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Health and Human Services Committee
January 28, 2009

[LB247 LB268 LB288 LB290]

The Committee on Health and Human Services met at 1:30 p.m. on Wednesday, January 28, 2009, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB247, LB268, LB288, and LB290. Senators present: Tim Gay, Chairperson; Dave Pankonin, Vice Chairperson; Kathy Campbell; Mike Gloor; Gwen Howard; Arnie Stuthman; and Norman Wallman. Senators absent: None. []

SENATOR GAY: All right, it's 1:30, we'll get started. Welcome to the Health and Human Services Committee. We have four bills today that we're going to cover. Wanted to go over a few ground rules, if you're new to the committee. We do have a light system here in this committee and the way that works is the opening proponent, the opener will get as much time as they need to open on their bill. And then we allow 5 minutes, green will be going and then when it hit's yellow, you're at 4 minutes, and then red, 5 minutes. We...you know, if you're just going to wrap it up, we'll let you wrap it up, but when the red lights on, we're trying to wrap it up. Try not to be repetitive of what somebody else said. And we want to hear input but, you know, it doesn't do much good to repeat what someone else said, so work with us on that. The reason we do that, quite honestly, is many of these bills, it's not fair to somebody who has to come in at 4:00 and testify or we've been here later than that, and it's not fair to the person that's fourth on the list as it is to the person that is first. If you have any materials you'd like to hand out, the pages...we need 12 copies. The pages can make those for you. If you know you're going to hand out something, they can get working on that. When your bill is up, if you can work your way forward and be ready to testify, we'd appreciate that as well. We're going to start with introductions, and my name is Senator Tim Gay, I'm the chairman from Papillion-La Vista area. We'll start over here. []

SENATOR GLOOR: Senator Mike Gloor, District 35, which is Grand Island. []

SENATOR CAMPBELL: I'm Kathy Campbell, District 25, which is east Lincoln. []

SENATOR PANKONIN: I'm Senator Dave Pankonin. I represent District 2. I'm from Louisville and that area is Cass County and Nebraska City. []

JEFF SANTEMA: My name is Jeff Santema and I serve as legal counsel to the committee. []

SENATOR STUTHMAN: Senator Arnie Stuthman from Platte Center, District 22, represents Platte County and Colfax County, part of Colfax County. []

SENATOR HOWARD: Senator Gwen Howard from Omaha, District 9. []

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SENATOR WALLMAN: Senator Norm Wallman, District 30, Gage and Lancaster County. []

ERIN MACK: I'm Erin Mack, committee clerk. []

SENATOR GAY: And our pages, Justin and Blair, will be more than happy to help you out in any way. And if you could, we have a sign-in sheet if you're going to be testifying, if you can print your name and fill that out, put it with the clerk. Erin has a box over there so she can put that into the record and make sure it's spelled right. But also if you could state your name and spell it out, that's very helpful as well, so. With that, we will get started. I don't think...Senator Dubas, you're up first, so welcome. []

SENATOR DUBAS: (Exhibit 1) Thank you. Thank you, Senator Gay, members of the Health Committee. My name is Annette Dubas, that's D-u-b-a-s, and I represent the 34th Legislative District. LB247 requires the Department of Health and Human Services, Division of Children and Family Services, to become an accredited public agency by the Council of Accreditation, Incorporated, which is a nationally recognized accreditation entity that accredits public agencies, private agencies, and specifically agencies working with children. I've introduced this legislation because I am looking for accountability from the Department of Health and Human Services. The Department has been very helpful over the course of the past six months and they have brought me what I've needed. Although sometimes I had to ask some very tough and targeted questions to get that information, they eventually did answer me. However, I want to be reassured that I do not have to ask the tough questions to get movement or any sense of accountability. That is why I feel accreditation is the best possible solution to this issue. After the safe haven debate of 2008, it only seems salient that we begin to take the topic of our children much more seriously. If we can accredit our hospitals and our prison systems, we can certainly accredit the system designed to take care of the state's most vulnerable citizens. To be very clear, I do not fault the department. I do not fault caseworkers who are working as hard as they can but who are swamped with caseloads that far outweigh what one individual can handle. The responsibility for accountability lies with us, the Legislature. We should expect practices and standards which allow for the best possible treatment of our state's children. The Behavioral Health Oversight Commission was charged with overseeing and supporting implementation of LB1083, the community-based services. This commission met regularly from June, 2004, to June, 2008. They submitted their final report with what had been accomplished and recommendations to continue to fully implement LB1083. And I do have copies of the report and some other information here to hand out to the committee. I would like to point out a recommendation that is most necessary and in many ways, one small part of the reason that I brought this legislation. On page 10 of that report you will note recommendation #11. The Commission recommends both a financial and performance audit of the operations of the Division of Behavioral Health for the purposes of providing an opportunity to start with a clean slate. The pool of money

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available for behavioral health services at the community-based level must be closely scrutinized. Accountability for the money designated to pay for behavioral health services is a concern. Behavioral health services for children are not easily obtainable, which I said during the safe haven Special Session. Accountability is necessary. I truly feel the Legislature is responsible. We are the employer. You and I are responsible. Accreditation gives the department, as well as this legislative body, a measuring stick, an evaluation tool for our employee, so to speak. The providers that receive funding from the department have accreditation standards for a degree of accountability and I think this bill makes it clear that the Legislature should expect the very same thing from the Division of Children and Family Services. Also in your packet is a list of accredited organizations in Nebraska and you'll be hearing testimony from an accredited provider. I'm also giving you information that highlights public agency accreditation, and which public agencies are accredited in other states. There's also an assessment matrix that will help you to better understand some of the standards and accountability that we can glean from a uniform process such as this. I am aware that the date in this bill does not allow sufficient time for the accredited process to occur. However, I would like the accreditation process to begin on or before December 1, 2010. And I think this gives the department enough time, hopefully, to get organized for the process to begin. So with that, I thank you for your time and attention and would be happy to try to answer any questions. [LB247]

SENATOR GAY: Thank you, Senator Dubas. Any questions from the committee for Senator? Senator Stuthman. [LB247]

SENATOR STUTHMAN: Thank you, Senator Gay. Senator Dubas, in your bill, it's trying to set up some uniform standards for child protection. Does this...do you mean by taking the standards that we have now and utilize the best ones and try to create a uniform standard or is this trying to create something new? [LB247]

SENATOR DUBAS: There will be people coming after me who will be able to give you, I'm sure, a much more specific answer to that question, but what you would do is...these would be a set of national standards accreditation. Business comes in, they help you access and adopt a set of uniform standards that will fit the type of services that you're looking to provide. [LB247]

SENATOR STUTHMAN: Okay. Thank you. [LB247]

SENATOR GAY: Senator Howard. [LB247]

SENATOR HOWARD: This isn't a question but maybe it's helpful. One of the easiest ways to look at this is they would...there would be a caseload size that would be regulated that would be standard and would be established. So that's certainly one of the pieces to this that would make a significant change, so if that's helpful to better

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understanding what accreditation is or does. [LB247]

SENATOR DUBAS: Thank you. [LB247]

SENATOR GAY: Any other questions for Senator Dubas? I don't see any. Are you going to stay around for closing? [LB247]

SENATOR DUBAS: Yes, I will stay. [LB247]

SENATOR GAY: Okay. Thank you, Senator. All right. We'll hear from proponents on LB247. Come on up and...how many proponents do we have? About five, six probably, seven. All right. If you come on, make your way up. And then is there any opponents to this bill that are going to be talking? One opponent. And any neutral? And no neutral. Okay. Welcome. [LB247]

SCOTT DUGAN: (Exhibit 2) Good afternoon. My name is Scott Dugan, S-c-o-t-t D-u-g-a-n. I'm the president and CEO of Mid-Plains Center for Behavioral Healthcare Services located in Grand Island, Nebraska. I'm before you today to testify in support of LB247, an act requiring accreditation of the Division of Children and Family Services. I first want to thank Senator Dubas for her introduction of this bill and applaud her intent behind it. The Department of Health and Human Services is charged to carry out very critical service to the population of our state. The Division of Children and Family Services is perhaps the most critical of these functions as it oversees the care of those who are most vulnerable, our children. There are a couple of very important points that I believe the committee should understand as they're evaluating this bill. First, in answer to the question, why accreditation? More specifically, what does accreditation of an organization mean? Quite simply, accreditation establishes that an organization delivers its services to a standard of excellence that has been researched and proven to produce results. Accrediting bodies spend years developing their practice standards and each standard has scientifically proven validity. Therefore, it can be assumed that an accredited organization operates according to the highest standards available in their field. The Department of Health and Human Service already recognizes the value of accreditation. For example, Title 206 of the Nebraska Administrative Code with relation to contracting for behavioral health services with Behavioral Health authorities, states that an organization must be accredited, and if they're not accredited at the time of contracting, they must have a plan to prove that they will become accredited. So the value is already established. Further, just last week, January 20, 2008, the Director of the Division of Children and Family Services applauded the Youth Rehabilitation Treatment Center in Geneva for achieving accreditation. These two examples demonstrate there's already a commitment from Health and Human Services in this division to the value of accreditation, and therefore they themselves should seek to achieve the same excellence that they demand in this service array. The second question to answer is, why accreditation by the Council on Accreditation for Children

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and Family Services that's referenced in there? There are basically three nationally accrediting organizations for this area of work. JCAHO is one that many people are familiar with, the Joint Commission. They accredit hospitals but they also have sets of standards for Children and Family Services. The Commission on Accreditation of Rehabilitation Facilities is CARF. That's also another accrediting organization. But Council on Accreditation, or COA, is set apart as one that has achieved high standards of excellence. It's specifically an area of children in family services. In my handout you'll see some of the specific points of how U.S. Congressional Reports have cited it to achieve very specific things, and they are the sole chosen accrediting body from the United States Government with regards to intercountry adoption. So they are a highly recognized and well established organization. The final question you may have is that, what would the benefit of doing this be? Yes, there is a cost, but there's got to be a benefit. It's true that the accreditation process takes a tremendous amount of time and effort and resources. Providers have been through this process numerous times and can attest to the amount of work it takes to achieve high standards that are set. Our organization that I represent, we've been accredited for the last 14 years with the Council on Accreditation. So I know firsthand how much work it is, but I can also produce firsthand the positive outcomes that have been achieved with the folks that we are serving because of the standards that we're held to through that process. How can we afford not to do this? Well, the division is overseen by the executive office to carry out the task that the Legislature puts into place. The legislative body, ultimately, is the one with the oversight in charge. So it is important for legislators not just to form another commission or oversight committee, but this is a way to assure you that your job is being completed by, as Senator Dubas referenced, the employees of your body. I thank you for your time and I'd entertain any questions. [LB247]

SENATOR GAY: Thank you. Any questions? Senator Gloor. [LB247]

SENATOR GLOOR: Mr. Dugan, I think for the purposes of those listening and other committee members, it should be pointed out that I was on the board and chairman of the board of his organization back when this started. But I apologize in that I do not remember whether this accrediting survey provided benchmarking opportunities with similar sized institutions or facilities. Does it provide benchmarking opportunities? [LB247]

SCOTT DUGAN: Yes, it does. They have outcome measures that are measured across all organizations and then broken down by types of service and size of organization across the United States. There are approximately 2,500 organizations accredited by the Council on Accreditation at this time of varying sizes, including several public entities in state. [LB247]

SENATOR GLOOR: And so when that report was made available to us, or when you would make it available to your board anyway, is there a synopsis that's presented? I

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mean, is all that information boiled down into something that's digestible for your board of volunteers? [LB247]

SCOTT DUGAN: Yes, the accreditation report comes in three parts, an executive summary, an overarching summary of outcomes and benchmark measurements and then a detailed summary, which is standard by standard measurement on your success rate in each area of measurement. [LB247]

SENATOR GLOOR: Do you use that for planning purposes? [LB247]

SCOTT DUGAN: We do. In our last strategic planning cycle which followed right after our last accreditation cycle, the points that were made by the review team that came on-site were specifically and purposely placed in our strategic plans so that we could address those and mitigate those concerns. [LB247]

SENATOR GLOOR: Does it require a board resolution for you to continue doing this year after year? [LB247]

SCOTT DUGAN: Our accreditation cycle is every four years, so each time the board does...is asked to choose whether to continue the accreditation with this organization versus any of the other organizations. [LB247]

SENATOR GLOOR: And so far they've continued to give it thumbs up? [LB247]

SCOTT DUGAN: So far this one has been their choice to maintain with this one. [LB247]

SENATOR GLOOR: Do you remember how much it cost you to do this every four years? [LB247]

SCOTT DUGAN: The costs with the Council on Accreditation are based on the...basically on your net assets. Of our organization, we operate on a \$5 million budget and our costs...we're actually in the process of reaccreditation right now and our charge will be \$22,000. [LB247]

SENATOR GLOOR: Okay. Thank you. [LB247]

SENATOR GAY: Senator Campbell. [LB247]

SENATOR CAMPBELL: Mr. Dugan, I work with an agency who is COA accredited, so. My question is on your renewal, about how long does it take you to do that? [LB247]

SCOTT DUGAN: The renewal process begins about one year prior to the expiration of

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your accreditation. Nine months prior to, you're required to submit what they call a self-study which is your preliminary set of evidence toward compliance with the standards they've published. And then the on-site visit occurs sometime between the sixth and fourth month prior to expiration. [LB247]

SENATOR CAMPBELL: So you've been through this process a number of times then? [LB247]

SCOTT DUGAN: Four times. And I...just for full disclosure I'm actually also a peer reviewer for the organization. I do not review any organizations in our state, only out-state. [LB247]

SENATOR CAMPBELL: That was my second question, so. Thank you. [LB247]

SCOTT DUGAN: You're welcome. [LB247]

SENATOR GAY: Senator Pankonin. [LB247]

SENATOR PANKONIN: Thank you, Chairman Gay. Mr. Dugan, thanks for coming today and also thanks for your work on the interim on the task force on behavioral health for younger folks. And I think you're going to see some things happen that you helped to make possible and some of the success you've had in your organization. You've been through this several times. It costs some money and just give me a couple, as specific as you can, benefits you see from this process, whether it's your staff development or why, when you're in the trenches, this makes a difference. [LB247]

SCOTT DUGAN: One area of specific focus is the quality improvement process. There is a very specific and prescriptive set of standards around nothing but process and quality to improvement to make it sufficient and effective. A specific thing that came out of our last accreditation cycle, which has helped our organization, is around accessibility to services even in a capitated system that we operate in in behavioral health. It let us to really examine how we schedule appointments and look at in...basically from that process the way the standards are set up, we are able to partially implement an open access scheduling system to allow us to see more adult patients under psychiatric medication services. So that's a specific example that came purely from the accreditation process. [LB247]

SENATOR PANKONIN: Thank you. [LB247]

SENATOR GAY: Any other questions? Senator Campbell. [LB247]

SENATOR CAMPBELL: I should have followed up with it and I appreciate that you are a peer reviewer. Have you ever done one of a state department? I mean, I'm familiar with

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an agency similar size probably or larger than...a little large than yours, but have you ever worked with one that was an entire state department? [LB247]

SCOTT DUGAN: I have looked at a portion. The way the public accreditation process, they...because it's usually such a large organization to look at it's usually split across several months looking at specific areas. For example, I did have a chance to look at Missouri in a case management standard specifically to help apply those and measure where they're at in accordance with those practices. [LB247]

SENATOR CAMPBELL: Okay. Is it far more extensive? Is it a different format than you and I would see in our agencies? [LB247]

SCOTT DUGAN: Not by much. There are a few additional because of the network management pieces that are inherent in a public managed system, there are some additional pieces. But as you'll see in the newest set of standards that came out two years ago, those are incorporated within organizational standards now because so many organizations across the country in order to remain viable are creating networks and working together in that way and operating somewhat as a public system. So they've recognized that value and if anything, they're putting more of the public type reviews into the private businesses as well. [LB247]

SENATOR CAMPBELL: Thank you. [LB247]

SENATOR GAY: Any other questions? I have a question for you. So when you're being reviewed, do you get like points, so they're looking at peer groups and then coming and saying here's the best practices, would you get credit or something that if you're more innovative than the rest of the country and said, do they look at that and say, hey, that's very innovative, here, do you get extra credit, I guess? I don't know how to put it. But does it help your rating? [LB247]

SCOTT DUGAN: Absolutely. It's not extra credit. The way their accreditation process works is that they're specific standards that define. I'll use Senator Howard's example that, and use it specific to, say, foster care. That the standards set a limit of no more than 15 cases on a caseload for a care coordinator for out-of-home care. Then when that's measured, it's on a scale of one to four with four being in, in not in compliance, and one being completely in compliance or exceeding the intents of the standard. There is a process for recognition of those exemplary performances and in fact, some of the standards as they're adjusted year to year, when they find those practices out there on reviews, they'll expand upon that, perhaps start piloting in other organizations to see if there's a new benchmark that needs to be set. [LB247]

SENATOR GAY: So, okay, so you find a great example out there, do you get updates along the way from when you become accredited and then you have four years before

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your next review, three before you start preparing, do they give you updates then and best practices? You're joining an organization basically then and your getting updates of... [LB247]

SCOTT DUGAN: Absolutely, It is not a once every four year process. In fact, there are maintenance of accreditation requirements every year that there's information you have to submit to make sure that although you passed your accreditation, they want to make sure year to year that you're maintaining or exceeding the level that you were at. Even in the areas where you may not be in full compliance, there will be follow-ups from year to year to see if you are working and making progress toward being in compliance. [LB247]

SENATOR GAY: So you're just not left alone and three years later, oh, by the... [LB247]

SCOTT DUGAN: It's not a one shot and you're good. It's a continual process and... [LB247]

SENATOR GAY: All right. Thank you. Senator Howard. [LB247]

SENATOR HOWARD: Oh, thank you, thank you, Chairman Gay. A question occurred to me while you were talking about this, and I'm just wondering how many states do have accredited child welfare departments? If you know that. [LB247]

SCOTT DUGAN: I do not have an exact answer. I know of three right off the top of my head, Missouri, Washington, and Oregon. [LB247]

SENATOR HOWARD: Okay. And so they may...other states may go through JCAHO for accreditation. [LB247]

SCOTT DUGAN: They very well may, or through CARF. [LB247]

SENATOR HOWARD: Okay. Or through CARF, okay. [LB247]

SCOTT DUGAN: I think you'll find in our state even the Regional Behavioral Health authorities. I know Region 3 has been CARF accredited for many, many years because they saw the value in doing that as a network manager. [LB247]

SENATOR HOWARD: Okay. Thank you. [LB247]

SENATOR GAY: Any other questions? I don't see any. Thank you for coming today. [LB247]

SCOTT DUGAN: Thank you. [LB247]

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TOPHER HANSEN: (Exhibit 3) Senator Gay, members of Committee, my name is Topher Hansen, and I am the president of the Nebraska Association of Behavioral Health Organizations, also known as NABHO. I also serve as executive director of CenterPointe, which is a behavioral health organization serving people with co-occurring mental health and substance disorders. My comments at this point are going to be on behalf of NABHO and then I have a couple of comments afterwards from my role as executive director at CenterPointe. NABHO has voted to support Senator Dubas's bill to require the Division of Children and Family Services to acquire national accreditation, and we thank Senator Dubas for introducing this legislation. The requirement of accreditation is a requirement of excellence. Each of the major accreditation organizations conducts their services internationally and continually refines their process and standards. This effort is directed at maintaining the highest standards of excellence for practitioners and network administrators. The notion is that when organizations achieve excellence, they provide better service to their consumers and stakeholders. This is not about jumping through hoops, but about performing in a manner that is most likely to bring the greatest success to those being served. The professional fields involving children and family services and behavioral health services are getting more information-based and science driven each year. The professionalism of the service providers is second to none. Evidence-based practices, and best practices are well recognized as methods of practice in which providers are more likely to produce better outcomes for consumers. It is no longer acceptable to provide services without having outcomes or quality improvement plans. Similarly, accreditation requires an organization to look at its efficiency in carrying out services and its effectiveness in accomplishing its mission, and how satisfied its consumers and stakeholders are with the service. If we don't measure these things, then how can we know whether we are helping or hurting those we are serving? Accreditation standards have been developed for network administrators, like the Division of Children and Family Services, as well as for direct providers of care. Again, NABHO is supportive of this bill and the Division of Children and Family Services pursuing national accreditation and the excellence in care that results from it. My comments from NABHO. We obviously are supportive. We think this is good. It hits the high marks. I'll switch hats. As CenterPointe executive director, we've been accredited since 1995. We're CARF accredited. We look forward to accreditation reviews because we...this is like training. It's like an athlete in training. If you're going to hit the high marks, you have to stay tuned all the time. And if you don't stay tuned, then you will fall down to the lower ranks and not be able to compete. We see it as an advantage to us in tuning up our standards of care, our professionalism within the fields, because we know it translates to client care. And I have two people on board that I have put through the process, one is completed as a reviewer and we have paid for that and supported her in that role, and I have a second one on the way through. That's how much we believe in this process. Our last two accreditations have had no recommendations. Only 3 percent of any organization in CARF gets no recommendations in any given year and we've done it two

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times in a row. What that tells you is, how much we believe in it and how far we drive it down into our organization. We think this is critical. If you're going to be in the field, you need to hit standards of excellence and the network administrators such as the division are no different than the providers. We need to have quality top to bottom. [LB247]

SENATOR GAY: Okay. Thank you, Mr. Hansen. Questions? Senator Wallman. [LB247]

SENATOR WALLMAN: Thank you, Chairman Gay. Thank you for being here, Mr. Hansen. [LB247]

TOPHER HANSEN: Certainly. [LB247]

SENATOR WALLMAN: In regards to your institution, I've heard lots of good things about CenterPointe. Now do you have a waiting list or are you full or... [LB247]

TOPHER HANSEN: We have waiting lists in almost every program. The exception would be the youth residential program and out-patient programs are waiting lists. The youth system operates differently than the adult system. We don't have much of a wait, maybe a couple of weeks to get into our youth residential and out-patient programs. So, but that's not necessarily reflective of the system because I have people who call from hospitals and correctional institutions and so on saying, how do we get in. And so I don't know where that disconnect is. All I can tell you is, our experience is we don't have much of a waiting list. And our adult side it ranges anywhere from 30 days to 6 weeks up to about 6 months, depending on the program. [LB247]

SENATOR WALLMAN: Thank you. [LB247]

TOPHER HANSEN: You're welcome. [LB247]

SENATOR GAY: Any other questions? Senator Campbell. [LB247]

SENATOR CAMPBELL: Thank you, Senator Gay. Mr. Hansen, I'm going to follow up on Senator Howard's question. Are you familiar with any states that have done the accreditation aside from the three that we've been given? Do you know of any more? [LB247]

TOPHER HANSEN: No, I don't. And it's just because I haven't looked into it. [LB247]

SENATOR CAMPBELL: Okay. Thanks. [LB247]

TOPHER HANSEN: You're welcome. [LB247]

SENATOR GAY: Any other questions? Senator Gloor. [LB247]

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SENATOR GLOOR: Thank you, Chairman, Mr. Chairman. Mr. Hansen, how long have you been with CenterPointe, if I might ask? [LB247]

TOPHER HANSEN: My recent stint since 1993, but I've been on their board and I have served as a counselor and been involved basically since about 1975 in the business. [LB247]

SENATOR GLOOR: So you have been through a number of these accreditation visits? [LB247]

TOPHER HANSEN: I've been through every one that CenterPointe has had. [LB247]

SENATOR GLOOR: Okay. Have you been through any accreditation visits that didn't go quite as well? Obviously, you're proud about them now but... [LB247]

TOPHER HANSEN: Yeah, absolutely, we have. The first one that we had post my taking the position as executive director, we had a lot of turnover in the agency and we got a one year review from that and we turned around. We knew that we had the depth. We just weren't prepared. It was on the heels of our massive turnover and we were at a loss and we deserved the one year. The next one we got was also a one year, which we were disappointed with. And in fact the following accreditation went and complained to CARF saying we got shortchanged on that because we do have a depth of understanding and performance in our business and we deserve the first one. The second one we took issue with but it's...you just, you don't appeal those things. You just go on and do the next one. And then the following two we had perfect accreditations. [LB247]

SENATOR GLOOR: Okay. The reason for my line of questioning has to do with my own personal experience and that's easy to be excited about accrediting visits when they say great things about you. The real test, obviously, comes when they show your dirty laundry, and that can be the time you say, you know, this isn't really a good use of dollars and toss that away without working on it. Any comment you might have to that? Obviously, you've been through both sides of this. [LB247]

TOPHER HANSEN: You pay for it one way or the other. Either you pay for it in the system or you pay for it up-front to get high quality and help people get better. As I said, I was not in argument at all about our first one year accreditation. The second year, I had great objection to. And in fact, then the third one where we got our first perfect accreditation, she actually filed a formal complaint against the surveyors and with CARF saying that this was wrong. She could tell from the materials that we were doing the things we needed to do. So that was affirming as to the one. And then we said, kind of like your question implies, is this just dumb luck and we had some good surveyors.

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Well, maybe, but we got another batch the next survey too because we got affirmation of our prior experiences. So, you know, I say to the surveyors when they walk in the door, I expect you to dig and turn up what we don't have, and where we're...this isn't about getting a gold star on your chart. This is about performing at high levels of quality that translate down to consumer care. That's where we're focused. So when somebody, whether it be an auditor or a reviewer or a peer reviewer that we do within the state of Nebraska, if they come in our organization and raise issues with us where they think we can do better, that makes us better for our consumers. That's where our focus is. We don't see it as gold star, black stars on the chart. We see it as an indicator of how we're doing with our consumers. [LB247]

SENATOR GLOOR: And it's your belief this accrediting agency is something other than a gold star group? [LB247]

TOPHER HANSEN: The COA and so on? [LB247]

SENATOR GLOOR: Yes. [LB247]

TOPHER HANSEN: Oh, absolutely. It all is about performance that translates into care and they get that concept. It...as I said, we look forward to it because we see it as good training and refining our systems to be the best we can possibly be because we know that translates into people getting better sooner. [LB247]

SENATOR GLOOR: Thank you. [LB247]

SENATOR GAY: Any other questions? I don't see any. Thank you, Mr. Hansen, for your testimony. [LB247]

TOPHER HANSEN: Thank you. [LB247]

SENATOR GAY: Other proponents? [LB247]

KEITH BLOCK: (Exhibit 4) My name is Keith Block. I am a social work student at Dana College in Blair, Nebraska. I'm testifying today in support of LB247 on behalf of myself and the Nebraska Chapter of the National Association of Social Workers. My practicum experience last semester gave me the chance to sit in on the recent safe haven Special Session. LB247 would mean that Nebraska is helping to advance accreditation standards that directly benefit Nebraska's children and families, not only in the quality of the services provided, but in how those services are provided, promoting efficiency and transparency in the department. The Council on Accreditation is a nationally recognized organization that partners with human services organizations worldwide. According to the standards laid out on the Council's Web site, the department will be expected to conduct a self-audit on the quality of its management and delivery. The burden would

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fortunately not entirely lie on the department, as the Council would be able to guide it through the process, step by step. This bill would also bring Nebraska up to date with providers nationwide and improve public perception. With Nebraska's shift to privatization, this is even more important than ever. Accreditation will offer the department the opportunity to partner with peer organizations to create positive systems change instead of having change arbitrarily required of them via legislation and public or other political pressure. The pressure would instead come from standards that are already recognized and respected nationwide. Please consider this opportunity to rejuvenate Nebraska's families by advancing LB247 to the full Legislature. Thank you for your consideration. [LB247]

SENATOR GAY: Thank you, Mr. Block. Are there any questions from the committee? I don't see any. Thank you. [LB247]

KEITH BLOCK: You bet. [LB247]

KATHY BIGSBY MOORE: (Exhibit 5) Senator Gay, members of the committee, I'm Kathy Bigsby Moore, executive director of Voices for Children in Nebraska, that's K-a-t-h-y B-i-g-s-b-y M-o-o-r-e. I'm here in support of passage of LB247. I think it offers a partnership to you in attempting to measure the effectiveness of tax dollars spent to truly give you measurable outcomes and to also give the Department of Health and Human Services, the Division of Family Services, a partner in bringing their service level to an area of excellence also. A couple of the questions that I would like to respond to. I do not provide direct services as many of you know. We're an advocacy, a system advocacy organization. But in Omaha I sit on a United Way committee that evaluates agencies that function with United Way dollars. And it's been interesting. I've done this for about six years and I can tell in our quality improvement visit, whether or not the agency we're visiting is an accredited agency. The accredited agencies are much better equipped to truly give you outcome measures, not just tell you how many clients have walked through their doors. And so I think this is exactly the kind of accreditation, the kind of information that you need to enable you to function in the capacity that the Legislature should function, to determine if the dollars that you're providing to Health and Human Services are truly meeting the needs of clients and truly being spent in the most effective and cost effective way. There are a number of states that are utilizing this. I know of two additional ones besides those that have been mentioned and that would be Oklahoma and Arkansas. I think someone who is testifying after me has more information because in addition to states there are several large cities or counties, regions, that are also accredited, so it's a fairly large complex list of individuals. I think that what is really important is to look at the efforts that have been made, perhaps in the last decade. I, unfortunately, have been here for a couple of decades, but I have advocated for various kinds of licensure and standards and statute that mandate certain functions. And I will tell you that in spite of the fact that we've been through several reorganizations of Health and Human Services, I actually worked to pass legislation

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about 20 years ago called, The Family Policy Act that instructed Health and Human Services to bring to the Appropriations Committee how they had spent appropriations dollars, how many clients had been served, but also how well those clients were served. That agency provides so many services that are of such a complex nature that it was virtually impossible for the Legislature to sort through all of that and figure it out. So I think LB247 offers you a tool that will be very helpful to you, but more importantly will lead the service array to a level of excellence that our clients deserve in this state. So I encourage passage. I would be glad to answer any questions or continue to work with you as you see this bill flow through the legislative process. Thank you. [LB247]

SENATOR GAY: Thank you. Are there any questions? I don't see any. Thank you. [LB247]

KATHY BIGSBY MOORE: Thank you. [LB247]

C.J. JOHNSON: (Exhibit 6) Senator Gay, members of the Health and Human Services Committee, my name is C. J. Johnson, I am...that's C. J. J-o-h-n-s-o-n. I am submitting this testimony in support of LB247 which requires accreditation of the Division of Children and Family Services within the Department of Health and Human Services. As a regional administrator of Region 5 Systems, one of six behavioral health authorities in the state of Nebraska, I have been involved in a national accreditation process over the past decade. Region 5 currently has two programs accredited with CARF, Commission on Accreditation of Rehabilitation Facilities, and will be seeking CARF accreditation as a network administrator over the next year. Region 5 Systems experience in seeking and receiving national accreditation has ensured that best practices, programmatically and administratively, are under constant evaluation and adjusted to ensure that consumers and stakeholders are receiving quality services. The process of accreditation through a recognized national accrediting body, such as the Council on Accreditation for Children and Family Services, can only be seen as having a positive outcome for the overall operation of the Division of Children and Family Services. Accreditation requires an ongoing process of self-evaluation and development of policies and procedures consistent with a set of universal standards. As stated in Marcus Buckingham & Curt Coffman's book, First Break all the Rules, making your standards universal is already a telling competitive advantage where unrestrained empowerment can kill a company's value. The majority of the behavioral health providers in Region 5 Systems provider network are nationally accredited and the rest are currently in the process of seeking accreditation. LB247 brings recognition and in itself a set of standards at all levels of care by ensuring that state government holds itself to a recognized national set of standards and as stated in the introduced bill, achieving and maintaining these standards requires a solid commitment from the legislative and executive branches of government. With that I will, again, offer my support of LB247 and entertain any questions that the committee may have. [LB247]

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SENATOR GAY: Thank you, Mr. Johnson. Any questions from the Committee members? I don't see any. Thank you. [LB247]

GEORGIE SCURFIELD: Good afternoon, my name is Georgie Scurfield, that's G-e-o-r-g-i-e, Scurfield is S-c-u-r-f-i-e-l-d. I am a social worker and I am the director of the CASA, that's Court Appointed Special Advocates program in Sarpy County, and as such, Senator Gay used to be my boss when he was County Commissioner. I wanted to talk with great enthusiasm about this possibility, I think it's a real opportunity for us to look at change in a careful measured planned way where we are looking at outcomes and looking at standards that have been well proven over time. The Council on Accreditation have a tremendous reputation for looking at what is best practices and for helping organizations move towards those best practices in a clear and a helpful way rather than a punitive one. And I really want that to happen in Nebraska. I believe it can happen, and I am delighted that Senator Dubas has suggested this possibility. I have a list here of states that have already had been through accreditation with COA, state administered Children and Family Services organizations. This is Arkansas, Illinois, Kentucky, Louisiana, and West Virginia who have already completed this. Maryland is working at the moment and they're working county by county and city by city. Mississippi, Missouri, Ohio, and Tennessee. Florida and California with the bigger populations are doing piece by piece, so California last year had San Mateo County accredited, Logan County, Marion County, Putnam County. Last year Florida had Orange County and currently Florida is...oh, and Miami-Dade has already been accredited. So there is some big organizations who are looking at how they do this. And...but there's also states like Missouri who are much more similar to our own here in Nebraska. And one of the reasons, I think, when the suggestion was first made in 2003, 2004, as part of the Governor's task force as Senator Dubas outlined, I was very enthusiastic about it then and thought this would be tremendous. I've been working for the last 12 years as a CASA coordinator for the CASA program in Sarpy County and therefore have worked really closely and watched what has happened with children in the system and with families. And I've watched the amount of work and dedication that there is among the staff in the Child Protective Services in Nebraska and I feel like it would be really useful if we could help those staff recognize best practices move through in a planned way and allow them the opportunity to do the best work they can. They're truly dedicated, but sometimes the pressure of work is so great that they simply can't do what they need to do, and that damages the work that we can do and the assistance that we can offer through both the division and through the juvenile courts and the service providers. So that we don't do the best work we can do and I really think this is a way to set out a path and a plan that we can stick with over the years that would be a great vision for the state and for child welfare in the state. The other thing I was thinking was, that we're in a different situation now in terms of all of yourselves because term limits means that you are all going to be here a shorter time than your predecessor, quite possibly. We have to give you the opportunity to do good work and it seems to me that in allowing accreditation to be your focus to say as Senators, we want

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to initiate this process and monitor this process. It doesn't require that you become experts in child welfare and you have so many things you need to be an expert in, you could hand that responsibility back to the Council on Accreditation, but you could be the ones who are making sure the accreditation happens. So I'm just, I'm very enthusiastic about the possibilities here. [LB247]

SENATOR GAY: All right. Thank you, Georgie. Any questions from the committee? Senator Gloor. [LB247]

SENATOR GLOOR: Thank you, Mr. Chair. I want to congratulate you on the work you do with CASA, that is, it's a wonderful organization and a difficult one too. The other is I'm sure that we all understand as members of this committee how extremely lucky you were to have Senator Gay as your boss. (Laughter) [LB247]

GEORGIE SCURFIELD: Me too. [LB247]

SENATOR PANKONIN: What pandering that is. (Laughter) [LB247]

SENATOR GAY: Senator Gloor's bill is scheduled for immediately after. [LB247]

SENATOR GLOOR: It's all part of the game. Let me ask in all seriousness, if one accrediting organization is good, why not subject yourself to two or three or four, if costs weren't an issue, if costs weren't an issue? [LB247]

GEORGIE SCURFIELD: I think some agencies certainly do submit themselves to two or three or four. I think, why I would look at CRA is because this is part of what they do and have done it for other states and other agencies. And I don't think the question is really why not two or three or more, but let's do one and see how this goes. Let's set us on this path and that would be a consistent clear direction for the whole division and let us set on one path and we'll see where we go after that. [LB247]

SENATOR GLOOR: Okay. Thank you. [LB247]

SENATOR GAY: Senator Pankonin. [LB247]

SENATOR PANKONIN: Thank you, Chairman Gay. I live in Cass County just south of the Platte River and that accent, I don't think that's Sarpy County. (Laughter) [LB247]

GEORGIE SCURFIELD: Native Nebraskan. [LB247]

SENATOR PANKONIN: Well, and actually the reference is the folks that preceded you as being on this committee for now the third year, I'm starting to know those folks' background and appreciate everyone's work in this area. But I am curious about your

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background and obviously your enthusiasm is appreciated, but tell us just a little bit of...what to get at where you're at right now and what you've done. [LB247]

GEORGIE SCURFIELD: I'm a social worker and I have a master's in social work that I got actually at UNO. But I was a social worker...I've worked in child welfare for 32 years. [LB247]

SENATOR PANKONIN: In Nebraska? [LB247]

GEORGIE SCURFIELD: No, but for the first 12 in the U.K. and then in Alabama and since then in Nebraska. [LB247]

SENATOR PANKONIN: Okay. So it's an Alabama accent? (Laughter) [LB247]

GEORGIE SCURFIELD: Yeah, Alabama accent I think, don't you think, yep. (Laughter) [LB247]

SENATOR PANKONIN: Tell us about the CASA program just a little bit in Sarpy County. How many people involved in... [LB247]

GEORGIE SCURFIELD: We currently have 48 volunteers who are active. We have a program which works...it has an office actually in the juvenile court and the county has been very supportive of that so it's given us a strong position there. We are accredited by the National CASA Association and believe absolutely in that standard stuff well. You know, you occasionally have a moment in the middle of the process where you wonder whether you believe in it quite so much but clearly believe that we should meet standards. Every CASA program in Nebraska meets the national standards for CASA. We get accredited every three years and that's really a lot about how we have safe volunteers working with children. A lot of the stuff is about making sure we have good background checks, making sure we have good supervision because we work with volunteers. One of the difficulties in CASA is that our volunteers are court appointed so they have some power to look at records and to be involved in children's lives and have to understand confidentiality and that's really important. And have to understand something about the law, what they're allowed to do and what they're not allowed to do and to be clear about those boundaries, so that's another piece that we work on with our volunteers. The state association also provides support and help but we don't have in Nebraska any state funding so everything comes through the counties or through donated money to have our volunteers do what they do. [LB247]

SENATOR PANKONIN: Well, thank you for your work and your testimony today. [LB247]

GEORGIE SCURFIELD: Thank you very much. [LB247]

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SENATOR GAY: All right. Any other questions? Georgie, I got one request if you could. That list you had would be helpful, I think, to us if you could provide it, one of the pages just to the clerk and then she can distribute it to the rest of us, but I think those other states I questioned... [LB247]

GEORGIE SCURFIELD: Okay. It's a little more complicated than I made it because it has what other agencies as well as publicly administered agencies so you'll work through it. [LB247]

SENATOR GAY: We'll dig it through it if you don't mind. You don't have to. [LB247]

GEORGIE SCURFIELD: No, absolutely, you can have it. [LB247]

SENATOR GAY: Well, thank you very much. And on another matter, thank you for the comments, but I would say Senator Gloor and all of us that have had to work with, not had to, but had the privilege of working with CASA, it's a great organization and you do a fine job and I enjoyed with working with you at that point, so. [LB247]

GEORGIE SCURFIELD: Thank you. Thank you very much, Senator. Thank you. [LB247]

SENATOR GAY: Okay. Thank you. Other proponents who would like to speak on this issue. [LB247]

SARAH HELVEY: (Exhibit 7) Hi. Good afternoon, Chairman Gay and members of the committee. My name is Sarah Helvey, that's Sarah with an h, last name, H-e-l-v-e-y, and I am a staff attorney and director of the child welfare program at Nebraska Appleseed. And for the new members of the committee, Nebraska Appleseed is a nonprofit, nonpartisan public interest law project that seeks to promote policies and practices that will promote equal justice for all Nebraskans. In 2003 we started our child welfare program which seeks to protect the rights of children in foster care and to work for lasting and meaningful reform of the child welfare system. On behalf of Appleseed I just want to thank Senator Dubas for her continued leadership in seeking to improve our foster care system in Nebraska. We support LB247 because it provides for much needed accountability and best practice standards for the Division of Children and Family Services. The proposed legislation would bring a new level of accountability and standards currently missing from the system and we, along with other advocates, have been calling for this type of independent, comprehensive assessment and improvement process for several years. While HHS (inaudible) and federal reviews and in fact, just underwent the federal review process this past year, the federal review benchmarks are limited to specific domains, are not as rigorous, and do not directly address factors such as administrative function and management, finances, and the full range of service

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delivery. Furthermore, the federal review process provides limited assistance to states in terms of providing the necessary step-by-step support to help states institute a foster care system that meets best practice standards across a broad array of areas. Implementing the best practice standards and accountability into the system is needed more now than ever. As the division moves forward with privatization, it is critically important that we ensure that proper oversight is in place and that accountability is not diffused during and following this transition. The accreditation process can also focus on identifying and addressing gaps in the system that were exposed by the safe haven law. The proposed legislation would create a system for ensuring that the foster care system is accountable to the children and families, as well as the taxpayers of this state. And we ask that you vote to advance LB247. I also just wanted to mention for a little bit of background on this process, Appleseed was involved a few years ago in bringing a class action lawsuit. We were representing the plaintiff in that lawsuit seeking to reform the foster care system. And one of the remedies, had that case moved forward that could have come out of that process, was this sort of accreditation process. And I believe that several states have been mandated to go through this process as part of court ordered consent decree through a class action of that type and so that's another way that I believe that this process comes about for other state agencies. Thank you. [LB247]

SENATOR GAY: Okay. Thank you. Any questions? Don't see any. Thank you. Oh, I'm sorry, Senator Gloor, no problem. [LB247]

SENATOR GLOOR: Thank you, Mr. Chairman. Ms. Helvey, am I correct in my assumption that when the courts order CPS to remove a child from the home, in most of our communities that's turned over to law enforcement, to remove the child? [LB247]

SARAH HELVEY: The actual removal is done by law enforcement, yes. [LB247]

SENATOR GLOOR: Would you consider that a best practice? [LB247]

SARAH HELVEY: I believe that that's statutory, so I don't know if that's...yeah. But I don't know if that should be, is best practice or not. It's a good question. [LB247]

SENATOR GLOOR: Okay. Thank you. [LB247]

SENATOR GAY: Senator Wallman. [LB247]

SENATOR WALLMAN: Thank you, Chairman Gay. Thank you for coming. Does Jonathan still work for you? [LB247]

SARAH HELVEY: He does, yes, he's doing well. (Laugh) [LB247]

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SENATOR WALLMAN: Okay. And this issue here I think it's very important and I thank you for testifying. [LB247]

SARAH HELVEY: Thank you. [LB247]

SENATOR GAY: Any other questions? Okay. Thank you. [LB247]

SARAH HELVEY: Thank you. [LB247]

SENATOR GAY: Other proponents who would like to speak on LB247. All right, we'll close on the proponents. Opponents. [LB247]

TODD LANDRY: (Exhibit 8) Good afternoon Senator Gay and members of the Health and Human Services Committee. My name is Todd Landry, T-o-d-d L-a-n-d-r-y, and I am the director of the Division of Children and Family Services within the Department of Health and Human Services. I am here today to testify in opposition to LB247. As you have already heard, LB247 would require the Division of Children and Family Services, specifically Child Protective Services, to submit a plan on and before December 1, 2009, which would ensure accreditation of the division, with the Council on Accreditation, also known as COA. LB247 also requires the department to be accredited by COA on or before December 1, 2010. As you have heard, there are currently five state administered public child welfare programs that are fully accredited by COA, Arkansas, Illinois, Kentucky, Louisiana, and West Virginia. From discussions that we've had with Mary McKee, our federal liaison for the Administration for Children and Family Services, the federal entity that oversees us, and from representatives with the Council on Accreditation, we also spoke with Linda Miller with the state of Missouri, based on those as well as my own personal experience and as you have already heard alluded to in previous testimony, it does appear virtually impossible to obtain accreditation in the time period specified in LB247. For example, the state of Missouri has been working towards obtaining accreditation since 1997 and is still not yet fully accredited. In discussions we have had with the Council on Accreditation, they themselves confirm that the time lines outlined in LB247 are unrealistic. There are also fees associated with accreditation based upon a calculation done by COA that takes into account our budget size. COA estimates the amount for initial accreditation for us to be approximately \$215,000. This cost projection is based on an application fee, an accreditation fee, a readiness assessment fee, and site visit fees. Maintenance of accreditation expense is a relatively minor \$400 annually for three years following the accreditation. As you have heard, the accreditation cycle repeats every four years at a projected cost of \$185,000, which includes all the items I mentioned before except for the readiness assessment. Costs of achieving the accreditation will be dependent on the plan development but would likely include significant staffing increases. The total fiscal impact of LB247 is being developed but will likely be a very rough estimate because the department would have to engage in extensive discussions with COA to develop a formal plan. We would,

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however, expect accreditation to require a significant budget increase due to the assessment, training, supervision, and quality management systems necessary for the accreditation process. LB247 would require the Legislature to fund whatever the costs are to achieve accreditation. We question whether it's wise in the current budget environment to commit an undetermined amount of funds for future budget years. Now related to this topic, I would like to point out are the comprehensive reform efforts that the division has undertaken, is in the process of implementing. In the reform of our in-home and safety services as well as the out of home reform process, the division is specifically contracting with accredited agencies. By doing so, the division in many respects, I believe, benefits from the process of accreditation through contracting without having to incur the time, expense, and effort associated with accrediting the entire child protective services portion of the division. In regard to our reform efforts, do want to share with you some quick examples of some of the success. 2007 marked the second consecutive year in which the number of children safely exiting state care surpassed the number of children entering care. I could also tell you that for 2008 we also achieved that benchmark, marking the third consecutive year. There's been a 17 percent decrease in the number of wards. We haven't been at this lowest number of wards since 2003 and we're at the lowest number of kids in out of home care since 2001. Finalized adoptions have increased. And then I would like to point out very quickly that we are meeting two of the federal benchmarks that we are held accountable to and audited on by the federal government. We're meeting the Timeliness of Adoption federal benchmark for the first time, and we're number one in the nation in achieving permanency for children in foster care for long periods of time. You can track how we're doing. The federal government requires us to report to them on how we're doing on those key outcomes and we post them every single month on our Web site in our compass feature. I do want to point out real quickly that the intent of LB247 appears to be focused on continuous quality improvement and we agree with that. But the bill, we believe, provides an unachievable time frame to meet the accreditation requirements, in our estimation also commits this in future sessions of the Legislature to an unspecified cost. Lastly, I would simply close by saying I do not believe that it's in the best interest of our children and families at this time, in this current budget environment, to devote limited resources away from the successful reform efforts we've begun in order to focus on this accreditation process. I'd be happy to answer any questions. [LB247]

SENATOR GAY: Thank you, Director Landry. Senator Stuthman. [LB247]

SENATOR STUTHMAN: Thank you, Senator Gay. Director Landry, in seeing how things happened with the safe haven and what services were needed and the need for those services, do you think that we could accomplish the same goal as this accreditation by trying to beef up or manage these services at a little bit different way so that, you know, we can address the needs of the people? The concern that I have with this bill is, you know, it's going to cost a lot of money and we don't have that at present time. And are we trying to do something that, to me, getting accredited isn't the main

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issue, it's providing the service. And if we can, if we can address the situation of providing the service for these people, you know, I think that should be addressed. Do you think that we can within the next year or so work with the programs that we have in existence to hopefully address the needs of these children? [LB247]

TODD LANDRY: Well, Senator Stuthman, I think you are exactly right. I think the process is going to require significant amount of money, which as we all know is in short supply these days. I do believe that there are ways we can address some of the issues that were brought to the attention and to the forefront, and I believe next week this committee is going to be hearing testimony on bills that can do that at a relatively achievable cost as opposed to, you know, a large scale cost. So I do believe that we can do that. The other thing that I would like to point out is, I believe we're best served at this point by not focusing on process but instead truly focusing on outcomes. The federal government in the 1990's said, these are the outcomes of safety, permanency, and well being that every state in the country should strive for. And no state has passed those yet in the first round and no state is going to pass them in the second round, including Nebraska. But the process of achieving incremental continuous quality improvement is already imbedded in that. We're already audited by the federal government on those aspects as well as many others. So I do believe that those accountability processes are now included in our system and I believe, and would agree with you, that the limited resources that we have need to go toward shoring up our services for families and kids as opposed to spending it on process that may or may not achieve the outcomes that we want. [LB247]

SENATOR STUTHMAN: I also have a real interest in the fact that I think we should, you know, beef up the programs. Being accredited and hanging that accredited certificate on the wall to me doesn't really mean that, you know, the children are getting the services that we really need. [LB247]

TODD LANDRY: You know, certainly, Senator, there is no guarantee of good outcomes through accreditation. Accreditation does ensure that you are meeting certain standards. And I've led agencies in my past as a private, you know, as the leader of a private agency, you know, led an agency that was accredited. And certainly we have aspects of our current division such as the YRTCs that are accredited. And we've looked at those on a case by case basis and said, do the benefits outweigh the costs? Can we afford to do this and sustain it on an ongoing basis? In those cases with the YRTCs we said, yes. In the case with this proposal, we believe at this point in time at least that we're better served by using those resources elsewhere. [LB247]

SENATOR STUTHMAN: And I also believe too that, you know, I think we need to provide the funds so that we can attain these services for the children that are needing them at the present time. [LB247]

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TODD LANDRY: Certainly, that is a big part of the challenge that we all face and certainly you as legislators face on an ongoing basis. [LB247]

SENATOR STUTHMAN: Because it's very important to me so, to get to these parents and these children, you know, and provide those services for them. Thank you. [LB247]

SENATOR GAY: Senator Pankonin. [LB247]

SENATOR PANKONIN: Thank you, Chairman Gay. Mr. Landry, appreciate your coming today and I think Senator Stuthman has brought up the dilemma here of, you know, trying to get things done and the money involved. I have two questions. In Mr. Dugan's testimony right from the start, he kind of brought up this irony of that your division or the Division of Behavioral Health works with organizations that must be accredited and so discerning (inaudible) I think for folks in this field that they're expecting that but yet the state doesn't. Is that a valid, somewhat of a valid point? [LB247]

TODD LANDRY: Oh, I think it can be a valid point. I think one of the key things though that you've heard from other testifiers today such as, I believe, Kathy indicated that they don't provide direct services, therefore, they're not COA accredited. I don't believe Appleseed, for example, provides services, so they're not necessarily accredited. In the long run where we're heading with our overall reform efforts is that we are moving from our staff doing the direct service and instead having our staff do the vital contract oversight, separating out those duties of funder, evaluator, and provider. And so to a certain extent we are moving in the direction that we're going to be primarily in the funding and evaluation mode, not in the direct service provision mode. And so in some respects I do believe that, you know, that goes towards answering the question of, what is the best way to use the resources. I think the best way that we can use those resources now is focusing on those reform efforts that are getting the results that are very, very positive for us all, without necessarily going to this step. I can appreciate the perspective. I certainly ran one of the agencies that contracts with the state, you know, previously and have a lot of value for accreditation services or accreditation process when you're in that provision of service role. [LB247]

SENATOR PANKONIN: My follow up question would be, obviously in the date issue, as Senator Dubas said in her opening, that could be changed. It was to get the discussion starting. That can be easily changed, but understand that not only the direct cost but there would be cost of going through the process. If the date and the cost were not an issue, if you just had the (inaudible) would this be something you would want from a professional standpoint to have, to have our division? Or do you think...or are you saying that it just is not applicable with the way, the direction we're going? [LB247]

TODD LANDRY: You know, I think it is certainly something that could and should be considered in the future. I just don't think now is the right time for us given all the

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restraints that we have. But I think it is something that should be considered on an ongoing basis in the future. And there may be aspects, once we go through the reform efforts and begin to see even more results from that, that we then have some of those resources that could be used to accredit some or all of the division. I just don't think now is the right time given all of the other pressing priorities that we have to deal with. I would like to, though, point out that the costs that I discussed here are just the actual fixed costs that you pay to COA. When I was with the agency that I led that went through the reaccreditation process, we devoted one or two full-time staff for up to two years to go through that process. That was an agency of about 100 employees. Multiply that out for the number of employees that we would have to do, potentially dedicated to this effort, and that's where the real cost and effort. Other testifiers have already said, it takes a tremendous amount of resources to do that. I believe that at this point in time, those resources are better committed to other areas where we have higher pressing needs. [LB247]

SENATOR PANKONIN: Thank you for your testimony. [LB247]

SENATOR GAY: Senator Campbell. [LB247]

SENATOR CAMPBELL: Thank you, Senator Gay. Mr. Landry, when you talked to the state of Missouri, did they say to you, this is for us, what the benefit was? [LB247]

TODD LANDRY: Yeah, we talked to them about that and they certainly found and told us very clearly that they thought they achieved some significant benefits in the process. They were also fair and I've heard this from private agencies as well as public agencies, that they did have some question or some within their organization and in their legislative bodies, have said whether or not the cost outweighed those benefits, whether or not they should be focusing on other aspects. It is one of those trade-offs and as with everything you do every...you know, in your work here for the entire 100 days of the session you're trying to weigh those trade-offs and that's always the difficult thing to judge. [LB247]

SENATOR CAMPBELL: You've been visiting with us Senators, and talking about the different benchmarks that you're trying to put into place, that you're trying to watch. At what point, what's your time line and calendar for when we would be saying, well, let's look at those benchmarks for the reform efforts? [LB247]

TODD LANDRY: You know, I think we're looking at them on an ongoing basis. We have a few critical ones that we've talked about. First, we have those critical federal data measures of safety and permanency. Those are the ones that are on our Web site. There are six of them that involve safety and permanency. Currently, we're meeting two of them and we're very close to meeting an additional two of them. You know, I certainly have said that, you know, within the next few years, I am committed to try to make sure

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we're achieving all of those six data measures. And those are critical safety and permanency data measures that the federal government requires us to report on. As it relates though to other reform efforts, we've also put in place and said these are benchmarks as it relates to number of kids as state wards that we have in the system. A year ago we were at 7,000. Currently, we're at 6,506, and we've said that by the end of this fiscal year, we want to be 6,000 and we're clearly moving in that direction safety reducing kids in the system by achieving increased permanency. Not coincidentally, guess what. Our federal data measure on timeliness of adoption has gone up. We're seeing that we're actually achieving that one. So all of those pieces are in place. The other critical benchmark that we're looking at our milestone, is the number of kids that were serving in-home versus out of home. A year ago we were at 7,030, 70% out of home, 30% in-home. We've already seen a 5 percent shift in that and we've said over the next several years, and I believe we've targeted 2012, we want to see a flip in that at least to the 50-50 number. So we are monitoring those, measuring those, and I know in upcoming briefings we can go in more detail about them. [LB247]

SENATOR CAMPBELL: Okay. Thank you. [LB247]

SENATOR GAY: Senator Gloor. [LB247]

SENATOR GLOOR: Thank you, Mr. Chairman. Director Landry, these will probably be more comments than questions. I was, in fact, reassured when I saw that Missouri has been struggling to get their accreditation because it tells me that the bar apparently is set high enough so that this is something that has to be worked hard to achieve. I also have to point out that in my previous occupation, I sat in your chair and I hated it, accrediting organizations. (Laughter) For a variety of reasons it had to do with my job, my responsibilities, and the fact that I, unfortunately, had to accept a great degree of accountability for the findings. In most cases they came back more positively, but I find myself wearing a different hat these days. I sit where my board of directors used to sit and my board members loved accreditations. Because the complexity of running the organization I ran, the complexity of running the organization that you're responsible for such, that it was difficult for them to really know what was going on. And I think we have seen over the years, and with term limits certainly we continue to struggle with complexity of these issues and wondering if we set the right course for ourselves or whether we're going to continue to revisit and revisit and revisit these issues. We included the most recent accreditation survey in every packet for every new board member. And it was one of the things that they took great comfort in because it told them what were the shortcomings that were out there, things that they should watch out for. I do understand the concern about the dollars and going for direct patient services, but I would imagine that accrediting a survey like this could cost, and maybe the numbers were in here, I didn't see them, \$250,000, \$300,000, something like that for the scope that's being talked about here. It's a lot of money but I'm not sure in the grand scheme of your budget and the provisions of services that it puts me off that badly. The

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thing that concerns me, if I could use the metaphor, is that we seem to keep changing the tires on the car because they wear out early. And rather than spend some money on diagnostics to find out why that's the case, like an accrediting agency, let's just use the money to replace the tires once again. I like the concept of this because of the hat I wear right now, and because I feel a great degree of responsibility and I'm not sure where we're at. And I would like some outside entity to come in and help provide you and me some guidance along those lines. [LB247]

TODD LANDRY: May I comment? [LB247]

SENATOR GLOOR: Absolutely. [LB247]

TODD LANDRY: Thank you. As I've said before, I see a lot of value depending upon the circumstances towards accreditation. As I've said before, both of our YRTC programs, where we are providing that direct service, are both accredited. In that case the appropriate accrediting body is ACA. I would, though, point out and your estimates are right on. I think we were saying that the actual fees to COA would be 260 something thousand dollars. The bigger cost, of course, is the amount of manpower and other resources that would have to be devoted to that, as I was attempting to explain in answering Senator Campbell's question. I would like to point out that there are studies, independent audits that use a legislator and that all of our citizens in the state do, in fact, receive on our division, particularly in child protection area, child welfare. And that most critical one is the federal CFSR review, Child and Family Services Review, that occurs every four to six years. We had our review last year, last summer. We're still waiting on the feds to give us our report but I anticipate that that report will be out within the next few months. And that report is going to say, how are you doing on key system factors? If you will be infrastructure ways you go about achieving these results as well as the actual data outcomes. There's seven system factors, eight outcomes. It will tell us...and we will have a good benchmark because six years ago we went through the same process. We can see how we were doing then, how we are doing now, what progress has been made, and specifically that all it's going to say, where are we falling short. The one thing that I like most about it, is it's not just...it's a big part of, but it's not just the department. It also involves the courts, the providers, the foster care network, all of these other advocates. Legislators are involved in those review processes and some of you participated in that, so it involves the entire system, not just one component of the system. And that to me is one of the most important measures. Now keep in mind as I said before, no state passed the first round, no state's going to pass the second round. Most states are doing a little poorer in the second round than the first round because the federal government raises the benchmarks. But that is going to give us a real good, you know, study. A real good independent audit of exactly where we are, what we now need to be focusing on, and one of the things that we focused on for the past four years got us the results that we wanted to get. That to me is probably most important right now. While that costs us with internal resources, it doesn't actually cost

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us because it's part of, you know, the federal government process, so it's a way of getting some of those key data factors and data measures and input without going through the accreditation process. Again, I would just simply wrap up by saying, I have great value for accreditation in certain circumstances and at certain times. Given the pressures that we have and the trade-offs that have to be made during this current cycle, I just don't necessarily believe now is the time to vote those resources to accreditation. That's my opinion. [LB247]

SENATOR GLOOR: I need to understand the results when they come back... [LB247]

TODD LANDRY: Certainly. [LB247]

SENATOR GLOOR: ...probably a little better to get comfortable with it, but thank you. [LB247]

TODD LANDRY: Certainly. Thank you. [LB247]

SENATOR GAY: Any other questions from the committee? I have one, Todd. We talked about internal resources being used to, that would also be a cost, another cost and that's fine, but I was, and several of us were familiar with that Children and Family Services review which is very in depth. Unfortunately, you know, if no one can ever pass it, I question the validity of the whole thing. But anyway, I knew there's a lot of work going into that, but how many people do you have just dedicated to do that now? [LB247]

TODD LANDRY: Well, right now we have, and this is something that we formed two years ago when I came into the division, we formed a specific continuous quality improvement section, comprehensive quality improvement section, if you will, within our policy section in the office. In my division we currently have 15 individuals that are devoted to that task within the division. And their primary focus is around collecting comprehensive data, providing that feedback back to our service areas in order to make sure we are making improvements and making sure we're measuring everything top down. So whatever the federal government is asking us to measure, that's what we're putting into our contracts with our providers so we're measuring them on the same thing. That's what we're reporting back to you and others in our compass system on the Web so that everything is lined up with those key outcomes. But we did create that section within policy office just specifically try to begin to focus on quality improvement and oversight of our providers. [LB247]

SENATOR GAY: Okay. And Senator Pankonin had a point I had too. If we ask others to do this, why would we not do it ourselves? But like I say, I know the time spent on that CFSR review seems to me, and I know you used a lot of different agencies and that would be very helpful if we could get an update on that at some point for any member.

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And also I'd like to know too where we're at and when that's coming back, so a time line. But if you already have a couple of agencies under your direction that had accreditation already and you say you might be open to the idea on other... [LB247]

TODD LANDRY: In the future. [LB247]

SENATOR GAY: ...parts of it, it would be interesting to see what you have done already. Who did you use to accreditation on these centers? [LB247]

TODD LANDRY: On the YRTC's we're accredited by ACA, which is the American Correctional Association. They generally are seen as the entity that would be most appropriate for those types of facilities like we have at Kearney and Geneva, so that was the one that was selected. [LB247]

SENATOR GAY: Okay. All right. Thank you. Any other questions before you leave? Nope. Thank you. [LB247]

TODD LANDRY: Thank you. [LB247]

SENATOR GAY: Any other opponents? And I didn't see any neutral on this. Senator Dubas, do you want to close? [LB247]

SENATOR DUBAS: Again, I'd like to thank members of the committee for your great questions and your attention to this issue and I did pass out packets of information that does have those states listed that either are or are in the process of accreditation, so. [LB247]

SENATOR GAY: Jeff did catch that. Thank you. [LB247]

SENATOR DUBAS: Great. Great. And, you know, the time frame, of course, has been addressed and it will take time to do accreditation the way it's meant to be done. But you've...I think you've heard some real success stories here this afternoon and exactly who all benefits from accreditation. It's not just the providers, it's ultimately those and users and those are the people who, I think, are our priorities. I think accreditation provides an objective set of eyes to create unbiased feedback on how you do business and how you deliver those business...how you deliver your business and your services and how you can be efficient in that delivery. And sometimes money spent up-front can ultimately save you many dollars, you know, on the backside. This isn't...this bill wasn't introduced as an attack on any agency or division or anyone in particular. It's a process and it's a process that can bring light to areas that need improvement, but it also can shine light on areas that are working quite well. And, you know, sometimes unless we really take the time to look for those things, we tend to focus on everything that's wrong and forget to look at what's right and how things are working and how we can maybe

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even build on those successes. So I think accreditation does work and it shows how we can improve services and improve efficiency. And when I'm talking to my constituents and I'm talking to them about dollars and cents issues, I want to be able to say, maybe I am spending this amount of money, maybe we are spending this amount of money in the Legislature, but this is what we're getting in return for those dollars and I think we owe them that type of response. I don't think accountability costs. I think accountability pays. I really would like to have the opportunity to pursue this debate with the full body. I think we are going to have some very hard decisions to make as to where the limited resources that we have available to us should go. And I think we have to lay it all out on the table and set the priorities. And, of course, we all probably have a different set of priorities, but I think it's up to the full body to come to that consensus. And I would like to have the full body's opportunity to participate in this discussion and to ask the questions and to see if we really think this is something that could afford us benefits down the road. You know, the federal benchmarks, yes, they're there, but I think it was pointed out that the benchmarks are not anything close to what accreditation could afford for this particular department as a whole. So again, I appreciate your willingness to listen to this issue and I'd be happy to answer any other questions you might have. [LB247]

SENATOR GAY: Any questions for Senator Dubas? I don't see any. Senator, earlier in your opening you did say you got information from the department and that division and that's great but just...we've discussed as a committee, we're trying to get as much information as we can to our colleagues. If you ever need anything from the committee, I'm sure they will continue to provide you with whatever you need but we've all committed ourselves to, if you need anything, ask one of the committee members as well and we try to help you out as best we can as well. And then I think this is a good discussion today. Thank you. [LB247]

SENATOR DUBAS: I appreciate that. All right. Thank you. [LB247]

SENATOR GAY: All right with that we will close the public hearing on LB247 and go to LB268. Senator Lathrop, welcome. [LB247]

SENATOR LATHROP: (Exhibit 1) Good afternoon, Mr. Chairman and members of the Health Committee. Glad to be here today to introduce LB268. My name is Steve Lathrop and I represent the 12th District in Omaha, Ralston, Millard. Today, I'm introducing LB268. That bill would require that all childcare facilities that are licensed by the state of Nebraska provide written proof of liability insurance coverage prior to the issuance of their license. In Nebraska there are approximately 4,000 licensed facilities that are licensed to serve over 100,000 children. These are preschools, childcare centers, and family care homes. At least 29 states have passed similar legislation, including many that have had legislation introduced as the result of tragic circumstances involving the injury or death of a child in the care of a childcare facility. In Oklahoma...and I've passed an article around on this one. In Oklahoma a young boy

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was left unattended in an unattended vehicle by an uninsured childcare provider and suffered heat stroke and extensive brain damage. Within six months the family had maxed out the \$1 million lifetime benefits on its health plan and the future care for the boy is expected to cost much, much more. Like many small childcare providers, this particular childcare provider was under the mistaken impression that her homeowners insurance policy would provide coverage for accidents in a case such as this one. There are similar cases in Nebraska. LB268 would not only provide the parents with an additional peace of mind, but would also encourage childcare providers to make sure they have appropriate coverage in case of an accident involving a child in their care. Under this legislation childcare facilities would have to maintain coverage of \$100,000 per occurrence, and the failure to maintain that coverage would result in the loss of their license. The cost for such coverage, and this is surprising even to me, the cost of such coverage is nominal. A family childcare home that recently opened in Lincoln that is licensed to serve up to five children recently secured a policy for liability insurance for \$96.12 a year. Childcare facilities face countless situations that could result in a significant and financial loss if they were to be found liable or responsible for the death or injury of a child in their care. LB268 is good public policy. It would provide additional protection for children, families, and providers. It's an idea that makes good business sense. It's already used by many providers in the state of Nebraska and could be easily made a part of the current licensing process. I would add, go away from the prepared text for just a second and make this observation that I think there are probably three good reasons for this bill. One is that if a child is injured on your property and you don't have, you know, if we don't make people appreciate that their homeowners coverage doesn't cover them, there's a lot of people that are providing this care in their homes and they think their homeowners coverage covers it, and it doesn't. It's excluded if it's a business that you run inside the home. So by mandating the insurance, at least people will come to recognize, probably a lot of people out there would get the coverage voluntarily if they just appreciated their homeowners didn't cover them. And so what this bill would do is it would get people to get a rider on their policy for \$100 or a fairly small amount of money that would provide some coverage. So that, I think, is a significant reason in and of itself. But the other is that you see, and we have had these people...I've talked to folks who have been in this situation, their child is at day care and something bad happens. There's a lot of kids there, there's a lot of opportunity for somebody to get hurt. And the person operating the day care says, I don't have any way to pay for it. Well, now the responsibility for all of that falls on the parent who was not at fault, wasn't there, wasn't tending to the child. And the person who was responsible and negligent and not tending to the children as they should have ends up paying nothing. And I suppose the third thing that we all ought to consider is who pays these bills if these folks don't have the coverage. And the little boy who had the brain injury, I've seen these before and that gets very, very expensive; \$100,000 probably won't help a whole lot with a brain injury. But I can tell you when people don't have coverage and you don't have somebody to look to and the responsible party doesn't pay, it all ends up going to Medicaid in most cases. These folks, unless they have a health plan that will

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cover it, Medicaid will end up paying for it. And so in some sense this is sort of insurance against having people make claims against Medicaid for injuries caused by someone's carelessness at a day care center. So for those reasons I think it makes good policy. And I would encourage you to move it to General File. [LB268]

SENATOR GAY: All right. Take some questions. Senator Stuthman. [LB268]

SENATOR STUTHMAN: Thank you, Senator Gay. Senator Lathrop, thank you for your testimony and I'm very interested in this. Do you feel that the costs would go up if the day care center had more children, like 12 kids or 20 kids? [LB268]

SENATOR LATHROP: I suspect so. It would... [LB268]

SENATOR STUTHMAN: And percentagewise it probably. [LB268]

SENATOR LATHROP: It might be like having a fleet of vehicles instead of one, probably the more children there are the most risk, the more risk the higher the premium. But it's still pretty inexpensive coverage. [LB268]

SENATOR STUTHMAN: Per day per child would be pennies then, wouldn't it. [LB268]

SENATOR LATHROP: Exactly. [LB268]

SENATOR STUTHMAN: Do you feel that the awareness of the parents, the day care providers is...they're just not aware of the fact that their homeowners insurance doesn't cover it? [LB268]

SENATOR LATHROP: Well, I think there's two problems with awareness. I think first is that people that take their child to a licensed day care facility they think it has the state's blessing and would probably be surprised to know that they're not required to have insurance. And the second awareness issue is I think there's an awful lot of providers right now, Senator Stuthman, that have no appreciation for the fact that their homeowners coverage does not afford them any protection when they're running a licensed day care facility out of their home. [LB268]

SENATOR STUTHMAN: Do you feel that if this bill was passed there would be day care centers that would have to close because they couldn't provide? [LB268]

SENATOR LATHROP: Not over that kind of...not over those kind of premiums, no. [LB268]

SENATOR STUTHMAN: Yeah. [LB268]

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SENATOR LATHROP: And I can tell you somebody who is at the tipping point and \$100 throws them into not being able to operate probably shouldn't be operating, or I can assure you that if something happens at that day care they're not going to be financially responsible. [LB268]

SENATOR STUTHMAN: Yeah. Okay, thank you. [LB268]

SENATOR GAY: Senator Pankonin. [LB268]

SENATOR PANKONIN: Thank you, Senator Gay. And, Senator Lathrop, welcome. Just a couple follow-ups. And I think, I mean, literally I think this is a good concept. I've got a valued employee at the farm equipment dealership. His wife runs one of these. There's, I don't know how many kids for sure. But I'm going to...when I see him Saturday, I'm going to ask him about this issue because it's an important one no matter what. I guess, knowing that it might have value then it gets into a little bit about how...as you well know from working in the legal field that not everybody maintains, they may have it when they get their vehicle registered, but they don't maintain that insurance. Are these licenses an annual license for the day care? [LB268]

SENATOR LATHROP: That I wouldn't know. But I would be supportive of anything that requires that they maintain it and show proof of insurance, not unlike an automobile where they have to show it annually to renew their license. [LB268]

SENATOR PANKONIN: I mean I think we have another...always that issue there, too,... [LB268]

SENATOR LATHROP: We do. [LB268]

SENATOR PANKONIN: ...that someone could have it at the time and then drop it. And then you have that...obviously, the parents think they have it and it's not there and you have other problems. [LB268]

SENATOR LATHROP: Right. [LB268]

SENATOR PANKONIN: So I think that's something, an issue that we need to look into if this bill advances or in further discussion. The other thing is, as you had mentioned, a lot of these are in the home, a lot of these are in small communities, many in my district. But how easy...you have a homeowners policy with, I don't want to mention specific companies, but we all know kind of the regular names. Would those people be able to provide this insurance as a rider, or do they have to...do these folks have to go to another source to get this, or do you have any experience or... [LB268]

SENATOR LATHROP: I don't have experience with it. And I'm not sure. My guess is

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that the...that those who provide homeowners coverage probably would have a rider for a business and they could get it right from their agent. I don't know if anybody is here to testify besides me, but... [LB268]

SENATOR PANKONIN: And my line of questioning would be that might be easier to do in Omaha or Lincoln where there is many sources of insurance. But maybe if you get further out in the state that there's one insurance agent in town or one in the county or whatever, and if they don't provide, can't provide that kind of insurance, it just makes it difficult for those people. So those would be my two questions along the lines of this bill would be that and then how this thing would be enforced so that if we did change the policy the people...I want to say policy, public policy, people would have some kind of assurance that there is a pretty good chance that those folks will have that insurance in place. [LB268]

SENATOR LATHROP: Both great points. And the one thing that we've come to recognize with motor vehicles is we can...about the best we can do with motor vehicles is require that people have that proof of insurance when they show up. And if they cancel it afterwards we do have enforcement issues. But at least, at least most people will do that. And the compliance is much better than what we have right now. But I do appreciate your remarks. And then I'll look into where you get the coverage and is it available across the state, because that's a fair question. [LB268]

SENATOR PANKONIN: Okay, thank you. [LB268]

SENATOR LATHROP: Well, they're all fair, (laughter) but that's a good point. You made a good point with your question. [LB268]

SENATOR GAY: Other questions from the committee? Senator Campbell. [LB268]

SENATOR CAMPBELL: Senator Lathrop, if you are transporting clients, you know, for an agency oftentimes we require the employee to have like a rider on their, business rider on their insurance. It would be similar to that, would it not? [LB268]

SENATOR LATHROP: It would. It would be the same concept, because you can have auto policies that say we're not going to cover you if you're doing some business activity with your automobile. But yeah, it's the same. [LB268]

SENATOR CAMPBELL: It might be easier than we think to get it. [LB268]

SENATOR LATHROP: I think it probably will be. But before I make that representation to Senator Pankonin, I'll make sure that's the case. [LB268]

SENATOR CAMPBELL: Thank you. [LB268]

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SENATOR GAY: And then when you get that information just give it to the clerk, whatever, Erin. [LB268]

SENATOR LATHROP: I'd be happy to. [LB268]

SENATOR GAY: Okay. Any other questions for Senator Lathrop? I don't see any. How many people would like to...are proponents that would like to speak? Okay, none. Any opponents? Any neutral? Do you want to close. (Laughter) [LB268]

SENATOR LATHROP: You know me, I'm a lawyer, I've got a captive audience. I was going to sit back down and give you another lecture. No, I'll waive close. [LB268]

SENATOR GAY: All right, thank you very much. [LB268]

SENATOR LATHROP: Thank you very much. [LB268]

SENATOR GAY: Yeah, thank you. All right, close the public hearing on LB268. And open the public hearing on LB288, Health and Human Services Committee. Todd, yeah. And how many people will be proponents on LB288 that are going to be speaking? Just you, Todd? Todd you're the only one for the department, okay. That's good. Oh, we got two. All right. Opponent, okay. How many opponents will we have speaking? One opponent, and any neutral? No neutral. Oh, one neutral...or opponent or...neutral. Okay. So we've got one of each. Let's get going. [LB288]

TODD LANDRY: (Exhibit 1) Good afternoon, Senator Gay, members of the Health and Human Services Committee. I am still Todd Landry, T-o-d-d L-a-n-d-r-y. As far as I know, still director of the Division of Children and Family Services in the Department of Health and Human Services. And I want to thank the Health and Human Services Committee for introducing this bill on behalf of the department. I'm here to testify in support of LB288 and provide some information to you. I am providing information from all of the impacted divisions in this bill and will attempt to address your questions as best I can. [LB288]

SENATOR GAY: Todd, can I interrupt you? I know you are for all the divisions. So we're going to give you the time you need to get through this. So don't feel rushed, okay. [LB288]

TODD LANDRY: Okay, great. Thank you very much. [LB288]

SENATOR GAY: You bet. [LB288]

TODD LANDRY: I will attempt to shorten up what I've provided here in written form, to

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hit the high points in respect of your time. This bill contains many important changes that we feel should be made to provide more effective and efficient service delivery within state government. We believe that all of these changes are technical in nature, and we believe they reflect, quote, unquote, clean-up for existing statutes rather than prescribing new policy. The changes affect the following areas--the references to the Federal Social Security Act in the state Medicaid statutes; second, the Food Stamp Program; third, the Developmental Disabilities Services Act; fourth, the Medicaid preadmission screening; fifth, water operators; and last, pharmacy technicians. To begin with, references to the Federal Social Security Act and state Medicaid statutes, specifically Section 6. Nebraska Revised Statutes, Section 68-906, adopts by reference the Federal Social Security Act as it existed on January 1, 2008. Nebraska case law provides that a state statute may incorporate by reference a federal statute, but only as to the date such state statute became effective and not all future changes in federal law. This statute therefore must be updated each year so any federal Medicaid changes that have been made are therefore incorporated by reference. Secondly, the Food Stamp Program, specifically Sections 1, 4 through 5, 7 through 14, and 21. LB288 allows the Department of Health and Human Services to change the name of the Food Stamp Program to the new federal name--the Supplemental Nutrition Assistance Program or SNAP. With the enactment of the 2008 Farm Bill, on June 18, 2008, numerous improvements and changes to the Food Stamp Program were made that will help low-income Americans put food on the table in the face of rising food and fuel prices. One of those provisions called for the renaming of the program. This bill changes parts of the current public assistance law to update the statutes to align the Nebraska Food Stamp Program name to the new federal program name SNAP. The Federal Food and Nutrition Services, otherwise known as FNS, officially replaced the Food Stamp Program name federally with Supplemental Nutrition Assistance Program on October 1, 2008. FNS does supply us with program materials, pamphlets, posters, informational materials, as well as media PSA spots to assist states with outreach in this program. It would therefore benefit Nebraska to align our program name to match the federal program name to avoid any confusion and to allow us to continue to use the federal materials. The third area is the Developmental Disabilities Services Act, Sections 18 through 20. LB288 provides technical changes to the Nebraska statutes, Sections 83-1201 to 83-1226, known as the Developmental Disabilities Services Act. The first recommended change is to change the language in Section 83-1209 by striking a reference to Section 83-1216 regarding the Objective Assessment Process. Specifically, Section 83-1209 requires the DD director, the Developmental Disabilities director, to have the amount of funding for specialized services determined by an objective assessment process as developed in "subsection (3) of Section 83-1216." That reference to the process was deleted in LB296 in 2007. The proposed change therefore is to update the reference to Section 83-1209 by striking that reference. The updated version will then accurately describe the Objective Assessment Process. The second recommended change in this area deletes the phrase "used by the specialized programs in the state," in Section 83-1209(3)(b). It would then simply read,

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"administering all state and federal funds as may be allowed by law." As a result, this change eliminates the limitation in which the division administers funds used by individual providers within the Community Supports Waiver which utilizes providers that may not meet the definition of "specialized." The third recommendation is to change language in 83-1211. Specifically, that section provides, "A person receiving specialized services from a local specialized program which receives financial assistance through the department shall be responsible for the cost of services in the same manner as are persons receiving care at the Beatrice State Developmental Center." The bill would replace "persons receiving care at the Beatrice State Developmental Center" to "persons receiving services." This change is recommended to use wording that is more consistent with the Centers for Medicare and Medicaid Services and their expectations of ICF/MRs. Quality Review Teams were initially added to the statute in 1991, and the implementation was somewhat different than the original language. There are several wording changes in Section 83-1213 in reference to Quality Review Teams. The division has been funding such teams for many years, but the practice has not met the letter of the statute. Finally, in this section, the change in Section 83-1217.02 is to remove the provision that provides a copy of fingerprint reports by the Federal Bureau of Investigation to the employee in addition to the employer. The reports will still be provided to the employer. However, those reports would no longer be provided to employees since copying and sending require additional time and funding. The next major area is in the Medicaid preadmission screening. LB288 amends language in Sections 81-2265 and 81-2270 and repeals Section 81-2267. These sections specifically relate to Senior Care Options, a preadmission screening component focused on appropriate utilization of nursing facility care by Medicaid clients. Senior Care Options requires an individual aged 65 or older seeking Medicaid payment for nursing facility care to be screened for a determination as to whether nursing facility level of care is met. If the individual's care needs do not warrant the level of care provided in a nursing facility, Medicaid will not cover the cost of those nursing facilities. Sections 81-2265 and 82-2270 need to be amended to reflect that the preadmission screening project is no longer a pilot project. Section 81-2267 contains language that requires the evaluation of the pilot project. The project has now been in existence for more than 10 years and is known as the Senior Care Options Program. Any reference to its existence as a pilot preadmission screening project or the need to evaluate the pilot project is no longer accurate. DHHS administers Senior Care Options through contracts with the eight Area Agencies on Aging. It is an essential program in order to ensure compliance with federal requirements. It is also a cost-containment measure for Medicaid to ensure the appropriate utilization of nursing facility care and to inform clients about home and community-based alternatives. The program is established in the Medicaid State Plan, state regulation...and in state regulation, and it will continue to operate under DHHS authority if this section is repealed. Water operators is our next major area, Sections 2 and 15. LB288 would require a person who was previously licensed or certified as a water operator to take the exam required for initial licensure when the person wants to re-obtain a license after the license or certificate has been

expired for more than two years. It also allows the department to establish regulations that are more stringent for individuals seeking re-licensure after license suspension or revocation than those that apply to the initial licensure of individuals. These provisions are needed to maintain conformance with the U.S. Environmental Protection Agency's baseline standards for water operator certification under the federal Safe Drinking Water Act. Nebraska must meet those standards in order to not be penalized 20 percent of the yearly funding of the Drinking Water State Revolving Fund. This fund comes to over \$1.6 million each year through 2018. The Drinking Water State Revolving Fund is used to provide low interest loans and grants to Nebraska's public water systems in order to help them continue to provide safe drinking water. After 2018, EPA will redetermine the amounts for which states are eligible. EPA's Baseline Standard Number 7 Recertification says, "The states must have a process for recertification of individuals whose certification has expired for a period exceeding two years. This process must include review of the individual's experience and training, and reexamination. An individual is not certified with an expired certificate. The state may develop more stringent requirements for recertification for individuals whose certificates have expired, been revoked, or been suspended." Nebraska's Uniform Credentialing Act does not currently require an individual to retake the exam if the individual applies for reinstatement of a license expired more than two years before the individual reapplies. In order to meet EPA's Baseline Standard, the Nebraska Safe Drinking Water Act must be amended to provide specific authority that supersedes the UCA regarding reinstatement and/or renewal. Last, Pharmacy Technician, Section 3. The pharmacy technician is an integral link in the dispensing of prescription drugs by a pharmacy. They are able to perform tasks, which do not require professional judgment and which are subject to verification to assist the pharmacist in the practice of pharmacy. In 2007, legislation was passed to provide for the registration of pharmacy technicians. To register an individual needs to be 18 year old, have a high school diploma or GED, and have never been convicted of a non-alcohol drug-related misdemeanor or felony. The department received authority to deny, refuse renewal, limit, revoke, suspend, or take other disciplinary measures against the registration, but no act or offenses were included except for the non-alcohol drug conviction. This proposal will make the pharmacy technician subject to the acts and offenses listed in Section 38-178 as grounds to discipline their registration as well as deny them a credential. The exception is they will not have to file reports under mandatory reporting. This change will provide for consistency with the other professions and occupations. As you can tell, many of these changes are very technical in nature and most are done in order to maintain compliance with federal rules and regulations or changes in federal law. We thank you for the opportunity and for...to present these and for your willingness to introduce this on our behalf. [LB288]

SENATOR GAY: All right. Any questions from the committee? Senator Wallman.
[LB288]

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SENATOR WALLMAN: Thank you, Chairman Gay. Thank you, Director Landry, good job. [LB288]

TODD LANDRY: Thanks. [LB288]

SENATOR WALLMAN: This technical stuff is pretty technical. But as far as this screening for Medicare service, you know, who does this for elder care? [LB288]

TODD LANDRY: That is contracted through the eight Areas on Aging...excuse me, eight Agencies on Aging, get it right, throughout the state. And so that is contracted through those specific agencies around the state who actually do that preadmission screening for us. [LB288]

SENATOR WALLMAN: Well, thank you. Then in regard to the pharmacy, has that worked out pretty good? [LB288]

TODD LANDRY: Everything that I know has, everything I've learned from Dr. Schaefer is that it has, in fact, worked out well. This allows us to make sure that we are in fact appropriately credentialing those individuals. [LB288]

SENATOR WALLMAN: Thank you. [LB288]

SENATOR GAY: Any other questions from committee members? I don't see any. Thank you for presenting this on behalf of your colleagues as well. Then if we do have questions, of course, we'll contact them. [LB288]

TODD LANDRY: Please. [LB288]

SENATOR GAY: All right. Thank you. [LB288]

TODD LANDRY: Thank you very much. [LB288]

SENATOR GAY: Thank you. Opponents. And we have how many opponents then? Just one. In fairness though for the opponents, take your time if...you're probably going to talk on... [LB288]

MARY ANGUS: I have one page, so... [LB288]

SENATOR GAY: Well, not for...but you're probably going to talk on a specific thing, right? But I don't want to rush you. [LB288]

MARY ANGUS: (Exhibit 2) Okay. Good afternoon, Chairman Gay, members of the Health and Human Services Committee. My name is Mary Angus, A-n-g-u-s. I think

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you're probably familiar with that in Nebraska. The Arc of the United States, I am the registered lobbyist for them and they are a state affiliated organization under the Arc of the United States. I was talking about Nebraska. We have 17 local chapters and about 2,500 members across the state. We work with and for people with developmental disabilities and believe strongly that people with intellectual and other developmental disabilities have the right to live lives they choose and have a good quality of life. Although we recognize that the intent of LB288 is to clean up existing statute and to update references to federal law, we're concerned about the changes in Section 20. First, while indicating that more than one team could be established or would be established, rather, in each developmental disability service area, which is a good thing, it could mean that there would be fewer members. One suggestion that we would have is that we would phrase that "four or more members," with at least one person from each category. And that would be continued as in the statute. Secondly, members of the teams have previously been chosen from nominations submitted by various groups. We're concerned that the simple changing of the word "shall" to the word "may" could leave those groups out of the process. Rather than making it submission discretionary, it would actually make the...excuse me, it would actually be making the requests for those submissions discretionary. We'd prefer that that word not be changed. Third, however we are most uncomfortable with the changes made to the duties of the quality review teams, Section 83-1213 that Director Landry just mentioned. These are certainly not cosmetic. The Investigative Committee heard from all sectors that the quality of services in the state must be monitored and that people must be able to feel safe and well supported. This paragraph reduces the teams to meeting with people and making recommendations to the division and the providers. It removes the duties to conduct quality of life reviews, and to receive and investigate complaints. To ensure quality, as is inherent in the term "quality review team," it is important to make a thorough examination of the services that the program provides to individuals with developmental disabilities and their degree of well-being. We recommend that the statutory language regarding the duties of quality review teams remain intact. I'm just going to vary from this for a second, but also to note that the LR156 Workgroup suggested that the measurements currently in use are not innovative and not finding outcomes. I was really taken aback by Director Landry's comment that in regards to this change, it was because the process of the quality review teams has not been in the letter of the statute. And when we have been hearing from providers, and we have been hearing from parents, and we have been hearing from persons who need and use these services in the community that we need more monitoring, when the quality review teams that are currently in existence are not acting in accordance with statute, I would be concerned about changing the statute just to make sure that we're not in violation of that statute. That will be enough for me, thank you. If you've got any questions, I'd be glad to answer them. [LB288]

SENATOR GAY: Are there any questions from the committee? Don't see any at this time. Thank you. [LB288]

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MARY ANGUS: Thank you. [LB288]

SENATOR GAY: Last call for opponents. (Laugh) None. Neutral testimony. [LB288]

BRENDA DECKER: (Exhibit 3) Good afternoon, Senator Gay and members of the Health and Human Services Committee. My name is Brenda Decker, D-e-c-k-e-r. I'm the chief information officer for the state of Nebraska and I'm here representing the Nebraska Information Technology Commission, otherwise known as the NITC. I'm testifying in a neutral position because the NITC has not taken a formal position on LB288. But we are here to propose an amendment to LB288 which would eliminate the 180-day limitation that currently exists in state statute for authorizations of the release of health information. Eliminating barriers to e-health is a priority of the NITC and of the NITC E-Health Council. The 180-day limitation is more restrictive than our current federal law and creates a barrier to the exchange of health information for specialist referrals and with electronic health information exchange especially across state borders. Eliminating this 180-day provision still preserves the patient's rights. If the 180-day provision were deleted, HIPAA privacy rule requirements would apply, permitting individuals to state an expiration event or a date for their authorization. So patients retain their right to revoke any authorizations for the release of their own health information. What I have handed out is our proposed amendment that we would like to have the committee consider. Also attached to that was a letter of support from Lieutenant Governor Rick Sheehy, who is the current chairman of the NITC. Thank you for your consideration of this amendment. And I'd be happy to try to answer any questions. [LB288]

SENATOR GAY: Thank you. Any questions? [LB288]

BRENDA DECKER: And I have the original of the letter for the clerk. [LB288]

SENATOR GAY: Okay. Any questions from the committee? All right. Thank you for bringing that to our attention. [LB288]

BRENDA DECKER: Thank you. [LB288]

SENATOR GAY: All right. With that, we will close the public hearing on LB288. And Senator Stuthman has LB290. You guys want to take a five minutes break? Let's take a five minute break, Senator Stuthman, five minutes. [LB288]

BREAK []

SENATOR GAY: All right. We'll open the public hearing on LB290. Senator Stuthman. [LB290]

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SENATOR STUTHMAN: Thank you, Senator Gay and members of the Health and Human Services Committee. I am Senator Arnie Stuthman, A-r-n-i-e S-t-u-t-h-m-a-n, and I represent the 22nd Legislative District. LB290 was brought to me by the Department of Health and Human Services. This bill prohibits individuals, both employees and volunteers, under contract with DHHS to provide transportation services for vulnerable adults or for persons under 19 years of age if those individuals have been convicted of a felony or any crime involving moral turpitude. LB290 requires an individual providing transportation services for vulnerable adults or persons under 19 years of age to be subject to a national criminal history record information check by the Department of Health and Human Services through the Nebraska State Patrol. The individual shall submit two full sets of fingerprints to the State Patrol which will be submitted to the FBI for a national criminal history record information check. The individual shall authorize release for the results of the national criminal history record information check to the Department of Health and Human Services. The individual shall...the individual also shall pay the actual costs of the fingerprinting, of the national criminal history check. The State Patrol shall inform the department in writing of the results of the national criminal history check. LB290 also allows the Department of Health and Human Services to develop policies that provide for the exceptions to the prohibition, including situations in which relatives of the vulnerable adult or persons under 19 years of age can provide transportation services for such persons in which the circumstances of crime or elapsed time since the commission of the crime do not warrant the prohibition. Those who do not apply with this section are guilty of a Class V misdemeanor. The reason this was brought forward because of the situation that we had a year or two ago when a transportation company, the individual that was transporting an individual, a child, was found to be driving under the influence of alcohol. So that is the reason that we have put this bill forward. So I would be happy to try to answer any questions. [LB290]

SENATOR GAY: All right, thank you, Senator Stuthman. Any questions from the committee? Senator Howard. [LB290]

SENATOR HOWARD: In your bill, Senator Stuthman, you specify that the individual would have to pay the costs of the fingerprinting. [LB290]

SENATOR STUTHMAN: Yes, yes. [LB290]

SENATOR HOWARD: Well, can you tell me where the expenditures are coming in then, \$36,000 to \$76,000 from Cash Funds. [LB290]

SENATOR STUTHMAN: I would have to refer that to Director Landry that he... [LB290]

SENATOR HOWARD: Have you talked with him about this expenditure? [LB290]

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SENATOR STUTHMAN: No, no, I haven't. [LB290]

SENATOR HOWARD: So this is a surprise to you. [LB290]

SENATOR STUTHMAN: Yes, um-hum. [LB290]

SENATOR HOWARD: Okay. Thank you. [LB290]

SENATOR STUTHMAN: Um-hum. [LB290]

SENATOR GAY: All right. Any other questions for Senator Stuthman? I don't see any. Senator Wallman, do you have a question? [LB290]

SENATOR WALLMAN: That's okay. [LB290]

SENATOR GAY: You sure? [LB290]

SENATOR WALLMAN: Yeah. [LB290]

SENATOR GAY: All right, we'll save it for later. Thank you, Senator Stuthman. [LB290]

SENATOR STUTHMAN: Okay. [LB290]

SENATOR GAY: (Exhibits 1 and 2) For the record, we have two letters of support on LB290, one from AARP and one from the Nebraska Hospital Association. That will be in the record. And then proponents, how many proponents do we have? One, two, three. Any opponents? No opponents. Anybody neutral? No neutral. Okay. [LB290]

TODD LANDRY: (Exhibit 3) Good afternoon, Senator Gay, members of the Health and Human Services Committee. I'm Todd Landry, T-o-d-d L-a-n-d-r-y, division...director of the Division of Children and Family Services. I'd like to take this opportunity to thank Senator Stuthman for introducing this bill. I'm here to testify in support of LB290 which requires the fingerprinting and subsequent FBI background checks of employees and volunteers who provide transportation services under contract with the Department of Health and Human Services. First, I want to thank...I want to express my thanks to those that provide transportation services to children and families receiving temporary assistance from the department. Transportation is a vital service that allows individuals to maintain employment, obtain mental and physical healthcare, and to obtain services necessary to maintain children in the parental home and achieve permanency for children in foster care. There are a few language changes to this bill that I would like the committee to consider that will provide additional clarity. The current bill only includes individuals convicted of a felony. We recommend the language also include the terms

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"charged with" or "indicted" of a felony. We would also recommend adding language that would require the FBI check prior to employment and every two years thereafter. One final recommendation is to clarify which entities specific FBI results can be released to. We have handed out an attached page that contains that proposed language for each of these recommendations. Now LB290 would align the requirements of the commercial transportation providers with other contracted services across the state. For example, the department currently requires the same type of FBI fingerprint background checks for foster parents. Requiring this of commercial providers certified by the Public Service Commission to provide transportation should also be an employment requirement as these services are often being provided to vulnerable populations of children and adults. Adding the requirement for FBI background checks gets us one step closer to ensuring that no one with a criminal history that could compromise the safety of a child or family is allowed to provide transportation services. I would like to address, if I may, the question that Senator Howard brought up. This bill and this process is being done in cooperation with the Nebraska State Patrol. There is a fee that the Nebraska State Patrol actually is charged by the FBI to do these checks. The costs that you see reflected in this is the pass-through cost of the fee going to Nebraska State Patrol and Nebraska State Patrol who, in turn, would send it on to the FBI for the cost of the checks. So that is the actual mechanics, if you will, because the Nebraska State Patrol has the contract with the FBI to actually do these background checks for us. So, hopefully, that explains why there is a cash fund impact on this bill. We appreciate the opportunity to advocate for LB290 and we thank you again for your time and consideration. If you have any questions, I'd be happy to try to give it a stab. [LB290]

SENATOR GAY: Thank you, Director Landry. Senator Wallman. [LB290]

SENATOR WALLMAN: Thank you, Chairman Gay. Thank you. Only one problem I have is "charged with." You know, I don't have any trouble with "indicted," but... [LB290]

TODD LANDRY: Right. And I believe that...I'm sorry, if I may. I believe that the language that we've proposed says "charged with" until it has in fact been adjudicated or been resolved. [LB290]

SENATOR WALLMAN: Okay. [LB290]

TODD LANDRY: So once if in fact they are found not guilty, it would no longer apply. But during that time period when they may be charged with a felony before they are determined to be guilty or not guilty, we would also like for them to be ineligible to transport. [LB290]

SENATOR WALLMAN: Okay. [LB290]

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SENATOR GAY: Senator Gloor. Go ahead, Senator Gloor. [LB290]

SENATOR HOWARD: We'll both get a chance. [LB290]

SENATOR GAY: Senator Gloor go ahead. [LB290]

SENATOR GLOOR: Thank you, Mr. Chairman. Director Landry, I'm trying to understand the scope of what...and I'm trying to avoid the law of unintended consequence. The requirements of the commercial transportation providers. I'm trying to understand who this would apply to. A handibus driver? [LB290]

TODD LANDRY: You know these are...you would probably most frequently recognize these as Midwest Special Services Transport, someone like, for example, Prince of the Road, or some of these other large commercial providers of transportation services that we rely on across the state for those situations when there is not, for example, a foster parent that can transport or there may not be a local service that can transport a relative. And so we do rely on these commercial providers of transportation services in order to help us, you know, take care of the transportation needs. As we move more and more into our reform efforts, that I alluded to in an earlier testimony, we anticipate that the use of these services may in fact decrease, because that's going to be part of the overall context of the responsibilities that our contracted providers will have in most cases. But there are still going to be several cases where it's not going to be applied, such as for example transporting a youth to one of our YRTCs. Say they're in Scottsbluff and they've been adjudicated to YRTC Kearney, that's a long transportation load. And so generally we would still rely on those commercial transportation providers to do so. [LB290]

SENATOR GLOOR: And clearly I have concern about vulnerable populations also. But I want to make sure that it's something that doesn't inadvertently come up and bite someone. If, as an example, we have a ward of the state that's in a long-term care facility and they have a bus that shuttles that individual to and from... [LB290]

TODD LANDRY: Right, right. [LB290]

SENATOR GLOOR: ...wherever it may be. It may be somebody who in fact was convicted of a felony 20 years before, rehabilitated, had been an outstanding citizen for 20 years and got hired by this long-term care facility to do a variety of things, include... [LB290]

TODD LANDRY: Transportation, right. [LB290]

SENATOR GLOOR: ...drive the van to...would that person be subject to that? It may be that some institutions will have no understanding or recognition of this, but yet be in

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violation of the law. [LB290]

TODD LANDRY: Those long-term care facilities, such as group homes or as we call them residential treatment centers, they already have to do this. [LB290]

SENATOR GLOOR: Okay. [LB290]

TODD LANDRY: That's already required for them. So it doesn't change them, it doesn't change our foster care providers, as I indicated, it doesn't change many of those providers of our services. That's already in their contract. And that's a contract relationship that we have with them that we can specify. These are for those commercial transportation providers who are certified through the Public Service Commission,... [LB290]

SENATOR GLOOR: Okay. [LB290]

TODD LANDRY: ...as opposed to those on a direct contract basis with the department, such as those providers of services. [LB290]

SENATOR GLOOR: Okay. Thank you, that's reassuring. Thank you. [LB290]

SENATOR GAY: Senator Howard. [LB290]

SENATOR HOWARD: Thank you, Todd. I think a bill like this is kind of overdue with us to address the issue. I noticed in your amendment you referred to moral turpitude. I haven't seen that term since I started with the agency and had to sign a paper saying I didn't have any of that. But I think this is certainly something that we need to address. This would cover, following up with Senator Gloor's comment, this would cover Prince of the Road, for example,... [LB290]

TODD LANDRY: For example,... [LB290]

SENATOR HOWARD: ...who does transportation... [LB290]

TODD LANDRY: That's right. [LB290]

SENATOR HOWARD: ...for us with state wards. And maybe this is helpful too. With foster parents, they are responsible for the first 100 miles of...it is 100 miles of transportation? [LB290]

TODD LANDRY: It is still 100, yes. [LB290]

SENATOR HOWARD: Every month for a foster child that's built into the foster parent

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payment system. Back to the cost, and not that I want to say that would be a barrier that would prevent me from voting in favor of this. But since it's a pass-through, we must be able to get a handle on the amount of money that this would cost each individual. And I'm wondering if it would be beneficial to the department to add that onto the cost of the fingerprinting for the individual? [LB290]

TODD LANDRY: I'll try to, hopefully, try to explain this again. I believe the cost of this, and I'm working from memory here, but I believe the cost is \$30, if I'm not mistaken. What we are proposing is that the Nebraska State Patrol will actually send in these fingerprints on our behalf to the FBI. The FBI then charges them that \$30. We would get the \$30 from the individual that's providing it or in some cases the organization may pick that up. And then we will reimburse the State Patrol. [LB290]

SENATOR HOWARD: So that would be zero to us. [LB290]

TODD LANDRY: So it is...it should show as a zero impact to us. And if the note is not clear to that effect, we'll verify that and make those necessary changes and confirm that. [LB290]

SENATOR HOWARD: Okay. Thank you. I think that would be helpful, just so that we didn't think that that possible \$76,000 was going to be out there for us. Thank you. [LB290]

TODD LANDRY: Right. No, it definitely should not be. Our intent is that that will be borne by the individual or provider. [LB290]

SENATOR HOWARD: Good. [LB290]

SENATOR GAY: Any other questions? Don't see any. Thank you. [LB290]

TODD LANDRY: Thank you. [LB290]

SENATOR GAY: Other proponents. [LB290]

CHERYL JOHNSON: Could we approach together, we're same agency. [LB290]

SENATOR GAY: Sure. And just make sure you state both your names. [LB290]

NIKKI SWOPE: Hello. My name is Nikki Swope, S-w-o-p-e. And I'm here on behalf of the Foster Care Review Board. And we are here in support of Senator Stuthman's proposal for LB290. We would like to commend Senator Stuthman for proposing this bill, for introducing this bill and for Senator Gay and the HHS Committee for looking at this critical issue that is an important step in improving the safety for the children that

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are in the care and custody of Nebraska. The Foster Care Review Board has been a longtime proponent of strict oversight and regulations of the contracted transportation providers. In September of 2008, the Foster Care Review Board was asked to provide information for the legislators performance audit of the transportation providers that are contracted through the Department of Health and Human Services. During our investigation we found numerous concerns including children being transported by an excessive number of drivers, improper use of car seats, kids being picked up or dropped off late, or not being picked up at all, instances of children being left alone with no supervision, and drivers smoking with children in the car. The Foster Care Review Board also documented several instances of serious offenses by the contracted providers. Some of these examples include a driver who was arrested for driving under the influence while transporting a state ward, and several other drivers being accused of sexual assaults of the wards that they were transporting in their care. On at least one of these occasions the driver that was convicted of sexual assault of the ward of the state had previous convictions in other states for inappropriate sexual contact with a child. We also found that there are no established hiring or training standards for the drivers that are transporting some of the state's most vulnerable population. Not one of the contracted providers submitted their employees to nationwide background checks. And the only instances where out of state checks were conducted was when the potential employee disclosed that they had lived in another state within the last five years. The boards main concern regarding this procedure is the reliance on the potential employee's self-disclosure with the knowledge that perpetrators often seek out opportunities where they'll have access to vulnerable children. The Foster Care Review Board believes that initiating extensive nationwide background checks is a very proactive solution to ensure that the contracted providers are able to hire caring professionals that will provide for the safety and security of our most vulnerable children and will help children...and will help prevent children who have already experienced so much trauma in their young lives from being further victimized. Thank you for your thoughtful consideration for advancing this bill. [LB290]

CHERYL JOHNSON: And my name is Cheryl Johnson, C-h-e-r-y-l, Johnson with an O. I'm also a review specialist with the Foster Care Review Board. When Foster Care Review Board conducted a special study of 360 children that were in foster care, ages birth to 5, it revealed that almost 40 percent of those children had transportation provided by a contractor. Of those, 85 children had 4 to 10 different drivers, 21 had 11 to 15 different drivers, 5 children had 16 to 35 different drivers, and 111 children had no documentation on the number of drivers they had been with. Contract oversight by Health and Human Services has been determined to be lacking in the hiring and training practices of contracted agencies are inconsistent and varied. Given the large number of agencies utilized across the state, there are a vast number of employees within those agencies who are given free access to these children. Many transports are simply across town, but others can be across the state. One recommendation was made to specify basic qualification requirements of all contractor employees, including

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mandatory and thorough background checks. Without some regulation of hiring practices, we simply do not know who our children are being left with. By passing LB290 and requiring national criminal history checks, you are implementing an important first step in helping to ensure the safety of vulnerable children as well as vulnerable adults, because each agency utilized by Health and Human Services develops its own policies and procedures, this one mandatory requirement would implement one area of consistency across the state for all these agencies. And while no process, no matter how strict, can guarantee the safety of every child, by implementing this one critical step the odds are greatly reduced. Thank you so much for your consideration. [LB290]

SENATOR GAY: Thank you. Any questions? I don't see any. Thank you. [LB290]

NIKKI SWOPE: All right, thank you. [LB290]

SENATOR GAY: Any other proponents? Any opponents? Anyone neutral? Senator Stuthman, do you want to close? Senator Stuthman waives close. And that will conclude LB290. Thank you all. [LB290]

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Disposition of Bills:

LB247 - Held in committee.

LB268 - Held in committee.

LB288 - Placed on General File.

LB290 - Placed on General File.

Chairperson

Committee Clerk