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Health and Human Services Committee
January 18, 2012

[LB723 LB774 LB794 LB832]

The Committee on Health and Human Services met at 1:30 p.m. on Wednesday, January 18, 2012, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB723, LB774, LB794, and LB832. Senators present: Kathy Campbell, Chairperson; Mike Gloor, Vice Chairperson; Dave Bloomfield; Tanya Cook; Gwen Howard; Bob Krist; and R. Paul Lambert. Senators absent: None.

SENATOR CAMPBELL: Well, I'm going to go ahead and start...and there is Senator Gloor. We can get all the housekeeping matters taken care of. I'm Kathy Campbell. I represent District 25, which is Lincoln and a part of Lancaster County, and we want to welcome you to the Health and Human Services Committee. Please turn off your cell phone or put it on silent. There is nothing more disturbing than if you are trying to testify, and someone's cell phone is ringing. Handouts are not required in this committee; however, if you do have handouts, we would like 12 copies, and if you need some assistance with that, you can sure talk to our two pages over there. Each witness who appears before the committee must sign in using the green sheets, and all you have to do is fill those out, and when you come forward, you hand it to the clerk, Diane Johnson, over here. She would ask that you print them legibly so she can read them. If you will not be testifying today in front of the microphone, but you would like to make your position known to the committee, you can make a comment on the sign-in sheets and put your name over there. Each testifier has five minutes, and we do this to be equitable to everybody, so when the yellow light or amber comes on, you know that you have a minute left. And when the red light comes on, you will probably look up, and I'll be looking at you like time, time. I think we have a small audience today, so we may be a little generous, more generous with that. And when you come forward and sit down, would you please state your name for the record and spell it so that we're very clear and accurate as we go forward. Our custom in the committee is to have self-introductions, so as what I always do, I start with my far right, and this year, I have a new senator who will start off, and so, would you introduce yourself?

SENATOR LAMBERT: I'm Paul Lambert, District 2. [LB723]

SENATOR BLOOMFIELD: Dave Bloomfield, District 17, Wayne, Thurston, and Dakota counties. [LB723]

SENATOR COOK: I'm Tanya Cook from District 13 which is in the city of Omaha and the county of Douglas. [LB723]

SENATOR GLOOR: Mike Gloor, District 35, which is Grand Island. [LB723]

MICHELLE CHAFFEE: I'm Michelle Chaffee. I'm the legal counsel for the committee. [LB723]

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SENATOR HOWARD: Gwen Howard, District 9 in Omaha. [LB723]

SENATOR KRIST: Bob Krist, District 10 in Omaha and Bennington. [LB723]

SENATOR CAMPBELL: And I'd also like to introduce our two pages. Phoebe, Phoebe is from Lexington, and Michael is from Columbus, and we're really glad to have them with us. So we will start off on the agenda today, and our first bill is LB723. Senator Bloomfield, would you like to open on your bill? The bill is to change provisions relating to small systems under the Nebraska Safe Drinking Water Act. And I would like to say for all my colleagues, I think it might be easier this year if you are opening on a bill, you should feel free to open on that bill but then resume your seat with the committee. Senator Bloomfield, great to start us out for this year. [LB723]

SENATOR BLOOMFIELD: Thank you, Madam Chair, other members of the Health and Human Services. This may be the shortest introduction you have this year (Laughter). My name is Dave Bloomfield, B-l-o-o-m-f-i-e-l-d. I represent the 17th District, and I'm here to introduce LB723. The Department of Health and Human Services brought this bill to me for introduction. LB723 makes changes in the Nebraska Drinking Water Act to bring Nebraska law in compliance with federal law. Currently, state law refers to small systems, which are water systems serving fewer than 10,000 persons. LB723 changes the name of "small systems" to "public water systems serving fewer than 10,000 persons." We have made no change other than in the terminology. Dr. Schaefer from the Department of Health and Human Services will follow me to provide additional testimony, and with that, I conclude. [LB723]

SENATOR CAMPBELL: Excellent. Any immediate questions from the committee for Senator Bloomfield? Thank you, Senator Bloomfield. I'm assuming from your testimony that Dr. Schaefer is going to start us off today, and since this is from the department, I will also make the assumption that you are a proponent, Dr. Schaefer. (Laughter). [LB723]

JOANN SCHAEFER: (Exhibit 1) Yes. Yes, that is correct. [LB723]

SENATOR CAMPBELL: Okay. [LB723]

JOANN SCHAEFER: Good afternoon, Senator Campbell and members of the Health and Human Services Committee. My name is Dr. Joann Schaefer, J-o-a-n-n, S-c-h-a-e-f-e-r, M.D., and I am the Chief Medical Officer and the director of the Division of Public Health at the Department of Health and Human Services. I am here today to testify in favor of LB723, which would allow the department to delete the definition of "small water systems" from the Nebraska Safe Drinking Water Act. I would like to thank Senator Bloomfield for introducing this on behalf of the department. The United States

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Environmental Protection Agency uses the term "small water system" in different ways for different rules. Removing the definition from the statute will let the department adopt regulations promulgated by EPA without having to be concerned about the conflict between the statutory definition and the regulatory definition. In the current version of LB723, we ask that the definition of "small water system" be deleted, and that in the section of administrative penalties language be added to state "public water system serving fewer than 10,000 persons" and that the term "small system" be deleted. That's it, pretty simple. If you have any questions, I would be happy to answer them. [LB723]

SENATOR CAMPBELL: Are there any questions for Dr. Schaefer? Senator Krist. [LB723]

SENATOR KRIST: Hi, Doctor. Thanks for coming. Does it change the way the small water systems and some of the smaller SIDS or countryside are treating their water at all? [LB723]

JOANN SCHAEFER: It does not. [LB723]

SENATOR KRIST: Okay. [LB723]

JOANN SCHAEFER: It has no practical implications other than the definition change. Actually, the definition even stays the same. It just is because EPA uses that term differently than we use it, and they issue it every time they promulgate a different rule, and as you know, they have multiple different rules. We can be in conflict every time, and this would clear up that conflict completely for us. [LB723]

SENATOR KRIST: Thank you very much. [LB723]

JOANN SCHAEFER: You're welcome. [LB723]

SENATOR CAMPBELL: Senator Gloor. [LB723]

SENATOR GLOOR: Thank you, Senator Campbell. Thanks for being here, Dr. Schaefer. [LB723]

JOANN SCHAEFER: You're welcome. [LB723]

SENATOR GLOOR: Quick question. Do we know how the term "small water system" found its way into the original statute? Was it connected to the EPA at one point in time and the EPA changed its definition, or... [LB723]

JOANN SCHAEFER: You know, I do not know that, but I'm happy to find that out and let you know. [LB723]

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SENATOR GLOOR: I just wondered...I mean, it may have been just a general descriptor that somebody plugged in once upon a time, but I was just curious. Thank you. [LB723]

JOANN SCHAEFER: I will get back to you, Senator Gloor, on that. [LB723]

SENATOR CAMPBELL: Any other questions? Thank you, Dr. Schaefer [LB723]

JOANN SCHAEFER: Great. Thank you very much. [LB723]

SENATOR CAMPBELL: As always, good to see you. Any other proponents in the hearing room dealing with LB723? Are there any opponents to the bill? Anyone who wishes to testify in a neutral position? Seeing no one, Senator Bloomfield, do you have closing remarks? Senator Bloomfield wisely waives (laughter) closing remarks. Thank you, Dr. Schaefer, for coming and Senator Bloomfield. We will move on to the next bill on our schedule which is LB774, and Senator Howard is already in place. This bill is to change and add reporting requirements relating to child welfare. Thank you for opening today, Senator Howard. [LB723]

SENATOR HOWARD: Thank you. I'll try to be as brief as my fellow senator. (Laugh). Thank you, Senator Campbell and members of the committee. For the record, I am Senator Gwen Howard, H-o-w-a-r-d, representing District 9. I am introducing LB774 at the request of the committee, and I've...we've all worked on crafting this legislation, so my remarks will be brief. In LB774, this bill would require the committee to continue our efforts after LR37 by reporting to the entire Legislature, the Governor, and the Supreme Court on the Department of Health and Human Services' efforts to follow up on the recommendations of LR37. To ensure that this committee can issue our annual report for the next three years, the bill would require that the department send us the required reports by September 15 of each year. LB774 is about reporting accountability. We need to have the reports available by a reasonable date so that we can examine the information and present it to our colleagues and the other branches of government. LB774 is simply a continuation of LR37. We conducted the interim study because we needed a factual picture of what is happening with child welfare in order to guarantee the best possible services for the children of Nebraska. I'm introducing this bill because it is also a continuation of much of the work that I have done during my time in the Legislature. I've always believed that it is impossible to create policy in an information vacuum. If we lack accurate and timely information, it is impossible to know whether an agency is operating effectively and efficiently. One of my very first bills, LB264, required the department to report on caseload sizes. I introduced that bill and still follow up on the report, because we need to know what case management actually looks like in practice. We can only hold agencies accountable if we are able to compare what is happening to what is ideal. LB774 will allow us to take all of the HHS pieces, put them

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together, and create a clear picture for our colleagues and our constituents. It will ensure that we can work with the executive branch, the courts, stakeholders, and the public to shape the future of Health and Human Services in our state. Thank you for your time and your attention. And I might add, there is no cost. [LB774]

SENATOR CAMPBELL: Thank you. Questions for Senator Howard on LB774? [LB774]

SENATOR HOWARD: And you should know it as well as I do. (Laughter). [LB774]

SENATOR CAMPBELL: Thank you, Senator Howard, for your great opening and giving the intent of the bill. [LB774]

SENATOR HOWARD: Thank you, Senator Campbell. [LB774]

SENATOR CAMPBELL: Are there other proponents in the room who would like to provide testimony on LB774? Anyone who comes today opposing LB774? Would you like to...did you raise your hand to oppose it? No, no. (Laughter). [LB774]

SENATOR HOWARD: No. She's my LA. (Laugh). She isn't opposition. (Laughter). I hope not. [LB774]

SENATOR CAMPBELL: I know, I know. I'm thinking, this could be interesting. (Laughter). I know, surprise, well. And will you be working for Senator Howard again? (Laughter). Okay, is there anyone in the hearing room who wishes to testify in a neutral position? Seeing no one, Senator Howard, would you like to make closing remarks? [LB774]

SENATOR HOWARD: I will waive that. [LB774]

SENATOR CAMPBELL: Thank you very much, and we will close the hearing on LB774. (See also Exhibits 2 and 3) Our next bill is LB794, which is Senator Lambert, and the bill is to redefine "by-product material" under the Radiation Control Act. Good afternoon. [LB774]

SENATOR LAMBERT: Good afternoon. [LB794]

SENATOR CAMPBELL: We're starting sort of the lineup from within the committee, so this is great... [LB794]

SENATOR LAMBERT: That's good. (Laugh). [LB794]

SENATOR CAMPBELL: ...and we wanted you to have your first time of introducing a bill before us, so... [LB794]

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SENATOR LAMBERT: Among friends, right? [LB794]

SENATOR CAMPBELL: ...Yeah, absolutely. [LB794]

SENATOR LAMBERT: I hope so. (Laugh). [LB794]

SENATOR CAMPBELL: Absolutely. Absolutely. [LB794]

SENATOR LAMBERT: Thank you. Good afternoon, Chairperson Campbell, committee members. My name is Paul Lambert, L-a-m-b-e-r-t, and I represent the 2nd Legislative District. I'm here to introduce LB794 on behalf of the Department of Health and Human Services. The Nuclear Regulatory Commission recently added authority over accelerator-produced radioactive material and discrete radium sources to its definition of by-product material. These materials were previously only regulated by the states, including Nebraska. Because Nebraska is a Nuclear Regulatory Commission agreement state, we are now required to define terms so that they match those of the commission. Since the commission changed its definition, we must do so as well. LB794 would allow the Department of Health and Human Services to add the new by-product definitions to our state statutes. LB794 would not have any effect on who or what is regulated by our state laws. Nebraska would continue to regulate by-product material in the same way that it always has done. LB794 would not impact current state licensees, nor would additional licensees be added. I will be happy to answer any questions if I can. However, a representative from the Department of Health and Human Services will follow me to provide more details about LB794. Thank you. [LB794]

SENATOR CAMPBELL: Any questions for Senator Lambert? Thank you very much. [LB794]

SENATOR LAMBERT: Thank you. [LB794]

SENATOR CAMPBELL: Dr. Schaefer, I assume that you are the representative from the department. [LB794]

JOANN SCHAEFER: (Exhibit 4) Yes. Good afternoon, again. [LB794]

SENATOR CAMPBELL: Good afternoon. [LB794]

JOANN SCHAEFER: My name is Joann Schaefer, M.D. I am the Chief Medical Officer and the director of the Division of Public Health for the Department of Health and Human Services. I am here today to testify in favor of LB794. The bill modifies the definition of by-product material in the Radiation Control Act, and I would like to thank Senator Lambert for introducing the bill on behalf of the department. The Nuclear

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Regulatory Commission, the NRC, recently added authority over accelerator-produced radioactive material and discrete radium sources to their definition of by-product material. Accelerator-produced and radium sources of radioactive material had previously only been regulated by states, including Nebraska. You're probably wondering what this all is. Some facilities do produce radioactive material, and when they produce it, there is a little by-product that is kicked off, and this is stuff that is relevant for hospitals when they produce radioactive materials that are injected into patients to do these testings, so that is one example, in case you were wondering where the relevance is. Since Nebraska is an NRC-agreement state, we are required to define the terms like the NRC. The NRC changed their definition, so we must modify ours. The change has no practical effect on whom or what we regulate. We continue to regulate by-product material in the same manner as we always have. There will be no impact on our licensees. No additional licensees will be added as a result of this action. If you have any questions about it, I am happy to answer them. [LB794]

SENATOR CAMPBELL: Questions from the senators? Senator Gloor and then Senator Bloomfield. [LB794]

SENATOR GLOOR: Thank you, Senator Campbell. Dr. Schaefer, do we actually have a particle accelerator in this state? [LB794]

JOANN SCHAEFER: Um-hum. [LB794]

SENATOR GLOOR: We do? [LB794]

JOANN SCHAEFER: We do produce. [LB794]

SENATOR GLOOR: I didn't know that. And is it, and the production, is that strictly for medical purposes as far as you know? [LB794]

JOANN SCHAEFER: Yes. [LB794]

SENATOR GLOOR: Okay. Where is that located? Is it with UNMC? [LB794]

JOANN SCHAEFER: That is, I believe, secured information. (Laugh). [LB794]

SENATOR GLOOR: Oh, but we're the Legislature. (Laughter) [LB794]

JOANN SCHAEFER: I'd be happy to get back to you on that one, but before I answer...(laugh) [LB794]

SENATOR GLOOR: (Laughter) Interesting. [LB794]

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SENATOR KRIST: You don't have a need to know. [LB794]

JOANN SCHAEFER: ...I just don't want, I'm not positive on that, Senator Gloor, but I'm happy to share that with you if...I just need to check... [LB794]

SENATOR GLOOR: Okay, thank you. [LB794]

JOANN SCHAEFER: ...where all of them are. [LB794]

SENATOR CAMPBELL: We certainly do not want to get Senator Gloor in...(laughter) [LB794]

SENATOR GLOOR: Any more trouble. (Laughter). [LB794]

SENATOR CAMPBELL: ...we don't want to lose him or have him taken hostage. (Laughter) [LB794]

JOANN SCHAEFER: I don't want to get in trouble (laugh), and quite frankly, I don't even know where all of them are, where they are at. I'd have to get back to you regardless of that. [LB794]

SENATOR KRIST: She could tell you, but then she'd have to kill you. (Laughter). [LB794]

SENATOR GLOOR: She has other reasons. (Laughter). [LB794]

JOANN SCHAEFER: But we produce it here for medical reasons. That is very common. [LB794]

SENATOR CAMPBELL: Okay. Senator Bloomfield, you had a question. [LB794]

SENATOR BLOOMFIELD: Thank you, Senator Campbell. Dr. Schaefer, does this in any way affect our, for lack of better term, our mine out at Crawford that produces? [LB794]

JOANN SCHAEFER: Not that I am aware of, no. [LB794]

SENATOR BLOOMFIELD: Thank you. [LB794]

JOANN SCHAEFER: There should be no impact for licensees. It's a definitional issue only. [LB794]

SENATOR BLOOMFIELD: Okay, thank you. [LB794]

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SENATOR CAMPBELL: Any other questions? Thank you, Dr. Schaefer. [LB794]

JOANN SCHAEFER: Sure, you bet. [LB794]

SENATOR CAMPBELL: That was helpful, and we'll make that Senator Gloor follows up. Anyone else in the hearing room who wishes to provide proponent testimony in favor of the bill? [LB794]

SENATOR LAMBERT: Thank you. [LB794]

SENATOR CAMPBELL: Are there those in the hearing room who would like to oppose the bill? Is there anyone who wishes to provide neutral testimony? Okay. With that, Senator Lambert, would you like to close on this bill? Senator Lambert waives closing on LB794, and we are next to... [LB794]

SENATOR HOWARD: It always moves like this, doesn't it? (Laugh). [LB794]

SENATOR CAMPBELL: ...yes, it always does. We are next to LB832, Senator Howard's bill to require a report on the qualifications by proposed appointee as chief executive officer of the Department of Health and Human Services. Senator Howard, would you like to open? [LB794]

SENATOR HOWARD: (Exhibits 5 and 6). Thank you, Senator Campbell and members of the committee. For the record, I am Senator Gwen Howard, H-o-w-a-r-d, and I represent District 9. LB832 seeks to ensure that we have a rigorous appointment process for the chief executive officer of the Department of Health and Human Services. To that end, LB832 asks a potential appointee to give this committee detailed information about his or her qualifications for the position. It requires an appointee have experience absolutely vital to understanding the complex issues that the head of this agency must deal with every day, including a background in either public administration or administering an agency engaged in direct-service delivery. It then asks this committee to provide specifics to our colleagues in the body as a whole, to explain how this person is capable of this job and why they should be receiving the appointment. LB832 modifies the language regarding qualifications for this appointment by requiring direct experience in public administration or not-for-profit service delivery. My intent here is to require the CEO to have actual experience in overseeing direct-service delivery or in service administration. Current statutory language requires knowledge and expertise in the delivery of publicly funded health and human services programs and services and administrative experience in an executive capacity. This sounds good, but it apparently means that one can own a company and serve on a nonprofit board and then be appointed to head our state's largest agency. Running your own business is a great accomplishment, and we should commend those who are willing to volunteer their

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time to serve on nonprofit boards, but I believe administration of this agency requires more. Just to give you an example, a person possessing this biography is not qualified to serve as a child and family services specialist supervisor, and I have handed out the qualifications for that position. CFS specialist supervisors are required to have a bachelor's degree in specific areas of study related to human services and direct experience providing case management. Under current law, a person who is not qualified to be a supervisor is qualified to oversee that supervisor and the entire agency. There is a pervasive culture at this agency, a way it functions and has functioned for decades. There are some good things about this culture and more than a few that are bad. I question how we can expect someone to understand how the culture works if they do not have experience working with or at DHHS. I question how we can expect someone to come in and change this culture or improve this agency if they don't understand it. In truth, the reasons for this bill hardly need to be explained. We have seen them in action during the LR37 process, during our discussions of Medicaid cuts, and in the oversight of the tumultuous happenings at BSDC. We experience them every day by interactions with our constituents who request our assistance in navigating the complex bureaucracy that is Health and Human Services. At its core, LB832 simply asks us to do a little more work to ensure that we have a candidate who can live up to the very high demands of this position. I think this is a valid consideration, especially during this chaotic time of change. Thank you. [LB832]

SENATOR CAMPBELL: Questions for Senator Howard? [LB832]

SENATOR HOWARD: And there is no financial impact. [LB832]

SENATOR CAMPBELL: Senator Howard, I just have one question on the handout. Is the child and family services specialist supervisor, that is not the same as the CFOM, is that correct? [LB832]

SENATOR HOWARD: Oh, not at all. That's a good question. Thank you for asking. The supervisor position is an individual who is responsible for overseeing the work of seven or eight case managers, generally. Oh, thank you, and the qualifications. [LB832]

SENATOR CAMPBELL: I always like it when the exhibits come to your elbow, don't you, that is good. (Laughter). Okay. [LB832]

SENATOR HOWARD: Oftentimes, the supervisor is promoted after working as a case manager, which is probably the ideal method to do it. You've got hands-on experience, realistic expectations, you know what is going on. [LB832]

SENATOR CAMPBELL: Okay. Any questions? Thank you, Senator Howard. [LB832]

SENATOR HOWARD: Thank you. [LB832]

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SENATOR CAMPBELL: Are there those in the hearing room who wish to speak in favor of LB832? Those in the room who would like to speak in opposition to LB832? Mr. Bare. Mr. Bare, I think this is an auspicious occasion. [LB832]

SENATOR COOK: Yes, it is. (Laugh). [LB832]

SENATOR CAMPBELL: I do not think you have appeared before, at least those of us, since we've served here. [LB832]

LARRY BARE: I think you're right. I have, well...Senator Campbell, members of the committee, for the purpose of the record, my name is Larry Bare, B-a-r-e. I am chief of staff to Governor Dave Heineman. I'm here today to testify in opposition to LB832, primarily on the grounds of the constitutional responsibilities given to the Governor and the constitutional responsibilities given to the Legislature as it relates to the heads of executive agencies. And that constitution assumes that the Governor will appoint someone, and that appointment is submitted to the Legislature, and if the Legislature believes that that individual is qualified to do the job, they approve them. If they don't believe they are qualified to do the job, they don't approve them. And I have appeared in front of other committees on the same issue of situations where additional requirements or restrictions or qualifications or steps or processes are tried to be inserted into that appointment authority that the Governor has by virtue of the constitution. It's basically that simple. This really, most likely, wouldn't affect this Governor unless Kerry Winterer were to either be hit by a truck or quit or be fired or whatever. It's really not an issue for us. It's an issue for the office, and it's an issue that Governors and Governor's offices and Governor's chief of staff care a great deal about, so that is why I'm here in opposition. I would be happy to try to answer any questions. [LB832]

SENATOR CAMPBELL: Questions? Senator, Senator Krist. [LB832]

SENATOR KRIST: I was privileged enough to sit with you in another committee when we had this discussion, and to be fair, just to expound on the position, I have the utmost respect for Governor Heineman. I do not think it's a problem with Governor Heineman appointing any official that would not be qualified as part of his cabinet or executive staff. I may not have that comfort level with another Governor, and there have been issues in this state where someone was appointed who potentially, for lack of a better term, was a brother-in-law issue, or was not qualified to sit in that seat. And in the past, you have told me, and I respect your opinion, you've been at this a long time with many Governors, that, you know, they have been elected, and it is their decision, and I can respect that. Unfortunately, in this particular case, because I signed on to this, I just want to let you know that this has nothing to do with Governor Heineman. It has to do with what is perceived to be a lack of qualification or what might be a lack of a qualification at the CEO level in heading an organization that potentially would...might

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have taken more benefit out of someone who was more qualified in a particular area. But I do appreciate you coming down, and I do appreciate the constitutional issues involved. And I'm sure that anyone who has gone to the expense, the trouble, and in the service of reaching Governor Heineman's position would like to have that authority. But in this particular case, I think it's worth the discussion. [LB832]

LARRY BARE: I don't disagree, and I appreciate the comment about it's not this Governor, it's the next Governor, because I've heard that for the last seven Governors that I've served (laughter) in the state of Nebraska. It's never been about the one who is in office at that time. It has always been the next one. And I've loved all my Governors, and I've respected all my Governors, and they deserve the right to have their person serving their role as the head of that agency. We have a very thin layer of gubernatorial appointees in agencies. They're very few that are appointed by the Governor, but the constitution does say the head of the agency should be appointed by the Governor and serve at his or her pleasure. [LB832]

SENATOR KRIST: Thank you. [LB832]

LARRY BARE: Thank you. [LB832]

SENATOR CAMPBELL: Any other questions? Senator Gloor. [LB832]

SENATOR GLOOR: Thank you, Senator Campbell. Mr. Bare, do you get involved in making these decisions? [LB832]

LARRY BARE: I get involved in many of the Governor's appointment decisions. That would include agency directors. That would include senators (laugh). That would include senators. (Laughter). So yes, I am part of the consultation process. In some cases, I am a recruiter of talent to try to bring to the Governor. So yeah, I...not all of them. I don't get my way. I get my input. [LB832]

SENATOR GLOOR: Let me ask you this. Is...when it comes to qualifications, experience, background of people, especially when it's to head up major agencies, is the world your oyster in terms of the experience they bring, or do you yourself, not asking specifics, but do you yourself try and be primarily focused on responsibility? [LB832]

LARRY BARE: If I tried to write a job description for the CEO of HHS, there is not enough paper around. I mean, there are so many different skill sets that are required for that position. You would be surprised where you can find people who are a perfect fit, because they don't seem like they would be a perfect fit when you stumble across them. And having the broadest possible range of choices to consider, I think, is the best choice. Now I appreciate that there are, scattered throughout the statutes, there are

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positions that have certain requirements attached. There are other positions that have no requirements attached. I am here to fight for my own little, let's don't make it any worse than it is. We're not out to repeal all of the existing requirements that are there, but we're trying not to have any other ones added. The requirement in your bill to have that person talk to you about their qualifications, you don't need a statute for that. You can do that. Pick up a phone, call them. I mean, I don't like to clutter the statutes with additional restrictions on what I consider to be probably the most important job that a Governor has, which is to pick the people who are going to implement his policies. [LB832]

SENATOR GLOOR: Thank you. [LB832]

LARRY BARE: Um-hum. [LB832]

SENATOR CAMPBELL: Any other questions? Mr. Bare, do all appointments appear before a committee? [LB832]

LARRY BARE: No. When you say appointments, do you... [LB832]

SENATOR CAMPBELL: Director. [LB832]

LARRY BARE: ...agency directors? [LB832]

SENATOR CAMPBELL: Yes. [LB832]

LARRY BARE: Yes. In fact, by virtue of that dirty old thing of consistency, there are agency directors in statute that the statutes do not require to go to a committee. And we send them to a committee, because the constitution requires it, even though your statutes don't. The head of the military department would be an example. Statutes do not require his confirmation, and we have always submitted that position for confirmation, so we follow the constitution. [LB832]

SENATOR CAMPBELL: And really, I'm trying to clarify for the record, and those people who may be watching or listening, exactly how that process works. So the appointee appears before, let's say, would be before the Health and Human Services Committee, and then, does the committee make a recommendation to the Legislature as a whole, or is it just an appearance before us? [LB832]

LARRY BARE: No. You are, your rules require...in fact, those rules were amended a couple of years ago to further clarify the process. You have to make a recommendation either for confirmation or for not for confirmation, and then it gets a little convoluted on how many votes you need to do which one depending upon what you have recommended. But yes, the process is we submit those names to the Clerk's office. The

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first day of the session, you get to endure all of the appointments that have occurred during the interim being read into the record. Those appointments are referred to the Reference Committee which then refers them out to the standing committees. The standing committees then notify those appointees when their hearing will be. They come in, in almost all cases, they come in in-person. On rare occasion, they will do it by phone. The committee has their hearing. You then take a vote as to whether or not to recommend appointment or confirmation or non-confirmation, and then the full body votes. [LB832]

SENATOR CAMPBELL: Okay. Any other questions for the senators or question on the process? To your knowledge, Mr. Bare, has anyone ever...has any committee ever recommended that the Legislature not confirm the appointment? [LB832]

LARRY BARE: Not of an agency director. There have been some other...there are numerous other...I mean, there are hundreds of appointments. Your committee probably knows better than any other how many appointments a Governor has to make. Typically, honestly, what happens is if there is a problem, we will hear about that and we will consider that problem. And many times, if it's a serious problem, somebody withdraws their appointment and the issue just is resolved. In other cases, it will go to a vote and it will go to the floor or it will be stuck in committee for a while, and there is all kinds of gradations of what happens with appointments. [LB832]

SENATOR CAMPBELL: Right. My question had more to do with director appointments. [LB832]

LARRY BARE: Director appointments. [LB832]

SENATOR CAMPBELL: At least in my memory, I can't remember. [LB832]

LARRY BARE: No, I don't remember anybody who has been appointed as a director who was not recommended for confirmation by the standing committee. [LB832]

SENATOR CAMPBELL: Seeing no other questions, thank you, Mr. Bare, for coming today. [LB832]

LARRY BARE: Thank you. [LB832]

SENATOR CAMPBELL: Anyone else in the hearing room who would like to appear in opposition to LB832? Anyone in the hearing room who would like to provide neutral testimony? Okay. Senator Howard, would you like to close on LB832? [LB832]

SENATOR HOWARD: This is the first time Mr. Bare and I have worked together on one of my bills since I took half a million dollars out of the Governor's budget on a floor

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amendment (laughter). I introduced LB832 because I believe now is the time for members of this committee to determine the future of the Department of Health and Human Services. Never before have the issues faced by this agency been so much in the minds of the public. With an engaged public and a knowledgeable committee, we have the opportunity that may not occur again. LB832 would start at the top, ensuring that when people hire an individual to serve as the head of Health and Human Services, that that individual is subject to a rigorous appointment process and possesses the qualifications to succeed. Thank you for your time and your attention to LB832. [LB832]

SENATOR CAMPBELL: Any questions that senators have? Thank you, Senator Howard. [LB832]

SENATOR HOWARD: Thank you. [LB832]

SENATOR CAMPBELL: With that, I would like to note for the record that we received a letter in support, I believe it's support, correct me if I'm wrong, colleagues, of LB832 from the Nebraska Association of Public Employees, and we also received letters. They came by so quickly because we went through them. We received letters from Appleseed...Nebraska Appleseed, and Voices for Children in support of LB774. Is that all of the correspondence that we had distributed today, Madam Clerk? Okay, thank you. With that, we will close today's hearings, and thank you all for coming. We will resume tomorrow at 1:30 p.m. For my colleagues, I would take motion to go into Executive Session. [LB832]