I don't have a detailed breakdown, Senator Howard, but it's administering this part of the program.

SENATOR HOWARD: And for what period of time?

DICK NELSON: It's an ongoing funding.

SENATOR HOWARD: The \$55,000?

DICK NELSON: Yeah. The funding under the bill is ongoing funding. The administrative costs are ongoing, the administrative costs.

SENATOR HOWARD: And you don't feel that's excessive?

DICK NELSON: I haven't gone back and looked at it, Senator. I doubt that it's excessive. It's not a particularly large amount of money.

SENATOR HOWARD: Well...thank you.

SENATOR JOHNSON: Thank you, Senator Howard. Any other questions? All right. Thank you, Mr. Nelson.

DICK NELSON: Thank you.

SENATOR JOHNSON: Neutral testimony? Seeing none, Senator Byars, would you like to close?

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SENATOR BYARS: Senator Johnson, members of the committee, I'll just be very brief in my closing. I again ask you, for a matter of fairness, did we write the bill absolutely correctly in looking into the future on the dollars that would be generated and making sure that the ICFs would be treated fairly? No, I didn't, and I'll take full responsibility for that. The reason for this legislation is to correct that. Is there some change in language that we might do to make it better? Understand, we're not taking dollars that are generated from the local income sales tax that are typically funding the general fund. The dollars that are going into the general fund here are dollars that are generated from Medicaid. They're federal dollars that we agreed upon with the Medicaid director and HHS to generate. We did not say that we're going to bring those in there to support water rights or education or anything else. These dollars were generated through individuals with developmental disabilities. And I ask you for a fairness. Will it have a hardship on the general fund? Only because the Department of Health and Human Services took those dollars and used them there rather than using them appropriately for what we all intended them to be used for. So, I ask you again. I think this is a bill of fairness. Can we make some changes as far as language is concerned on some of those issues that Mr. Nelson had? Yes, but again, a matter of fairness; I ask you to look at this in that light. Thank you very much.

SENATOR JOHNSON: Senator Howard has one more question.

SENATOR HOWARD: Thank you, Senator. Senator, just to be clear in my own mind, you're requesting that the dollars that are generated by this funding be returned to this funding, isn't that, in simple terms, what it comes to?

SENATOR BYARS: Yes.

SENATOR HOWARD: Thank you.

SENATOR JOHNSON: Any other questions? Hold it one more second, Senator Byars. Senator Cunningham.

SENATOR BYARS: I'll close again. (Laugh)

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SENATOR CUNNINGHAM: You know, I'm not sure, Senator Byars, but can you explain to me the ongoing, the indexing, the guaranteed rate. What's the actual effect of that? I'm not sure I understand it.

SENATOR BYARS: Well, I think that's referred to in what is used as a formula as a cost of living or a COLA-type index of tied to what it costs to skilled nursing facilities and other people and how they get their percentage of increases on an annual basis. I think that percentage can be worked with and one that's fair. I don't think we have to tie it to that. It seems to me, quite honestly, also I agree that it might be more than we need.

SENATOR CUNNINGHAM: Could it be possible that the actual revenues would come down but the inflation rate would keep going up?

SENATOR BYARS: No, because it's tied to revenues.

SENATOR CUNNINGHAM: Because of the way it's worded, it wouldn't happen?

SENATOR BYARS: It's tied to revenues. If revenues increase for the ICFs, the amount of money that we access from the federal government through the provider tax that we pay, increase. If those revenues don't go up, flat line, or go down, you do not see any increase. As a matter of fact, you would actually see a decrease.

SENATOR CUNNINGHAM: Thank you, Senator.

SENATOR JOHNSON: Other questions? Thank you. This closes the hearing on LB 869 .I relinquish the chair to Senator Byars for the next bill.

SENATOR BYARS: Thank you, Senator Johnson. Senator Brown, welcome to Health and Human Services to introduce LB 999.

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SENATOR BROWN: (Exhibit 1) Mr. Acting Chairman and members of the committee, my name is Pam Brown. I represent

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District 6 in Omaha and I am here to introduce LB 999. LB 999 is a bill that increases requirements for training for childcare providers and creates a two-tiered system for licensing for child care. It is identical to a bill that was advanced from this committee in the year 2000, and was discussed on the floor at that point in time. It is very clear in much of the studies that we have that staff training and a provider's educational background are critical elements to the child's experience in child care. And I believe that our children have the right to have providers that have at least the same skill level that we expect for those individuals that care for animals. In that case, that is not the case in the state of Nebraska. The two-tiered system is a very important aspect. It provides for parents, when they are choosing childcare programs, information about which programs have exceeded more than the minimum requirements. It is also a fairly complex issue to be dealt with and was something that, when the bill was on the floor previously, we had talked about eliminating that provision. And if it is the will of the committee that we not deal with that piece of it at this time, I would reluctantly accept the committee's decision on it. If you look at the fiscal notes that accompany this bill, most of the fiscal impact is around the two-tiered system and the additional requirements that would be necessary to provide for those programs, some way to validate their achieving the higher tier. And my goal would be to find something that we can agree on in terms of the requirements for training and move forward on that which we can agree on. And if the fiscal impact makes the tiered system something that the committee does not feel that we can approach this year, I would accept that. But I do believe that we have very low requirements in the state in terms of education and training for providers. One of the pieces of this bill that I feel the most passionately about is the requirement that at least a portion of the hours, and the major portion of the hours. And there's a phase-in so that the requirements of additional hours are phased in. But the piece that the greatest number of hours be done in a group setting, I think is very critical. If you have someone who has no experience who begins to do childcare without any experience and doesn't even have to have the training until after they commence providing the care...and I would point out that we are talking about a business. We are not talking about a

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situation where it's just a family member doing something for their own family. We're talking about a situation where people are charging money for it. But if they are isolated and there's no opportunity, all of their training can come from reading articles and demonstrating that those articles have been read. I don't think that there's the kind of support system that there needs to be for individuals who are providing care, especially in their home without any sort of support system. And I don't think that there is the kind of interactive learning that takes place when they are in a group setting. So that's a piece that I feel very strongly about. And I would be glad to answer questions. There are people following me. I have two letters, one from Kim Chase and one from Mary Jo Sharp in support of this bill. I don't know if the committee has received copies. If not, I would share copies with the committee.

SENATOR BYARS: Would you share them and make them part of the record, Senator? Thank you very much. How many testifiers will there be in favor? How many in opposition? Anybody neutral? Okay, thank you very much. Any questions of the committee? Senator Howard.

SENATOR HOWARD: Senator Brown, as you know, you came to me and we discussed this bill during the 10 days when we enter bills into consideration. And at that time, I did sign on to this. And since I have, I've looked at the bill a little more carefully, and I've got some concerns that I'd like to discuss with you.

SENATOR BROWN: Okay.

SENATOR HOWARD: You make a reference to ESU 3, the Early Childhood Training Center, and in reading through this, surely it's not your concept to restrict the childcare training to one facility or one building or one...

SENATOR BROWN: Absolutely not. There is no way in the state of Nebraska that one entity can be the single point of delivery. But we have come to accept the training center as the vehicle that would arrive...they do the lending library for people who are reading on their own. They do a number of trainings for trainers, those kinds of things. And so

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it's establishing a protocol, not necessarily being the provision of all of the training.

SENATOR HOWARD: But you're certainly not suggesting that this would be the only source or this would be the only facility that could be utilized for this training.

SENATOR BROWN: No, that's just what I just said. It is the protocols for how it is done and what would be included in it, not necessarily the provision of the training directly, because in a state this size you have to have different mechanisms to provide training.

SENATOR HOWARD: Well then, would you have any difficulty with possibly a different terminology that would say possibly to include this training facility, rather than to have it as a focus?

SENATOR BROWN: Well, I think that the training center arriving at the protocol, having one central protocol for how you would do it or what would constitute the kinds of things that might be included, I think it is a good thing. I don't think that it has anything to do with who might do the training.

SENATOR HOWARD: So you are wedded to this concept?

SENATOR BROWN: I'm wedded to having some way of knowing that you have a consistency of what should be the kinds of things that are offered and some consistency in what kinds of training or what kinds of individuals might meet those criteria. It's more of a criteria setting than it is the provision of training directly, although there is some of that that is done through the ESU. That is clearly not a way that you can get training available throughout the state of Nebraska.

SENATOR HOWARD: Do most childcare providers currently have contact with the ESU?

SENATOR BROWN: I think that many do because that is one of the sources for a lot of the materials that are used by childcare providers in their home studies. Those childcare providers who are part of some sort of a support system

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might not have as much direct contact with the ESU.

SENATOR HOWARD: So you have additional information concerning that, that I could obtain later.

SENATOR BROWN: Sure. Absolutely. And I think there will be somebody in the following testimony that can probably speak more directly to that, too.

SENATOR BYARS: Thank you, Senator Howard. Other questions? Let the record reflect that we have received communication from Kim Chase and Mary Jo Sharp in support of LB 999. Thank you, Senator. You reserve the right to close, I presume?

SENATOR BROWN: I think I will waive closing. I'm supposed to be presiding in the other hearing.

SENATOR BYARS: Okay. Thank you very much. Next proponent of LB 999?

MARCIA CORR: (Exhibit 2) Good afternoon, Senator Byars. I do have handouts here for you also. My name is Marcia Corr, C-o-r-r, and I'm here on behalf of the Nebraska Department of Education and State Board of Education in support of LB 999. We do find that LB 999 is responsive to the need to improve the provider knowledge, the staff provider knowledge, and requirements to improve program quality. As Senator Brown indicated, the research is really very clear about the need for highly trained staff and teachers, that it does result in positive outcomes for young children. And this proposed legislation is also very congruent with what the State Board of Education's commitment to early childhood and the recommendations of the recent State Board's Early Childhood Policy Study and the recommendations that came from that. A significant part of our work in the department is around partnering at the state level to build an effective, coordinated system to prepare, to support, and recognize the early childhood care and education workforce in order to provide high quality programs for young children and their families. And I'm here today to testify that we do have both the authority and the commitment and the capacity to meet the training requirements as they are set out in LB 999. Nebraska's Quality Early Childhood Act

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establishes the Early Childhood Program Training Fund and that is administered by the Department of Education and it identifies the intent to use some of the funds from the federal childcare and development funds that come to the Nebraska Health and Human Services System, and we have an annual memorandum of understanding between the Department of Education and Health and Human Services, and that funding is used to support a professional development system to improve the quality and that provides financial assistance to the Early Childhood Training Center. It supports also, in addition... Senator Howard, you would be interested in this particularly, in addition to the Early Childhood Training Center, a regional system across the state so that we have ten regions across the state of training coordinators and a system of delivering training that blankets the state, and also funds the T.E.A.C.H. scholarship programs through a contract with Nebraska AEYC. And it supports other training and technical assistance and resources for childcare and technical assistance to before-and-after-school programs, as well as infant, toddler, and prekindergarten programs. And in addition to that, the early intervention, early childhood special education, and Head Start state collaboration office all work together so that those professional development resources work together for outreach with childcare providers to open that training to be able to offer those training resources to share the training and support, in-service, and staff developments so the children can be served in inclusive settings. The partnerships at the state and local levels among Head Start, Early Head Start, state grant-funded early childhood programs, two and four-year higher education institutions, early intervention planning region teams, educational service units, professional organizations, cooperative extension, other early childhood programs, all allow for training opportunities to be open to childcare providers and early childhood program staff from a variety of settings. We have a growing number of distance learning opportunities. We really believe that is an increasing capacity across the state to be able to have the training opportunities available that would help to meet the training requirements as are outlined in this proposed legislation. The Early Childhood Training Center was established in Nebraska's Early Childhood Act. It's a statewide project that provides services to support professional development, to staff in a variety of settings,

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and those include family childcare homes, childcare centers, prekindergarten programs, Head Start programs, programs serving children with disabilities, parenting programs, family literacy programs, early elementary school grades, and before-and-after school programs. The handouts that you have do include a handout on the early childhood training centers, and you will see how broadbased their services are. They do broker services, as well as some direct training and consultation. They do a variety of train the trainers so they have cadres of trainers that are located in all the regions across the state, so they're kind of a clearinghouse of training, as well as having an extensive resource library within the training center. The system of Regional Training Coalitions or Professional Development Partnerships that we find across the state are a vehicle for the delivery of that training, and they also then are a clearinghouse for information about training that's available across the state. One of the things that we've found is that we have people everywhere who deliver various kinds of training, and one of the challenges is to figure out who delivers what and when and where, and to get those folks together so we can really maximize the resources that are out there and just share that information. And the Early Childhood Training Center then really serves as a hub, and then we have each of those regions out there so that we have a system then to really help best to coordinate those resources. Then you also have, then, with your materials, a brochure that provides some information and has within that brochure a map of those regions across the state. While we're always in search of more resources to help us to be able to build an even stronger professional development system and to better meet the needs, this legislation really is just a first step to help improve the quality and get the training out there to help improve that quality. We do believe that we have the capacity now to be able to meet what's in this legislation. It is our recommendation that Senator Brown and Senator Howard would consider, along with this committee, that an amendment to delete the language about the two-tier system, particularly in light of the quality rating system pilot study that's underway now. That pilot study does include a five-star rating system that I believe you might be hearing more about today or will be part of your discussion, and so we really would like to wait until that pilot study is finished and have that be considered as

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part of the discussion. We appreciate Senator Brown and Senator Howard's interest and commitment to early childhood and improving the quality of early childhood. I would be happy to answer any questions, and I appreciate the interest in early childhood.

SENATOR BYARS: Thank you for your testimony. Senator Howard?

SENATOR HOWARD: If you could, and be patient with me on this, I still would like possibly a more in-depth or even more, from your viewpoint, why was the ESU 3 singled out as the focal point, if you know? Maybe you don't.

MARCIA CORR: In the reference to it, the ESU, the issue, the Early Childhood Training Center really is a statewide project. So it was charged in statute with being a statewide project with the purpose of serving the state as a clearinghouse for serving and reaching the state to provide early childhood training to meet the childcare training needs in the state, to best utilize the resources that we have in the state. It was established in Statute 2 at the time when childcare and development funds came to the state, as well as when the Early Childhood Act around establishing the early childhood grant funds also. So at the time we have both the school-based programs as well as the childcare and development funds, so that we have early childhood special education, we have the school-based programs, and the childcare programs, working together to try to maximize the use of the resources.

SENATOR HOWARD: Could that also be filtered through, say, one of the colleges or some other facility?

MARCIA CORR: Where it is housed, actually that works through the department. Because the statute is written such that it says the State Department of Education shall establish the Early Childhood Training Center under the jurisdiction of the Nebraska Department of Education...shall establish or designate. So in this case, that is really contracted with the Educational Service Unit.

SENATOR HOWARD: Okay. Thank you.

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MARCIA CORR: Does that help to clarify?

SENATOR BYARS: Thank you, Senator Howard. Any other questions? Thank you very much for your testimony.

MARCIA CORR: You're welcome.

SENATOR BYARS: Next proponent?

KATHY BIGSBY MOORE: (Exhibit 3) Senator Byars, members of the Health and Human Services Committee, I'm Kathy Bigsby Moore, M-o-o-r-e, executive director of Voices for Children in Nebraska. And I am here in support of LB 999, and urge your very careful consideration and ultimate advancement of this bill. This is an issue that Nebraska has pondered and struggled with for so many years, and it's sometimes very disheartening for me to see how slow our progress has been in this arena. I think we all then look at a circumstance such as the serious injury or death of a child in a childcare center, and we have a moment where we certainly see the importance and the weight of these issues. But then we come back to the table and I think sometimes get caught up in details that ultimately delay advancement of important issues. I, of course, being the eternal optimist, would love to see this whole bill advance, including the tiers. However, I do understand that there is a pilot underway that could ultimately inform a better tiered system or a better rating system, if you will. And I would hope that the findings of that would be forthcoming very soon so that parents could have some of the tools that they desperately need to know how to make good informed decisions about where their children will be cared for. But the piece that I think is strongly before us today is the changing of the training requirements, and it is again very disheartening for me sometimes to see the very small amount of training that we do require currently. So in a way, this is a conservative approach, and one that I hope will move forward very, very quickly. When we heard this issue five, almost six years ago, there wasn't the capacity that there is today. I think the availability through the Early Childhood Training Center, which has evolved and grown over the last decade, has been significant. We have the T.E.A.C.H. program through NAEYC, the Association for the Education of Young Children. And the questions, I think Senator Howard

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referenced, on page 3, line 12, are directed at the Early Childhood Training Center, which I think is different than the ESU 3. I think it's housed there but my recollection, when the legislation passed several years ago, was that we really did decide that we wanted to embody one training center with some standardization, if you will, and some facilitation of training curriculum. So I do think it's important to put that in a place that is going to last forever, if you will. If we wanted to look at language to amend that, that might be fine, but to me it seems like it just talks about compiling and almost credentialing, if you will. So I'm comfortable with it as it is. The face-to-face hours are crucial. The training requirements, I believe, are crucial. We know from clear research that the quality of the care that children receive during those years have a direct relationship to how they're going to function in school...to their cognitive thinking, to their math capabilities, to their behavior in school. And through some research we can even carry it to adulthood and see that it will affect their work attendance, their ability to own a home, and stay in a job and a marriage, and save money. And so the investment that we make today pays us back for a lifetime. And I think that that is an important investment for us to be able to make. I would like to see us advance this bill. I would like to see something that would allow us over the summer months to discuss the rating system or the tiering system, and would hope that this time next year we would be back here putting something forward in that department as well. I would be happy to answer any questions.

SENATOR BYARS: Thank you, Ms. Moore. Our Chair, Chairman Jensen, has returned, and will assume leadership of the committee.

SENATOR JENSEN: Thank you, Senator Byars. Any questions of Ms. Moore? We thank you for your testimony.

KATHY BIGSBY MOORE: Thanks.

SENATOR JENSEN: Next testifier in a proponent position? Anyone else? Opponent testimony? Neutral testimony? Welcome, Director Nelson.

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DICK NELSON: (Exhibit 4) Thank you, Mr. Chairman. Senator Jensen, members of the committee, my name is Dick Nelson, N-e-l-s-o-n. I am the director of the Department of Health and Human Services Finance and Support, and I am here to testify in a neutral capacity on LB 999. The department would like to point out issues related to the fiscal impact of this bill, not only on the department, but upon childcare programs across the state. The first issue relates to the additional hours of training and the new approval requirements for training. Currently, the minimum number of clock hours in the training topic are the only aspect of training that are regulated. Topics must address one of the 13 areas that were developed by the Child Development Associate Consortium. If passed, this bill would require childcare programs to obtain a certain amount of training in a group setting. Nearly 4,100 childcare and preschool programs are licensed by the department in Nebraska. Meeting all of the new approval requirements for training presents a serious challenge for the licensed programs, as well as for our department staff, but that's our job. Childcare programs across the state face serious difficulties retaining and recruiting qualified staff. As programs are forced to raise their rates to enable them to pay higher salaries and even minimal benefits, an increasing number of parents are having to face tough decisions about their childcare choices. Some parents do seek less expensive, unregulated care. Others leave children at home alone. Likewise, we are seeing an increase in the number of childcare programs that close due to their inability to hire staff and/or meet their financial obligations. It is a concern that raising training requirements may add to the staffing dilemma faced by many programs. The second area of concern had to do with the two-tier system. I heard Senator Brown and the other speakers address that. Ms. Moore mentioned a pilot that's underway. We give you some information with regard to that pilot right now. And then moving to the last page of my testimony, we do want to point out that LB 999 will also have a potential impact on childcare subsidy expenditures by the state of Nebraska because we would assume the increased cost of training will eventually be reflected in an increase in rates paid to childcare providers. We had no way to estimate that, Senators, but our current program of childcare subsidies is over \$63 million a year. A 1 percent increase as a result

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of the training requirements would be \$632,000 increased cost to the state. The department is certainly willing to work with others to seek improvements in the quality of childcare, and we hope that we can find options that can be agreed upon that do not significantly increase the costs of childcare to providers and ultimately to parents. And I would be glad to answer your questions.

SENATOR JENSEN: Thank you, Director Nelson. We have paid for that childcare expenses primary with TANF dollars, is that correct?

DICK NELSON: That is correct.

SENATOR JENSEN: Do we have any TANF dollars left over?

DICK NELSON: (Director Nelson consults with staff member.) It's about a 50-50 split, Senator, between state and federal funds.

SENATOR JENSEN: But my question was, Pat, do we have any TANF dollars that are not spent or are 100 percent of the TANF dollars going for childcare right now?

DICK NELSON: We put about \$9 million of unspent TANF funds into the childcare program.

SENATOR JENSEN: Okay. So it still all goes into there.

DICK NELSON: Right.

SENATOR JENSEN: Any other questions from any committee members? Yes, Senator Cunningham.

SENATOR CUNNINGHAM: Yes, Director Nelson, I hadn't studied the fiscal note on this but you in your testimony you talked about \$600,000 a year?

DICK NELSON: That doesn't show in the fiscal note, Senator, because that would impact beyond the bienniums that we're reporting in the fiscal note.

SENATOR CUNNINGHAM: What is your \$600,000 mean that you've referenced in your testimony?

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DICK NELSON: That would be an...that's just an estimate, Senator, of the impact on the childcare subsidy program.

SENATOR CUNNINGHAM: Oh, okay.

DICK NELSON: But we pay based upon a market survey that's conducted every two years, and so what we're saying to the committee is that if the costs of operating a childcare go up, presumably their rates are going to go up or they're going to go out of business. Once their rates go up, we will eventually pick that up in our childcare subsidy studies.

SENATOR CUNNINGHAM: So basically what you're saying is this \$600,000 would be in addition to what's in the fiscal note.

DICK NELSON: Right. The immediate fiscal impact of this bill would not fall in the next two appropriations years, so we did not put it in the fiscal note but we did want to point it out to the committee.

SENATOR CUNNINGHAM: Thank you.

SENATOR JENSEN: Any other questions? Thank you for your testimony. Next testimony in neutral position?

RANDY JONES: (Exhibit 5) Good afternoon, Senator Jensen and members of the committee. My name is Randy Jones, J-o-n-e-s. I'm the executive director of the American Red Cross here in Lincoln. I'm here today representing the 19 chapters of the Red Cross from across the state of Nebraska. Last year these chapters taught over 98,000 Nebraskans how to prevent, prepare for, and respond to emergencies, including first aid and CPR for thousands of childcare workers. I'm here testifying in a neutral position on this bill but do support the intent of the bill's language to require current certification for training in infant child and adult CPR and first aid. After all, the safety of our children, whether they be at our home or in someone else's care, it must be our top concern. The wording in the bill, however, instructs the Early Childhood Training Center to "develop training materials" for the reference training, and included in that training is CPR and

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first aid. We believe that it would be wise for the bill to reinforce the use of nationally recognized training in first aid and CPR in order to take advantage of currently available, well-researched and tested training, and focus the training center's efforts in the development of other critical materials that are not readily available. My handouts include a fact sheet for the American Red Cross Standard First Aid and Infant and Child CPR that provides you with the learning objectives for this course. This is the most popular course taken by childcare providers across the state in first aid and CPR. The standard first aid and CPR curriculum of the Red Cross was developed by a group of distinguished professionals that include the National Institute for Occupational Safety and Health, American Association of Physician Specialists, Division of Sports Medicine, Children's Hospital in Boston, and the National Office of Occupational Medicine. A list of the developers is also attached to the handouts. This curriculum is reviewed regularly by an independent panel of nationally recognized health and safety experts, and it is updated to conform to changing science. Much of this will be changing, come this spring. This training, as well as those available through the American Heart Association, the Nebraska Safety Council, are also available using distance learning technology. However, to become certified, it is required that a student show through practical testing that they can perform the functions learned in the training. We are asking that language be included in the bill that would recognize training conducted by the American Red Cross, the American Heart Association, the Nebraska Safety Council, or a nationally recognized provider of training in order to acquire the skills in first aid and CPR identified in the legislation. This would then focus, again, the Early Childhood Training Center to develop curriculum for training which is not readily available through one of these recognized providers. And I have provided some suggested language in the last page of my testimony. I would be happy to answer any questions.

SENATOR JENSEN: Thank you. Any questions? Senator Cunningham.

SENATOR CUNNINGHAM: Yes, if this language were included in the bill, could you give me an example of where throughout

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Nebraska you would be able to get this kind of training?

RANDY JONES: Just about in every local community when you include these three providers. They're not only provided by physical locations of Red Cross chapters but also through hospitals, through the American Heart Association, through fire departments, through many third-party providers across the state. Just about every county in the state has certified, at least Red Cross instructors, and that's just multiplied through the use of Heart Association and Safety Council.

SENATOR CUNNINGHAM: So then you would envision that the Red Cross would put on a seminar, say, in my county?

RANDY JONES: That's certainly an option, that the local Red Cross unit could perform in a group setting, but currently it's regularly available and offered to the public on a general ongoing basis. Many of the childcare providers have licensure renewals that occur at various times throughout the year.

SENATOR CUNNINGHAM: Okay. Thank you.

SENATOR JENSEN: And the costs for that training is...?

RANDY JONES: It varies widely. Oftentimes an in-house provider, like a large childcare center, can train an instructor to be on staff and provide that training on a regular basis, and other times they can go to a Red Cross unit or a hospital. It could range from everything from a \$3 cost to \$55 to \$75.

SENATOR JENSEN: Thank you. Any other questions? Thank you for your testimony.

RANDY JONES: Okay.

SENATOR JENSEN: Anyone else in a neutral testimony capacity? Is Senator Brown here to close or did she waive closing?

SENATOR BYARS: She waived.

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SENATOR JENSEN: She waived closing. Thank you, Senator. With that, that will end the hearing on LB 999. And Senator Schimek is here to introduce LB 1016.

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SENATOR SCHIMEK: Good afternoon.

SENATOR JENSEN: Welcome.

SENATOR SCHIMEK: I know this is a very hardworking committee, Mr. Chairman, but I want you to know that we only started our third bill just before I left Government Committee, so we're going to be later than you are tonight if it's any consolation. (Laughter) For the record, my name is DiAnna Schimek. I represent the 27th Legislative District, the "Historic District," and I am here to introduce LB 1016. LB 1016 is a bill that was brought to me by a couple of constituent groups that seek to help the underprivileged of the state of Nebraska. I appreciate the work they do and, after considering the merits of the bill, I believe that it is time for the state to take another look at this issue. LB 1016 is a bill that will help many, while being economically and fiscally prudent. LB 1016 relates to the Childcare Assistance Program which provides childcare subsidies to low-income families to help pay for childcare while parents work. Now, I don't know if you remember, but in 2002 then-Governor Johanns line-item vetoed \$4.5 million from this program, which reduced the eligibility to 120 percent from 185 percent of poverty level. The Legislature didn't have the opportunity to discuss this significant change, which cut 1,067 families and 1,843 children from the program. The action has had an impact on the lives and livelihood of low-income, hardworking families who are striving for self-sufficiency. And for those of you who were in the Legislature when we passed the Welfare Reform Bill, you'll remember that we thought that this was an important component of helping people strive for self-sufficiency. At our current standard of 120 percent, a family of four making more than \$23,220 receives absolutely no childcare assistance. By increasing the eligibility standards, you increase the amount of that to \$35,797, and they would be available for limited

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assistance; they wouldn't get all their childcare paid. Nebraska's income eligibility of 120 percent of federal poverty level places us among only six other states with such strict requirements. It is important for the Legislature, I think, to increase Nebraska's income eligibility standard in order to bring our state up to par with surrounding areas. And I know that some of those who follow me are going to give you more definite statistics, but one I would like to give you from their information is that in 2004 our neighbors, Colorado, Iowa, and Kansas, served an average of 4,000 more children and 2,600 more families than Nebraska did. That's an average. In short, the childcare assistance program enables parents to work. These subsidies provide incentive and essential support for low-income, hardworking families. The costs of not providing childcare assistance are high, including the fact that without subsidies, of course, many of these parents absolutely can't stay in the work place or they can't complete their education and they have to seek broader array of public assistance. The estimated costs of returning the eligibility standard to 185 percent is \$11,821,488 per year. At first blush, one would be inclined to say that the price tag is too high. However, the costs of not providing subsidies to more low-income working families are much higher. For example, without the support, many parents lose their jobs, as I mentioned, and end up back on the broader array of public assistance. There are others here today, and Senator Jensen, I have submitted that list to you, who will testify in support of LB 1016, and they will hopefully provide more detail about the value of this program and the impact of the 2002 cuts and the need to restore this to a 185 percent of poverty level. Thank you.

SENATOR JENSEN: Thank you. Senator Erdman.

SENATOR ERDMAN: Senator Schimek, can you give me the states that you listed again? I didn't catch the...

SENATOR SCHIMEK: Colorado, Kansas, and Iowa.

SENATOR ERDMAN: And each one of those states has a substantially higher population than Nebraska?

SENATOR SCHIMEK: Yes.

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SENATOR ERDMAN: Is that accounted for in the figures or is that just raw numbers?

SENATOR SCHIMEK: No. I'm just telling you that on average those states do serve 4,000 more children than Nebraska does.

SENATOR ERDMAN: But it's not a rate of...

SENATOR SCHIMEK: No, no.

SENATOR ERDMAN: In other words, Colorado probably has eight times as many people as Nebraska, and I think Iowa probably three or four times as many people. It's not apples and apples. It's just a raw number that you're giving us.

SENATOR SCHIMEK: As I understand it, yes. That's correct.

SENATOR ERDMAN: Okay, I just wanted to make sure I heard that right.

SENATOR JENSEN: Any other questions of Senator Schimek? You'll stay here for testimony and closing?

SENATOR SCHIMEK: I will stay here for a while. I do have to go back to hear those other two bills.

SENATOR JENSEN: Sure.

SENATOR SCHIMEK: Thank you.

SENATOR JENSEN: (Exhibit 1, 2) Thank you. I have, and if you would come up in this order, one after another, it would certainly speed things up: Marti Beard, Becky Gould, Jennifer Hernandez, Vickey Cox, Chuck Bentjen, Jamie Longwell, Susan Scott, Diana Mullens, Sarah Ann Lewis, Barry Gourley, and Susan Hale. I also have two, three letters of support. One from the Nebraska Domestic Violence Sexual Assault Coalition and one from the Lincoln Lancaster Women's Commission. I have two rather than three. Thank you.

MARTI BEARD: Good afternoon, Senators. My name is Marti Beard, B-e-a-r-d, and I am testifying in favor of LB 1016 on

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behalf of Cedars Youth Services. I am testifying as a provider today. Cedars Youth Services provides care for 600 children ages 0 up to age 12 on a daily basis here in Lincoln and in Broken Bow, Nebraska. I remember very well in 2002 when we had to tell 60 of our families that got the letter in the mail, you no longer have benefits from childcare. They're going from paying nothing to \$100; now you owe us \$500 a month. And many of those 60 families had to leave our services at that time. So I was very excited to see that this was a possibility to get this rate back up. It's very important. The passage of this bill, with adequate funding attached to it...I think that's an important piece to think about...will allow families to receive assistance with their childcare expenses while they're able to take steps necessary to get off of public assistance and to be self-sufficient. What has happened now is that we have families that are able to pay the top amount of childcare, what it costs; we have families that are receiving benefits; and we have a lot of families that are in that transition stage. It forces providers to pay the difference of that, or it forces families to find substandard care. I have one really quick example that I want to share with you, and this is an example of dozens that I could share. We recently had a young family that has been receiving state assistance for about a year. The mother in the family had received a 50-cent raise at work. After receiving that raise, she did the right thing and told her case manager about that. She got a letter very shortly saying, you know, you were paying \$100 before. You no longer qualify. So we have this young mom paying \$100, and now she was going to have to pay \$500 a month. Basically had three choices: her first one was to find \$400...and I don't know about any of you, but I don't have \$400 lying around to pay; the second choice that she had was find another provider that she could afford. She looked around and, one, couldn't find any. The one person she did was a neighbor who she had great concerns about leaving her baby with. Her third choice was to let her employer know, appreciate the thought, love to have a raise, I can't accept it. So, that's the decision she made and that's the decision that a lot of our families have to make. Basically, what happened to her, she stays on the same level of assistance that she's been on for a long time and her goal to be self-sufficient in two years continues to get

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further and further behind. With the passage of LB 1016, what would happen with this young woman is that maybe she'd pay \$200 for the next six months. With her next raise maybe she'd pay \$300, giving her the steps that she needs to take in order to be self-sufficient. I strongly believe in working with the families of these 600 children every day. There are very few people that want to rely on childcare assistance, on state assistance. They have to do this themselves. We need to, with the passage of this bill...it's a great step forward...we need to pass this so we can help them do that. Are there any questions for me?

SENATOR JENSEN: Senator Stuthman.

SENATOR STUTHMAN: Thank you, Senator Jensen. Marti, you have brought up a very interesting situation that I continually try to deal with: the fact that people try to improve themselves, better themselves, get paid a little bit more, then maybe you get paid \$100 a month, but like you say, they have to give \$200 for their payment to that. This program is wrong in my opinion because it does not give any of our young people the incentive to get off and improve themselves.

MARTI BEARD: Um-hum.

SENATOR STUTHMAN: And I don't know how we can fix this but this would be a step.

MARTI BEARD: Yeah. This is a fantastic step.

SENATOR STUTHMAN: This is one of the steps, and in some of the bills today I saw other things where we need to be working on, too.

MARTI BEARD: Yeah. I agree. A lot of possibilities.

SENATOR STUTHMAN: So I really appreciate your comments because that is what we should be striving for is to get more people earning more money, being self-sufficient.

MARTI BEARD: Exactly.

SENATOR STUTHMAN: So thank you.

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MARTI BEARD: Thank you.

SENATOR JENSEN: Senator Johnson.

SENATOR JOHNSON: The example you gave was kind of an all or nothing.

MARTI BEARD: Um-hum.

SENATOR JOHNSON: Is there any chance that you could put in a sliding scale or a graduated system?

MARTI BEARD: Um-hum. Right. And the bill that has been proposed, and I'm sure that there's other people who can speak a lot more intelligently about it, the bill that is proposed is that there is a copay that families do assume based on their income. And so if they're at the lowest end of the income based on family size and income, there may not be a copay that the family shares in, but as their income goes up, based on family size again, they do share a piece of that. I would say right now we have about 400 families that are receiving state assistance. And of those 400, probably 50 percent of them are paying a portion of their childcare. And so there already is some built-in systems to do these graduated steps.

SENATOR JENSEN: Any other questions? Thank you for your testimony.

MARTI BEARD: Thank you.

SENATOR JENSEN: Next testifier in support, please? Welcome.

REBECCA GOULD: (Exhibit 3) Good afternoon, Senator Jensen, members of the committee. My name is Rebecca Gould, G-o-u-l-d, and I'm a staff attorney and lobbyist with the Nebraska Appleseed Center. Senator Schimek did a great job sort of outlining the history of what's happened with this program, so I will skip over that part of my testimony. But I did want to point out to you where 120 percent of the federal poverty level is for a household of three, which is about \$19,000 a year, and 185 percent for a household of

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three is \$29,000 a year, just to kind of give you a sense of where those numbers are. When the Legislature didn't override the line item veto that reduced funding for the program, not only did 1,843 children lose their childcare subsidies, but Nebraska became ranked 49th out of 50 states in terms of income eligibility for the program. Childcare assistance is one of the most critical work support programs for low-income families. It provides assistance on a sliding scale, going back to Senator Johnson's question. Families over 100 percent of the federal poverty level start to pay copays. So families below 100 percent don't pay copays. At 100 percent and up you do pay a copay. And once you get up to the upper range, closer to 185 percent of the federal poverty level, you would be paying almost the full amount of your childcare. Back when that system was in place, and currently under the transitional childcare program which does go up to 185 percent, a family of three at that upper end would be paying, for two kids, about \$482 a month of their childcare portion. So it does become a significant part of the family's responsibility, as well. But I think one of the things that's been highlighted by the previous testimony, and I also discuss several examples in the written comments, is that right now we have a cliff for these families. Once they get to 120 percent, all assistance stops. And most of these families go from paying about \$100 to needing to pay \$500; if they have two kids, sometimes up to \$800. And it's simply impossible for them to absorb that kind of a jump into their household budgets. I'll skip over the individual stories because I believe there will be some personal stories to follow me. But just to point out, the average cost to the state for a two-child household receiving a childcare subsidy is about \$604 a month, so that's what the state would be currently paying. The average cost of a household of three receiving ADC...and I believe one of the things that I do point out in the testimony is that a number of the families that were cut off of assistance found themselves back on ADC, starting that path to self-sufficiency all over again...and for families on ADC, the state pays \$364 a month. This would be a three-person household, a parent and two kids. \$364 a month in cash assistance, \$239 a month in food stamps, that's an average, and \$604 a month in childcare because those families on ADC have to be working at least 30 hours a week and will receive childcare for those hours they're

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participating in the work requirements. They will also all be eligible for Medicaid and, using average Medicaid costs, that would be \$837 a month, with a total of \$2,044 a month for someone who's on ADC. So when you look at it from a purely cost benefit analysis perspective, it's a much better investment for the state to continue to support working families as they transition from 120 percent to 185 percent of the federal poverty level rather than creating this cliff that causes families to fall back on full assistance and start the climb to self-sufficiency all over again. Moreover, the decision to reduce eligibility was not based on any data indicating this change was sound public policy. Rather, it was made at the 11th hour by the Governor in an attempt to reduce the budget. There was no public hearing or legislative debate about this change, and no opportunity for those affected to be heard. Now that Nebraska's fiscal situation has begun to turn around, it is time to revisit some of the decisions that were made out of desperation to address a budget deficit. LB 1016 provides an opportunity to return eligibility to a level that ensures all low-income Nebraskans can obtain quality childcare--a critical work support they need to continue their path to self-sufficiency. We encourage this committee to make an investment in Nebraska's children and working families by returning eligibility to a level that helps working parents succeed in the workplace while at the same time ensuring that their children have access to safe, quality childcare settings. I'd also like to just point out, I included with my testimony, a report from the National Women's Law Center, which actually details where other states are in terms of income eligibility and some of the other aspects of the program. Just to kind of point out, the other states that Senator Schimek mentioned in her testimony, to give you an idea of where their eligibility is, they're all higher than Nebraska. Iowa is at 136 percent of poverty, Kansas is at 180 percent of poverty, and Colorado is at 127 percent of poverty. So they're all above what we're doing. And I think Nebraska is in a position now to restore eligibility back to a level that's adequately going to support low-income families. So I would be happy to take any questions that you have.

SENATOR BYARS: Thank you, Becky. Any questions of Ms. Gould? Thank you very much. Next testifier is Jen

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Hernandez, and we do have nine more testifiers on the list. I hope that everyone will try not to repeat themselves. Make your points succinctly, and Senator Schimek can get back to her committee. Thank you, Jen.

JENNIFER HERNANDEZ: (Exhibit 4) Good afternoon, Senators. My name is Jen Hernandez, and I'm representing the National Association of Social Workers, the Nebraska Chapter. Childcare assistance is a vital tool to help Nebraska families become truly self-sufficient. Numerous national studies conclude that insufficient childcare is the number one barrier to a family's ability to retain employment. According to the Economic Policy Institute, single parents of young children are 40 percent more likely to still be employed after two years if they receive help paying for childcare. Very simply put, childcare assistance allows working parents to continue working. This is particularly important in the state of Nebraska because Nebraska is one of the top five states with working mothers who have children under the age of 6. As you may or may not be aware, childcare is very expensive. The average Lincoln family with two children who are not yet in school are going to pay over \$1,000 a month in childcare. As parents receiving childcare assistance work their way to true self-sufficiency, many are faced with the very difficult decision that the testifier from Cedars gave--that decision of having to turn down a raise to keep your childcare assistance because you can't make up that kind of expense with a 50-cent or a \$1 an hour raise. But under LB 1016, children could remain eligible while their parents are working their way up the income ladder, up to 185 percent of the poverty line. While the parents income goes up, the childcare copayments go up as well, allowing our low-income families to keep working as they may those steps to self-sufficiency. Allowing our low-income families to increase their earnings and the amount they are responsible to pay in copays makes good economic sense for Nebraska. Nebraska's well-being comes not only from an economic balance sheet but also from the well-being of our residents and our families. LB 1016 will allow thousands of Nebraska families to get closer to self-sufficiency, and there is little else that will strengthen our local economies more than healthy, self-sufficient families. It's time to make the investment in our children and return childcare

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eligibility back to 185 percent of the federal poverty line. A poor fiscal outlook in our state budget dropped eligibility several years ago, but the outlook is now brighter and there's no investment more important than our children. I urge you to support LB 1016 and pass this bill out of committee. Any questions?

SENATOR BYARS: Thank you, Ms. Hernandez. Any questions, comments? Thank you very much for being here. Next testifier, Vickey Cox. Welcome, Vickey.

VICKEY COX: Good afternoon, Senators. My name is Vickey Cox, C-o-x, and I'm here in support of LB 1016. I am here to speak from personal experience. I'm a single mom, working, mother of two boys, 18 and 11. As long as I remember, I've always had a job, starting at the age of 15. I received some higher education but I knew I needed to secure my education so I can get a job that would support me and my children. And I could not rely on child support payments to support my children. Child support has been court ordered but has not been paid. This has resulted in arrears of \$23,500 approximately to date. I moved to Lincoln to become better educated and to seek better employment. I received public assistance during my struggle to be self-sufficiency. I followed the rules and I worked hard. I got positions with the Lancaster County Court working there for four years, then I worked at the Lancaster Public Defenders Office for three years. My education paid off. These jobs were full-time. When I started working at the county court, I had just graduated and was receiving assistance from HHS because I had not reached the guidelines to be taken off the programs to be total self-sufficient. I had only worked for a few months when I received my notification that I will no longer be eligible for childcare assistance due to the poverty level change. I worked for three and a half years longer with no childcare assistance. Working for county court, the pay was low. When I quit in 2001, I was making \$8.81 an hour. Lancaster Court is a state job--no other further comment with that. I then changed to the public defender, which was a county position. The pay was significantly higher; still no childcare because I had higher wages. After losing my childcare assistance, I could not afford to have both my boys in the same day care. I had to make a difficult choice as a parent to either let

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my older son walk home from school and stay home alone or check into an after-school program that had a sliding scale fee for parents who need help paying for day care. For safety reasons, I chose the after-school program. This meant that I would have an increase of childcare payments. In 1998, my older son, who was 11 at the time, was hospitalized. His liver was failing. He was soon diagnosed with autoimmune hepatitis. He was placed on a special diet and several prescribed medications. One of them was a steroid which led to a weight gain and the need for new clothing while he had gained 75 pounds in six months. The meds, the foods, the reoccurring doctor's appointments in Omaha, and the clothes put a strain on my already lean budget. I was facing another greater medical expense along with new childcare expenses--a barrier to my goal to be self-sufficient. My boys were getting assistance from Kids Connection. I had insurance at my job and Medicaid was a secondary. The Medicaid guidelines changed, in which I lost Medicaid for my family. The pay was still below the financial guidelines before the change. I could no longer use Medicaid as a secondary insurance. This meant I had to pay for copays, the doctor visits, and the prescriptions. This is another added expense. After being employed about one year with the public defender's office, my younger son started to have some behavioral issues. In March of 2002, my son Eric, when he was in the second grade, was diagnosed with bipolar disorder, childhood onset; ADHD, attention deficit hyperactivity disorder; ODD, oppositional defiant disorder; and possible posttraumatic stress syndrome. This created a new barrier. His aggressive behaviors got him kicked out of several day cares. He was asked not to come back. There were very few behavioral day cares here in Lincoln. This left me with no after-school supervision for him. I applied for and was granted family medical leave from my job. My job hours decreased from 40 hours a week to 30 hours or less. I applied three times for the FMLA and was granted. I had to leave work early to care for my son after school on nonschool days and during the summer. I applied for childcare help then, too, and made too much money. I quit my job in August of 2004 to take care of my family. Eric, my younger son, receives SSI disability for his mental health issues. He takes six different medications to this date to attempt to stabilize him from his anger and behavior issues. We work with a therapist and

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we work through some special services at LPS. Eric is now enrolled at a new behavior day care through Visinet. I have received Title XX to help me pay for his day care expenses. If I had not had this assistance, I would have to pay \$8 an hour for his care because of his special needs. If I had been employed at my prior job when this day care opened in January 2005, I would have not been able to pay for his care. I did not make enough money but I made too much for help. I am now currently employed part time as an administrative secretary. If I would increase my work hours now, I would like my childcare assistance with the guidelines. With my son's mental health issues, that is a big issue for me. With my son's mental health issues also I have had an increase of unexpected expenses that are not planned in a person's budget. For example, last week my son had a bad day, what I call a bipolar moment, threw rocks, busted out somebody's window, and which I have to pay for their car window. I have paid for very many miscellaneous repairs, shoplifting he tried, I had to pay for consequences with that, added expenses that I had not planned in my budget. My older son will be aging out of the system, in which this will create additional burdens on my financial expenses. He is a full-time student at Doane College but will not have Medicaid available to him when he turns 19. To my understanding, my younger son will soon age out of the childcare program at the age of 13. With his mental health illness, my options are very limited. I do not want to live on assistance all my life. I want to be self-sufficient. I want to support my children on my own. But I do need the help. I currently need the help. I need the childcare assistance to ensure that my child is taken care of in my absence. The childcare subsidy program is really needed by many. When the eligibility standard was lowered, it was a blow. I was trying, trying hard, but I felt we who are trying were being punished for increasing our income. The child subsidy program is needed. It helps lead families to success. It helps parents to be a good role model for our children. It gives me and others the courage and the ability to move forward. It is to help our self-esteem. It gives us the strength to cross over barriers that we may face along the way, our way to becoming self-sufficient and good providers for our family. I urge you to advanced LB 1016. Thank you. Any questions?

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SENATOR BYARS: Thanks for your story, Vickey. Senator Stuthman.

SENATOR STUTHMAN: Thank you, Senator Byars. Vickey, I really appreciate you coming and testifying because you're in the trenches; you're telling us what you have really gone through.

VICKEY COX: Um-hum.

SENATOR STUTHMAN: Do you feel that there is something lacking in the fact that the child support that was awarded to you is not being paid? Is the state or is something not doing their responsibility in trying to get this paid or collected?

VICKEY COX: Yes and no. I do not recall how many times the state has attempted to try to collect. The father did not have a permanent address, so obviously that created a burden because, you know, the state can't go around and track everybody down. It's difficult for me to keep track of him. So, yeah, that was a big factor of not collecting. There was a positive when they passed the bill that said, you know, pay it or you lose your license. Fortunately, for the past two years I have been getting some but it has not enough. But, yeah, I do believe that there is some issues with the way that it is being collected because it's not working for some of us. And for me, if I get a child support check, it is a bonus. It is not something I figure in my income anymore.

SENATOR STUTHMAN: Okay. Thank you.

VICKEY COX: Um-hum.

SENATOR BYARS: It is ironic, also as we talk about these two issues, both the federal childcare subsidies and child support enforcement, federal dollars, are both on the chopping block also, and that are pushed down to the state in the reconciliation bill. Seems like I keep saying that, don't I? (Laughter) Thank you, Vickey, very much.

VICKEY COX: Um-hum. Thank you.

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SENATOR BYARS: Vicar Bentjen.

CHUCK BENTJEN: Good afternoon. My name is Chuck Bentjen. That's spelled B-e-n-t-j-e-n, and I serve as director of Justice and Advocacy Ministries for the ELCA in Nebraska. We are one of the largest Christian denominations in the state of Nebraska with 260-plus congregations and 124,000 members. I also have the pleasure of serving as vicar at Emmanuel Lutheran Church in rural Beatrice, Nebraska, a constituent of Senator Byars. And I'm also a licensed attorney with 20 years of experience in juvenile and family courts in Nebraska. Without question, our children are tremendous assets in resources. Children represent the future of our state. Children do not get to choose the circumstances into which their born. And children born in poverty don't have the opportunities that other children have for development and just basic opportunities. And parents of those children are left with some very, very difficult choices, as you've heard from the personal testimony today. That personal testimony is not unusual. Parents are left with the decisions to either purchase healthcare, food, pay their utilities, pay their rent, or in some cases to leave their children unattended. That raises tremendous costs for the state because when children are left unattended, what happens? Their parents are accused of being neglectful and they end up in court, in juvenile court. I would strongly urge the committee, on behalf of the ELCA, to pass this legislation to the full Legislature. I would be happy to answer any questions.

SENATOR BYARS: Thank you, Pastor Bentjen. Any comments, any questions? Thank you very much, Chuck.

CHUCK BENTJEN: Thank you.

SENATOR BYARS: Jamie...I think it's Longwell?

JAMIE LONGWELL: Yes.

SENATOR BYARS: Welcome, Jamie.

JAMIE LONGWELL: Thank you. Good afternoon, Senator Byars and all the other members of the committee. I'm here in support of LB 1016.

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SENATOR BYARS: Jamie, could you identify yourself and spell your last name?

JAMIE LONGWELL: I'm sorry. My name is Jamie Longwell, L-o-n-g-w-e-l-l. I am here in support of LB 1016 and would like to tell you how this bill impacts my family. In order to stay below the 120 percent, I had to turn down raises in 2003 and 2004 because they would have put me just above the limit, and I had two children who were in day care full time, and the rates of my day care costs would have been financially devastating to my family. I have since lost my day care funding altogether because I decided to take a well-deserved promotion within the last few months. I have been a secretary with the University of Nebraska almost nine years, and I should be in a position to be rewarded for all my hard work. My take-home pay changed by approximately \$158 a month. My day care increased on average \$190 more per month during the school year and \$511 more a month during the summer months. This is a major increase considering my take-home pay for those summer months are only approximately \$1,300. During those summer months, I will have approximately \$790 for my remaining expenses including rent, utilities, gas, car insurance, and groceries. I have determined I will need to have this extra money saved, but on my budget there isn't much available to save. I'm used to cutting corners but I can't fathom how to save this much money from cutting corners. I understand the state of Nebraska has saved lots of money by making the cut but I urge you to look past the money and look at the effects it has on the children and families. Although I have been able to make adjustments this far, I'm sure there are others who are not able to adjust and have had to move their children to more affordable but lesser quality day care or, worse yet, have had to leave them home alone. I also just wanted to tell you a little bit about myself and my family. As I said earlier, I've worked with UNL for almost nine years full-time. I like to consider myself a good person. I donate blood. I'm a registered voter. I've always put my children's needs above my own. I'm not addicted to drugs or gambling. I do not frequent bars. I attend many of my children's school functions and field trips. My children are involved in many after-school clubs, gardening club, juggling club, art club, those sorts of

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things. In the past they've also been involved in YMCA youth sports during the summer, which during the summer it's not likely we'll be able to continue to do that. My daughter has been enrolled in Girl Scouts. Again, that's very costly. I don't know how much longer I'll be able to continue that. I think I've done what I can do to encourage my children to enrich their lives by taking advantage of these excellent opportunities through the school system, which the majority of them are free. They will never have closets full of clothes and shoes because there are three of them to buy for. They will never be able to go away to summer camp or much of a family getaway like Worlds of Fun or, you know, activities like that. I'll never have thousands of dollars saved for their college funds. We don't have luxuries that others have, including a home phone, home computer, Internet access, and I drive a 16-year-old car. That's how corners are cut in my family. However, every child deserves to be in a day care setting where they are taught, encouraged, loved, and safe. In order for every child to have this, it must be affordable. A second job would not help my situation because there would be added childcare expense and I wouldn't be home to make sure they got their homework done and their baths taken and their dinner eaten, et cetera. I believe it's important to spend as much time with them as possible, not only for their emotional growth and safety and stability, but to keep them out of trouble. I believe my children are on their way to being responsible members of our community, not only because of what I've taught them but also what they have learned from their day care provider. She has taken great care of my children since they were born. I want to find a solution to my financial dilemma so that my children can continue to receive quality childcare this summer. But at this point, I'm very worried about this issue. If I don't find a solution I'm not sure what will come next. The reality is that I have few options. The life that I have created for my children appears to be in jeopardy, and for the first time in my life I'm realizing that homelessness and poverty are not only things that happen to other people. In conclusion, I urge you to support LB 1016 as it would alleviate such a burden on those of us that are financially less fortunate. Thank you for giving me this opportunity to speak.

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SENATOR BYARS: Thank you, Jamie. Any questions or comments from the committee? Senator Johnson?

SENATOR JOHNSON: Just one short one, Jamie. Again, would it help, you know, it seems to be an all or nothing situation.

JAMIE LONGWELL: Yeah. It would very much help if there was gradual steps to getting cut off. But it was, I called my worker, I got a raise, the next month I was done. I went from \$177 to having to pay, it's \$350 roughly throughout the school year but then it's almost \$600 during the summer months.

SENATOR JOHNSON: And I understand that, and particularly where you had the downturn in income for a little bit and things like that. It just seems like that one of the biggest problems to me is just the flexibility or inflexibility of the system.

JAMIE LONGWELL: Yes.

SENATOR BYARS: Senator Stuthman.

SENATOR STUTHMAN: Thank you, Senator Byars. Jamie, thank you for coming and testifying today because, you know, you have a very true story. And I think, you know, that gradual...if you could earn a little bit more and not give it all away, it would sure help. It would really give you an incentive to improve yourself. But what I see the possibility of happening is totally quitting and staying home and taking care of your children, and then you never acquire a goal.

JAMIE LONGWELL: Yeah.

SENATOR STUTHMAN: And I don't want to see that happen. But I have a real problem with this, if you make \$5 dollars you've got to pay another \$50.

JAMIE LONGWELL: Yeah. You know, if they took what I made and added it to my day care, that's livable. But they don't just take what I make, they take that and them some.

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SENATOR STUTHMAN: Yeah. So there's no incentive to improve. And that's what we should be trying to make available for young people like yourself--an incentive so that in time to come when your children are grown, you can be an asset and a taxpaying citizen. Thank you.

SENATOR BYARS: Senator Howard.

SENATOR HOWARD: I apologize. I was out of the room when you initially began your testimony but it sounds like you've handled quite a lot. Three children that you've pretty much raised independently.

JAMIE LONGWELL: Yes.

SENATOR HOWARD: And if I may, do you receive support from family or the children's father?

JAMIE LONGWELL: The children's father has been ordered to pay support for the last almost seven years and I haven't received not one dime in probably five. He doesn't work so there's no way that they can garnish his pay. I don't know, you know. Every time I've gone into my work or I've provided her with his name and his physical address and his Social Security number, I've given her that for the last seven years.

SENATOR HOWARD: So you've done everything that you do in that area.

JAMIE LONGWELL: Yeah. I don't know what else I can do.

SENATOR HOWARD: Yeah. That's an important piece of it for you to have done the work that you're able to do regarding that. Thank you.

SENATOR BYARS: Senator Johnson.

SENATOR JOHNSON: Well, I was going to comment on Senator Stuthman's observation. It seems to me like we have a disincentive system in place that needs to be fixed in some way so that we encourage people to better themselves rather than discourage them from doing it.

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SENATOR BYARS: Thank you, Senator. Any other questions or comments? Thank you, Jamie, very much.

JAMIE LONGWELL: Thank you.

SENATOR BYARS: Thank you for your courage. Susan.

SUSAN SCOTT: Hello. I'm Susan Scott, S-c-o-t-t. I'm executive director of YWCA Lincoln, and I'm a provider of childcare. In 2002 I saw the problems that were created by increasing the income level for subsidies. We had one family that I think the single mother was probably developmentally disabled, as well as her child, and as soon as this legislation was passed, she came to us and said she had to remove her child. When the staff asked, well, where is your son going to be going to, she was really vague and it was going to be family members. And of anybody that we had in childcare at the time, she was probably the person...you know, that son needed the structure of a childcare center that was formal and, you know, I don't know what ended up happening to him but we were crushed that we could no longer provide care. Recently my childcare director came to me and she said she had a mother that had three children and she made \$30,000, but all of the children were under five years of age. And our childcare, although it costs less than some, it still would be \$15,000 a year for that family to go through childcare with us. So you think about someone making \$30,000 and you think that's a lot of money but then when they have to give \$15,000 right off the top for childcare, there's no way that she could make a living. And, you know, she was sick because she wanted to have quality childcare but knew that she was probably going to have to go to a baby-sitter or something else for her children. I just really support this legislation and hope that you'll take it under serious consideration and give tax cuts to the working poor and not to the wealthy.

SENATOR BYARS: Thank you, Susan. Any comments? Any questions? Thank you very much. Diane? She's not here? Sarah Ann? Welcome.

SARAH ANN LEWIS: (Exhibit 5) Good afternoon. My name is Sarah Ann Lewis, L-e-w-i-s, and I am the policy coordinator

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and registered lobbyist for Voices for Children in Nebraska. I would like to thank Senator Schimek for bringing this crucial issue in front of the Legislature, and urge this committee to advance LB 1016. Voices for Children is on record as opposing the 2002 cuts in eligibility for non-ADC families receiving childcare subsidies, and has since witnessed the devastating effects those cuts have had on families struggling to make ends meet. In the interest of time today, I would like to state our support of LB 1016 and reinforce the concern of Senator Byars of the threat of federal budget cuts. We see LB 1016 not only as a way to save families from the fate of these cuts but as a way to allow them to work toward achieving self-sufficiency, and we ask that you advance LB 1016, and we thank you for your consideration.

SENATOR BYARS: Thank you, Sarah Ann. Any questions? Thank you very much.

SARAH ANN LEWIS: Thank you.

SENATOR BYARS: Barry Gourley? You've sat here patiently all afternoon, Mr. Gourley.

BARRY GOURLEY: (Exhibit 6) Yes, that's right; I have. Good afternoon, Senator Byars and members of the Health and Human Services Committee. My name is Barry Gourley, G-o-u-r-l-e-y. I'm the executive director of Family Service here in Lincoln. It is in that capacity I speak to you today regarding LB 1016. Family Service, a 114-year-old agency, provides four programs throughout the state. Our childcare food program is in 83 out of 93 counties. We serve almost 17,000 children where two-thirds have been identified as low income. Our before and after school childcare program serves over 1,200 children. The passage of LB 1016 would restore previous cuts in childcare subsidies by returning the eligibility standard to 185 percent of the federal poverty level. Childcare subsidies are provided to low-income families so parents can be employed. These subsidies are essential to the success of working families. Families who are working hard to become self-sufficient need and deserve our help with childcare expenses. We would ask you to vote LB 1016 out of the committee so that the full Legislature can debate its

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importance. Thank you for your time and consideration.

SENATOR BYARS: Thank you, Mr. Gourley. Any questions, comments?

BARRY GOURLEY: Thank you.

SENATOR BYARS: Thank you very much. Susan? Is Susan the last testifier in favor? There's one more testifier in favor.

SUSAN HALE: Senator Byars, committee members, I'm Susan Hale, H-a-l-e, registered lobbyist with the Center for People in Need and the public policy educator. Many others have already well-stated the reasons that LB 1016 should advance and be adopted as public policy. I do want to tell you that our director, Beatty Brasch, used to be the director of the Lincoln Action Program. And she relates many an occasion when she encountered families who were forced to quit their jobs because of this cut that was given in 2002. And I just want to hit a few points. Some of you had raised some questions with me yesterday. And Senator Johnson, you had asked whether or not there is a limit on the number of hours per week that subsidies will be provided, and there is. It under regulation. It's 60 hours per week is the limit. And Senator Stuthman, you had asked about the general history of the program. I still need to learn more about that. What I do understand is that in the late '90s, I believe about 1998, it was at 120 percent, and then Governor Nelson administratively had increased it to 185 percent, recognizing that the need was great and it was sound fiscal policy. The price tag: it does look high and I think...and I certainly don't question the people that had come up with this figure. But I think it's something we need to look carefully at to ensure that it is being accurately reflected because I know many people have questioned if \$4.5 million was cut out, why is it popping to \$11 million? So we'll be looking at that figure again. I do have some fact sheets here. I had given this information to some of you yesterday. This is a revised fact sheet with some additional information which you might find helpful. Regardless of which administration it is, I think an important question for the Legislature to consider, too, is when you look at the fact that this happened

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administratively and there was not a discussion among lawmakers about is this good or bad public policy, maybe that's a question to visit. Is this the type of thing that the Legislature should have purview over in the future? And other than that, unless you have some questions, I just want to urge you to advance LB 1016. It's for the good of families. It for the good of our communities. It's for the good of the state.

SENATOR BYARS: Thank you, Ms. Hale. Any questions from the committee? If not, thank you very much.

SUSAN HALE: Okay, thank you.

SENATOR BYARS: Next testifier in favor?

SUSAN HALE: (Exhibit 7) Oh, I apologize. I do have to submit a letter from a Mary Plock. She was unable to be here today, so I do have copies of that letter. I'm sorry.

SENATOR BYARS: We will make it a part of the record. Welcome.

PATRICIA ENEVOLDSEN: I'm Patricia Enevoldsen, E-n-e-v-o-l-d-s-e-n. I've been an early childhood educator in Lincoln for over 30 years. And I just want to urge you to advance this forward. Children are important. We need to as a state prove that. I have observed, as a care provider, numerous families, numerous young people who are trying to better themselves, who are faced with that cliff situation. You've heard examples of it. I can give you other examples but I don't want to take time. I've spent the day here probably getting a parking ticket because I didn't know how long hearings went. And I just feel strongly enough...I've been in Lincoln long enough to see the ups and downs, and it's time for us to turn things around and let these people get themselves gradually off the system. That's what they want. They don't want to be there. And I've seen the devastated looks on their face as they stood at our counter saying I'm going to have to pull my child because I cannot afford to keep them; I want my child to have the experiences your center offers but I cannot stay. And they need to be able to gradually get themselves on sound footing. So I apologize for being an

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unexpected visitor but I want you to know it is important.

SENATOR BYARS: That's okay. We're glad to have you.
Ms. Enevoldsen, is that right?

PATRICIA ENEVOLDSEN: Um-hum.

SENATOR BYARS: Senator Erdman.

SENATOR ERDMAN: That would be me. I had a quick
conversation with Senator Schimek. She said she'd be more
than happy to cover the cost of your parking ticket because
she prolonged the hearing so long that...(laughter). So
you might take that up with her.

PATRICIA ENEVOLDSEN: Thank you. I really should have
parked somewhere else. I thought, you know, somebody said,
it's 1:30, and I thought, okay, I'll get there.

SENATOR BYARS: You now know the difference. Any other
questions of Ms. Enevoldsen?

SENATOR JOHNSON: I was just going to confirm that that is
one of the most efficient things in Lincoln is their ticket
writing people. (Laughter) They got me at ten minutes of
6:00 on a day when it was zero in January. (Laughter)

PATRICIA ENEVOLDSEN: Well, God bless them, because they
have a job to do and I am a violator. But I also know that
there are a lot of people who are in the system, want to get
off the system, and need to be able to do it in a gradual
way. So I urge you...

SENATOR BYARS: Very positive testimony. Thank you very
much.

SENATOR JOHNSON: Thank you.

SENATOR STUTHMAN: Thank you.

SENATOR BYARS: Any other proponents? Anybody in
opposition? Anybody to testify neutral? Where's Health and
Human Services? (Laughter)

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SENATOR JOHNSON: They're moving their car. (Laughter)

SENATOR BYARS: Some things never cease to amaze me. Senator Schimek, would you care to close?

SENATOR SCHIMEK: I will, very briefly, Senator. I appreciate this committee's interest and questions and the fact that you apparently even studied the issue before we got here this afternoon. But most of all, I want to thank the testifiers who came today. When I saw that list, I was a bit overwhelmed. I thought we would be here till midnight. But as it turned out, everyone spoke eloquently and, in some cases, briefly. I'm not an emotional person, I don't think. I'm not moved easily to tears but I was close to it a couple of times today because I think these are really compelling stories. So thank you for your attention. If my office can help you in any way with this issue, I would be happy to.

SENATOR BYARS: Have you had any contact with Health and Human Services relative to this issue at all? I presume they're in support?

SENATOR SCHIMEK: They indicated they would not be here either in opposition or in a neutral capacity or any other capacity. They did indicate that to me, yes. (Laughter)

SENATOR BYARS: Thank you, Senator.

SENATOR SCHIMEK: (Laugh) Thank you.

SENATOR JENSEN: Thank you. That'll close the hearings on LB 1016 and the hearings for the day. Thank you.