



NEBRASKA ASSOCIATION OF PUBLIC EMPLOYEES

January 28th, 2011

Senator Kathy Campbell
and members of the Nebraska Legislature's
Health & Human Services Committee
State Capitol Building
PO Box 94604
Lincoln, NE 68509-4604

RE: Support of LR 37

Dear Senator Campbell, Chair and Members of the Health and Human Services Committee:

We submit this letter on behalf of the Nebraska Association of Public Employees—American Federation of State, County and Municipal Employees (NAPE/AFSCME) in support of Legislative Resolution 37, a motion to allow the Health & Human Services Committee to assess the effect of the child welfare reform initiative implemented by the state Dept. of Health and Human Services.

As an organization with a substantial membership of case managers throughout the state of Nebraska, we feel that the adoption of LR 37 is much needed and vital to best serving the children and families of this state. We feel that the Department's decision to partially privatize foster care has opened a door to many questions regarding: funding distribution, adequate services, and consistent policies and procedures throughout the state. By providing the legislature's Health & Human Services Committee with the ability to conduct studies and properly assess the state of Nebraska's child welfare reform changes, we will be better ensuring the safety and wellbeing of children and their families.

Transparency and the public's right to accurate reporting from their state agencies is the intent of this resolution. Improved oversight and protection of the state's children is why NAPE/AFSCME is in full support of LR 37.

We want to personally thank the members of the Health & Human Services Committee for introducing LR 37 and we thank you all for your leadership in respect to this resolution.

Sincerely,

A handwritten signature in black ink that reads "Julie Dake Abel".

Julie Dake Abel
Executive Director
NAPE/AFSCME Local 61, AFL-CIO



NEBRASKA ASSOCIATION OF PUBLIC EMPLOYEES

Report on DHHS memo's and contracts that were submitted to DAS

How it really affects the Child Welfare System

Why we encourage the Oversight Committee and advancement of LB92 and LB 95.

December 6, 2010 memo from Nebraska DHHS/CFS and the Provider Contracts

The memo indicates that the Department of Children and Family Services (CFS) has a ratio of 20 cases per CFS specialists who report to a Supervisor and have support personnel. The proposed ratio is one Supervisor to 80 cases, eventually increasing over time to 120 cases. This is based on the premise that case management functions of the CFS staff will be reduced. The Supervisor would only have to provide "oversight" to 80 or 120 cases, and the Nebraska Families Cooperative will take on case management functions. CFS is ultimately responsible for the outcome of all cases, and transferring over the day-to-day operations of the case management to NFC is alarming because it could jeopardize the well-being of children and their families in Nebraska.

The CFS Supervisor will have to rely upon the private case managers in making decisions and recommendations. Public agency staff will supervise private agency staff with no ability to hire, fire, or discipline for poor performance. If private agency staff do not complete case management files properly, the public agency supervisor is left with the task of trying to resolve an employment-related problem with no actual supervisory authority over the employee. Supervisors do more than just approve case plans. They spend many hours with case managers on case review, implementation of best practices, and consultation on difficult cases. Having supervisors on a public agency and case manager is a private agency makes the interaction problematic and with higher caseloads, the supervision will become merely a rubber stamp on the private agency's recommendations.

CFS Supervisors with a caseload of 80 to 120 workers could not have meaningful, in-depth input into the recommendations of the private case managers. Ultimately, any recommendation the Supervisor approves without a thorough, thoughtful review could have harmful impact on children who rely upon the state system for their well-being and safety. The 80 to 120 cases represent children and their families, not applications for driver license renewals or business licenses. The families represented by the 80 to 120 cases are families in crises, and in need of many services. Nebraska has an obligation to serve their best interests and the only way to accomplish this is with a reasonable case management system.

The number of CFS supervisors in the plan is reduced from eight to three and the case managers are reduced from 31 to 24. There is no analysis of the current caseload per worker or a projected caseload for the individual private case managers. Caseload size is an important factor in outcomes for families and children. The Child Welfare League of

America (CWLA) has recommended caseloads for various types of child welfare services. For example, the caseload recommendation for Foster Care is 12 to 15 per social worker.

Other standards from CWLA

Service/Caseload Type	CWLA Recommended Caseload/ Workload
Foster Family Care	12-15 children per 1 social worker
Supervision	1 supervisor per 5 social workers

Service/Caseload Type	CWLA Recommended Caseload/ Workload
Initial Assessment/ Investigation	12 active cases per month, per 1 social worker
Ongoing Cases	17 active families per 1 social worker and no more than 1 new case assigned for every six open cases
Combined Assessment/ Investigation and Ongoing Cases	10 active on-going cases and 4 active investigations per 1 social worker
Supervision	1 supervisor per 5 social workers

The CWLA standards most requested are those that provide recommended caseload and/or workload sizes. These ratios of client to staff members offer guidance based upon the field's consensus of what constitutes best practice. In each service volume, they are presented within the context of other recommended standards for staff qualifications and training, supervision, management support, etc. In combination, they provide some direction for agencies, public and voluntary, on how best to maximize the state-of-the-art in child welfare practice.

Many statements in the memo are unsubstantiated. For example, on page two, the following statement appears under Item 1:

The public's interest is producing positive outcomes and efficient operation of services to children and families. The potential economic advantage to contracting for case management functions is that outcomes for children and families will be achieved more quickly and efficiently than if provided by state government."

There are repeated references to better outcomes for children, but they are assertions, not explanations on how the outcomes will improve merely by contracting out case management.

The Memo asserts that there is a "potential economic advantage of contracting..." and that this is not "outweighed by the public's interest in having the particular services performed directly by the state agency." It states that it is "doubtful" that the CFS will be successful in accomplishing long-term child welfare/juvenile services reform and improve outcomes for

children. Again, this assertion is not supported with facts. The memo falsely assumes that there is no question that a private agency is superior to a public agency for provision of child welfare services. However, no supporting documentation or evidence supports this claim.

In addressing that services are provided pursuant to the terms of the contract, the memo refers to the inclusion of the Operations Manual in the contract. However, this is exactly what the CFS already uses. Nebraska successfully completed its federally-required Program Improvement Plan (PIP). Although the memo states that KVC's failure to meet the PIP requirements "may result in termination of the contract and/or damages," the state already has proven its ability to meet those standards.

Section 4 of the memo states that KVC is fairly compensating its staff. Indeed, the KVC staff salary for the Administrator is \$82,500 vs. \$60,000 for the CFS Administrator. This higher administrative salary merely adds unnecessary administrative costs to the program. Furthermore, there is no guarantee that these salaries will not decrease (for specialists) and/or increase for managers.

Regarding the issue of stability, the documents asserts if the contract is terminated, another contractor could be found or that CFS could hire displace NFS or laid off CFS staff. Finding another contractor for child welfare services in Nebraska has been challenging, so the assumption that this would be a solution is a false. Furthermore, laid off CFS staff might not be available at the time the contractor's failure.

The memo refers to efforts in other states. However, it is good to look at the assessment of privatization efforts in other states. In 2003, the Children's Rights Group did a seminal study on child welfare privatization.

Using a case-study approach, the report focused on privatization initiatives in Kansas; Florida (emphasis on Sarasota County); Missouri; Hamilton County, Ohio; Wayne County (including Detroit area), Michigan; and Maine. The report identified a number of themes from which 17 recommendations were developed to help other communities appropriately plan, develop, implement, finance and evaluate privatization initiatives. Among the lessons learned were:

- *Cost savings cannot be expected when child welfare services are privatized.
- *Greater efficiency is rarely achieved through privatization of child welfare services.

Other studies since then also report mixed results. A 2010 study on privatization funded by the Casey Family Programs studying efforts in Kansas and Florida also reported that both states increased their funding upon implementation, more than doubling their child welfare budgets in the first ten years. Their budgets increased more than other states that had not privatized. Although the costs leveled off eventually, this is not the time for Nebraska to incur additional and unnecessary financial liabilities.

The contract contingency plan in the event of a contract termination (p. 17) relies upon other contractors, with an assumption they could take over the duties, and the state could use a

non-bidding process. In the event of a contract termination the state would not have the capacity to take over the function, having lost that ability through these contracts, and the contractors would have the upper hand in negotiations because of the emergency character of such a situation.

The contract lists potential contractors for expansion, but they are the same contractors who currently operate the programs. (p. 19). Expansion is not the equivalent of taking over a new program in the event of a failure. A dire situation could arise when a contractor fails, especially if it is one of the larger contractors. Nebraska just recently experienced the failure of contractors, and has had to come up with more money to keep the system serving children and their families. The contract costs could easily escalate once again if a contractor fails.

How Legislative Bills 92 and 95 would strengthen our child welfare system:

Legislative Bill 92

Page 2, lines 16 through 23 – mandating that caseload not exceed national standards by more than two cases.

This provision will ensure the safety and wellbeing of children, their families and their caregivers. The contracts do not have any provisions limiting the caseload sizes of the private case managers. The only reference to caseload is the ratio of CFS supervisors to contractor case managers as discussed above.

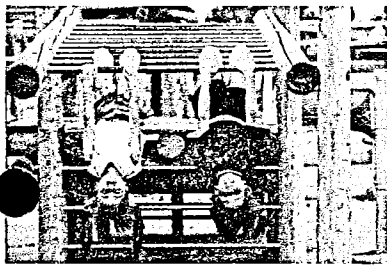
Legislative Bill 95

Mandates accreditation standards for contractors will ensure quality services and is another step towards protecting the safety net for Nebraska's families and children.

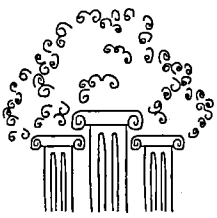
Note: This is based on information received before the department came up with another 19 million dollars for the providers.

Information compiled and provided by: Julie Dake Abel, NAPE/AFSCME Local 61 with the assistance of Cecilia Perry, AFSCME International

Nebraska Federation of Families for Children's Mental Health



While listening to President Obama's state of the union address I could relate so much of what was said to the journey we have undertaken with Families Matter our Child welfare reform, we have had our differences over the last two years, the debates have been contentious; we have fought fiercely for our beliefs. And that's a good thing. That's what a robust democracy demands. That's what helps set us apart as a nation. No matter who we are or where we come from, each of us is a part of something greater. Families matter was developed on the foundation of Systems of Care and Family Centered Practice, Systems of care is demonstrated through multiagency sharing of resources and responsibilities and full participation of professionals, families and youth, and community stakeholders as active partners in planning, funding, implementing, and evaluating services and system outcomes. Collaborative partnerships. I feel that LR37 is a demonstration of just this philosophy.



NEBRASKA
Appleseed

January 28, 2011

Senator Kathy Campbell
Chair, Health and Human Services Committee
Room 1402, State Capitol
Lincoln, NE 68509

Chairwoman Campbell and members of the Health and Human Services Committee:

On behalf of the Nebraska Appleseed Center for Law in the Public Interest, I am here to testify in support of LR 37.

The Nebraska Appleseed Center for Law in the Public Interest is a non-profit, nonpartisan public interest law project that works for equal justice and full opportunity for all Nebraskans. In 2003, Nebraska Appleseed established its Child Welfare System Accountability Program which focuses on enforcing constitutional, federal, and state statutory requirements for providing adequate child welfare services in the State of Nebraska, and using legal, policy and administrative advocacy to generate and implement positive policy and system change.

We support LR 37 because we believe it would bring much needed legislative oversight to the child welfare reform process. Nebraska Appleseed has long supported comprehensive reform of the child welfare system and shares some of the underlying goals of the current reform efforts, including safely reducing the number of children in out-of-home care, requiring evidence-based practices and drawing on the strengths of local providers. However, we are deeply concerned about the structure and implementation of the reform and the effect the reform has had over the past year on children and families in the system.

We are also concerned about the lack of accountability, transparency, and oversight in the system. Appleseed and others have been calling for an independent evaluation to look at programmatic and fiscal components of the reform that both looks forward but that also assesses specifically what went wrong and went right over the course of the past year. We therefore strongly support the provision in this resolution that would include a performance and fiscal audit. We believe such an audit is necessary to be accountable both to the families in the system and the taxpayers in this state and also to prevent a continuation of the problems experienced to date.

In addition, we have real concerns about financial aspects of the reform. Earlier this month, the Department announced that it found \$19 million to provide to the remaining two lead agencies. Appleseed has said from the beginning that the reform is underfunded and that an investment of resources in the right places is needed. However, we have unanswered questions about where this money is coming from and how it will be used, as well as the timing. There are also questions about the state's obligations to subcontractors who still have not been paid on outstanding debts. We are deeply concerned about the impact this has had and is having on the service capacity in the state and on the recruitment and retention of foster families. Finally, we continue to have fundamental questions about the financial sustainability of this reform. We believe this reform will ultimately be unsuccessful if the state does not closely examine the structure and adequacy of funding, the financial problems experienced by the agencies that have dropped out, and, importantly, the cost drivers in the system,

Rebecca L. Gould
Executive Director

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Affiliated with Appleseed Foundation,
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CORE VALUES
COMMON GROUND
EQUAL JUSTICE

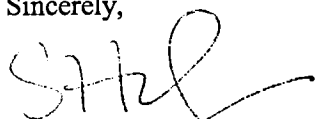
such as the cost of non-Medicaid covered services and treatment for parents. Unless and until we address these key issues, there is no assurance that this reform is going to lead to the outcomes we all want for children and families. We believe this resolution would provide a structure for the HHS Committee to review, investigate, and assess these important issues.

Specifically, we strongly support provisions in this resolution that would involve consultation with system stakeholders, consider existing studies and reports, evaluate long-term goals and outcomes and the effectiveness of the public-private partnership model in this context, and that would require a final report on these initiatives by the end of the year. We think all of these efforts are needed and worthwhile.

The past year has been a tumultuous one for Nebraska's child welfare system. We do not want to repeat this experience in 2011. As the policy making branch of government, the Legislature has an important role to play in examining whether privatizing child welfare services as planned is right for Nebraska. We therefore urge the Committee not only to investigate and assess the reform but also to work to address these critical issues. Several bills introduced this session would begin to do so and we are hopeful that some of these proposals will move forward. Time is of the essence. Children don't have time to wait for us to finally create a system that meets the state's obligation to protect their best interests.

We thank Sen. Campbell for her leadership on this issue and the many other senators who have co-sponsored this resolution and are committed to prioritizing the improvement of our child welfare system. We respectfully request that you support LR 37 and vote to advance it out of committee.

Sincerely,



Sarah Helvey
Program Director/Attorney
Child Welfare System Accountability Program

January 28, 2010

To: Members of the Health and Human Services Committee

From: Sarah Forrest, Policy and Research Associate

**Re: Support for LR 37
Review of Child Welfare Reform**

Voices for Children in Nebraska strongly supports LR 37, which would allow the legislature to review and assess the state's ongoing child welfare reform effort, called Families Matter. Voices for Children remains committed to lasting, sustainable child welfare reform that works to best serve our most vulnerable children and families. Legislative oversight and involvement is a necessary piece of successfully reforming our child welfare system.

Since 2009, the child welfare reform effort has included increasing privatization of services. While Voices for Children believes that private entities are capable of providing excellent services, and has never opposed privatization, many concerns remain. Since contracts went into effect in November 2009, four of six lead providers have withdrawn due at least in part to inadequate financial resources. This has left the Northern, Central, and Western Service Areas with no lead agency. In addition, confusion throughout the system has been widespread and concerns have been raised about the quality of services and sufficient oversight and evaluation.

Following an October 15 announcement that case management would be privatized, Voices for Children was joined by around 1,000 individuals and organizations in asking that reform slow down while evaluation took place, concerns were addressed, and a sound plan for moving forward was established.

Case management was transferred to lead agencies on January 3, 2011, without a response to many of these concerns. While transferring case management may improve service delivery, it is possible that this will not be enough to stabilize a child welfare system that has experienced a great deal of trauma over the last year. Financial burdens on lead agencies and their subcontractors continue, and questions about court representation, monitoring, and problems serving youth involved with the Office of Juvenile Services (OJS) persist. It is important the legislature help address these concerns.



*an independent voice for
all Nebraska's children*

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LR 37 lays the groundwork for:

- More transparency on the plan, direction, and progress of the reform among all stakeholders;
- A better assessment of the results, challenges, and weaknesses of the current reform;
- The financial costs to the state and their correlation with outcomes; and
- Legislative action that will support child welfare reform going forward.

Voices for Children thanks the committee for having the leadership to introduce this important resolution, so that Nebraska can better understand how to serve our most vulnerable children and families and take necessary steps to make reform meaningful and lasting.



January 28, 2011

Senator Kathy Campbell, Chair
Health and Human Services Committee
Nebraska Unicameral Legislature
State Capitol
Lincoln, NE 68509

Dear Senator Campbell:

**KVC Behavioral HealthCare
Nebraska, Inc.**

Beatrice, Lincoln, Nebraska City, Omaha
Papillion and Seward

Sandra Gasca-Gonzalez, M.S.
President

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KVC Behavioral HealthCare hereby provides its support to LR37. We commend the commitment to partnership, transparency and accountability demonstrated in this legislative resolution.

As a partner in Nebraska's Families Matter reform, KVC continually seeks opportunities to build and strengthen partnerships. We believe the partnership of the Nebraska Legislature is an important part of this effort to create a child welfare system aimed at achieving the best possible outcomes for children and families in crisis.

KVC has several overarching philosophies that drive the work we do, one such ideal is that with privilege comes responsibility. We truly believe that it is a privilege to help vulnerable children and their families and we recognize and respect the idea of being transparent about how we work to meet their needs.

As you are aware, KVC has a demonstrated commitment and has made a significant investment in the child welfare outcomes defined in our contract. Internally, we utilize policies and procedures and a continuous quality improvement process, as well as placing heavy emphasis upon the use of evidenced based programs and assessment tools to insure the most efficient and effective service delivery. We take these measures because we understand that ongoing evaluation and accountability assist us in improving the work we do for children and families.

On behalf of KVC, I appreciate this opportunity to support LR37 and believe it is consistent with our organizational philosophies. Feel free to contact me, at (402) 498-4701, with any questions or comments you may have. Thank you for your service and your commitment to Nebraska's children and families.

Respectfully submitted,

Sandra Gasca-Gonzalez, President
KVC Behavioral HealthCare

**Public Testimony in Support of
Legislative Resolution 37
January 28, 2011**

My name is David Newell, and I am the Executive Director of Nebraska Families Collaborative. NFC is an Omaha-based nonprofit corporation formed by the Child Saving Institute, Boys Town, Heartland Family Service, Nebraska Family Support Network and Omni Behavioral Health. NFC serves the greater Omaha area as a lead agency through a contract with the Nebraska Department of Health and Human Services. At any given time, NFC serves approximately 1,000 children and youth in the child welfare and juvenile justice system in our region.

In 2009, Nebraska embarked on a new child welfare and juvenile justice reform initiative now known as Families Matter. Unlike reform efforts in other states that were often implemented as a result of litigation, Nebraska was different because it voluntarily decided that its current system was not working adequately for children and families. At that time, people may not have agreed on the solutions, but most people familiar with Nebraska's system agreed that too many children were being removed from their families; that too many children were languishing in foster and residential care; and most tragically, that too many youth were aging out of the foster care system into homelessness or the criminal justice system. It was out of this recognition, that Nebraska Families Collaborative was created in order to become one of the lead agencies in the DHHS Eastern Service Area.

Since that time, LR 37 recognizes that the first phase of the reform effort did not go as well as any of us would have hoped. Some lead agencies failed while others withdrew from their contracts; planning and funding was inadequate, and key stakeholders were not effectively engaged in the change efforts. For these reasons, Nebraska Families Collaborative supports LR 37 so that we can all learn from the mistakes of the past and create of system of care in which all Nebraskans can take pride.

Nebraska Families Collaborative supports a transparent system of care, and we are always looking for ways that we can do a better job for children and families. We would also like to think of ourselves as one of the success stories of this reform effort:

- Our partner agencies have invested millions of dollars in this effort to transform Nebraska's system of care.
- We went from a staff of one in July 2009 to 83 today. Many of our employees came to us directly from Nebraska's child welfare and juvenile justice system, and we believe we have a great team.

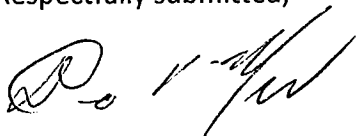
**Public Testimony in Support of
Legislative Resolution 37
January 28, 2011
Page 2**

- We have a provider network of 48 Nebraska agencies and we pride ourselves on paying our contractors on-time every month so that our providers can focus on what is most important: caring for our children and families.
- We have maintained service capacity in all service categories and we are working to develop new interventions and services.
- NFC transitioned to its full caseload in April of 2010, and through that time, we have maintained staff caseload ratios of 1:14.
- NFC has actively been working on the accreditation process with COA, and we do not anticipate any difficulties in meeting all of COA's standards.

At Nebraska Families Collaborative, we are very excited about the future of Nebraska's reform efforts especially with the oversight and guidance that LR 37 will provide as we develop Nebraska's new system of care. Most importantly, we know that Nebraska will not have healthy families and children without the involvement of everyone in our communities: children, families, advocates, teachers, clergy members, police officers, doctors, judges, lawyers, public officials, and anyone else who touches a child's or family's life

For all of these reasons, NFC and its partner agencies support the passage of LR 37, and we thank the legislature for making Nebraska's most vulnerable children and families a legislative priority. I would welcome any questions at this time.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. Newell', written in a cursive style.

David P. Newell, ACSW

Health and Human Services Committee

Hearing on LR 37, January 28, 2011

Victoria Weisz, Ph.D., M.L.S.

2501 Bradfield Drive

Lincoln, NE 68502

My name is Vicky Weisz. I am the Director of the Nebraska Court Improvement Project, which is a federally funded project through our Supreme Court that addresses the courts' work with abused and neglected children and children in foster care. Many of you have heard about the Through the Eyes of the Child Initiative which is part of our program. I am also a Research Professor of Psychology at the Center on Children, Families, and the Law. Please accept my remarks as my personal observations, rather than as representing the Court or the University.

I would like to give you a very brief summary of some of the comments and concerns that I have heard from judges and attorneys across the state in regards to the privatization of child welfare services. First, I would like to start at the beginning of the privatization process. Over two years ago, when the department announced it was going in this direction, there were considerable concerns from the judges about what that would mean. We brought a panel of four Kansas judges to discuss their experiences with privatization at our 2009 Children's Summit. After the panel a number of judges told me that they felt more reassured and hopeful about the prospect of privatization. I heard many positive comments from judges during the first several months of the transfer of service coordination to lead agencies. In most parts of the state, judges were impressed with the energy and commitment of the service coordinators and felt that the transition was going very smoothly. There were a few exceptions at that time in that in some parts of the state, there seemed to be a reduction in caseworkers.

Fast forward to now and I would say that judges are not feeling very reassured, although they are still hoping for the best. Probably the biggest concern that I have heard from judges across the state is in many instances the child welfare worker (whether a state employee or a lead agency employee) has little knowledge about the child and family's situation because they are newly assigned to a case, are standing in for someone else, do not have direct knowledge themselves, or lack experience and are unable to conceptualize or communicate about the complex situations in abuse and neglect cases. In some rural parts of the state there are not enough caseworkers to handle the cases because the Boys and Girls Home workers are no longer working and the state workers are leaving when they can find other jobs because the future is so uncertain.

This month's transition that involves the Separate Juvenile Courts has been especially concerning. A judge has reported to me that there have been frequent substantive inaccuracies in the reports provided to the courts. For example, in one

case, the court report stated that bi-weekly drop in visits were occurring. The mother testified that she had not seen a worker in over six weeks. The writer of the report was not in the courtroom. Reluctantly, judges feel that they have to ask questions about information in the reports to make sure it is accurate. In another situation, a developmentally disabled child has been placed in a shelter four hours away from her home and school and is being transported eight hours a day so that she can attend her home school. The worker reported that funding streams were being explored so that a better placement could be arranged and that would take several weeks. Additionally, judges have great concerns about the OJS population, because the workers demonstrate no experience with this population.

I have heard from clerk magistrates that they have to call many different offices to try to find who might be a current worker for a particular case and to whom communication from the court, such as notice for hearings, should be sent. Sometimes, they say they have never been able to figure it out.

Judges in some parts of the state have told me that they have been asked to specifically order a service by workers because that is the best assurance that the service will be provided. This is in direct contrast to how things historically have been. Courts have typically used their authority to compel parents to comply with rehabilitative services, not to compel the state agency to provide needed services. Further, judges and attorneys in some parts of the state believe that there has been a decrease in the availability of services to child welfare families. A number of judges and attorneys are concerned with the closure of community service agencies, specifically in the rural areas of the state, due to payment issues stemming from privatization. In some instances, providers remain open, but have refused to take child welfare clients because of payment issues. We have also spoken with guardians ad litem (attorneys representing the children) who report spending a large amount of their time playing "caseworker," ensuring that services ordered for their clients are actually being provided. One attorney says that currently more than 50% of her GAL work is devoted to tracking whether services are in place.

Judges and attorneys are sympathetic to expected bumps in the road with any major transition. As one judge has plainly stated, however, "Children have a short shelf life." They are very concerned about the impact of these transitions on the children that are in the system now or are going to be coming into the system in the near future.

The courts do very much want the reform efforts to succeed. My only reason for coming to you today is in hopes that solutions can be found to the difficulties that I have outlined.

LEGISLATIVE RESOLUTION 37

HEARING TESTIMONY FOR SENATOR CAMPBELL

LR 37 (Health and Human Services Committee) Provide the Health and Human Services Committee be designated to review, investigate, and assess the effect of the child welfare reform initiative implemented by the Department of Health and Human Services.

INTRODUCTION:

- Kathy Campbell, District 25
- To open testimony on LR 37, introduced by the Health and Human Services Committee
- Introduction will review background leading to the introduction of LR 37 and briefly summarize the provisions of the resolution.
- After the testimony I will share some additional thoughts regarding the rationale and goals for the resolution.

BACKGROUND

In July 2009 the department selected six private agencies as lead agencies to implement child welfare reform, recently entitled Families Matter.

The child welfare reform increased the responsibilities of these private agencies to provide services to children and families.

The private agencies were subject to a risk-based rather than fee for service reimbursement.

On October 15, 2010 the department announced the remaining agencies would receive greater case management responsibilities.

- The result of the case management transfer is the reduction of department staff that provides critical case management services and a last safety net if private agencies stop providing services in the future.

By November 1, 2010 three agencies had ended the contracts with the state citing loss of significant funds and only two lead agencies remain.

The HHS Committee interim study hearings on LR 568 revealed additional serious concerns about the long term planning and sustainability of the child welfare reform. These included:

- lack of documentation in records;
- failure to pay foster care parents and service providers;
- confusion regarding work responsibilities;
- a lack of training and quality of care to ensure the safety and protection of Nebraska's children.

LEGISLATIVE RESOLUTION summary of provisions:

The Legislative Resolution resolves that the Health and Human Services Committee:

- Review, investigate and assess the effect of the child welfare reform initiative.
- Consult with a broad array of public and private stakeholders.
- Utilize existing and past studies, reports and information relating to the effort to improve the child welfare system.
- Hold public hearing on the implementation of child welfare reform utilizing the authority provided by section 50-406 and the rules of the Nebraska Unicameral Legislature.

- Consider issues surrounding the implementation of the child welfare reform including, but not limited to:
 - the goals, outcome measures, coordination, and long-term planning;
 - effectiveness of public-private partnership to provide services;
 - number of children attaining permanency through adoption;
 - accountability, funding, and financial sustainability; fulfillment of the federal Child and Family Service Review outcomes and indicators; and
 - the option of requesting the Legislative Performance Audit Committee and the Auditor of Public Accounts to conduct a joint performance and fiscal audit or separate audits of child welfare reforms.

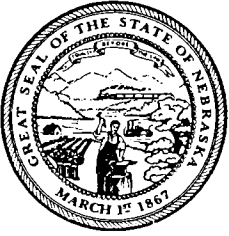
CLOSING COMMENTS:

Thank the Committee for introducing the resolution.

- As the standing committee of the legislature for Health and Human Services this is the appropriate body to review the issues raised regarding public policy in this area
- First, I want to clarify that the goal of this process is **not** to return to the past in child welfare; we agree with the goal of improving the system. That is the purpose of LR 37 to review, investigate and assess the effect of the current initiative- to improve and facilitate positive change.
- Second, I want to address some comments concerning the Legislature “micro-managing” child welfare reform. It is the responsibility of the Legislature to set policy and to oversee the appropriation of funds to fulfill those policies.
- The health, safety and best interests of children are the core guiding principles for policies of child welfare in the State of Nebraska. The issues raised, beginning in April of last year with the bankruptcy of a lead agency, the withdrawal of a second and finally in October the termination of a third with all the ramifications as a result require the actions outlined in LR 37.

- It is helpful to be reminded of the language in current Nebraska law; I quote: “To maximize resources the state shall develop methods to coordinate services and resources for families and children. Every child-serving department, agency, institution, committee, court or commission shall recognize the jurisdiction of such department, agency, institution, committee, court or commission in serving multiple-need children is not mutually exclusive.”
 - LR 37 takes action congruent with this legal mandate.
 - The child welfare system is not the mutually exclusive jurisdiction of any one entity.
 - The child welfare system is highly complex. It involves all three branches of government. It involves public and private entities. It requires substantial investment of resources in order to be sustainable.
 - Coordination, collaboration, evaluation and communication are essential in fulfilling our responsibilities to children.
 - Child welfare is fundamental to the core purpose of government action of ensuring the health and safety of Nebraska’s most vulnerable- its children. LR 37 is introduced to that end.

I want to thank the Committee, again, for introducing LR 37. I urge the Committee to vote to advance LR 37 for passage by the full Legislature; so we can work- together- to fulfill the best outcomes for Nebraska children and families.



Dave Heineman
Governor

STATE OF NEBRASKA

STATE FOSTER CARE REVIEW BOARD

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January 28, 2011

To: Members of the Health and Human Services Committee

Re: LR 37

The Foster Care Review Board's December 2010 Report on Child Welfare Reform described the reform implemented by DHHS and how those changes have affected the safety of children, decreased service capacity, and oversight. Based on those findings the FCRB supports LR 37.

In 2011 the FCRB continues to track children, review their cases, and analyze the collected data on the child welfare system, and will report on its findings and analysis. In the reform environment this is particularly challenging since the reform is in different stages in different areas of the state, with different players and different challenges, such as populations served and geography.

Of the 4,214 children in out-of-home care on January 24, 2011, 2,386 (56.6 percent) were receiving service coordination or case management from a lead agency. Staff report that there can be different practices, and different files depending on who is responsible for case management. They also report that staff turnover continues to be an issue.

The FCRB continues reporting to DHHS and the Lead agencies when essential documentation is missing from children's official file. Documentation is critical as it provides the basis for evidence and is necessary to fully understand the case dynamics. The FCRB also staffs (meets on) cases with serious issues with DHHS and Lead Agencies and notifies their administrators.

Critical issues to be addressed across the state include:

1. improving the training and expertise levels of staff who are managing children's cases,
2. addressing staff's case knowledge,
3. assuring that children and youth are safe in their placements,
4. assuring placement stability,
5. assuring that parental visitation is provided in the safest means possible and sufficiently documented,
6. addressing communication challenges,
7. assuring plans and permanency goals are appropriate,
8. addressing documentation deficits,
9. assuring that court-ordered services are provided, and,

10. assuring that there is adequate fiscal and program oversight.

Prior to the current reforms, there were a number of positive changes underway, such as:

- a significant reduction in the number of children in out-of-home care (from 6,200 on June 21, 2006 to 4,620 children on December 31, 2008),
- increased focus on children in out-of-home care as evidenced by the Through the Eyes of the Child initiative and other collaborations, and
- a focus on children who had been in care for many months as evidenced by the joint study conducted by DHHS and the FCRB that resulted in a record number of adoptions completed in 2008.

Prior to the current reforms, there were issues to be addressed as described in the FCRB's annual reports, and there was collaboration on ways to address those issues. Since reform, the prior issues remain problematic plus a number of new issues have been identified. New issues include a lack of clarity on roles, deterioration of the infrastructure of service providers, the number of staff changes children have experienced, communication issues, problems with service provision, and inadequate foster parent reimbursement.

The stated goal of the reform is to reduce the number of children in out-of-home care and better serve families. One of the things that Nebraska must look at is making prevention services available. Making prevention services readily available will be a key to reducing the incidence of serious child abuse and neglect. In particular, there is a shortage of prevention services such as substance abuse treatment, programs to address domestic violence, and mental health treatment for parents and families.

Regardless of whether case management or services are delivered by a contractor or directly by the Department of Health and Human Services it is important to understand some fundamentals about the children and families involved. The most common reasons for children being removed from the home include such serious conditions as:

- parental failure to provide for a child's basic physical, medical, education, and/or emotional needs;
- children's behavioral issues;
- parental drug/alcohol abuse;
- parental mental health issues;
- domestic violence;
- physical abuse;
- parental incarceration;
- parental illness/disability;
- sexual abuse;
- abandonment;
- parental cognition issues; and/or
- substandard housing and inadequate food and shelter.

Even with prevention services in place, some family situations will be unsafe, and some children will need to be removed from the home in order to ensure their safety. It is the FCRB's role to

track those children, review their cases, analyze the data from tracking and reviews, and report on what is happening for Nebraska's children in out-of-home care.

As national research has found, *"In states that have privatized, private agencies struggle with the same issues that public agencies do, such as obtaining adequate services, reducing caseloads, and reducing turnover...Even with privatization, the state must both 1) maintain oversight of each case and 2) monitor contract performance and outcomes..."*¹ Nebraska statute is clear, and the federal Department of Health and Human Services concurs, NDHHS retains responsibility for children's safety, well-being, and permanency – regardless of whether or not it chooses to contract for placements, services, service coordination, or case management. Thus, in the December 2010 the FCRB recommended that DHHS and the lead Agencies address identified issues.

The FCRB thanks the Legislature for their diligence in providing greater oversight of the reform process, and will be available to provide information.

Sincerely,



Carolyn K. Stitt
Executive Director

CKS/lmc

¹ Center for Public Policy, March 2005.

Nebraska Child Health Alliance

1141 H Street, Suite B Lincoln, NE 68508

January 28, 2011

Senator Kathy Campbell, Chairwoman
and Members of the Health & Human Services Committee
State Capitol Building
PO Box 94604
Lincoln, NE 68509-4604

IN RE: Support of LR 37

Dear Senator Campbell and Members of the Health and Human Services Committee:

Please accept this letter on behalf of the Nebraska Child Health Alliance in support of Legislative Resolution 37, a motion to allow the Health & Human Services Committee to assess the effect of the child welfare reform initiative implemented by the state Dept. of Health and Human Services.

With a mission to best ensure the health and well-being of Nebraska's children, especially those in out-of-home care, the Alliance feels that the Department's decision to partially privatize foster care has opened a door to many questions regarding: funding distribution, adequate services, and consistent policies and procedures throughout the state. What LR 37 will do, in essence, is provide the legislature's Health & Human Services Committee with the ability to conduct studies and properly assess the state of Nebraska's child welfare reform changes.

As always, transparency and the public's right to accurate reporting from their state agencies is the intent of this resolution. This continuation of improved oversight and protection of the state's children is why the Nebraska Child Health Alliance endorses LB 37 and we continue to support this resolution as it moves forward on the floor of the legislature.

We want to personally thank the members of the Health & Human Services Committee for introducing LR 37 and we thank you all for your leadership in respect to this resolution.

Sincerely,



Pat Connell, RN MBA FACHE CBHE CHC
Chair

January 28th, 2011

Senator Kathy Campbell
and members of the Health & Human Services Committee
State Capitol Building
PO Box 94604
Lincoln, NE 68509-4604

RE: Support of Legislative Resolution 37

Dear Senator Campbell and Distinguished Members of the Health and Human Services Committee:

I submit this letter on behalf the Nebraska Association of Behavioral Health Organizations (NABHO) in support of Legislative Resolution 37, which would give the state legislature's Health & Human Services Committee the ability to properly assess the effect of the child welfare reform initiative implemented by the Nebraska Department of Health and Human Services.

NABHO exists to actively promote sound, responsive, efficient and effective substance abuse and mental health services in the state of Nebraska. The numbers of children and adolescents involved in the state's welfare program are significant, as are the number of parents seeing behavioral health services who children are involved in the Child Welfare system. All combines, members of NABHO serve a prominent number of the Nebraskans.

Last year's decision from the Nebraska Department of Health and Human Services to privatize the state's foster care system was met with its fair share of concerns and questions. Those concerns range from drastic reductions in referrals to services and providers, subsequent group home closings, long-term contracts ending, a lack of adequate funding and most importantly, the consistency and quality of the services being provided to those kids and their families in need.

That is why today we applaud the members of the Legislature's Health & Human Services Committee in their efforts to ensure that the services being funded and provided to Nebraska's children is being done so under the proper policy and procedure it is intended. Through successful oversight, transparency, accountability and reporting by the Committee through LR 37, we feel that the child welfare reform plan will be best administered and children and families be served.

We thank the members of the Health & Human Services Committee for introducing this legislation.

Sincerely,

Mary Barry Magsamen
President