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Health and Human Services Committee  
January 19, 2011

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[LB34 LB39 LB111 LB144]

The Committee on Health and Human Services met at 1:30 p.m. on Wednesday, January 19, 2011, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB39, LB144, LB34, and LB111. Senators present: Kathy Campbell, Chairperson; Mike Gloor, Vice Chairperson; Dave Bloomfield; Tanya Cook; Gwen Howard; Bob Krist; and Norm Wallman. Senators absent: None.

SENATOR CAMPBELL: (Recorder malfunction)...Health and Human Services Committee. I'm Kathy Campbell. I serve as the Chair of the committee, and I represent District 25. Starting this afternoon, I'm going to have my colleagues introduce themselves, so we'll go to my far right. Senator Bloomfield, would you tell a little bit?

SENATOR BLOOMFIELD: Dave Bloomfield, District 17 up in northeast Nebraska, made up of Wayne, Dixon, and Dakota Counties. []

SENATOR COOK: My name is Tanya Cook. I'm from Omaha, Nebraska, northeast Omaha, Nebraska, and I represent northeast Douglas County as well. []

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

SENATOR CAMPBELL: And we'll go ahead. []

MICHELLE CHAFFEE: Michelle Chaffee, legal counsel to the committee. []

SENATOR CAMPBELL: And Diane. []

DIANE JOHNSON: Diane Johnson, committee clerk. []

SENATOR CAMPBELL: Okay. And we have two pages with us today. I can see one page. I'm like looking behind. Crystal. []

CRYSTAL SCHOLL: Yes. []

SENATOR CAMPBELL: Crystal is with us this afternoon, so I'm going to go through some policies for the committee as we start, and since this is our first day and our first time going through these. You're going to get the full list of them. I would encourage you all to turn off your cell phones. Noises tend to bother people as they're listening and certainly as we are recording. Testifiers should have the appropriate number of copies. We are requesting 12 copies of any testimony that you are going to provide to us written, and as a rule, we're not going to make copies, so you need to have those with you. Each witness appearing before the committee must sign in, using the forms provided, and I notice people were picking up the forms as they came in. Sign only if

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you are going to testify, and please print so that it's easy for the clerk to pick up the information. Your form must be given to the committee clerk, and that's Diane over here before you begin presenting your testimony. Each testifier has five minutes before the committee, and we do use the light system, so when you start, there will be a green light, and then a yellow light will come on as a caution about one minute before the end. And when the red light comes on, we do expect you to finish your testimony to be fair to everybody that wants to testify. I encourage a lot of people that if you are providing written testimony to us, you don't need to feel that you have to read the entire testimony or any of it, but if you want to have it distributed and tell us the major points, sometimes that's easier for people. Please begin your testimony by stating your name clearly into the microphone and then spell your last name even if it's Smith (laughter). I think that will be a good one when Senator Smith comes to visit us. So in any case, we are now opening the hearing on LB39 which is presented by Senator Haar. Welcome, Senator Haar. []

SENATOR HAAR: Thank you. []

SENATOR CAMPBELL: So please give us some background on LB39. []

SENATOR HAAR: You bet. My name is Ken Haar, H-a-a-r. I'm the two a's Haar. I represent District 21 which is northwest Lincoln and part of rural Lancaster and Saunders Counties. I'm very honored to have introduced and be presenting LB39 for the deaf and hard of hearing community, and what it does is to change the licensure provisions for interpreters for deaf and hard of hearing persons. LB39 requires that sign language interpreters be licensed. The law already requires licensure for state agencies, for courts, for law enforcement, and for schools. Twenty states require licensure including the neighboring states of South Dakota, Iowa, and Missouri. LB39 will require anyone holding themselves out as a sign language interpreter and getting paid must be licensed, so you say you're an interpreter and you're being paid for that service. Volunteers and family members who are not paid are not affected. You do not need a license if you are interpreting in a religious setting, an emergency situation, a good samaritan situation--in other words, student interpreters interpret in a classroom, which is already covered by current law; or licensed in another state and interpreting in Nebraska for less than 14 days or by technology. The bill does not affect the requirement of who must provide sign language interpreters...only that if a sign language interpreter is being paid for their services, that they be licensed. And we got bogged down in this before, because of the whole issue of, you know, who had to provide a licensed interpreter. [LB39]

SENATOR CAMPBELL: Questions from the senators on LB39? Any questions for Senator Haar? Thank you, Senator Haar, and you are going to waive closing, correct? [LB39]

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SENATOR HAAR: Yes, I'm going to...I have another hearing going on right now, and I'm going to waive closing. Thank you very much. [LB39]

SENATOR CAMPBELL: Thank you. Oh, I'm sorry. Senator Gloor. [LB39]

SENATOR HAAR: Yes. [LB39]

SENATOR GLOOR: I apologize for the delay in asking my question, but I was trying to read through these handouts quickly, Senator Haar. And thank you for coming back with some modifications to an issue that I know we've talked about in the past. There's a recommendation from the Nebraska Health Care Association that suggests a clarification of the phrase "practice as an interpreter." And they're saying maybe it should apply to situations where the Americans with Disabilities Act would require an accommodation. Have they visited with you about this at all? [LB39]

SENATOR HAAR: They haven't visited with me. [LB39]

SENATOR GLOOR: Okay. [LB39]

SENATOR HAAR: And that sounds like, you know, some kind of thing that we can look into and either leave it as is or make that change. There are also some questions that might come up today about school interpreting when it involves the parents and not the students and so on. But...so I think there's some minor issues that we may still need to brush up, but this is a pretty good bill now. [LB39]

SENATOR GLOOR: Thank you. [LB39]

SENATOR CAMPBELL: Thank you, Senator Gloor, for catching that. Any other comments or questions? Thank you, Senator. Before we take testimony, I'd like to introduce the senators that have joined us. On my far left is Senator Bob Krist from Omaha, and also from Omaha is Senator Gwen Howard, and Senator Norm Wallman also joined us from... [LB39]

SENATOR WALLMAN: Cortland. [LB39]

SENATOR CAMPBELL: Cortland and southern Lancaster County represents. All right, with that, we'll proceed to take testimony on all those who are in favor of LB39, so if you are ready to testify, please come up. [LB39]

DR. PETER SEILER: (Exhibit 1) First of all, I would like to thank the committee for allowing me to come and speak with you today. I do have a copy of my testimony, but I would like to apologize first, because I had a glaring error in my comments, and I need to make a new copy, and so I will submit that at a later time. I did not want that error to

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be read by you and be misunderstood by the committee, so I will correct that printed testimony. [LB39]

SENATOR CAMPBELL: I need to stop you for just a minute and have you give a full name and spell the last name, because the clerk is going to give me a bad signal here (laughter). [LB39]

DR. PETER SEILER: Yes (laugh). My name is Dr. Peter Seiler. Last name is S-e-i-l-e-r. [LB39]

SENATOR CAMPBELL: Thank you. [LB39]

DR. PETER SEILER: I'm the executive director for the Nebraska Commission for the Deaf and Hard of Hearing. The commission itself is a state agency, and we are mandated to advocate for deaf and hard of hearing individuals across the state of Nebraska. We estimate there are about 157,000 individuals with some degree of hearing loss in the state, and that includes people of all ages from birth to death. Those individuals are all very diverse in their communication needs. Many of those individuals do rely upon interpreting via sign language interpreter for equal access to all services that they may need to receive. There are serious concerns about the profession of interpreting and interpreters that facilitate communication between individuals that can hear and individuals that have hearing loss. Right now the commission has an interpreter review board, but we are not allowed to discipline interpreters that are not licensed. Some of those unlicensed individuals are violating the standards of the profession and the skills that they have do not allow them to provide appropriate services for deaf and hard of hearing individuals, and also they are serving hearing individuals. As Senator Haar explained the current law, there are four groups of individuals currently that are required to have a license to work in four specific settings, and that would be state agencies, courts, law enforcement, and classroom interpreters. So anyone working in those environments must have a license other than those working in K-12 settings--they must be certified by the Department of Education, and this state has already implemented criteria for educational interpreters, and that is written in Rule 51 by the State Department of Education. So they make all of the requirements and rules that apply to educational interpreters. LB39 would allow us to expand the law, so that we could require all interpreters to be licensed. A poll of various states show that 40 percent of all states currently do have some licensure requirement or registration requirement for interpreters working within their state, so that is a large percentage. And the states surrounding us--Iowa, South Dakota, Missouri--do require that their sign language interpreters be licensed. The state of Kansas requires that interpreters working in that state be certified. Wisconsin just recently is one of the newer states that has also passed a licensure requirement for their sign language interpreters. And let me explain briefly the difference between a certified interpreter and a licensed interpreter. Someone who is certified has passed some sort of test or assessment that displays or

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confirms their ability to interpret, so there are various tests for different individuals. Attorneys must pass a bar exam. Nurses must pass a nursing exam, but they also must be licensed within their states. So by having a license, we would be able to ensure consumers of interpreting services that that interpreter is qualified and will meet the minimum requirement to be able to interpret sufficiently in a variety of settings. We're not requiring anyone to hire a licensed interpreter; we're only requiring the interpreter to have a license. The Americans with Disabilities Act already provides mandates for qualified interpreters for individuals. So we have, I think, thank you very much for allowing me to sit here today and share with you my perspective of LB39, and I will respond to any questions you may have. [LB39]

SENATOR CAMPBELL: Thank you, Dr. Seiler. Questions from the senators? Senator Krist. [LB39]

SENATOR KRIST: Thank you, Madam Chair. Is there a...are we looking at a hardship in terms of monetary costs for the license? And if so, is there support for someone who potentially couldn't pay that fee? [LB39]

PETER SEILER: We don't have any way of providing any monetary support for individuals seeking a license, but the cost for securing a license right now is \$150, and that is a pretty reasonable fee. We have two different certifications that interpreters must take. One of those certification tests is the Registry of Interpreters for the Deaf, and that test is a more expensive test, but here within the state, we do have a quality assurance screening test that only costs the interpreter \$175. And we have a very small number of interpreters that are currently unlicensed. Many interpreters within the state are already licensed, so I don't see a problem with the financial aspect of that. [LB39]

SENATOR KRIST: Is it a one time on the license? [LB39]

DR. PETER SEILER: No, it is not. It is a...that's a biennial fee, so after they have secured the continuing education requirements of 20 hours during that period, then they must apply to renew their license every two years. [LB39]

SENATOR KRIST: Thank you, sir. [LB39]

SENATOR CAMPBELL: Senator Gloor and then Senator Cook. [LB39]

SENATOR GLOOR: Thank you, Madam Chairman. I'm going to...I'll reorient my...you stay put, and I'll reorient myself. That will work. Dr. Seiler, it's good to see you again. As I read through the statute that currently exists, it says once licensed, you can charge a fee. But would somebody be in violation of this statute after we make these changes if they don't charge a fee, but offer those services to individuals in the public free of charge? [LB39]

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DR. PETER SEILER: They could provide their services free. Their rate is negotiable; that is decided between the interpreter and the hiring entity, and many interpreters do provide pro bono services. [LB39]

SENATOR GLOOR: But my question would really be if someone did not get a license, but was not charging a fee, would they be in violation of the statute? [LB39]

DR. PETER SEILER: Technically, no, if they're not asking to be paid. They would not technically be in violation of the law. [LB39]

SENATOR GLOOR: So what we're really looking for here would be people who hold themselves out to be able to offer as a business, for want of a better term, interpretive services, but don't carry a license. [LB39]

DR. PETER SEILER: Correct, yes. [LB39]

SENATOR GLOOR: Okay. Thank you. [LB39]

SENATOR CAMPBELL: Senator Cook. [LB39]

SENATOR COOK: Thank you, Madam Chair. Thank you, Dr. Seiler, for being here. I have a question related to the training that might be necessary to become licensed. Is that training widely available and accessible across the state in the 93 counties either in person or via videoconference, teleconference, Internet? [LB39]

DR. PETER SEILER: Right. That's two questions. [LB39]

SENATOR COOK: All right. [LB39]

DR. PETER SEILER: And help me remember if I'm forgetting. There are two interpreter training programs nearby. There is one in Iowa at the Iowa Western Community College in Council Bluffs, and the University of Nebraska in Omaha has a training program. There is another one that's about three hours south of here that's at Johnson County Community College in the Kansas City area. Those are two-year programs. Some colleges do provide four-year interpreter training programs, but we don't have that requirement. The requirement is, is they are able to attain the level that they need to, to be certified. The number of interpreters across the state is very limited and is small. There are more interpreters that reside and work in the eastern part of the state of Nebraska, because this is where the majority of the deaf individuals reside is in the eastern part of the state of Nebraska. Once you get past Grand Island, the number of interpreters and the number of deaf individuals decreases, so this law will actually make it easy too, because of video remote interpreting, VRI interpreting, that uses a computer

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and a web cam to actually virtually bring the interpreter into the hospital or whatever facility that they might be working within. The problem with that in a hospital setting is, you know, it is difficult for a patient who is lying on the emergency room bed to be able to see an interpreter on a computer screen, and how do you get that computer screen in front of the individual that needs to see the interpreter? So there are sites across the nation that offer this remote interpreting services, but the requirements for those interpreters are the requirements within the state where they are actually providing the service from. And we would accept that as long as they give us a list of those interpreters that are licensed within their state, then they can work virtually from their state into Nebraska, and those services can then be provided to individuals that need them in the western part of Nebraska. [LB39]

SENATOR COOK: Thank you. [LB39]

DR. PETER SEILER: You're welcome. [LB39]

SENATOR CAMPBELL: Other questions from the senators? Dr. Seiler, I have just one question. Did you hear a question from Senator Gloor with regard to the letter wanting to define the practice of an interpreter? Do you think that it would be difficult to make some changes to the bill to define that? [LB39]

DR. PETER SEILER: I have...are you referring to this letter here? I have not looked at this. [LB39]

SENATOR CAMPBELL: (Exhibit 2) No. We're referring to the letter from the Nebraska Health Care Association saying they support the bill, but they want a definition of "shall practice." I think it's the meaning of "shall practice", would that be correct, Senator Gloor? [LB39]

SENATOR GLOOR: Um-hum. [LB39]

DR. PETER SEILER: Thank you. Can I have just a moment to look at this? [LB39]

SENATOR CAMPBELL: Sure. It's in the second paragraph. [LB39]

DR. PETER SEILER: I believe that the part in the bill that says interpreter shall be licensed except for these five exceptions, so interpreters that interpret for...in religious settings would not be required to have a license. Individuals providing interpreting services in such as a good Samaritan situation like any kind of an emergency situation would not be penalized if they did not have a license. Those individuals that are studying to become an interpreter or such as an intern that might be providing interpreting services in an educational classroom, they would not be penalized because they're interning per se, or working as educational interpreters in compliance with the

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Nebraska State Department of Education's Rule 51, and those individuals providing interpreting services through some technology--electronic technology or virtual setting at a conference or such as, or individuals coming in from another state, providing services for less than 14 days. So those are exceptions that do not have to have licensure, but anyone else would be required to have a license. Does that answer your question? [LB39]

SENATOR CAMPBELL: I think what we'll do is we'll set up a meeting with the Health Care Association and Dr. Seiler and try to clarify, because I'm not quite sure the question they're asking either. But we'll try to settle that. Is that all right with the senators? Okay? [LB39]

DR. PETER SEILER: That's great. That would be fine. [LB39]

SENATOR CAMPBELL: Okay. [LB39]

SENATOR HOWARD: Are you referring to this letter that's neutral? [LB39]

SENATOR CAMPBELL: The Nebraska Health Care from Mr. Polt. [LB39]

SENATOR HOWARD: Yeah. Well, this says in neutral capacity. [LB39]

SENATOR CAMPBELL: Yes, but I think their issue is always in a practice, so we're going to try to get that clarified, Senator Howard. I don't think they're here today. [LB39]

DR. PETER SEILER: And I did not have a copy of this letter so...may I keep this? [LB39]

SENATOR CAMPBELL: That's fine. [LB39]

DR. PETER SEILER: Okay. Thank you very much. Any additional questions? [LB39]

SENATOR CAMPBELL: Thank you, Dr. Seiler. [LB39]

DR. PETER SEILER: You are welcome. Thank you very much. [LB39]

SENATOR CAMPBELL: Others who would like to testify in favor of the bill? Good afternoon. Would you please state your name for the record and spell the last name? [LB39]

DILLARD DELTS: (Exhibit 3) My name is Dillard W. Delts. I'm also deaf. My last name is spelled D-e-l-t-s. I am the chairperson for the Nebraska Commission for the Deaf and Hard of Hearing. I am here to tell you that (inaudible) commission board have voted to



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support this bill (inaudible). Also, I would like to bring to your attention (inaudible). (inaudible) many people (inaudible) nontraditional deaf and hard of hearing (inaudible) people who lose their hearing or start to lose their hearing (inaudible). For example, (inaudible) soldiers returning from the war. (inaudible) gunfire and (inaudible) return home and find they have lost some of their hearing. Some are prepared for the adjustments they have to make in their lives as (inaudible) (inaudible). Eventually, (inaudible) it becomes important for them to have (inaudible) who is qualified. I (inaudible) when I first moved to Nebraska. I had (inaudible) myself. I have to (inaudible) that. I also want that. For people who aren't qualified, I have been to job interviews (inaudible). I'm sitting (inaudible) (inaudible). I said, I have a question. (inaudible sentence) This bill should be a bill to help us for the qualified people (inaudible). (inaudible) a lot of things (inaudible) and for hospitals, private businesses, (inaudible) is possible (inaudible) is qualified. If someone has a license (inaudible) (inaudible). And this is (inaudible) this is so important, you have to think of it as anybody can put a hammer through a wall with a nail. But (inaudible) qualified to be a carpenter? Would you trust them to fix a hole in your roof? (inaudible) Just because somebody knows how to sign does not mean that they're qualified. (inaudible) when this bill comes up for a vote, I hope (inaudible) Nebraskans who are putting (inaudible) to protect their inalienable rights to life, liberty, and pursuit of happiness. Those who are considered nontraditional deaf and hard of hearing, we want those same rights. We want a fair chance to make a living (inaudible). I hope you all vote in favor for this bill. Thank you. [LB39]

SENATOR CAMPBELL: Thank you, Mr. Delts. We'll see if there's any questions. Questions from the senators? I don't see any. Thank you very much for coming today. [LB39]

DILLARD DELTS: Thank you. [LB39]

SENATOR CAMPBELL: Good afternoon. [LB39]

BARBARA WOODHEAD: (Exhibit 4) Thank you, Senators. My name is Barbara Woodhead. Last name is W-o-o-d-h-e-a-d. I am employed as the assistant director for Services for Students with Disabilities at the University of Nebraska-Lincoln. I am a nationally certified sign language interpreter with approximately 24 years of interpreting experience. And I currently serve as the chair of the Nebraska Sign Language Interpreter Review Board, which is the licensing arm that's currently in place through the commission. So, with that in mind, and as I've become more informed on licensing, I know one of the questions that our board entertained was, why are professions licensed? And what we quickly understand is for three fundamental reasons: to protect the consumers, to establish standards, and to put in place a grievance procedure should consumers in the state of Nebraska be at risk. As I've thought about and as we've reviewed other professions, and when we developed our licensure language, we

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focused heavily on other licensed professions in this state. And so when I think about the different professions, such as medicine, mental health, speech pathology, pharmacy, physical therapy, social work, funeral directing, all the way to cosmetology, nail technology, nail technicians, body piercing, tattooing, and even people that administer or dispense hearing aids. With that in mind, I realize as an interpreter I have worked in many of those settings that I mentioned, not so many of the latter ones--not the body piercing and the nail technology, but the earlier professions that I mentioned. And I can tell you that my experience...I'm going to highlight two experiences that I've had that involve situations where I was called out to replace an individual who was interpreting who wasn't qualified. One was a hospital situation where there was a deaf individual with developmental disabilities. There was an interpreter there, and that person was signing, and I was called in to replace that individual. And the reason that I was called is that that deaf individual also happens to have a guardian, and the guardian was there and knew that what was being interpreted didn't seem quite right. So the hospital said, can you please come and replace this person? So as I went in and we reviewed what had been reported so far, the information was wrong. Medical decisions were being determined based on that information. So in that case, it worked out all right because there was a safeguard in that the guardian knew something is not right. The second situation that I had was a business case where I was called in to redo an appointment that had been previously interpreted, and in that case, that businessperson had previously had very skilled interpreters for their appointments. And they just knew that how this appointment was being handled didn't seem right. They weren't sure exactly what wasn't...I mean, they couldn't describe it, but they just knew that the way the interpreter was conducting him or herself was not consistent with other people. So I was called in to interpret in that situation. Now, there were no legal protections for these individuals, but they worked out because you had someone who was used to very skilled services, and you had a guardian for a deaf individual who knew that something was awry. And so if we look at the purpose of licensure, it's to protect the citizens of the state of Nebraska, then I'm giving you just two examples amongst many that are probably occurring. And if you don't have someone in those situations recognizing that these individuals are not meeting just minimum standards to provide services, then people's decisions, healthcare decisions, legal decisions. And I know that legal is currently covered under licensure, but there are other legally related circumstances. So I think it's...when we look at that, it's really important, because what we know in Nebraska today is that individuals who are poorly trained and unscrupulous are providing interpreting services in all those professions I've mentioned. And LB39 would restrict or prohibit the practice of sign language interpreting by individuals who don't meet minimum standards. That is the reason we're here. We look at all these other professions that are licensed. Surely, the individuals who are responsible for communication between the consumer and the deaf individual should be held to a minimum standard. And I am here to answer any questions if you have them. [LB39]

SENATOR CAMPBELL: Questions? Senator Wallman. [LB39]

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SENATOR WALLMAN: Thank you, Senator Campbell. Yeah, thanks for coming here. This intrigues us people who hear, I guess, not too good; but in regard to foreign languages, do you have interpretations for that also with the hearing impaired or that never come up? [LB39]

BARBARA WOODHEAD: There are some circumstances where there have been immigrants, especially to the Lincoln community, who were deaf, and in those cases, they worked very closely with advocacy groups and had to develop their language skills then to be able to have interpreted conversation for their business interactions. And I know for a long time, the League of Human Dignity played an important role in filling that gap. [LB39]

SENATOR WALLMAN: Thank you. [LB39]

BARBARA WOODHEAD: You're welcome. [LB39]

SENATOR CAMPBELL: Other questions? I thought there was a question. Senator, go ahead. [LB39]

SENATOR BLOOMFIELD: Thank you. If we enact this change, is that going to decrease the number of people that are available to do some interpreting or? Is it going to leave somebody out that can't get any interpreter, be he highly skilled or somewhat skilled? [LB39]

BARBARA WOODHEAD: If individuals want to become more skilled, if somebody has taken a couple sign classes, they are no more prepared to interpret than a person who's had two anatomy classes is prepared to practice medicine. So the way I would respond to your question is, if you knew that there were people practicing medical care out there who haven't gone or haven't had to pass a license as a doctor, we wouldn't probably say, are we going to decrease the pool of qualified people? What we're talking about is protecting people who depend on that communication, and according to the Americans with Disabilities Act, have a right to a qualified interpreter. We're actually also talking about protecting the consumers, the hospitals, the businesses who hire interpreting services, who make decisions based on the quality of that interpretation. A good interpreter has to know when to seek clarification, when to decline an assignment if communication is breaking down. Somebody who's taken a few classes like the persons that I replaced, had no idea that what she had conveyed in that meeting was the exact opposite of what the deaf person conveyed. It's dangerous, and those people deserve a right to be protected for communication. So, does it decrease the pool? I would say, how would we word that if we're talking about speech therapists or doctors or nurses? We would say, you've got to at least have this level of skill to provide that service. [LB39]

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SENATOR CAMPBELL: Senator Gloor. [LB39]

SENATOR GLOOR: Thank you, Madam Chairman, and let me follow up along Senator Bloomfield's line of questioning. The challenge for us when we're faced with questions or requests to be more restrictive in the provision of service requiring a license in this case and in most cases, is we do that because we have concerns about quality. But there is also the risk that we then restrict people's access to that service. And so I think Senator Bloomfield's question is still an appropriate one. Your medical metaphor, I would answer by saying, we would love to get physicians in all parts of the state, but it's difficult for us in the more rural areas to do that, so we have physicians' assistants, and we have nurse practitioners, and so somewhere below that licensure of an acute care or a licensed physician, we make accommodations, and that accommodation is usually made understanding the fact that there just aren't enough of those practitioners to go around. So there would be my question. [LB39]

BARBARA WOODHEAD: No, I understand what you're saying. Are physical assistants required to be licensed in Nebraska? [LB39]

SENATOR CAMPBELL: Physical therapists? [LB39]

BARBARA WOODHEAD: Physical assistants, PA's, doctors' PA's. [LB39]

SENATOR GLOOR: Yes, yes, all those people. [LB39]

BARBARA WOODHEAD: So what we're talking about is actually commensurate with your example. We're talking about the minimum level. Now, if somebody is interpreting in the courts, they're required to have legal training and meet a higher standard, so when I say minimum, it actually is comparable to what you're talking about for just the basic ability. It could be the physicians' assistant situation or it could be the person who's going into surgery. There is that variation amongst people who are licensed. Our license does not require somebody who's only capable or who should only be accepted for legal situations or some of the most complex and liable situations. [LB39]

SENATOR GLOOR: So your comment to us, based upon the best of your knowledge, we're not going to as a result of passing this legislation if it were to pass, get complaints from people who live out in the Sandhills, who will say, it's impossible for us to get somebody to live within a hundred miles of here that is licensed to do this. We're going to be in violation of the law, but it's the best that we can do given our remote location. [LB39]

BARBARA WOODHEAD: Correct. And one of the advantages today is that there are the video remote interpreting that's now available through technology where you can

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see an interpreter on a laptop who is connected to a service who is a skilled interpreter... [LB39]

SENATOR GLOOR: And you find that acceptable. [LB39]

BARBARA WOODHEAD: I do. [LB39]

SENATOR GLOOR: Okay. [LB39]

BARBARA WOODHEAD: I do, because the other point that I would like to leave you with is something is not always better than nothing. In the case that I gave you at the hospital, that something could have allowed that doctor to be liable and given the wrong kind of care, or in the other situation that involves, you know, reporting finances. Again, decisions could have been made on erroneous information. [LB39]

SENATOR GLOOR: One last quick question. Could I be licensed without being certified? [LB39]

BARBARA WOODHEAD: In the state of Nebraska, no, because there are different levels of certification. [LB39]

SENATOR GLOOR: Okay. Thank you. [LB39]

SENATOR CAMPBELL: Senator Krist. [LB39]

TANYA COOK: I have a question. [LB39]

SENATOR CAMPBELL: Oh, I'm sorry. [LB39]

SENATOR COOK: That's okay. Thank you, Madam Chair. [LB39]

SENATOR CAMPBELL: Senator Cook, we'll let you go first. [LB39]

SENATOR KRIST: Sure (laugh). [LB39]

SENATOR COOK: All right. I will (laughter). [LB39]

SENATOR KRIST: Ladies first. [LB39]

SENATOR COOK: Thank you. I have a couple of questions that have jumped into my brain based on that last part, but I'll just go back to the one I had originally concocted. Your national licensure...would you be looking at a degree of licensure commensurate with a national standard or would we do one that would be comparable to our peer

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states? Because I'm imagining as even in our own work here and in our work in our...I'll call it our for-profit life, there are different levels of expertise... [LB39]

BARBARA WOODHEAD: Um-hum. [LB39]

SENATOR COOK: ...and I can go to a national public relations conference and get a certain certification, or I can get something that is perfectly applicable in most of the context in which I would use my professional skills. My question to you is, what level, and keeping in mind what you've taught me about something not always being better than nothing, what level are we looking at? And do most of the people who are already licensed and practicing in this state...are they at that level, or would we make them start over again? [LB39]

BARBARA WOODHEAD: There's a couple tracks on that. The distinction between licensure and certification...there are some states to license interpreters. They require only national certification, and the national certifying body, the Registry of Interpreters for the Deaf, has raised its standards over the years like other professions have. And so, for someone to be certified after the year, I think it's 2012, they will have to have a bachelor's degree. When I started interpreting, you didn't have to have an associate's degree or a bachelor's degree. Okay, so this is the certifying body that says you have enough interpreting knowledge. In the state of Nebraska, however, we do not only require...limit it to national certification. We have a state quality assurance screening test, and the current bill has those levels incorporated as minimal standards. So how do you know where people need to be referred to meet the kind of circumstance they're interpreting? The commission that acts as a state referral agency follows guidelines for those ratings, so if someone has a (inaudible) level 3, they know that they can be referred to certain kinds of jobs that are...that people call and say, I need an interpreter for this appointment or this. So there are guidelines with those certification levels whereas some jobs clearly require somebody with legal training. So the commission looks at those levels--3, 4, 5, for state and national certification for others. And those certifying systems have guidelines on what kinds of situations you should interpret in. [LB39]

SENATOR COOK: Thank you. [LB39]

BARBARA WOODHEAD: You're welcome. [LB39]

SENATOR CAMPBELL: Senator Krist, did you still have a question? [LB39]

SENATOR KRIST: I do, and it actually comes from a composite. When Senator Gloor asked Dr. Seiler...the question...well, let me just ask it this way. When we start becoming very restrictive in licensing people to do things, it is to protect the people of the state and provide quality. My concern is that there is someone out there today who

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has a very happy client base, who is doing it for near nothing, who has been doing it their whole life, has been driving a truck or flying an airplane for their entire life, and now all of a sudden, we want them to have a CDL or a pilot's license to do what they need to do. And granted, being a professional pilot, I understand where you're coming from. There's no doubt in the community in Nebraska, and I'll ask it a different way, that we are not reducing the services that are already quality that are out there in our rural communities or client base that's saying, we've been using Grandma Smith for years and years and are very happy with her services, but now it is illegal for her to charge us because of the law in place. Talk to me about that for just a second if you would. [LB39]

BARBARA WOODHEAD: I don't hear as many examples of what you're describing, Senator, as I do of deaf people coming forward and saying, this is what happened. I couldn't understand a word. For example, there was a deaf man in Nebraska, and I was called, and I happened to be out of state. He had an emergency heart situation, went to the emergency room. They couldn't find a certified interpreter, a licensed interpreter, but Met (phonetic) hospitals didn't require a license. They couldn't find a qualified interpreter, because really ADA says a qualified. What does qualified mean? This helps define that. So, in essence, this other interpreter was put in there by a referral agency that didn't require their interpreters to have minimal levels of skill. It was so disruptive for the deaf person. The deaf person said, "I don't want your interpreters. My wife, who is also deaf, will try to read your lips and write notes back and forth." Those are the kinds of scenarios that I hear about. The circumstances where there might be a family member or somebody who knows that deaf person well, chances are they're not providing a service in an interpreting situation that is mandated by the Americans with Disabilities Act, because that's really what we're talking about. These are no new regulations. The ADA is already in place, and what we're saying is, okay, for those places that are mandated to provide interpreters, how do those agencies...how do those hospitals, how do those businesses know if they have a qualified person sitting next to them or not? So we're not just protecting deaf people here. We're protecting the state from individuals who simply don't know what they don't know. And I only know of those kinds of cases, so I don't know if I've answered that. But I think you'll probably hear more examples of the testimony that follows mine. [LB39]

SENATOR KRIST: Thank you. [LB39]

BARBARA WOODHEAD: You're welcome. [LB39]

SENATOR CAMPBELL: Any other questions from the senators? Thank you, Ms. Woodhead, very much. Next to testify in favor of the bill? Do we have anyone? Good afternoon and we'll state your name. [LB39]

BETH ELLSWORTH: Good afternoon. [LB39]

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SENATOR CAMPBELL: State your name for the record and spell the last name. [LB39]

BETH ELLSWORTH: My name is Beth Ellsworth. My last name is spelled E-l-l-s-w-o-r-t-h. [LB39]

SENATOR CAMPBELL: Welcome. Please share your testimony. [LB39]

BETH ELLSWORTH: (Exhibit 5) Thank you for making the time for this important issue. My name is Beth Ellsworth, and I am the president of the Hearing Loss Association of America-Omaha chapter. We provide services to anyone with a hearing loss and their family, neighbors, and friends. There are approximately 157,000 people in Nebraska that have a hearing loss, and that number is on the rise. Historically, the professionalism of interpreters has been lacking, causing families, friends, and others to act as an interpreter for the deaf or hearing impaired person resulting in misinformation as well as a lack of confidentiality. An important part of being an interpreter is following the professional Code of Ethics. Maintaining confidentiality for the deaf or hard of hearing person is absolutely essential. Can you imagine not being able to trust that your personal information is safe and secure? That is what someone relying on an interpreter has to do. We have to trust that our personal, sensitive information will not be shared with others. It is no different from someone seeing a therapist, doctor, or lawyer, or any other professional. Would you want your family member to have surgery by a first-year college student? When an interpreter does not have the skill and proficiency necessary, that's just the same. I have been hearing impaired all my life, and I have experienced many hardships as a result of the lack of equal access that is afforded those who have a hearing impairment. I have personally experienced being misunderstood and being embarrassed. Growing up, I had people who acted as my interpreter and then shared my personal information. It was a horrible experience and one I would not wish on anyone, and yet, unfortunately, it still happens. The Americans with Disabilities Act was passed 21 years ago, and yet equal access is still not available to those of us who are deaf or hard of hearing. Equal access means anyone can choose how they will communicate with others and know that that information is safe. Isn't reliable communication a basic right? LB39 will be a huge step forward for improving access for us by creating licensed interpreters that we can depend on to deliver effective and confidential communication. LB39 will also enable the board to enforce professional standards and hold interpreters accountable for upholding the law. Thank you for listening to me, and I am happy to answer any questions you may have. [LB39]

SENATOR CAMPBELL: Thank you, Ms. Ellsworth. Questions from the senators? Seeing no questions, thank you very much for coming today. [LB39]

BETH ELLSWORTH: Thank you. [LB39]

SENATOR CAMPBELL: Next? [LB39]



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LINSAY DARNALL, JR.: I guess I won't be needing the (inaudible), will I? (Laugh) Good afternoon. My name is Linsay Darnall, Jr. My last name is spelled D-a-r-n-a-l-l, and I am here as a representative of the Nebraska Association for the Deaf. The association had a board meeting last Friday evening, and in agreement, unanimously, they asked me to come and speak in support of LB39. Many reasons that we support it. Other testifiers have already raised, and being a business owner myself, I rely a great deal on using interpreters. And qualified licensed interpreters will ensure that the quality of information that is shared between two parties is accurate and reliable. As other testifiers have already brought up, there are many negative experiences that deaf individuals have encountered due to a lack of qualified interpreters. I can recall one incident of a deaf individual that is a nationally known speaker, flew here to do a workshop. This is an individual who had been a trustee on the Gallaudet College board of directors. And I met the individual outside the hotel. We went into the hotel, and I had hired an interpreter to help facilitate communication at that event. And the interpreter that we had hired did not have certification or licensure. At that time, it wasn't even required. So I had the deaf individual go to the counter to check into the hotel, and the interpreter obviously did not know who this deaf individual was. But the interpreter went to the desk, told the desk clerk to check this individual in, did not interpret for the individual, but basically took control of the communication event and treated the deaf individual as if they were a child and did not give them the respect that was due them, and really were not performing as an interpreter. They were performing as this deaf individual's caretaker. I was very embarrassed and as the clerk was looking at their computer and talking to the interpreter, I asked the deaf individual or I asked the interpreter...I said, do you realize that you are speaking for the former trustee of the University of Gallaudet in Washington, D.C., and the interpreter didn't realize what kind of a political and social faux pas they had made. They were demeaning this deaf individual. And so, we, as deaf adults, we want the same respect that anyone should be given when they are communicating with anyone. Passing this bill will guarantee that we can raise the level of professionalism of interpreters, so that they will adhere to the Code of Ethics that's required as part of the certification process. So I encounter interpreters in legal settings, in medical settings, and so, I don't like having to worry about coming to an appointment and being fearful of what kind of interpreter may be there. So the state of Nebraska should support this bill as it gives deaf individuals equal rights to communication, so that we can feel confident that wherever we go within the state that there will be an interpreter there that holds licensure that ensures the quality of communication. So I ask that you will support this bill, and I thank you for your time. [LB39]

SENATOR CAMPBELL: Thank you, Mr. Darnall. We'll see if there's any questions from the senators. Senator Krist. [LB39]

SENATOR KRIST: I could watch, listen to you all day long (laughter). But my question is, do you find that the marketplace is reasonable even to the point we're at now, and do

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you expect that the cost of quality interpreters would go up, and is that even a concern?  
[LB39]

LINSAY DARNALL, JR: Well, actually, yes. The market itself is and has been, and I don't see that the state of the market will change any. Passing this bill will just ensure the quality of the interpretation that...service that's available. Time goes by so fast, it's hard to believe that ten years ago, I was working at Boys Town National Research Hospital as an interpreter trainer. And I traveled across the state of Nebraska mentoring interpreters, training interpreters, and primarily, my focus was working with educational interpreters, working in K-12 settings. Within this group of interpreters that I was training that worked in educational settings, some of them did work in...as freelance interpreters working with deaf adults. And some of them became my friends. Many of them were very motivated to improve their services, and I can't say that all interpreters are...their goal is to do that. But interpreters that have not yet been licensed or certified are very anxious to become licensed and certified, because it gives them a higher level of professionalism within their own community of other professional interpreters. And so we want the profession of interpreters to be somewhat competitive in that they want to improve their skills. And so by setting the standard that ensures that by having licensure, they are qualified, they will be more driven to ensure that they become more qualified. So the supply and demand issue has always been the same, and I don't see that that will change with this bill. [LB39]

SENATOR KRIST: Thank you very much, Mr. Darnall. [LB39]

SENATOR CAMPBELL: Any other questions? Thank you, Mr. Darnall. [LB39]

CONNIE HERNDON: (Exhibit 6) Thank you, Senators. I'm Connie Herndon, H-e-r-n-d-o-n. I come representing the Registry of Interpreters for the Deaf and the Nebraska Registry of Interpreters for the Deaf. I've served as president of the state organization, and currently, I'm a historian for the Region IV association. Personally, I have been interpreting over 35 years, and so I've seen the profession grow from a brand new recognized professional organization with the national organization just starting in 1964. I've seen it grow through various stages as it has become more defined and more aware of what needs to be done and aware of the needs of the consumers. I want to mention, just emphasize, some of the things that have been said today. Interpreting is more than just knowing a little bit of language. I love the examples that Ms. Woodhead and Mr. Darnall gave about different things that involve language, but also involve ethics. There's so much education that needs to be done for someone who wants to become an interpreter and for those who want to continue to work. The rules change frequently. The needs change frequently, and unless something is in place to monitor people, so that those who are working continue to keep abreast of what's happening and know what is required of them as professionals, there's too many problems that can occur. And so this is a good way to safely monitor those who are

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working. Another thing, certification and licensure work hand in hand. The Registry of Interpreters for the Deaf has a very important...and a very important initiative right now to advocate for all states who are promoting licensure and are wanting that, and so that is an activity that the national organization...the state affiliate chapters are involved in doing that. I'd also like to mention that we always think about interpreters for the deaf or interpreters for those who speak other languages. But RID...this is a statement from the Web site...it says RID is a national membership organization representing the professionals who facilitate communication between people who are deaf or hard of hearing and people who can hear. So whenever there is an interpreter involved, the interpreter is not just for the person who uses a language other than English. You want to be understood. You want to be represented appropriately whenever an interpreter is involved. So imagine you being in the shoes of what you're saying is being misrepresented to the deaf person or mistranslated or, as Mr. Darnall said, you're treated like the person who doesn't really know how to take care of yourself, and I'll do it for you. There's so many different things involved that I just wanted to mention...the interpreter is not for the person who doesn't speak English, but for anyone in the situation. So interpreters are to facilitate communication. It's kind of an unfortunate use of terminology, but it helps us if we see, oh, I need the interpreter too. Thank you. [LB39]

SENATOR CAMPBELL: Thank you. Questions? Thank you, Ms. Herndon, for coming today. [LB39]

CONNIE HERNDON: Thank you. [LB39]

SENATOR CAMPBELL: Other testifiers in support? How many other testifiers do we have? Oh, I'm sorry. [LB39]

RAYMOND MEESTER: I think there's just the two of us now. [LB39]

SENATOR CAMPBELL: Okay. Those who would like to testify... [LB39]

\_\_\_\_\_: There's one more gentleman back here, too. [LB39]

SENATOR CAMPBELL: Okay. Those who would like to testify in opposition to the bill? Okay, and anyone in neutral? Okay. Thank you. Good afternoon. [LB39]

DIANE MUELLEMAN: (Exhibit 7) Hi. My name is Diane Muelleman, M-u-e-l-l-e-m-a-n, and I am from Omaha, Nebraska. I have personal experience living with hearing impairment since birth, and I have had the experience of parenting children with hearing loss. Three of my four children have different degrees of a hearing loss. In addition to all this experience, I recently graduated with a master's degree in special education, the emphasis with deaf and hard of hearing children and their families, I work with. I come

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here today, though, to share my personal experience with having a hearing loss and trying to live in a hearing world. When I am in public places, I have much better luck understanding what is being said if someone is there to interpret for me. I wear hearing aids, but in noisy situations, they amplify all the environmental sounds as well as voices which makes it extremely difficult to focus on a speaker's voice. With an interpreter, I have someone whom I can trust to do the listening and give me the correct information, so that I can interact effectively in such situations. But this becomes difficult if the person interpreting for me does not understand the subject being discussed. If there are words or concepts that are unfamiliar to the interpreter, it can be hard for them to translate. Therefore, we have to stop to spell words out. Sometimes we end up having to write everything out, because the interpreter is not able to grasp what it is they're trying to accomplish. With the agony of writing back and forth, back and forth, and when it...I was counting on someone with hearing to help me get this...go quicker. Now, the two of us, in conversation, tend to leave out details or descriptions, because time is too short, or we're running out of paper, or our hands are getting tired as we're writing. And our handwriting is getting sloppy. You get the idea. And if I am at a meeting or in a classroom while I'm looking down at a paper to write, I miss out on what is said, because I was not looking at the speaker who continues to talk for all those who can hear their voice. An interpreter would politely pause, so that I would not miss out on anything. Therefore, I would have the benefit of receiving all the information that the other attendees were given. This allows me to learn and participate in the hearing world. I do have a hearing impairment which means I do have some hearing, so I do use what hearing I have to get along in the mainstream as well as I can. The Americans with Disabilities Act says I have a right to participate in public meetings and educational facilities, etcetera, with reasonable accommodations or modifications. I want that equal access for all who are deaf or hard of hearing, so please consider LB39 as a step in the right direction. Thank you for listening to me today, and I'll answer any questions you have. [LB39]

SENATOR CAMPBELL: Thank you, Ms. Muelleman. Questions from the senators? I don't see any today. Thank you for coming. [LB39]

DIANE MUELLEMAN: Okay. Thank you. [LB39]

SENATOR CAMPBELL: Good afternoon. [LB39]

RAYMOND MEESTER: (Exhibit 8) I am Raymond Meester, M-e-e-s-t-e-r. I reside here in Lincoln in Senator Avery's district. I'm pastor of Heritage Presbyterian Church here in Lincoln. Our worship services are interpreted in American Sign Language. I also serve on the board of Nebraska Commission for the Deaf and Hard of Hearing. I'm also a consultant for the Presbyterian Church (U.S.A.) in ministries with the deaf, but more importantly, I am what they call in the field a CODA, a child of deaf adults. Both of my parents are deaf. I also had four uncles and aunts that were deaf, and so I grew up in

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the deaf world. When I was a child, there were no such things as professional interpreters. In that day, a lot of times, it was the CODA's that were the interpreters. As a child, that put me in a lot of situations in which I was extremely uncomfortable interpreting. For example, I do interpret for my mother where the doctor was telling her about menopause. I had no idea what the doctor was talking about, but I knew it was a situation that I should not have been in (laughter). We moved my mother to Lincoln over five years ago, and I accompany my mother quite often to her medical appointments and other appointments. I, again, do not want to interpret. It's very difficult to separate the role of interpreter from the role of being a child or an advocate. At one occasion, my mother was scheduled to have a medical test, and the medical facility called what, an hour ahead of time. There was confusion about the appointment time. So while I had this person on the phone, I asked if they had gotten an interpreter. They said yes. I asked who the interpreter was. They told me who it was. I knew that this interpreter was not qualified, but I thought I would be open minded, so I asked the representative from the medical facility as to the qualification of this person. The person said they were a level 3. I really had my doubts about it, so I continued to ask questions and found out that this person was taking their third sign language class. They were not a level 3, so that in itself was rather confusing. If I didn't have the background in deafness I had, I wouldn't have known the difference. There's a big difference between a person who's a level 3 interpreter and someone who has taken their third sign language class. This is not the only occasion in which I have found my mother in a situation with unqualified interpreters. There's another situation in which one of my...the deaf members of our church was having a medical procedure. I had to be out of town, so my wife who is also conversant in sign language but not an interpreter, went as a deacon from the church to visit. The deaf member introduced my wife as my pastor's wife to the interpreter. When the two deaf people left the room, and it was just the interpreter and my wife, the interpreter said to my wife, oh, you're his sister-in-law. So here was a woman that could not tell the difference between sister-in-law and pastor's wife being asked to interpret in a medical situation. The Americans with Disabilities Act mandates the provisions of qualified interpreters, and that is the exact phrase, not just interpreters. It states the term "auxiliary services" includes qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments. That is a right that's already guaranteed in the ADA. And we cannot expect entities who provide interpreters to know whether or not an interpreter is qualified. It's a rather difficult situation if you don't have a lot of background, and you've heard that from the other testifiers this morning...or this afternoon. But I do, honestly, believe that this will help provide interpreters that are qualified. Thank you. [LB39]

SENATOR CAMPBELL: Thank you, sir. Questions from senators? Thank you very much and thank you for your story. I think we have the last testifier in support if I'm right. [LB39]

JERRY SIDERS: (Exhibit 9) Can you all hear me all right? (Laughter) [LB39]

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SENATOR CAMPBELL: Good afternoon. [LB39]

JERRY SIDERS: All right. Good afternoon, Senators. My name is Jerry Siders. My last name is spelled S-i-d-e-r-s, kind of like apple cider only with an s. All right. Chairperson Campbell and members of the Health and Human Committees, as I said, my name is Jerry Siders. I am from Omaha, Nebraska. I am a retired school teacher, and I appreciate very much having the opportunity to speak this afternoon in support of LB39, requiring interpreters that are qualified and licensed. Being a member of the deaf community, LB39 is critical to myself and other deaf Nebraska citizens. I was born deaf. I grew up learning sign language and learning American sign language when I was in school. My education was completed well before the passage of the Americans with Disabilities Act and its requirement for reasonable accommodation. I relied on both qualified and unqualified interpreters at the University of Nebraska-Omaha for almost 20 years. I was fortunate to have this accommodation available when I obtained my master's degree from the University of Nebraska at Omaha in 1990. Accommodations are not reasonable if they are provided by unqualified and unlicensed individuals no matter how well meaning these people might be. I'm grateful that I've had many qualified licensed interpreters, and they have progressed from...to the point where they can interpret effectively and accurately. I often missed many points in college classes, because of unqualified interpreters that decided to summarize what the instructor's lecture was instead of using a word by word mode of interpreting that allowed me to understand all of the information, or they would frequently not finish finger-spelling technical terms that were critical to my master's degree. I elected to write to my hearing professionals frequently, instead of asking the interpreter to interpret to them for me, because they were not qualified or well trained. If they were qualified and licensed, these problems would have been minimized. Myself, I personally prefer to see that all educationals be licensed by the Nebraska Commission for the Deaf and Hard of Hearing instead of the Nebraska Department of Education. I know that the department has its own criteria, but I often meet educational interpreters of the deaf, and I have found many of them are not proficient signers. Some of them sign below the expected level, and I hope that the Nebraska Department of Education will eventually ask for the Nebraska Commission for the Deaf and Hard of Hearing to help them in evaluating and licensing educational interpreters. Again, the provision of interpreting services must always be done by qualified and licensed interpreters. I hold myself to very high standards, and I appreciate the efforts of the Nebraska Legislature to also ensure that those providing our reasonable accommodations in the workplace, professional sites, governmental agencies, and places of leisure will share and value the high standards as well. I commend Senator Haar for sponsoring this bill, and I urge the committee to support LB39. Thank you for your time. [LB39]

SENATOR CAMPBELL: Thank you, Mr. Siders. Questions from the senators? Seeing none, thank you, again. I believe we're at the point, anyone in the hearing room who

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wants to provide testimony in opposition? Any opposition? In a neutral capacity? Mr. Buntain. [LB39]

DAVID BUNTAIN: Senator Campbell and members of the committee, my name is David Buntain. That's B-u-n-t-a-i-n. I am an attorney and a registered lobbyist for the Nebraska Medical Association, and we are appearing today in a neutral capacity to perhaps provide some additional context to this bill. I think I can also shed light on the letter that you received from the Nebraska Health Care Association. Just very briefly, for those of you who were on the committee two years ago, and those of you who were not on the committee, there was a bill introduced two years ago which was LB310. And that bill would have required that all public accommodations in the state use licensed interpreters. That was the way the bill was originally drafted. It was offered to the committee with an amendment that would have required all healthcare providers to use licensed and sign language interpreters. And you had a parade of (inaudible) lobbyists, interest groups that appeared in opposition to that bill, because of the concern that...it was not something that was practical. If you look at the number of licensed interpreters in the state and where they're located, and I apologize...I grabbed the wrong file, so I don't have the number in front of me. But I believe it's somewhere between 100 and 150, in that range, and you can get that information from the commission as far as the number of interpreters there are. And they tend to be, as other professions are, concentrated in the eastern end of the state. And the concern that we had two years ago was for many nursing homes, physicians, pharmacists, anyone...any healthcare provider who would deal with hearing impaired patients that they might not, as a practical matter, be able to provide the certified or licensed interpreter, and so that was the basis for the opposition. This bill is a much improved version of that from the standpoint of healthcare providers, because it focuses on the issue of the licensure of the persons who are holding themselves out as interpreters. And the term, profession of interpreting, has been used by one of the other speakers here today, and as representing licensed healthcare practitioners, I can say that we support having people who hold themselves out in various professions being qualified, being certified, being licensed. There is still a lurking issue there, and I think it comes through in the letter that you got from the Health Care Association as to what is meant by the practice of interpreting. And where this appears is in Section 4, it talks about practicing as an interpreter for the deaf on page 7, line 5. And then it excepts out the situation of emergency medical treatment which is page 8, lines 15-22, and the question is, does the practice of interpretation include the nonemergency situation where somebody comes in and is receiving some kind of treatment by a physician, by a nursing home, whatever. If it's a nonemergency situation, does that move it into the practice of being an interpreter? So if a family member is interpreting for another family member, are they practicing as an interpreter? And I have not seen the letter, but I'm guessing that's what the issue is that the Nursing Home Association is concerned about. And I think it is something that needs to be clarified. There is an overriding responsibility under the Americans with Disabilities Act to accommodate persons with disabilities including this

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disability. And as one of your speakers said, there is a requirement that you have a qualified interpreter or other effective means of communication. And the issue of accommodation is an issue of reasonable accommodation under the ADA. So with that background then, I would just say, we would be willing to work with the committee as well to try to resolve this. I think you're very close to it, and as far as the issue of the licensure, we are at neutral on that issue. [LB39]

SENATOR CAMPBELL: Questions for Mr. Buntain from the senators? Seeing none, thank you very much for your offer of help, and we will take you up on it. In a neutral position? [LB39]

MARY CAMPBELL: Madam Chair, members of the committee, my name is Mary Campbell, C-a-m-p-b-e-l-l, and I am assistant to the superintendent for government relations at the Lincoln Public Schools. At the onset, I wanted to say that we very much appreciate the working relationship which we have with the commission, and it is in no way our intent to be obstructionists; but rather, we just want to raise some questions which possibly could lead to clarifying amendments regarding the education exception. When I first read the bill, I thought that this was not problematic to us, because on page 9 there is this exception for the educational setting. But I thought I better run that past our experts in the special ed department. Their reading of the bill was less clear, and so, in fact, they suggested with passage of the bill, could there, in fact, be a narrowing of that exception? And that's the question I bring today with a couple examples. Let's say there is a parent conference with a student and the teacher and the parent or an IEP meeting with a parent and student. And the use of the interpreter in this situation is not for the student, not for educational purposes, but rather for the parent who may be deaf or hard of hearing. Have we now gone beyond the ability to use our staff certified interpreters or have we moved into another noninstructional realm that would require us under this to hire a licensed interpreter? Another example might be at the high schools when they hold a play, and it's open to the public, and we have, on occasions, had an interpreter of our staff there for the enjoyment of all the patrons. Would that not be acceptable were this law to pass? Would we need to hire a licensed person, because it's not a per se instructional situation? And so, those are the questions that we brought forward. We've chatted with Senator Haar's office about them, and they were very gracious in suggesting that maybe there might be some clarifying language. I have this cleanup batter, Brian Halstead, from the department, so if anything that I've laid out is in error, given that it references the rules and regs of the department, I expect that he'll maybe provide that clarification. [LB39]

SENATOR CAMPBELL: Are there any questions for Ms. Campbell from the senators? Any questions? Thank you very much for bringing those forward. Others in a neutral position? It appears the department is going to help you out there. Good afternoon. [LB39]



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BRIAN HALSTEAD: Good afternoon, Senator Campbell, members of the Health and Human Services Committee. I'm still being cyber-bullied from yesterday. No, (laughter) my name is Brian, B-r-i-a-n Halstead, H-a-l-s-t-e-a-d. I'm with the Nebraska Department of Education. We are here in a neutral capacity. First of all, I want to acknowledge for the committee that Dr. Seiler has, in fact, shared a draft of this legislation clear back in October, for which he got input from department staff. He had the opportunity at the December state board meeting to speak to the members of the board's legislative committee and got some feedback from them. And he also appeared before our special education advisory committee and got feedback from them. I think the first thing that I heard was maybe a better definition of what practice of interpreting is, I think would be key in that regard, and in that, we certainly would work with the committee and Senator Haar to make sure we understand the scope of what's being covered under this bill and not. I think a lot of the confusion goes back to what is the authority of the Department of Education to promulgate the rule and regulation that deals with the educational interpreters. And if you're looking for that authority, you can find that back over on the bottom of page 2 and the top of page 3. And the language in the statute recognizes that there will be qualified educational interpreters, are provided to deaf and hard of hearing children in kindergarten through twelfth grade. And the focus of our rule, Rule 51 for special education, is, in fact, educational interpreters for students who have deaf or hard of hearing conditions. Okay? So in the sense of an IEP meeting where the student and maybe the parent also have the same hearing loss, it's clear our regulations would cover the interpreters, and educational interpreters could work in that setting. But in other settings that the schools have where it is not the child who has the hearing impairment...it is an adult or guardian. Is the language there in the statute that the Legislature enacted back in the 1990s give us at the department the authority for those educational interpreters to work in other settings whether that be for an IEP where the student doesn't have the hard-of-hearing condition, but the parents do? And, again, we want to make it clear, so that they understand what their rights are and everything else. There are also other settings, as Ms. Campbell pointed out, the school holds its drama club and the play for which the public is invited. There's a fee charged, and a member of the general public needs an interpreter. Is the school putting itself in harm's way by using an educational interpreter for the play production, and inadvertently causing problems for that interpreter? So those are a couple of areas of clarifications. We are certainly here to help work with this committee, Senator Haar, and the Deaf and Hard of Hearing Commission to make sure that we all understand exactly what our roles are, and we carry out what needs to be done. With that, I'll stop and answer any questions you might have. [LB39]

SENATOR CAMPBELL: Are there questions for Mr. Halstead? Senator Krist. [LB39]

SENATOR KRIST: What's the standard for an educator to be an interpreter? [LB39]

BRIAN HALSTEAD: I knew you would ask that, and I don't have that. The standards we

have set for educational interpretation are not the same standards that the Deaf and Hard of Hearing Commission have set for licensed interpreters. I can't speak to you as to what the differences are, but I know that Dr. Seiler has indicated to us that the standards we have for educational interpreters is not as high as their standard. [LB39]

SENATOR CAMPBELL: While our guests are exiting the room, how many people in the hearing room are here for LB144? One, two, three, four maybe. Okay. Good afternoon, Senator Haar. Thanks for coming back. We're glad to have you again, and please open our testimony on LB144. [LB39]

SENATOR HAAR: (Exhibit 12) Thank you, Senator Campbell and members of the committee. I have this dream where I reach for my notes, and I pull them out, and it's my grocery list but (laugh) today I brought the right notes along. I love Google maps, okay, and so the various maps you see are my explorations. When I ran in...well, two years ago, I knocked on 7,000 doors and made thousands of phone calls, and one of the things that became very apparent in my district...you can see on this first page here, if you look at the Google map, there's no mistake, this is a trailer park. Now, if you go to page 2, this street corner, North 1st Street and Adams is in my district. And I put white circles around four huge trailer parks, all very close to that intersection of North 1st Street and Adams. On page 3, you'll see the names of these and the approximate...again, we just counted trailers from the maps--Contempo Lincoln which has about 300 mobile homes, Gaslight Village 240, Woodlawn Estates 190, and Countryside Estates 110. And then if you look at page 4, if you add these together, and these are approximate numbers again, but there are about 850 mobile homes, maybe an average of two, and a lot of homes have more than that. You're talking about 1,500 to 2,000 people. And what really began to concern me as I walked around, and I talked to people in those mobile homes and knocked on doors, that was also a spring where we had some pretty bad storms. And I just kept wondering, what happens to these 1,500 to 2,000 people if a very high wind or tornado hit North 1st Street and Adams? Almost 2,000 people live in mobile homes very close to that intersection. Page 5...another characteristic of many mobile homes, I believe, is the limited access. So you see, for example, Contempo Homes which has about 300 mobile homes has two ways out, and neither of those are wide streets. You'll notice on the right-hand side there that the main exit, in fact, really the only exit is to North 1st Street, because West Belmont Street also goes to North 1st Street. If you go to the second, to Gaslight Village, 250 mobile homes...there are actually only two ways out plus speed bumps, by the way. Most of these trailer parks have speed bumps. On the right on that page 6, you'll notice the main exit is to North 1st Street. You can go a little ways down Northwest 4th, but mainly you end up on North 1st Street. You go to Woodlawn Estates on page 7 and, actually, it has three exits; but two of them are to North 1st Street. And you go to page 8, Countryside Estates, again, with a large number of trailers; and most of the traffic goes to North 1st Street...two exits. And if you notice the circle around Dawes Avenue, you have to turn right; you have to turn right at that corner to get out of there. So I was

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very concerned...I am very concerned. What happens to these people in these trailer courts, because, obviously, trailers have no tornado protection. Now, in one of these courts, and I couldn't find it the other day when I went back through with my car, but actually has a storm shelter. I don't know what the capacity of that shelter is, but a point I've tried to make is that the way out of these trailer courts...not only do we have 2,000 people, but the way out of these trailer courts is very difficult. And so if you go back to page 1, again, for a minute, the first point of this bill, in summary, is that mobile home parks must have and provide to tenants a storm shelter evacuation plan. We're going to hear some interesting anecdotal information coming up after me about what do people know about getting out in case of an emergency? Point two, the Nebraska Emergency Management Agency holds public hearings and approves a plan. Now, you may have noticed there's a fiscal note with this. And we think we could solve that fiscal note by, instead of giving the responsibility to the Nebraska Emergency Management Agency, we could give it to the local emergency task force. I know that, for example, Lancaster County has such an agency. We would still want these plans to be filed with NEMA, but they wouldn't have to carry out the hearings. And, by the way, on the fiscal note, is an interesting statistic--599 plus plans...in other words, there are 600 or so trailer parks, mobile home parks, in Nebraska. And I don't know if there are any other such concentrations as in my district, but it's of great concern to me. And then the final point around this is that if you look at page 3, in the lower left-hand corner is Pfizer, an important citizen of Nebraska. And Pfizer has a basement that's stormproof and when I walked the trailer parks, Pfizer was open in the case of emergencies. That's no longer true. And even some of our own government entities such as the Nebraska Regional Center, who used to allow people to come in for a storm shelter for evacuation purposes, are no longer open because of insurance concerns. They're afraid they'll be sued. So the third point here, any person providing shelter as part of an approved plan is held harmless for any and all claims related to the evacuation. So I was concerned, how would all that traffic get to Pfizer, and now Pfizer is not an option either. So I feel that the first responsibility of government is the safety of the citizens; and in my district, I believe there are 2,000 citizens at risk. Now, a tornado has never hit Lincoln. We've been very, very lucky in that; but boy, there's no guarantee that that will never happen. So I believe this directly serves not only my constituents in those four trailer parks, but also the other 600 or so trailer parks around this state. [LB144]

SENATOR CAMPBELL: Questions from the senators for Senator Haar? Senator Gloor. [LB144]

SENATOR GLOOR: Thank you, Madam Chairman. Senator Haar, as I'm looking at your Google maps, and I love Google maps also, I could with a change in the floor plans of some of these homes, tell you this is my neighborhood which has some apartments, some duplexes, but a lot of single family homes, but there are only two ways out. And I think there are a lot more people who live in my residential area than probably do in most of these trailer parks individually. Grand Island also happens to be a community

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where you can dig a well with a spoon, which means you can't put basements in most of the homes, and very few homes in my residential area have basements. I understand there's a difference between a stick-built home in terms of safety and a trailer in safety. But I'm trying to get comfortable that somebody won't make the leap that, for all intents and purposes, we ought to be doing the same thing for that particular residential area, given the limitations that are there. You know, no basements for shelter; exit is limited. The difference is, the homes will probably handle the wind better than others would; but for a lot of other things, they wouldn't and they didn't. My discomfort here is, and it doesn't seem to be a big jump for me, of them regulating housing subdivisions to fall under the same parameters. Your answer to that? [LB144]

SENATOR HAAR: My answer to that is, I understand there's a bigger...you know, you can also talk about elderly people who can't get to the basement or whatever. [LB144]

SENATOR GLOOR: Sure, like me (laughter). [LB144]

SENATOR HAAR: Yeah, me with my knee in a cast. But I don't think that solving a problem because it could get bigger if it needs to be is a reason not to solve it at this level. And I would certainly say that, you know, probably on a ranch style house going to an internal bathroom or something, crawling in the bathtub is not the solution. But we've all seen the pictures of what happens to a mobile home if it's hit by a tornado, and it's torn apart. So I don't know where this could lead, but I think this problem right here, right now needs to be dealt with. [LB144]

SENATOR GLOOR: Okay. Thank you. [LB144]

SENATOR HAAR: Yeah, you bet. [LB144]

SENATOR CAMPBELL: Other questions? Senator Krist. [LB144]

SENATOR KRIST: Some of us are familiar with a lake environment, and let me echo Senator Gloor's concern. This is a...I'm not suggesting it's not important, but this is opening up a can of worms, because there are hundreds of communities around that, because of not being able to have a basement, don't have proper storm or protection. And I just echo his concern that there's...we're really...and, again, I understand. When I'm down at that lake community, there isn't really any place for me to go, although an above-ground facilities have been...we've put them in around the area. So I just worry that this is going to be a...not just a trailer park bill; it will evolve into a development nightmare, so... [LB144]

SENATOR HAAR: Um-hum. Well, this is a trailer park bill, by the way, and it could, you know, in the future, if we see a need...if someone sees a need to expand this, obviously, they could introduce that kind of legislation. By the way, Omaha has a requirement that

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any new trailer parks that are built have shelters and that people be notified how to get out of there. I would also say that this bill in no way is putting down trailer parks, but I think it's also very realistic to note that very often the people who live in the trailer parks are lower income, and are the poor. Now I found exceptions to that. I found one little lady...a little old lady and her, you know, her plot wasn't much bigger than this tabletop, I think, but she had a picket fence around it, and she opened the door to me, and it was absolutely immaculate, and she lived there for 35 years. That's where she wanted to live. But, in general, I think I conclude that probably this was a poorer part of the population, who usually doesn't hire lobbyists and usually doesn't have those kinds of advocates. So, yeah, it could be a slippery slope, but that's our job (laugh). [LB144]

SENATOR CAMPBELL: Senator Wallman. [LB144]

SENATOR WALLMAN: Thank you, Senator Campbell. Welcome to this esteemed committee here. Senator Haar, we had a tornado go through my area, you know, a couple of years ago, and it takes built homes as well as trailer parks. The city of Cortland was concerned...they built above, with the community center, it's an aboveground tornado shelter. Was it needed? I don't know. But I hate to put an onerous burden on trailer park owners, because somebody is going to have to bear this cost if we build shelters. They did it with Cortland with FEMA money and grants. They built an above-ground tornado shelter. Will it withstand a tornado? You never know until it hits. [LB144]

SENATOR HAAR: Um-hum. Till it hits, yeah. Well, this bill does not require building shelters. It requires that the community have a storm shelter evacuation plan. So it doesn't necessarily mean you have to build shelters; but then again, if there's some additional cost to protect the safety of these people, I think it's worth...and that's just my value judgment. [LB144]

SENATOR CAMPBELL: Senator Haar, have you had any discussions on this with the emergency management director, Doug Ahlberg for Lincoln and Lancaster? It's a joint agency. [LB144]

SENATOR HAAR: Yeah, yeah. I had some discussions with the city of Lincoln, and they're the ones that, frankly, said, yeah, there really is no evacuation plan and Pfizer is closed now. [LB144]

SENATOR CAMPBELL: Because I was questioning much the same thing. It would seem to me that this might be...and having served on the city council yourself, this might be an issue in which almost every community has to deal with in their building and in their planning. I keep looking in the back of the room for...Mayor Wesely is sitting there. We worked on a lot of problems, the three of us together, and I'm just...that comes to mind that perhaps a discussion with Doug Ahlberg might tell us that there are more

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plans available than we think in the sense that now...I mean notification. But I know that he spent time after the huge snow storm and everything else and the whole Hallam situation, rethinking and trying to give some suggestions to people, so it just might be worth talking to him about this. [LB144]

SENATOR HAAR: Yeah, and this will become...this is very much an issue that will have to be solved at the local level; but I think, again, with 600 trailer parks statewide, that it's a concern not only for my district and not only for Lincoln, but for many other places in the state. [LB144]

SENATOR CAMPBELL: Okay. Any other questions? Thank you, Senator Haar. Will you be here for closing? [LB144]

SENATOR HAAR: Yes, yeah. [LB144]

SENATOR CAMPBELL: Okay. All right. Those in support of LB144. Yes, sir. Good afternoon. [LB144]

LAZARO SPINDOLA: (Exhibit 13) Good afternoon, Senator Campbell and honorable members of the Health and Human Services Committee, good afternoon. Trailer park safety has been a personal...yes, oh, I'm sorry. My name is Lazaro Spindola, L-a-z-a-r-o, last name S-p-i-n-d-o-l-a. I am the director of the Latino American Commission. Is that it? Okay (laugh). Trailer park safety has been a concern for me since Hurricane Andrew in Florida when I had the chance to be a firsthand witness about the terrible effect that the forces of nature might have on such man-made structures in the Homestead area where the lack of a proper evacuation plan prompted the dwellers of those trailers to seek a shelter in the orange groves which didn't actually offer much shelter against a hurricane. So I understand perfectly when we are trying to focus on the possibility of a tornado. But there are other types of natural disasters that can happen. When I heard about this hearing, I personally visited four trailer parks in the Columbus-Schuyler area, and I did not listen anymore, because I did not have the time. In three of them, there were shelters. In one there wasn't, and when I asked a limited number of the residents about their knowledge of the shelters and how to get to them, they didn't have any. I asked...now I will make the distinction this was basically Spanish-speaking people. When I asked their children, they were familiar with what the meaning of the sirens was, and they were familiar with the sheltering process in their schools, but they were not familiar with the sheltering process in the trailer parks. So I found that kind of alarming especially because the East Central District Health Department which covers the counties of Colfax, Boone, Platte, and Nance has a very comprehensive emergency management...not emergency management...emergency response system which was written or built in conjunction with the local emergency management system, with the healthcare system, with the business community, with the faith-based community, and even with the funeral home network of the area. And

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this plan covers what the evacuation process should be. It even covers how to help vulnerable populations such as the elderly, the handicapped, homebound individuals as well as residents of assisted living facilities. What I am trying to say is that many Nebraska communities already have plans in place. What we seem to be lacking is depth and scope of how to come with the information to the public about how to best collaborate and react in case of an emergency. Of the four trailer parks that I visited, one had three exits; one had two; and the other two had only one. LB144, I believe, closes this gap by providing for the creation of such plans when lacking and creating public hearings where the community would be adequately informed of the solutions proposed and would have the opportunity to offer their input. Now, local emergency response coordinators usually hold quarterly meetings with all the members of the emergency response plan, so if they invited the communities that dwell in these trailer parks, and I'm talking about the trailer parks because that's what the bill is all about, they would not have to incur any additional costs of holding special meetings for the tenants of these units. The commission's or my commission's modest contribution to this effort would focus on translation and interpretation activities as well as community outreach and education in order to provide wider participation in these meetings and make our constituents stakeholders in the process. Let us remember that nearly 9,500 Latino individuals currently live in mobile households in Nebraska as per the 2009 American Housing Survey. Thank you. [LB144]

SENATOR CAMPBELL: Questions? Thank you, Director Spindola. [LB144]

LAZARO SPINDOLA: Thank you. [LB144]

SENATOR CAMPBELL: Okay. Next proponent for the bill? Okay. Anyone testifying in a negative position on LB144? Yes, sir. Good afternoon. [LB144]

ROBERT MOODIE: Good afternoon, Madam Chairman and members of the committee. My name is Robert Moodie, M-o-o-d-i-e. I'm testifying on behalf of the Nebraska Association of Trial Attorneys. This bill came to our attention because of the provision under subsection 4 of Section 1 which appeared at first blush to be an immunity provision. And our organization is very consistent in appearing before these committees testifying against immunity provisions. On a closer look, this may not be as much a liability-limiting or immunity provision as it is a liability-shifting provision. We have no opposition to the concept of safety and safety plans in mobile home parks. Our position would be if the plans are going to be done, then they ought to be done with appropriate care. If they are not done with appropriate care, if negligence occurs, and as a result of the negligence, someone is injured then there should not be a limitation on the liability for that person to bring an action-seeking redress. What Section 4 essentially says is if...and someone is injured in the course of being sheltered by this plan, but the plan is approved, then the outfit or the mobile home park that provides the shelter is not going to be liable. And if that case came into my office, then my immediate response would

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be, well, if the Nebraska Emergency Management Agency approved a plan that wasn't any good, I'm going to pursue a claim against the Nebraska Emergency Management Agency. So this appears to be shifting the liability for, is the plan appropriate, is the plan prepared with due care, was the plan correct into shifting the responsibility of making sure that plan is correct from the provider, whoever came up with the plan or implements it for that mobile home park and is shifting it to the Nebraska Emergency Management Agency. And I'm not sure if that's the intention of the people writing the bills, and I'm not sure if that's what this committee wants to have happen. I would also be concerned about the five-year review. If a plan is approved, then maybe it's an appropriate plan in the first year it's prepared. But for whatever reason over the course of the five years before it comes up for review again, the facilities or the topography changes or something makes that plan no longer appropriate for the safety of the residents, and, again, someone is injured...is this limitation or restriction of liability going to shift the responsibility away from the operator of the mobile home park who should have the responsibility of maintaining the safe environment? [LB144]

SENATOR CAMPBELL: Questions? Senator Krist. [LB144]

SENATOR KRIST: Thank you, Madam Chair. Is this your area of legal expertise? [LB144]

ROBERT MOODIE: I am a personal injury attorney. I do handle injury cases and worker's compensation. I can't tell you that I've ever handled a case in which somebody has been injured in this kind of a situation with a claim against the operators of their environment. But I have handled premises liability cases, yes. [LB144]

SENATOR KRIST: By definition, what's required for a hold harmless agreement to be in force? [LB144]

ROBERT MOODIE: Well, Senator, I guess I'm not necessarily sure I'm comfortable trying to answer the question right off the bat. In almost any situation, there has to be some type of consideration, something valuable given in return for almost any kind of a contract. If you and I are going to enter into an arrangement that says, I'm going to hold you harmless for something that you may or may not have done, if I'm going to give up the ability to maintain a cause of action against you, I must have received something of value in return, some type of consideration. That's basic contract law, I think. [LB144]

SENATOR KRIST: Well, I guess, yeah, I guess where I'm going with this is I am familiar with the hold harmless agreement when it comes to putting property or an airplane in a hangar on a government agency or government facility. And I would assume that if we're going to write a plan that has a hold harmless agreement in there, that that agreement has to be with the individual, with the trailer court or park, in general. I mean, how would one establish a hold harmless agreement with Pfizer, in theory or in actual



law? [LB144]

ROBERT MOODIE: Well, in my opinion, it shouldn't be done. In my environment, if I have a case involving Pfizer or some other company, and we are coming to some kind of an agreement in which I am no longer going to hold them responsible for a consequence that I have otherwise holding them responsible, then I'm going to expect some kind of settlement or some kind of an individual agreement. Now, I think that this body can write into a law that says, all trailer park operators must come up with a safety plan and notify their tenants of that safety plan. And if they have done that, and if they have come up a plan and notified them, and somebody gets injured anyway, that person is not going to be allowed to sue the trailer park operator. And that would be a strict immunity provision; that would be a legal provision in the law that says we're going to give these trailer park operators immunity from liability. And if the bill was saying that, then I would be here saying, that's not a very good idea, because we don't think that that type of individual blanket immunity ought to be given in hardly any situation which is why my organization appears every time there's a bill that has an immunity provision in it. And if Section 4 is an immunity provision, I don't think it ought to be there, because I think the...whoever comes up with the plan and says, this is the plan that we're going to put in effect, should have the responsibility of coming up with a good plan. And if they don't come up with a good plan, and somebody is injured because the plan isn't any good, then there ought to be a remedy against somebody. And it may not be against the trailer park operators anymore under this bill. It would be against the Nebraska Emergency Management Agency. [LB144]

SENATOR KRIST: Thank you. [LB144]

SENATOR CAMPBELL: Any other questions? Thank you, Mr. Moodie, for coming. [LB144]

ROBERT MOODIE: Thank you. [LB144]

SENATOR CAMPBELL: Anyone else who wishes to testify against the bill? Someone wishing to testify in a neutral position? [LB144]

MARTIN HUFF: Madam Chair and members of the committee, my name is Martin Huff, H-u-f-f. I'm the executive director of the Nebraska Manufactured Housing Association. I'm interested in the last testimony there. That was the only provision in the bill that we agreed with (laughter). And I testified in a neutral position, because Senator Haar said there's 600...I think there's 593 or something like that, parks in the state. And by that, they mean two contiguous spaces for rent. Okay? And that could be...and I represent about 40 of the large parks in the state of Nebraska among other entities, and we would be here opposing the bill had it mandated building a storm shelter, because there's no way that you can build a storm shelter and run the thing, have it up and 2 o'clock in the

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morning and...and interesting, though, now if I polled a few of the parks in Omaha and the ones in Lincoln, and there's a very, very few percentage of the people that go to these shelters, and there's two or three...well, I want to guess there's probably 10 to 20 parks in Nebraska that have storm shelters per se on the property that they manage that they, you know, that they have say-so. I talked to one park this morning; they get about a third of their population, of their people, in their storm shelter. They have about five. They have a main one, a basement of the park office, and then they have three or four other ones scattered. It just would hold 10 people or 20 people. They get about a third of their tenants that come to the storm shelters when the sirens go off, and the rest, I...you know, I don't know if people just don't care about it or something. I asked one park operator of a couple of hundred spaces. He doesn't even have people inquire as to whether there's provisions for a storm shelter or a storm shelter or whatever. It's all over the board. And we would appear in opposition to it had we known what the Emergency Management Agency would prescribe or approve for evacuation situation. And without that, who can tell? I can't. And with that, I'll answer any questions you may have. [LB144]

SENATOR CAMPBELL: Questions? Senator Gloor. [LB144]

SENATOR GLOOR: Thank you, Madam Chairman. Thank you, Mr. Huff, for coming here. I can answer one of your questions, and that is why people don't use them, and they're probably just like my neighbors and I in our stick-built homes. We're standing out in the street watching the storm (laughter). Not wise, but curiosity killed the cat. [LB144]

MARTIN HUFF: Yeah. [LB144]

SENATOR GLOOR: It may get me one of these days. You started to answer a question that I had, and that is, how you define a mobile home park? [LB144]

MARTIN HUFF: Well, that... [LB144]

SENATOR GLOOR: And if I...I mean, if I understand it correctly, it's an issue of rental as opposed to ownership of a mobile...I mean, I'm sure we can easily define and do under state statute, a mobile home. [LB144]

MARTIN HUFF: Um-hum. [LB144]

SENATOR GLOOR: But if it's a mobile home park, does that mean a number are rented as opposed to owned? [LB144]

MARTIN HUFF: No, no. Two or more contiguous spaces...spaces for rent. Okay, and then you bring your mobile home or park owners own quite a few of them now, and they rent the space and the home to the tenant, and it is two or more of those contiguous

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spaces for rent is the definition of mobile home park by...here in Nebraska Statutes. [LB144]

SENATOR GLOOR: Okay. But if you've got a residential area, and the mobile homes are actually owned by, and the spaces are owned by individuals that reside there, that's no longer considered a mobile home park? [LB144]

MARTIN HUFF: No, no...that's no longer a park. [LB144]

SENATOR GLOOR: Okay. [LB144]

MARTIN HUFF: When you have individual or private ownership or individual among...scattered among the people that live in the houses. [LB144]

SENATOR GLOOR: Okay. Thank you. [LB144]

SENATOR CAMPBELL: Any other questions? Senator Krist, I'm sorry, did you have one? Okay. Thank you very much, sir, for coming. Anyone else in a neutral position? I mention his name, and he just magically appears. How are you, sir? For my colleagues, this is Doug Ahlberg. [LB144]

DOUG AHLBERG: Doug Ahlberg. I'm the director of emergency management for Lincoln and Lancaster County. And I was contacted by Senator Haar's aide last week to basically provide you with some information about the trailer parks that we have, not only in the northwest part of the city, but in the southwest part of the city, and we also have large trailer parks that are out on Cornhusker Highway in the area of 40th and Cornhusker Highway. Last spring I got contacted by Pfizer, and Pfizer invited me out, and they told me because of what they felt were liability issues that they were discontinuing the practice of allowing people to come to their public shelter which is located on Cornhusker Highway. One of the situational things that they described to me as far as liability was that they were receiving anywhere...like Senator Haar said, upwards to a thousand people. The problem that they were having was, is that a large percentage of those folks were bringing their pets with them when they showed up at the public shelter. And the dogs and cats didn't really create a large issue for them, but rather, the exotics...the boa constrictors, the ferrets, and the pygmy pigs that were showing up along with the folks. They discontinued that practice. We subsequently wrote a letter to each of the trailer park managers indicating that Pfizer no longer would accept folks at the public shelter. I took it upon myself to talk to a lot of the, what I considered ample facilities that could handle folks from the trailer parks. And one of those was the community...shoot, lost the words right now. But the Park Department's neighborhood facilities that they had in Belmont school...neighborhood association types of locations. One of the problems was, they're not a 24/7 operation. I think everyone is familiar with the fact that most tornadoes occur in this part of the country

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between 4 p.m. and 8 p.m. They were more than willing to accept folks to their facility. Several of the churches in the area were also willing to do that if they were open, and we provided that information, again, to the trailer park managers to inform them that they could tell their particular folks where they could go during those particular hours. Leaving an area such as...and I, unfortunately, haven't had a chance to read the bill in its entirety, but when Pfizer was a public shelter, we had street maps that were located at the clubhouses at each of the trailer parks. We had signs located along Cornhusker Highway and along the entrance into Pfizer to show people where to go. Pfizer took it upon themselves to have a flashing blue light at the shelter locations, so that folks would know where to go. But, again, they were a 24/7 operation. I also checked with the Air National Guard to see if, in fact, that they would let people on their property. Obviously, because that's a military installation, it would be rather difficult if, at all, to get onto their property during a particular time frame. So the other thing that we're looking at right now is a hazard mitigation plan through FEMA. FEMA has standards that are established for public shelters. They pay 75 percent of that. I can tell you that after the tornado went through the southern part of Lancaster County and other adjacent counties on May 22, 2004, there was not a residence that wasn't affected by that particular storm that doesn't have a safe room in their basement right now. But we're talking to FEMA to see if, in fact, we can use some hazard mitigation money to provide for shelters in the trailer parks in the northwest part of the city of Lincoln and in the southwest part of the city of Lincoln. The problem with that is it usually takes anywhere from two to three years to accomplish. I don't want to say that government moves rather slowly, but I think, at times, government moves rather slowly when it comes to that. But we are looking at that as an alternative. The other thing is, is to combine that with other facilities and other grants that are available through the Department of Justice to make it a 24/7 day a week operation to see if, in fact, we can construct a safe room complex that is also in conjunction with a law enforcement facility to where that the law enforcement facility can use it 24/7 as a substation, but they can also be available to open it up during those nonnormal hours if, in fact, it needed to be open as a public shelter. And I guess I want to give Senator Haar my card, so he and I can talk about it, but any questions? [LB144]

SENATOR CAMPBELL: Senator Krist. [LB144]

SENATOR KRIST: Do you need our help? [LB144]

DOUGLAS AHLBERG: At this point in time, when I run into a stumbling block, I'll certainly get a hold of Senator Campbell as we've had several conversations in the past when I do need the help. Right now I'm thinking that things are moving along rather well. Just received a hazard mitigation grant from FEMA for outdoor warning sirens, and subsequently, this will be my second request. [LB144]

SENATOR KRIST: I'd be interested in hearing your assessment of whether it's possible

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to actually enact any hold harmless for businesses around. I mean, I know how complicated that is, and it's... [LB144]

DOUG AHLBERG: I think it becomes a very, very big issue. I think it becomes an issue of what happens when a person is going to that particular shelter if it happens on a public street, and they are responding to an event that the National Weather Service has indicated that there is a possibility of a tornado? You've got to remember that a lot of the folks that went to Pfizer were there during severe thunderstorm warnings. They didn't wait until a tornado warning was issued. They went there during severe thunderstorm warnings. I think that liability becomes an issue that needs to be looked at, and a lot of aspects not only for trailer parks, but when you sit back and you look at the number of apartment houses that we have in the state of Nebraska that are built on slabs. It's kind of ironic, and I know Senator Campbell and Senator Wallman can understand that in Hallam, there were two very, very structurally sound buildings that were completely destroyed. And there were two, what I classify as Morton buildings, that were left standing. And so it's a liability issue that I, for one, would really hate to address or make an attempt to address. [LB144]

SENATOR CAMPBELL: Okay, any other questions? Captain Ahlberg, before you leave, could you spell your name, please? [LB144]

DOUG AHLBERG: Oh, I'm sorry. First name is Doug or Douglas and the last name is spelled A-h-l-b-e-r-g. [LB144]

SENATOR CAMPBELL: The reason, and I have to share this with my colleagues, because I've known Captain Ahlberg forever (inaudible), but when he was required to notify the mayor or the chairman of the county board when there is a problem, so I would be talking to this gentleman at three o'clock in the morning or five o'clock, so he knows where to find me. [LB144]

DOUG AHLBERG: We have this...we have a radio conversation that's Campbell, this is Ahlberg, over. And... [LB144]

SENATOR CAMPBELL: That's right. I never got that right either (laughter). [LB144]

DOUG AHLBERG: I know (laughter). It just took a lot of practice is all. [LB144]

SENATOR CAMPBELL: So good to see you. Thank you for coming. [LB144]

DOUG AHLBERG: No, thank you, folks. [LB144]

SENATOR CAMPBELL: Okay. Anyone else in a neutral position? If not, Senator Haar, would you like to close? [LB144]

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SENATOR HAAR: Yes, I'd like to close. Thank you very much. Folks with nowhere to go, and that's what Mr. Ahlberg said, and that's where we're concerned in these huge trailer parks in my district and others. And I don't know how many big trailer parks there are. The number 600 I got simply from the A bill, you know, that one of our departments put together. So it's not an easy problem, but if a tornado hits one of these trailer parks, and there's scores of dead people which, looking at the maps, it's really easy to imagine that, I think we must have done everything we can. If it's a greater problem, so be it, we'll tackle that. I got the indication from Mr. Ahlberg that part of it is going around right now is due to the fact that our office had talked with him, and that's really, I think, what this kind of required. It's about...we're saying to the different emergency management agencies and, again, I think that needs to be changed from the NEMA to the local emergency management agencies that this is something that needs to be dealt with. If it takes two or three years, you know, it's going to take time, and that's become real obvious. But how can we just say it's too complicated; hope it never hits? I hope it never hits. So thank you very much. [LB144]

SENATOR CAMPBELL: Thank you, Senator Haar. With that, we will close the hearing on LB144, and we will take a five-minute break. That's it. [LB144]

BREAK []

SENATOR CAMPBELL: Good afternoon. All right, we are ready to open the hearing on LB34. Senator Louden is here. Welcome, Senator. []

SENATOR LOUDEN: Okay. []

SENATOR CAMPBELL: Been watching out...everybody is watching out the window and telling me that it's getting slick outside. []

SENATOR LOUDEN: Yes, and I might point out that a couple of people that come to testify, they drove in from Alliance this morning, so the folks back here have had quite a trip so far today and tend to probably go back the same way. So are you ready to start again, Senator? []

SENATOR CAMPBELL: Okay. Absolutely. Welcome and we'll let you open on LB34. []

SENATOR LOUDEN: (Exhibit 14) Okay. Well, good afternoon, Senator Campbell and members of the Health and Human Services Committee. My name is LeRoy Louden, and that's spelled L-e-R-o-y L-o-u-d-e-n, and I represent District 49. I've introduced LB34 to address a situation that arose at the Marian Residence in Alliance. The Marian Residence was renovated from a nurses' school years ago to an aspirant school. After that, when St. Joseph's Hospital in Alliance closed, which was run by the religious order

of the Sisters of St. Francis, the community then constructed and furnished Box Butte General Hospital. The Marian Residence was then developed into a retirement convent or home for retired sisters of their religious order since they had the property there. That seemed to turn out to be a very good use for it. This was done over 20 years ago, and I don't recall the exact time frame. In 2001 or 2000 or so, the statutes were changed and fraternal organizations were then required to have a license to operate a nursing home. Most fraternal organizations charge a fee to the residents, and there's a difference between how fraternal organizations operate and what the Marian Residence accomplishes. The Marian Residence is a convent. This is the home of nuns and should be considered as such. They don't receive any state funding, and they completely support themselves and care for each other's family members. About a year ago, and that's been nine years since the law was changed, the Department of Health and Human Services notified the Marian Residence that they needed to be licensed. Now, being licensed would require the Marian Residence to hire a registered nurse and other assistance and other issues they had to do, and requiring a license for the convent would put an unnecessary cost on the religious family. This facility is home to these nuns and only members of the religious order live there. They care for their own family members. I would ask that you consider the system that the sisters have in place and exempt convents from having to be licensed when caring for their family members. I presume you all received the letter signed by Dr. Schaefer from the Department of HHS, and she pointed out in there that she'd discussed this matter with me, and we worked on it through the summer, and they worked with me to draft language in a bill that would allow the licenser unit to administer the bill. So, the bill that we have before you, the green copy of LB34 was one that I worked out with HHS, over there, Dr. Schaefer and her group. So, with that, I would be willing to answer any questions that you may have on this matter. [LB34]

SENATOR CAMPBELL: Questions for Senator Louden. Yes, Senator Gloor. [LB34]

SENATOR GLOOR: Thank you. Thank you, Madam Chairman, and thank you, Senator Louden. You and I have had a chance to talk about this a little bit. (Laugh) This is interesting, because I was born in the old St. Joseph's as... [LB34]

SENATOR LOUDEN: Were you? [LB34]

SENATOR GLOOR: ...as...yeah. I believe before it was torn down, the room that I was in with my mother was a janitorial closet but (laugh) I don't know what that says about me or accommodations back then. But I have some experience with convents used for providing care to religious. And my only concern about this...and you might be able to help me, and maybe it's a function of definition of religious order is, as an example with the sisters who were responsible for...at the hospital that I ran, the Sisters of St. Francis of Perpetual Adoration in Colorado Springs. They also took in sisters from other orders as well as priests from a couple of different diocese, and so the expansiveness of what

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they were doing, I think eventually brought them under Colorado's laws. We're talking about a facility here that just continues to serve as a convent only providing for care for sisters of that specific order. Is that correct? [LB34]

SENATOR LOUDEN: Yes, just for women from that order of St. Francis, their own particular order. [LB34]

SENATOR GLOOR: Okay, okay. And I clearly see that as a community, a religious community of women of religious that it's their home. And so trying to intervene there, to me, seems inappropriate, and if we have to make statutory changes, I'm fully supportive of that. On the other hand, are there ways we can make sure that some less than established group that considers itself religious comes to the state and opens the door for anybody who has an...you know, some sort of religious persuasion, for want of a better term, and all of a sudden, we end up with a religious home of 400 people that may not fit the nice, clean category we're talking about with your particular situation? Has that been discussed at all, do you know? [LB34]

SENATOR LOUDEN: Well, yeah, you evidently read the letter from the Nebraska Hospital Association, I suppose. [LB34]

SENATOR GLOOR: No, I...we just got it. We just got them, so I haven't. [LB34]

SENATOR LOUDEN: Oh, okay. That was kind of what they were asking about it, and for the short answer, probably not, because I don't care what kind of legislation you adopt, if somebody wants to get around it, they usually will find some way to get around it. This is where, you know, you hope that common sense prevails, and if something like that does happen, you do have inspectors or someone that files a complaint, so that there is an inspection of that particular issue. When we were working on this bill all summer, I said, I got this...this is some of the work that we'd done through this, and we had the bill drafters and the research analysts down here look all over the United States and try to come up with a description of a convent. And the truth of the matter, when the dust all settled, what's in there now is what it was...everybody agreed to, even Health and Human Services is how we would describe it; and because one of the descriptions we had took out that they wouldn't do any kind of hospital work and medical, and I mean, they listed that whole thing. And Health and Human Services wasn't comfortable with that language in here, so this is how we ended up with this particular description in there. But all we can say is we would hope that somebody wouldn't do something like that, but I don't know if there's any way that you could probably ever, you know, if somebody wanted to do that. Because now, and I know of instances where people have bought a church and declared themselves some type of church person...there's one right over here on the north side of Lincoln that I drive by once in a while. And the guy...he's the church; he's the preacher, and he lives there, and I don't think he pays any taxes, or I don't know what he does. But I mean, and you know, that's the way life is



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until somebody files a complaint, why that's what happens. [LB34]

SENATOR GLOOR: Well, I think it's a good bill, and what you've told me makes me a lot more comfortable, and that is, it's been vetted by a lot of the same individuals that we would expect would share a common concern, and so, we go with what we've, you know, what you've spent your time researching and the input you've had and see what happens. Thank you. [LB34]

SENATOR CAMPBELL: Any other questions for Senator Louden? Senator Louden, will you be staying for closing? [LB34]

SENATOR LOUDEN: Yes. [LB34]

SENATOR CAMPBELL: Okay, thank you. We will start with proponents for the bill, so if you are in favor of this bill, please come forward to testify. Good afternoon. [LB34]

TERRY CURTISS: Good afternoon. My name is Terry Curtiss. I'm here on behalf of the Sisters of St. Francis. [LB34]

SENATOR CAMPBELL: Would you spell the last name, sir? [LB34]

TERRY CURTISS: My last name is spelled C-u-r-t-i-s-s. [LB34]

SENATOR CAMPBELL: Thank you. [LB34]

TERRY CURTISS: I bring with me Sister Sarah Manchester. She's a member of the order. Sister will testify for you shortly after I do, and to the extent you have questions about the order, I've asked her to be able to, you know, describe it, explain it. But essentially, I represent an order of nuns, and I can tell you that until this issue surfaced in May, representing nuns hadn't been real exciting (laughter). To say the action by the Health and Human Services people, you know, concern for, admittedly appropriate reasons, public safety caused great consternation would be an understatement, you know. I would ask you to keep in mind three things when it comes to this bill. It's to clarify that a convent for an order of a religious nature, such as the Sisters of St. Francis, is not a matter that fits in the same category as the broad public good and seeing to appropriate standardization of cares and those things when you are doing it for the public on a fee basis. The sisters are a family. They live in a convent. A convent, by definition, at least Webster's, says it's a home for people that share a common religious order. They do that. So as a policy matter, the state has not chosen to regulate care in the home. You don't tell me how to take care of my mother in her home or otherwise. This is a similar scenario. That's why we asked Senator Louden to get involved and to sponsor legislation to clarify that it's not necessary to regulate this situation. I've pointed out to Health and Human Services people that their approach to

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the regulating what the sisters do impinges on the exercise of their religious rights. They live in a communal setting...communal prayer, communal meetings, communal meals, and to subject them to the regulations that apply to some of the nursing homes affects that adversely. Now, we avoid the problem by recognizing they're an exception; and for that reason, we ask that you favorably consider this and report it out of committee as soon as possible. This matter has been hanging since May of last year. They don't like being in questionable compliance. Believe me, the last thing the nuns want to do is litigate, but we're talking about their home. If it comes to that, that would be what would happen. Finally, you know, there's a monetary aspect to this approach. You know, the sisters take care of their own. They're not drawing on Medicaid. They're not receiving public assistance for their care. There are actually 15 people living in Marian Residence, and they're all members of the order, and they care for one another. The city of Alliance could not handle an additional 15 people in their existing nursing home structure to begin with, and the state would have to pay for it. I can tell you, based on my...sisters have no assets, believe me (laugh). Under the circumstances, they would be cared for under the Medicaid program, and, you know, that's half a million dollars you're talking about, based on prices in Alliance, Nebraska, at least. And so, they're not asking for charity. They're not asking you to do anything other than recognize they're a family; let them take care of themselves as a family. I'll let Sister Sarah explain a little more of what the nature of their order is, and then if you have questions, I'll be happy to try and answer them or Senator Louden, I'm sure will be able to. [LB34]

SENATOR CAMPBELL: Anyone want to ask Mr. Curtiss questions right now? Okay, Senator Gloor. [LB34]

SENATOR GLOOR: I just want to ask a what-if scenario. If a group of Buddhist monks came together in a community, would you see this bill authorizing them to also live and provide care to other Buddhist monks under that, you know, (inaudible)...? [LB34]

TERRY CURTISS: I would say so, yes. The better question would be, the scenario that Senator Louden talks about, and that is if you are a less recognized kind of religious affiliation, would it be a problem? And, to me, the response to that is, you know, Health and Human Services has the authority to make regulations. They could address that in that aspect of things if it got to be a problem. But I don't, frankly, foresee it being a major issue. Sisters of St. Francis have been in Alliance since 1911. [LB34]

SENATOR GLOOR: About when I was born (laughter). [LB34]

TERRY CURTISS: Well, St. Joe's was originally their hospital, and it was built by their efforts, and they converted it to a gerontology center, and that's where the sisters were prior to the conversion of Marian Residence which had started out as being a facility to hold student nurses, that they were teaching at the time, and we're talking 50 years ago. And so, truly, to bring their facility into compliance with regular nursing home regulation

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would be impossible. They'd have to start over and build over. They don't have the finances to do that. And I'll let Sister Sarah address you. Thank you. [LB34]

SENATOR CAMPBELL: Thank you. Thank you, Mr. Curtiss. Sister, welcome. [LB34]

SISTER SARAH MANCHESTER: Thank you. I'm Sister Sarah Manchester and thank you for hearing our testimony this afternoon. [LB34]

SENATOR CAMPBELL: Sister, would you spell the last name? [LB34]

SISTER SARAH MANCHESTER: I will. It's Sarah with an h, and it's M-a-n-c-h-e-s-t-e-r. And I'm one of those boring people that doesn't know much about litigation, so thank you for your (laugh)...your patience. I think most of what I can tell you, unless you have questions, has already been said, but Marian Residence is only for our sisters. We have no intention of having anyone else there. It's really the retirement place for our sisters when they leave active ministry. It is for our entire province. We're centered in Denver; we're an international community. We're located in eight countries. We've been around for over 200 years. It's where, yes, our religious community started sometime and someplace, like you say, maybe there are others starting sometime and someplace. But it's where we have been around a long time. When we look at what would happen if we were told we had to meet licensure, what would happen is that we would not have any place for these sisters to be, because this is the place we have. It would cost us millions of dollars to take it down, because there's no way we could make the individual rooms. Every sister has her own room, but there's no way that the room they say they need in their space, their storage room, etcetera, etcetera, as well as additional personnel could be met. A few years ago, we looked at the possibility of adding additional housing on that space, thinking we might have extra sisters there, and found that the codes for distance from the street and so forth, wouldn't even allow us to do that. So we're quite aware that, you know, should this come to be, there would be no way that this would be possible. As was said, we are a family. No, we're not related by blood, but we are related by vows; we are related by certain way of living, and all of that would disappear if these folks had to move to a public facility. Included in that, we took a vow of poverty which says, I don't need so many feet by so many feet in order to get by. We also believe in community living, so we have more than one convent, but they're groups of sisters who live together. As part of that, they have individual space where they can call their own to pray and reflect. They also have a community chapel with the blessed sacrament present where they can pray, and can invite people to pray with them there. They pray together at least twice a day. They eat meals together. They look after each other. The sister with Alzheimer's reads to the sister who has macular degeneration and can't do that anymore. The one who is in a wheelchair and can't walk to get things very easily...somebody who can walk well gets what they need for them. So it is that kind of a family atmosphere. They do have access to mass and the sacraments on regular basis which, in our nursing homes, happens only once a month. As it is where they live

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now, it's almost every day. So those kinds of things, and then our life as sisters centers on community gatherings as well, so we have our jubilees where we honor those who have been in the order for a certain number of years. Our wakes and our funerals are at this particular place, because this is where our sisters are. And the ones who have been living with them can enter into these celebrations, because it's there. They don't have to go someplace. I think we have tried to be as safe as we can for our sisters. We do have exit lights; we do have fire and tornado procedures; we do have an elevator; we have qualified help. All of our med aides or our CNAs are also med aides. You know, we've really tried to do the best we can in terms of offering the sisters what they need as they become more dependent. They, too, become a part of our family. What we find is we've even had some of the people who work for us, who have gone in to say the rosary with a sister when she's dying, and they're not even Catholic. So, I mean, it's that thing where they're part of the family, and I think that's the kind of treatment that our sisters get there as well as very qualified care. [LB34]

SENATOR CAMPBELL: Thank you, Sister. [LB34]

SISTER SARAH MANCHESTER: Do you have any questions? [LB34]

SENATOR CAMPBELL: Any questions for Sister Manchester? Senator Bloomfield. [LB34]

SENATOR BLOOMFIELD: Thank you, Madam Chair. Sister, are there additional sisters coming in from other diocese for...for (inaudible) Catholic...? [LB34]

SISTER SARAH MANCHESTER: Well, our order exists in several diocese. We're in Denver; we're in Nebraska. I was working in South Dakota until, you know, about a year ago, so we're in many different diocese. We have some in the Omaha diocese. We have, you know, sisters ministering different places, but the only sisters that are at our facility are sisters who are sisters of St. Francis of Penance and Christian Charity, who are part of our particular order. [LB34]

SENATOR BLOOMFIELD: But there will be other people coming in who are not currently there? [LB34]

SISTER SARAH MANCHESTER: We have had...when we started this, we had 15 sisters there, and then we had 16 sisters there, and now we have 14 sisters there. Two of them have died in the last two months, but...so it's a constant thing of as the sisters need care, they move there. But they do come from all of the different places where our order serves. Is that the question? [LB34]

SENATOR BLOOMFIELD: That was the first question. The second would be, is there outside medical care that can come in--doctors or (inaudible)? [LB34]

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SISTER SARAH MANCHESTER: We have a doctor or a PA--it varies from time to time. They're in the same office, who come in to the facility once a month to check on all the sisters. Any time they have a medical need, they go to the doctors, to the dentist, to the eye doctors. They go to specialists in Scottsbluff, in Rapid City, wherever the specialist is where the kind of help they need. If we have situations arise like we had a sister with Alzheimer's who started wandering. Well, she went to one of the nursing homes there in Alliance that had a locked facility until she got to the place where that was not a problem any more, and then she came home. Where we've had a sister who had medical problems, she went to the hospital. Following that, she needed physical therapy. We can't offer that where we are, so she went to a nursing home for the physical therapy until she was ready to come home. [LB34]

SENATOR BLOOMFIELD: Thank you. [LB34]

SENATOR CAMPBELL: Any other questions? Thank you, Sister, very much. [LB34]

SISTER SARAH MANCHESTER: Thank you very much. [LB34]

SENATOR CAMPBELL: And I would tell the both of you from Alliance, we don't make any decisions on a bill the same day we hear them, so we're just going to hear the remaining testimony. If you would like to start at home, I'd encourage you to do that. [LB34]

SISTER SARAH MANCHESTER: Well, thank you for all the good you do and thank you for hearing us. [LB34]

SENATOR CAMPBELL: Thank you for coming a long distance on a treacherous day. [LB34]

SENATOR CAMPBELL: (Exhibits 14, 15, and 16 see Louden) Anyone else who wishes to testify in favor of LB34? Anyone who wishes to testify in opposition? Anyone else? Anyone who wishes to testify in a neutral position? Okay. We do need to note for the record that we received a letter in a neutral capacity from Nebraska Health Care Association, and Senator Gloor has raised some of the concerns that were listed in the letter, and then we received a letter in opposition from the Nebraska Hospital Association, and a letter from Dr. Schaefer which I would say would be in a neutral position. We will most likely do what we were going to do with the other bill and bring some of the folks together with Senator Louden and see if we can...maybe it's just a question of talking about the definition. Senator Louden, you would like to close today. [LB34]

SENATOR LOUDEN: Yes, thank you, Senator Campbell. Mostly, I just wanted to

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reiterate what they have mentioned that this is actually a home, and they do quite well looking after their own people. And as I said before, this...isn't anything done...the state doesn't pay for anything; they look after themselves, and I think it was probably something that was overlooked in 2000, because at that time they were exempt, considered part of the fraternal organizations, and when that law was changed, they wanted to know why. And I said, well, probably they didn't have a lobbyist back then to look out after them (laugh). And the other question is, is how come it took nine years for them to decide that they needed to be licensed, and they operated just like this for nine years? And, of course, as I said, they would like to get something resolved, because this is something that is part of a problem for ladies like that to be working, and as we've been discussing this, I can say that Dr. Schaefer and the Health and Human Services hasn't pestered them since then after we got some conversation going last summer. So I have to thank the agency for putting it on the sideline till we get some of this resolved. And with that, I'd ask, you know, if you can move this out on the floor while we have time to work on this light lifting in the next few days and thereabouts, I would certainly appreciate it. [LB34]

SENATOR CAMPBELL: Thank you, Senator Loudon, for closing. All right, we will now move to LB111, Senator Gloor's bill on changing membership on mental health boards. Not a large crowd here. [LB34]

SENATOR GLOOR: (Exhibit 17) Going from interpreters to trailer parks to religious orders, this is probably an appropriate ho-hum way to end our day. Thank you, Madam Chairman, fellow committee members. My name is Mike Gloor, G-I-o-o-r. I'm here introducing LB111. This bill makes a small change in the membership of county mental health boards. By way of explanation, these boards are appointed by the presiding judge in each district court. These boards review facts pertaining to the mental status of a person who has been taken into emergency protective custody due to an affidavit by a mental health professional or through law enforcement. After reviewing the facts and holding a hearing, the board determines whether the person should be ordered into treatment immediately or released for voluntary outpatient treatment. Currently, the existing statute requires each board, each county mental health board, have an attorney and any two of the following, but not more than one from each category--a physician and/or a psychologist, and/or a psychiatric social worker, and/or a psychiatric nurse, and/or a clinical social worker, and/or a layperson with a demonstrated interest in mental health. LB111 takes out psychiatric social worker and adds licensed, independent mental health practitioner. These changes are mostly due to changes in licensure language. For instance, the phrase, psychiatric social worker, is antiquated; therefore we're removing it. The licensure category of licensed, independent mental health practitioner is new as of four years ago. It includes the growing number of marriage and family therapists also. LB111 adds this new licensure category to those eligible for this board and removes, as I've said, psychiatric social worker. Yes. There are also changes in the social work licensure language. Due to that change, I have an

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amendment to offer. This amendment clarifies the social worker piece that we just discussed, just as a licensed mental health practitioner has two levels with a licensed independent mental health practitioner being an advanced level. The licensure of social workers has two levels as well--the licensed clinical social worker and the licensed independent clinical social worker. In order to clarify that either level is eligible for membership on the mental health board, I offer AM21. Because the number of mental health professionals is low and scarce in most of Nebraska, we need to be able to use every possible resource within those counties. It's the reason for introducing LB111. We need to broaden that pool of mental health professionals. Obviously, many of our counties, especially the more rural counties, don't have, in some cases, a psychologist or psychiatric nurse, or even a physician, in some cases. So broadening this definition will make it easier to maintain the integrity of these boards. There is no fiscal impact for LB111. And I'd be glad to answer questions, although I think there's some testifiers after me...not many, but testifiers after me who I think would speak to some of the specifics. [LB111]

SENATOR CAMPBELL: Okay. Questions from the senators? Thank you, Senator Gloor. [LB111]

SENATOR GLOOR: Thank you. [LB111]

SENATOR CAMPBELL: We will now take testimony from the proponents of LB111. Good afternoon. [LB111]

ANNE BUETTNER: Good afternoon. [LB111]

SENATOR CAMPBELL: Thank you for your patience. [LB111]

ANNE BUETTNER: (Exhibit 18) Senator Campbell, Senator Wallman, Senator Cook, Senator Bloomfield, good afternoon. I am Anne Buettner... [LB111]

SENATOR CAMPBELL: Oh, we have to give your name first. [LB111]

ANNE BUETTNER: B-u-e-t-t-n-e-r. First name is Anne. I'm the legislative chair of Nebraska Association for Marriage and Family Therapy. We thank Senator Gloor for introducing the bill, and I'm supposed to flesh it out, to support the bill. So, of course, to address LB111, why this simple bill should pass. The inception of the law and the composition of mental health commitment boards happened decades ago, so now in Nebraska has emerged the discipline of licensed, independent mental health practitioners, of whom the practitioners can diagnose and treat major mental disorders which pertain to the mentally ill and dangerous. We intend to update the statutes. The disciplines currently eligible, as Senator Gloor has mentioned, are psychologists, psychiatrists, and psychiatric nurses. Clinical social workers are already in the statutes,

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and they are part of licensed, independent mental health practitioners. So this adds to the argument that the overarching group should be included. A word about licensed, independent mental health practitioners...what kind of animal is that? There are about 796 in Nebraska, these practitioners. And they are selected out of 2,526 licensed mental health practitioners is the word, independent, the "i" that makes the difference. These licensed, independent mental health practitioners, we have vigorous and high standards to reach in order to become, you know, independent mental health practitioners. If we come from accredited programs of our discipline, be it master level or doctoral level, we have to have 3,000 hours of supervised clinical experience, half of which have to be major mental disorders. If we come from nonaccredited educational programs, then we need to have 7,000 hours of supervised clinical experience. That's the equivalent of ten years...ten years, of which half of them have to be major mental disorders. Medicaid...the Medicaid division, long-term care recognize licensed, independent mental health practitioners and major supervisors along with psychologists and psychiatrists. So to broaden the pool of eligible mental health professionals for the mental health commitment board's composition, it is logical to include the licensed, independent mental health practitioners in order to serve the consumers. Now, look at the need in Nebraska. Nebraska has 93 counties, 90 of which are considered rural. So the law states that the judicial districts need to have commitment boards, but one-fourth of the counties in Nebraska have no mental health professionals regardless of which discipline. And one-fourth only have one mental health professional. So, for example, speaking just from central Nebraska, Grand Island, where I come from, Merrick County...now that's Central City...their mental health professional of the commitment board, they have to acquire that person from Columbus. Okay? Howard County, for example, has no commitment boards, because they do not have eligible mental health professionals. So Adams County, which is Hastings, has to contract out...their commitment board has to contract out to serve 13 other counties including, for example, Howard County, Sherman, Greeley, Loup, Garfield County, Phelps, Nance, Franklin, Harlan, Webster, and Wheeler. Okay, and Nuckolls, too, don't forget. Okay. I contacted a number of the commitment board chairs and, you know, gather data from them. Michelle Oldham, who is the Adams County Commitment Board Chair...she is an attorney, and she indicated that when the deputy sheriffs have to transport the patients from their counties of residence or from the hospitals, yeah, from the hospital to Hastings, that costs the counties of their residence. Okay? And every time when they have to travel 150 miles or 200 miles, it costs the counties. Even where I come from, Grand Island, Hall County, we have our own commitment board. But Jim Truell, the attorney, Jim Truell, the commitment board chair, and the alternate chair, attorney Rachel Daugherty, told me that when the mental health professional is not available, and the backups are limited, so the hearings are delayed. In an emergency protective custody case, the patient has to wait in the hospital until the hearing can be arranged. Now, you know what the costs of hospital. You know, it can range from \$400 to \$800 a day. So to sum, the change proposed by LB111 increases the number of qualified practitioners by almost 800, and so the public is better served because of the access to



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the professionals. So we hope this committee would advance the bill. [LB111]

SENATOR CAMPBELL: Questions for Ms. Buettner? Excellent testimony, thank you. [LB111]

ANNE BUETTNER: Oh, thank you. [LB111]

SENATOR CAMPBELL: Those wishing to speak as a proponent for the bill. [LB111]

JOE KOHOUT: Chairman Campbell, members of the Health and Human Services Committee, my name is Joe Kohout, K-o-h-o-u-t. I'm appearing before you today as a registered lobbyist for the Nebraska Association of Regional Administrators, the six behavioral health administrators from across the state of Nebraska. Yesterday the regional administrators met via conference call and directed me to support this bill, primarily for the reasons you've just heard. The diversification of who can serve on these boards is a good thing, particularly in the rural parts of the state. With that, the hour is late, and I will end my testimony. [LB111]

SENATOR CAMPBELL: Any questions for Mr. Kohout? [LB111]

JOE KOHOUT: Thank you. [LB111]

SENATOR CAMPBELL: Thank you very much. Proponent for the bill. Mr. Werner, welcome. [LB111]

TERRY WERNER: Yes. Thank you. Chairperson Campbell and the Health and Human Services Committee, my name is Terry Werner, W-e-r-n-e-r. I am the registered lobbyist for the National Association of Social Workers, Nebraska Chapter. I'd like to thank Senator Gloor for bringing this bill to your attention, but I need to take this moment to also thank Anne Buettner for pointing out the desperate need for a master's school of social work in the western part of Nebraska. Clearly, this shortage is very stark, and needs, at some point in time, to be seriously addressed. If any of the organizations--the behavioral health organizations--would feel threatened by this bill, it would be the National Association of Social Workers. We currently are included in the current legislation and are proud to be there. However, this should be about what is best for Nebraska and not a turf war. And, therefore, our organization supports this bill, because we think it increases the pool of providers and quality providers, I should add, considering its independent mental health practitioners. And so, we, therefore, support it, because it is best for Nebraska. I also want to thank Senator Gloor for the amendment. I think the original bill was probably okay, but there was some confusion, and so we ask that he include, specifically, licensed clinical social workers and licensed, independent social workers. So we support the bill with the amendment. Thank you very much. [LB111]

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SENATOR CAMPBELL: Thank you. Questions for Mr. Werner? Thank you very much. Those wishing to speak in opposition to LB111? Those wishing to provide a neutral testimony? Senator Gloor, would you like to close? Senator Gloor waives closing wisely (laughter), and with that, we will close the public hearing on LB111, and we will adjourn today. (See also Exhibit 19) [LB111]