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Health and Human Services Committee
February 07, 2013

[LB105 LB270 LB555]

The Committee on Health and Human Services met at 1:30 p.m. on Thursday, February 7, 2013, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB105, LB555, and LB270. Senators present: Kathy Campbell, Chairperson; Bob Krist, Vice Chairperson; Tanya Cook; Sue Crawford; Mike Gloor; Sara Howard; and Dan Watermeier. Senators absent: None.

SENATOR CAMPBELL: Good afternoon and welcome to the hearings for the Health and Human Services Committee. I'm Kathy Campbell and I serve District 25 in Lincoln and eastern Lancaster County, and we're very glad that you are here. Before I have the senators introduce themselves, we'll go over a few of the housekeeping items. If you have a cell phone, double-check that it is turned off or it's on silent so you will not disturb people as they testify. If you are planning to testify today, you need to complete one of the orange sheets that are located on either side of the hearing room. Please print your name legibly because that orange copy goes to the clerk. When you come up to testify you give her any handouts that you might have and Diane and the pages will distribute them. If you don't plan to testify but want to note a comment, you can always do that on the white sheets that are also located on either side of that. We do use the light system in the Health Committee, for a total of five minutes. You'll have four on green and then it will go to yellow, and that will tell you, you have one minute. And then it will go to red and you'll look up, and I'll probably be trying to get your attention to finish out your testimony. I don't think there's...oh, I know. There's one other thing, and that is, as you come forward and take the chair, you'll give everything to Diane and then sit down and say, my name is Kathy Campbell, K-a-t-h-y. We have you spell your name in full because the transcribers need to hear that to make sure that their records are complete. With those housekeeping details, we introduce ourselves in the committee. So I'll start on my far right, Senator.

SENATOR WATERMEIER: Dan Watermeier from District 1.

SENATOR HOWARD: Sara Howard, District 9, midtown Omaha.

SENATOR COOK: I'm Tanya Cook, District 13, northeast Omaha, Douglas County.

SENATOR KRIST: Bob Krist, District 10, Omaha and Bennington.

MICHELLE CHAFFEE: I'm Michelle Chaffee. I serve as the legal counsel to the committee.

SENATOR GLOOR: Mike Gloor, District 35, that's Grand Island.

SENATOR CRAWFORD: Sue Crawford, District 45, that's Bellevue, Offutt, eastern

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Sarpy County.

DIANE JOHNSON: And I'm Diane Johnson, the committee clerk.

SENATOR CAMPBELL: Kaitlyn and Deven are our pages this afternoon. So if you need any assistance, they'll be glad to help you. With those introductions, we will open the hearings this afternoon with LB105, Senator Lathrop's bill to require child-care licenses to obtain liability insurance. Welcome, Senator Lathrop, and please begin. [LB105]

SENATOR LATHROP: (Exhibit 1) Thank you, Chairman Campbell and members of the Health and Human Services Committee. This is my first time here this year, always enjoy coming here. I'm introducing today...oh, my name is Steve Lathrop, L-a-t-h-r-o-p, state senator from District 12, which is Ralston-Millard area in Douglas County. I'm here today to introduce LB105, which would require that all child-care facilities that are licensed by the state of Nebraska provide written proof of liability coverage prior to the issuance of their licenses. In Nebraska there are over 4,000 licensed facilities that serve over 100,000 children. These include preschools, child-care centers, and family care home centers. At least 23 states have passed similar legislation, including many that have legislation introduced as a result of the tragic circumstances involving the injury or death of a child in a child-care facility. In many of these tragedies the child-care providers were unaware that their current insurance policy did not provide coverage for such accidents. LB105 would not only provide parents with additional peace of mind, but it would also encourage child-care providers to make sure they have appropriate coverage in case of an accident involving a child in their care. Under this legislation child-care facilities would have to maintain coverage of \$100,000 per occurrence, and the failure to maintain that coverage would result in the loss of their license. The cost of such liability coverage is nominal. An insurance agent in my district informed me that a home-based provider could receive coverage for up to six children at a cost of about \$120 a year. According to this agent, if there are more than six children, the provider must purchase a business insurance policy specifically for day care, and that has a minimum premium of only \$350 a year. Child-care facilities face countless situations that could result in significant financial loss if they were found to be liable or responsible for the death or injury of a child in their care. LB105 is good policy. It would provide additional protection for children, families, and providers. It's an idea that makes good business sense. It's already used by many providers in the state of Nebraska and could easily be made a part of the current licensing program. In summary, there are three good reasons for this bill. First, there are a lot of people who provide care in their home and think they're covered by their homeowner's policy when they are not. Second, if a child does get hurt and the provider can't pay for the costs involved in the incident, the responsibility would fall back on the parent who is not at fault or negligent. And third, we always need to consider that, if it is a significant injury and the costs are so great and the parents or guardians can't afford them, the costs will come back to the state of Nebraska. And for these reasons, I believe it makes good sense and I would encourage

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you to move this bill to General File. I believe John Cavanaugh from Building Bright Futures will testify after me with additional reasons why the bill is needed. I also have a letter of support, which I think we passed out, from First Five Nebraska to share with you as well. I'd be happy to answer questions. [LB105]

SENATOR CAMPBELL: Thank you, Senator Lathrop. Senator Krist has a question. [LB105]

SENATOR KRIST: Under the Child Care Licensing Act, does this apply to school districts that have their own day-care/child-care centers and, if so, would they be required to carry separate insurance? [LB105]

SENATOR LATHROP: I think that the schools already have financial responsibility. Most of them are self-insured, the bigger ones. And the ones that are smaller the school districts are already going to have coverage that, I think, would take care of it. So I think they'd probably be able to comply with this act without doing anything more than going to the administration office and getting the certificate of insurance. [LB105]

SENATOR KRIST: Okay, thank you, sir. [LB105]

SENATOR CAMPBELL: Other question? Senator Lathrop, to follow up on that, is it safe to assume that the larger centers, you know, that have...they may be, like, a franchise and they're all across the country, that they would have insurance? [LB105]

SENATOR LATHROP: The likelihood is that they already have coverage. And, you know, mostly who this is aimed at is the guy...and not exclusively, because it would apply to all licensees. But mostly what we're talking about is the person that's doing this in their home, where they are believing that, because they have a homeowner's policy, that the homeowner's policy will cover their...something like this. I had one...I received a call in my other life for somebody who had a child hurt in one of these day cares, and the homeowner's wouldn't cover it. So having...requiring people to have insurance makes them cognizant of the risks, makes them careful. The insurance companies, some cases, underwriting can tell them, you need to get rid of this risk or that risk or, you know, sell the pit bull before we're going to sell you the policy. And those are the things that make the day-care centers and these preschool places safer. [LB105]

SENATOR CAMPBELL: I totally agree with you that a lot of people would think they're already covered because I thought that before. [LB105]

SENATOR LATHROP: Right, and the coverage is a rider on a homeowner's and it's cheap. [LB105]

SENATOR CAMPBELL: Exactly. Senator Crawford. [LB105]

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SENATOR CRAWFORD: Thank you, Senator Campbell. This is actually a follow-up on that same point. Could you clarify for the record what tends to not be covered under homeowner's insurance or why a home day-care center would not be protected? [LB105]

SENATOR LATHROP: It's an exclusion under homeowner's policy that would exclude business activities in the home. So if you're American Family and you're selling a homeowner's policy, you're thinking the usual risks, which include, you know, that your dog might bite the neighbor kid or that somebody might slip and fall on your sidewalk, something like that. But generally, those policies will exclude business activities conducted on the premises of the home. [LB105]

SENATOR CRAWFORD: Thank you. [LB105]

SENATOR CAMPBELL: Any additional questions? Thank you, Senator Lathrop. Will you be staying to close? [LB105]

SENATOR LATHROP: I think I will. I'm not sure it's going to go very long. [LB105]

SENATOR CAMPBELL: Okay, that would be fine. [LB105]

SENATOR LATHROP: And I'd like to see the...listen to the testimony. [LB105]

SENATOR CAMPBELL: Excellent. We will start with the first proponent. Good afternoon. [LB105]

JOHN CAVANAUGH: (Exhibit 2) Good afternoon, Madam Chairman, members of the committee. It's a pleasure to be back here and, particularly, to see Senator Howard representing the "Sunshine" district that I represented somewhere in the mid-last century. (Laughter) But welcome, Senator Howard, for to be here. And it's nice to be back before this committee in support of LB105 and to commend Senator Lathrop for introducing this. My name is John Cavanaugh, J-o-h-n C-a-v-a-n-a-u-g-h, and I am the executive director of Building Bright Futures, a not-for-profit organization serving children in Douglas and Sarpy Counties and focusing on improving academic performance and eliminating the academic achievement gap. A major focus of Building Bright Futures has been early childhood education and quality services available to children from birth and, actually, through 12th grade, but birth to kindergarten and...or birth to third grade in our early childhood efforts. We view LB105 as a companion bill to Madam Chairman's bill to establish quality ratings systems and, for the first time, establish quality services in our childcare in the state of Nebraska. As we have looked at the educational outcomes of our children, the biggest single factor impacting academic success is what occurs in the first three years, in the first five years. Having a

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system in this state where we have 100,000 children in childcare, we have the state spending \$92 million a year to support childcare for low-income working families. The state has a very large stake and interest in the quality of the care that's being delivered to these children and to these families. We believe that establishing liability coverage will contribute to improving the quality of the services that are being delivered to children and families across the state, so we encourage you to enact this. It's a very first step in turn...amid many more steps to ensure that we are delivering quality childcare to the children across the state of Nebraska. So thank you very much. [LB105]

SENATOR CAMPBELL: Thank you, Mr. Cavanaugh. Questions from the senators or comments? You know, Mr. Cavanaugh, it...the important thing is that no matter where a child lives in the state or whether they are low income or whether they, you know, come from a family like mine that has the resources to pay for it, they all should have good, quality care. [LB105]

JOHN CAVANAUGH: Absolutely. Thank you, Madam Chair. [LB105]

SENATOR CAMPBELL: Thank you, Mr. Cavanaugh. Next proponent. Are there other proponents? Mr. Wesely. [LB105]

DON WESELY: Madam Chairman, members of the Health and Human Services Committee, for the record I'm Don Wesely, W-e-s-e-l-y, representing the trial attorneys, Nebraska Association of Trial Attorneys. We are in support of the bill. And I did do some checking on the potential costs of these policies and what I was told is that there is a child-care endorsement available to a homeowner's policy and coverage for \$2,000 med mal. And \$100,000, which is the minimum in this bill, for liability would cost, at least in one Nebraska-based company, \$17 for six months of coverage, so \$3 a month. Now all the way up to \$5,000 med mal and \$500,000 liability goes all the way up to \$30 for six months. So, I mean, I know this says \$100,000, but at the difference between \$3 or \$5, you might want to think about an even higher number because this is really inexpensive. And who knows what kind of liability you might be exposing the child to? So at that rate, you might consider a higher number, a higher threshold. And then, in answer to your question, Senator Crawford, I was told by the insurance person I talked to the difference on a homeowner's policy is business activity versus nonbusiness activity. And they used the example: A nonbusiness activity is a child-care provider who is feeding the children, like, lunch or breakfast or something, and something happens. That's actually a nonbusiness activity. You feed children, so that might be covered by the homeowner's policy. If you're carrying the child to...you take the kids out to the playground or something and something happens, that might be a business activity because you're doing it as part of the day care, you know, some of the services you provide or something. So that might be the difference, but there's not been a Supreme Court case, as I understand it, that's delineated what is what, so what's covered and not covered by homeowner's policy. So for very little money, having this coverage and being sure

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you've got liability protection seems a very small price to pay to make sure these kids are protected. [LB105]

SENATOR CAMPBELL: Questions for Mr. Wesely? Senator Howard. [LB105]

SENATOR HOWARD: Do you know how many other states require this type of coverage for their child-care facilities? [LB105]

DON WESELY: 23. [LB105]

SENATOR HOWARD: Thank you. (Laughter) Are any of them our neighbors? [LB105]

DON WESELY: We don't know. (Laughter) [LB105]

SENATOR HOWARD: That's okay. [LB105]

SENATOR CAMPBELL: This is a great ventriloquist act here. I did not quite expect that kind of entertainment today. Follow-up questions for Mr. Wesely? Any others? Okay, thank you, Senator. [LB105]

DON WESELY: You bet, thank you. [LB105]

SENATOR CAMPBELL: Other proponents. Those who are opposed to LB105. Those who are here in a neutral position on LB105. Seeing no other testifiers, Senator Lathrop, would you like to close? [LB105]

SENATOR LATHROP: Very briefly. Thank you for your time and attention and the good questions. I will say that, as we focus more and more on early childhood education, making sure that we have good providers, that they are...that the licensing reflects the important considerations that should go into who should and should not be providing these services to kids across the state. This is one piece of it. It's not the whole and shouldn't be the only consideration. But the focus on early childhood education, this is a piece of it. Just an example of what might happen: You know, if you're watching toddlers in your home or in a business and you don't stop the kid from tumbling down a flight of stairs, for example, that's...that would be a childhood...you know, a day-care kind of a potential liability. So the child ends up at the bottom of the stairs with a bad injury, and then the question is, well, who takes care of this? And how do you get contribution for the parents to provide the care their child is going to need? So that's what this is about. It is a piece. And if you fold it into another bill on the very same subject, I'm okay with that, too, as well. [LB105]

SENATOR CAMPBELL: Okay. Senator Gloor. [LB105]

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SENATOR GLOOR: Thank you, Senator Campbell and Senator Lathrop. I wanted to ask the question in the committee level that I'm sure will come up if it finds its way to the floor. I'm assuming that you went through the mental machinations of thinking about driving people out of the business and decided that the premium was so low that that wasn't an issue. [LB105]

SENATOR LATHROP: That's very true. That's very true. If this would...if I were coming here and...when Don Wesely testified and he was talking about the \$5,000, he called it med mal. I assume it's actually the medical pay coverage, not med mal. And that \$5,000 in medical insurance is...that's just nominal. That really is, and the cost is nominal. Taking care of the children and adding this additional expense it's very, very inexpensive, because the incidences aren't that frequent but, when they happen, you've got to have a child get the care they need or they're going to need and to take care of their consequences. [LB105]

SENATOR GLOOR: (Inaudible). [LB105]

SENATOR LATHROP: But the...as I said, it's very cheap. It's a rider on a homeowner's. [LB105]

SENATOR GLOOR: We can forgive Senator Wesely. He gets back in this hearing room and immediately reverts back to his days as Chairman and some of the (inaudible). [LB105]

SENATOR LATHROP: He starts talking about medical malpractice. [LB105]

SENATOR GLOOR: Yeah, yeah, yeah. [LB105]

SENATOR LATHROP: No, I'm given to that once in awhile too. [LB105]

SENATOR CAMPBELL: Senator Krist. [LB105]

SENATOR KRIST: Another question that I'm sure will come up on the floor, and I'm surprised I missed it the first time around. But in Section 2, you basically give all those licensed under the act a 30-day window to register with the department, signifying that they do have insurance. And I'm assuming then that if the insurance were terminated for any reason, so would the licensure for the... [LB105]

SENATOR LATHROP: I would expect so, and generally that's a good thing, because nonpayment is one thing, right? But if the underwriters looked and they said, you know, these people have a pit bull or they've had three claims in the last two months, we're dropping them, I think that's something that should directly impact their ability to be licensed because it's not a safe place. And so, in some sense, the insurance becomes a

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canary in a coal mine and alerts the department to the fact that there's a problem with the kid's safety. [LB105]

SENATOR KRIST: That was exactly my point. Thank you. Thanks for bringing it forth. [LB105]

SENATOR CAMPBELL: Any other questions? You know, Senator Lathrop, what we might want to do is, either through your office or through the committee, we may want to talk to the department and just make sure what would...what are some other instances in which a license would be revoked, because I would guess that there would be situations where it would be and it would be nice to know that on the floor. [LB105]

SENATOR LATHROP: You could, in addition, require that whoever the...and I know Senator Gloor will have a better idea of whether I'm causing too much problems here. But if they were required to alert the department that they've terminated the insurance or there's been a nonpayment. Otherwise it can be a little bit like the guy who buys the auto policy, pays the premium for a month, licenses the car, and then never...and I know you have challenges getting that done and tracking those folks. But this isn't every licensed driver. It's for, what did I say, 1,000 providers or 4,000 maybe. [LB105]

SENATOR GLOOR: 4,000. [LB105]

SENATOR KRIST: Yeah, 4,000. [LB105]

SENATOR LATHROP: 4,000. [LB105]

SENATOR CAMPBELL: Senator Krist, you wanted to follow up. [LB105]

SENATOR KRIST: Yeah, and very, very, quickly. Your analogy of the canary in the coal mine was where I think this needs to be. If you are insuring someone, if I'm American Family, in your example, if I'm insuring you and all of a sudden you've let part of it lapse, I'm going to ask a question, as an insurer, because I don't want to be held accountable or holding the bag in the event that the pit bull does do something with your child-care environment, so. But we need...I think this is a question that's going to come up on the floor, and we should prepare ourself, one way or another, for it. [LB105]

SENATOR LATHROP: Okay, well, I'm happy to come up with what amendments or run over to Banking and Insurance and get answers if I need to. (Laughter) [LB105]

SENATOR CAMPBELL: Okay. By golly, we will. [LB105]

SENATOR LATHROP: By gosh, yeah. [LB105]

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SENATOR CAMPBELL: Thank you, Senator Lathrop. [LB105]

SENATOR LATHROP: All right. Thank you very much. [LB105]

SENATOR CAMPBELL: (Exhibit 3) And with that we will close the hearing on LB105 and proceed to our second hearing today. If you are leaving we ask that you leave quietly. Senator Nordquist has a bill, LB555, to adopt the Preparing Students for Educational Success Act, and so we will open the public hearing. And, Senator, you're welcome to begin. [LB105]

SENATOR NORDQUIST: Great. Thank you, Madam Chair and members of the Health Committee. My name is Jeremy Nordquist, and I represent District 7, which covers downtown and south Omaha. And I appear before you today to introduce LB555. This bill creates the Preparing Students for Future Educational Success Act and requires the Department of Health and Human Services' Division of Children and Family Services to distribute funds in the form of grants to organizations that provide after-school programming for children between the ages of 5 and 18 and families that are eligible for TANF funding, and the organizations must demonstrate a proven record of increasing student achievement. The funds provided for the program would be transferred in the amount of \$750,000 from TANF funds, and the division would be able to keep a portion of those dollars--\$25,000, as identified in the bill--to administer the fund and the program. This idea is similar to programs in other states, like Michigan and Indiana, which were entered into administratively by those states with Boys and Girls Club. As a state, we have one of the largest percentages of working families, creating a real need for after-school youth engagement. The TANF program specifically requires parents to participate in work-related activities, generally between 30 and 35 hours per week, potentially leaving school-age children unattended during some of the after-school hours. Research shows that the hours between 3:00 and 6:00 p.m. are periods for the most risky behavior in kids, including criminal activity, risky sexual behavior, and drug and alcohol use. Participation and engagement in after-school programs can have a significant impact on a child's ability to avoid risky behaviors. After-school programming can provide opportunities for children to be physically active, including basketball and swimming. But, more significantly, they can provide programming where the focus is on providing the student with additional reading and mathematics assistance and other academic assistance. I have seen data that demonstrates similar...that programs similar to the one we are proposing through LB555 have experienced results such as: 82 percent of parents seeing an improvement in their child's grades in school; 92 percent of participants feel the program helps them do better in school; 92 percent of participants have learned about different kinds of jobs through these programs. Some of the biggest successes were seen in Indiana under former-Governor Mitch Daniels. Under his program, Mitch's Kids, there were some compelling successes, including the following: Prior to entering the program only 33 percent of participants were reading above grade level, and 31 percent were above grade level in math; after the program, statistically

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significant evidence shows that 62 percent were reading above grade level, and 63 percent were above grade level in math. There are individuals testifying after me who can talk about their programs. I would note that, while this bill was brought...this idea was brought to me by the Boys and Girls Club Alliance of Nebraska, certainly any program that meets the standards in this bill would be eligible for a grant. I did offer...provide the...my staff has provided the committee counsel with an amendment to slightly broaden the definition of a nonprofit from the 501(c)(4) status which is listed in the bill. It would broaden the...broaden that to include all other nonprofit IRS designations. So with that, I appreciate your attention to this bill and would be happy to entertain any questions. [LB555]

SENATOR CAMPBELL: (Exhibit 14) Questions from the senators? Senator Nordquist, did you receive the letter from the city of Lincoln? [LB555]

SENATOR NORDQUIST: They have contacted my office; I don't know that I saw the letter. [LB555]

SENATOR CAMPBELL: Right. The city of Lincoln offers what they call CLC. [LB555]

SENATOR NORDQUIST: Um-hum. [LB555]

SENATOR CAMPBELL: They're community learning centers; they're located in schools; they usually have a nonprofit with them. But they provide after school. So I'm assuming that they're more than willing to work with you on the legislation. But I just wanted to make you aware. [LB555]

SENATOR NORDQUIST: Um-hum, yeah. [LB555]

SENATOR CAMPBELL: And you were cc'd, but it's probably not gotten to your office yet. [LB555]

SENATOR NORDQUIST: Yeah, my staff did alert me that they had contacted us, and I...as they stand willing to work with me, I'd do the same. [LB555]

SENATOR CAMPBELL: Okay. [LB555]

SENATOR NORDQUIST: I'm willing to work with them on ensuring that they could...would be able to qualify for this. And, just on the fiscal note, I'll note we've gotten a breakdown of the TANF funds that are available. This bill, the two-year, \$750,000 appropriation would take our TANF balance at the end of fiscal year '16 from \$21 million down to \$19.4, I think it was, \$19.4 million. So we still would have a significant rainy...cushion in our TANF allotment. [LB555]

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SENATOR CAMPBELL: Other questions? Senator Crawford. [LB555]

SENATOR CRAWFORD: Thank you, Senator Campbell, and thank you, Senator Nordquist. [LB555]

SENATOR NORDQUIST: Yeah. [LB555]

SENATOR CRAWFORD: The bill talks about who qualifies. [LB555]

SENATOR NORDQUIST: Um-hum. [LB555]

SENATOR CRAWFORD: And on page 3 it talks about the organization provides evidence of increasing student achievement by the students served by such after-school programming. Are you anticipating that before they enter the program they need to provide evidence that's from other programs that they've had in the past or... [LB555]

SENATOR NORDQUIST: Yeah, that the organization...and if we need to clarify the language. But the organization would have to demonstrate that they've, in previous programs that they run or that the program that they would be running, would lead to educational student achievement, greater educational achievement. Yeah, so it would have to be programs that are...and it does say, I believe, programs that are already established or are already operating programs. So they would have to demonstrate...that would be a criteria that the director of Children and Family Services would look at when choosing how to allocate the grant dollars. [LB555]

SENATOR CRAWFORD: Big part of the application is past success. [LB555]

SENATOR NORDQUIST: Yeah, yep, yep. [LB555]

SENATOR CRAWFORD: Thank you. [LB555]

SENATOR CAMPBELL: Other questions? Oh, sorry. Senator Crawford, did you have a follow-up? Senator Crawford, did you have a follow-up? [LB555]

SENATOR CRAWFORD: No. (Inaudible) Sorry. [LB555]

SENATOR CAMPBELL: Any other questions? Senator Nordquist, are you staying? [LB555]

SENATOR NORDQUIST: Yeah, I will be here, yeah. [LB555]

SENATOR CAMPBELL: Okay, excellent. All right, we will start with our first proponent

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for LB555. [LB555]

JOE KOHOUT: (Exhibits 4-6) Good afternoon, Senator Campbell... [LB555]

SENATOR CAMPBELL: Good afternoon. [LB555]

JOE KOHOUT: ...and members of the Health and Human Services Committee. My name is Joe Kohout, K-o-h-o-u-t, registered lobbyist appearing on behalf of Boys and Girls Clubs Alliance of Nebraska. I'm passing around to you three handouts. One will look familiar because you should have received it this morning; the second is a chart which indicates some of the TANF-eligible individuals at the five clubs around Nebraska; and, finally, one that provides a chart that was actually just prepared and e-mailed to me this morning, while I was in my office over the noon hour, that actually demonstrates where in other states Boys and Girls Clubs, for purposes of this discussion, receive funding and from the different lines. And I think you'll note, at the bottom of page 1 and the top of page 2, there's a significant amount of states that obtain funding through TANF programs. What I wanted to do for you today, real quickly, is to kind of lay out for you, just for your benefit, the testifiers that will come after me, and so that you know their, kind of, areas of expertise. Following me will be Nick Dean, who is the executive director of the program here in Lincoln. And so I think, Senator Campbell, he can address this. We have not seen the letter, but he can address the CLC issue specifically. Ivan Gilreath, who is the director of the program in Omaha; Connie Duncan, a board member here in Lincoln; and then Annette Smith, a member of the board in Omaha, the Midlands club in Omaha. Too, I believe, there's a representative of the NSEA who will follow me as well. So I really wanted to kind of lay out for you kind of who's following so that, for any purposes of questions you might have about their specific programs, you could direct the question to the right person. So with that I'll try to answer any questions that you might have. [LB555]

SENATOR CAMPBELL: Questions? Senator Howard. [LB555]

SENATOR HOWARD: Thank you for your testimony. [LB555]

JOE KOHOUT: Um-hum. [LB555]

SENATOR HOWARD: The...on the bottom of page 3 it says, to provide innovative after-school programs for established programs which serve a high concentration of students who qualify as low-income. [LB555]

JOE KOHOUT: Um-hum. [LB555]

SENATOR HOWARD: Is your intention to support programs that are already in existence and encourage them to utilize innovative efforts? [LB555]

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JOE KOHOUT: I think so. I mean, if we're thinking about it from an established...from our perspective...and I can't speak if there's going to be others who follow me. But from our perspective we already have the program sort of in place at those five locations. And I provided you--I think it should have come around by then--the chart of where those programs are at. I think the idea is that the program...this would be at those...when we refer to programs, and I read that and go, oh, my gosh, well, did we miss something? But I think that's where we're going in terms of you have the program there and then you have specific programming at those individual programs, at those individual clubs. [LB555]

SENATOR HOWARD: Okay, thank you. [LB555]

SENATOR CAMPBELL: Other questions? Senator Krist. [LB555]

SENATOR KRIST: I'll ask the question. [LB555]

JOE KOHOUT: Um-hum. [LB555]

SENATOR KRIST: If you're not the person to answer it, then just defray. But am I to assume that, in an existing program with an innovative new concept, as Senator Howard asked, but that would only...it would be restricted to only those kids who are TANF-eligible to participate in that program? [LB555]

JOE KOHOUT: Correct, correct. So the program may be more expansive than that, and...but, at the end of the day, it's only those...the only people who could receive those dollars would be those children who are TANF-eligible for that specific... [LB555]

SENATOR KRIST: So if you had... [LB555]

JOE KOHOUT: And we already...the way we got to these numbers, frankly, Senator Krist, is that Boys and Girls Clubs offer a free membership to those...and the standards are very similar to those which would be established for TANF. So we can estimate pretty close to the nickel on the number of kids in our individual programs. So it would be those kids in our programs who are already TANF-eligible. [LB555]

SENATOR KRIST: So, conceptually, if there's 30 kids in that particular confine,... [LB555]

JOE KOHOUT: Um-hum. [LB555]

SENATOR KRIST: ...and only 10 of them are TANF-eligible, we...you'd have to probably fund 10 out of TANF, and the other 20 would be... [LB555]

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JOE KOHOUT: Correct. [LB555]

SENATOR KRIST: It's not a have or have not. We're going to give you an extra program or... [LB555]

JOE KOHOUT: Right. [LB555]

SENATOR KRIST: That's the concept? [LB555]

JOE KOHOUT: That is the concept. [LB555]

SENATOR KRIST: Okay, thank you. [LB555]

SENATOR CAMPBELL: Mr. Kohout, have you or anyone who's going to follow...and it's sort of like Senator Krist, if somebody else is going to cover this...how many other programs across the state this may apply to? [LB555]

JOE KOHOUT: We don't...I don't have that estimate. We were...I know this committee doesn't like to hear this, but we were kind of siloed in our efforts to prepare for this. And so I can't tell you how many there might be. I mean, it might be...there might be 35 programs run on the dollars. But it...from Boys and Girls Club's perspective, this is significant enough that we're kind of willing to be out here and working for it and see what comes of it. And if it's successful, fantastic. [LB555]

SENATOR CAMPBELL: And the reason I ask that is because the kind of program that's described by the letter from the city of Lincoln, I believe, is...at least at one point it was in other communities in the state, not just the metropolitan areas. [LB555]

JOE KOHOUT: Right. [LB555]

SENATOR CAMPBELL: And so I was trying to figure out really how many we're talking about here and whether....you know, you take that amount of money and you divide by many, many, many, many more across the state. How many are we really talking about here? [LB555]

JOE KOHOUT: Right. And we understand that. And I think, at the end of the day, it's still helpful, whether the dollars...whether it's...it ends up being less or more, it's still helpful to the program. [LB555]

SENATOR CAMPBELL: Got it, okay. Thank you very much. [LB555]

JOE KOHOUT: Thank you. [LB555]

SENATOR CAMPBELL: Our next proponent. [LB555]

NICK DEAN: (Exhibit 7) Good afternoon, Madam Chairman. My name is Nick Dean, and I'm the executive director of the Boys and Girls Club here in Lincoln. My name is, again, Nick Dean, N-i-c-k D-e-a-n. And I appear before you today in support of LB555, a bill that would make a great impact on the kids we serve on a daily basis. At the outset I would like to thank Senator Nordquist for introducing this legislation on request of the Boys and Girls Club Alliance. The club in Lincoln has only been around for five years, but we've seen significant impact on our local community and our local kids at our site. Three children showed up the first day that we opened in 2007, and we now have over 950 members. We serve between 250 and 300 kids a day at our one club at Park Middle School, which is over on Eighth and F here in Lincoln. And the Boys and Girls Club of Lincoln and Lancaster County has been at the forefront of youth development, working with young people from disadvantaged economic, social, and family circumstances. We are dedicated to ensuring that our community's disadvantaged children and teens have greater access to quality programs and services that will enhance their lives and shape their futures. With the changing demographics, the increased poverty rates, increased single-parent families, and the day-to-day strain on Nebraska families, the Boys and Girls Club is needed now more than ever. We also understand that the challenge is more complex now than ever. The club offers young people what they need and want the most: adults who respect and listen to them; a safe environment where they can have fun and be themselves; and educational and interesting activities that channel youthful energy into challenging pursuits. Our youth come to the Boys and Girls Club for a lot of different reasons. We provide tutoring; we have computer training; we have physical activity and sports; we mentor; we have homework help; we do a lot of different things with our kids after school through a number of different programs within our program. And the three primary areas that we really try to hang our hat on are academic achievement, the kids' character and how they work and citizenship, and healthy lifestyles. So we really work on all three of those areas. And as we continue to grow our program, the funding proposed in LB555 for Preparing Students for Educational Success Act would be instrumental in the expansion of our comprehensive educational achievement program. Two years ago the Boys and Girls Club of Lincoln participated with LPS and Park Middle School and did a student needs assessment of the kids in our area of town. And the assessment found that we needed to expand the educational opportunities for students in our after-school programs with an emphasis on math and reading skills. And to address this issue, a collaboration between the staff at Park Middle School and the program staff of the Boys and Girls Club was formed. And it was decided to expand a program that has been a very successful program for the Boys and Girls Club, called Power Hour, which is a "Making Minutes Count," after-school homework help program. We've seen tremendous success in the program in just the year that we have had this collaboration with the school, and part of that collaboration is that we are able to have certified teachers in our

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eight or nine classrooms that we have for our homework-help programs after school. So it's been really neat to see how the staff has bought into this program and helped us with this. In the areas of math and reading, on our latest Nebraska State Accountability test, we averaged 15 to 20 percent increases in scores across the board, and it was the highest increase in LPS. And so we're very proud of that, although we had a long ways to go. So it was...the increases were very good. So, in order to offer this program to all qualifying students, we need to expand our staff, and funding is critical to its success. Power Hour enables clubs to provide extra attention, focused assistance to at-risk members, those in need of motivation and direction. With proper guidance and support every club member has a chance to develop these self-directed learning skills and to be successful in school. We at the Boys and Girls Club understand the unique challenges that you face in addressing the child welfare crisis in Nebraska. What I would tell you is this: We see many of those kids you're trying to help; we help them stay away from the juvenile justice system, and we do that at our clubs. In conclusion, Madam Chairwoman and members, thank you very much. We support this bill and ask that you advance it. Thank you. [LB555]

SENATOR CAMPBELL: Questions for Mr. Dean? Senator Krist. [LB555]

SENATOR KRIST: Just a quick comment. Thank you for what you do. I'm a product of the Boys Club. [LB555]

NICK DEAN: Thank you. [LB555]

SENATOR KRIST: It kept me out of jail once or twice, (laughter) so this is a good thing. Thank you for what you do. [LB555]

NICK DEAN: Thank you. [LB555]

SENATOR CAMPBELL: Other questions? Mr. Dean, one of the questions that I would ask after listening to this...and I'm asking you this because you would be familiar, and I apologize to my other colleagues. But would not the programs in Lincoln, like Lighthouse and some of the YWCA programs, also qualify? [LB555]

NICK DEAN: I would assume so, if they're...if they have the educational programs that they're talking in this. You know, the CLC was mentioned earlier. [LB555]

SENATOR CAMPBELL: Yeah. [LB555]

NICK DEAN: And we are a lead agency for the community learning centers and offer some of that programming also. So we try to do as many collaborations and do some different things with other people. But, yeah, I would assume that... [LB555]

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SENATOR CAMPBELL: Yeah, some of the major human service agencies in Lincoln are collaborative with the city on the CLCs. [LB555]

NICK DEAN: Correct. [LB555]

SENATOR CAMPBELL: Would this also apply to some Boy Scout and Girl Scout troops... [LB555]

NICK DEAN: Well, I'm not sure about that, I guess. [LB555]

SENATOR CAMPBELL: ...in low-income areas? [LB555]

NICK DEAN: I would assume, with some of the educational things that they have, that there might be. I just kind of have taken this to be as an after-school program that is, you know, connected in some way to the school day. And I think that's what we're trying to do is extend what they're doing and not make it school after school, but to make it some things that we can do on the side, but... [LB555]

SENATOR CAMPBELL: So you would feel that the program needs to be tied in a partnership with the school? [LB555]

NICK DEAN: I don't think entirely, no, no. [LB555]

SENATOR CAMPBELL: Okay. All right, any other... [LB555]

NICK DEAN: That's just how we are, so. [LB555]

SENATOR CAMPBELL: Yeah. Any other questions? Thank you, Mr. Dean. [LB555]

NICK DEAN: Oh, thank you. [LB555]

SENATOR CAMPBELL: Our next proponent. [LB555]

IVAN GILREATH: (Exhibit 8) Good afternoon,... [LB555]

SENATOR CAMPBELL: Good afternoon. [LB555]

IVAN GILREATH: ...Chairwoman Campbell and fellow members of the Health and Human Services Committee. My name is Ivan Gilreath, I-v-a-n G-i-l-r-e-a-t-h, and I'm president and CEO of the Boys and Girls Clubs of the Midlands. And, like Nick Dean, I'm here in support of LB555. Boys and Girls Clubs of the Midlands has been around 50 years. We serve 1,400 kids per day in the metro area of Omaha. That includes north Omaha, northwest Omaha, south Omaha, and Westside. Most of our members are

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TANF eligible. Eighty-two percent of our 5,000 members come to the clubs two days per week or more. When members come to the club they're exposed to terrific programming, such as Readers to Leaders, a dynamic reading program that guarantees seven- and eight-year-olds who complete it will read at a mid-fourth-grade level. Crucial to success in school and life is the basic ability to read and not fall behind in your early days of school. We also have, as Nick mentioned, Power Hour, which allows our struggling students to get homework help immediately when they come to the club each night. They don't have the financial resources to pay for tutors, so we provide them through partnerships with UNO and Creighton. We have served over 100,000 hot meals in 2012 to the students; and for many of our members, this is the only hot meal that they would get in the evening if they did not come to the clubs. We can never serve enough. One of our strategies...strategic initiatives is to serve more kids, and we could never serve enough. But there are many TANF-eligible kids who do not benefit from these services because they do not know of them or don't have transportation. We can expand our awareness and transportation services, if this is passed, to serve more kids. In conclusion, Madam Chairwoman and members, we support LB555 and ask that you advance it for consideration by the whole Legislature. I would also like to thank Senator Nordquist for introducing this legislation at the request of the Boys and Girls Club Alliance of Nebraska. I'd be happy to try to answer any questions you have. [LB555]

SENATOR CAMPBELL: Questions? Senator Howard. [LB555]

SENATOR HOWARD: And this may have been a better question for Mr. Dean, and I apologize. How do you...what is the application process like for children? How do you ensure family income to make sure that these kids are TANF eligible? [LB555]

IVAN GILREATH: Well, as part of our registration, when members sign up that is one of the items that they fill in and tell us what their income is. And if there is a need to verify that we will. But I will tell you the overwhelming majority of the kids we serve...our mission statement says, we want to serve the kids who need us most. And those kids in Omaha are in poverty. As many of you know, Omaha has one of the highest poverty rates in all of the nation. So most of the young people that we see are in poverty. But we would verify that. [LB555]

SENATOR HOWARD: Thank you. [LB555]

SENATOR COOK: A question. Thank you, Madam Chair. [LB555]

SENATOR CAMPBELL: Thank you, Senator. I'm sorry, I was reading something. [LB555]

SENATOR COOK: (Inaudible). [LB555]

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SENATOR HOWARD: I am done. You go for it. [LB555]

SENATOR COOK: All right. [LB555]

SENATOR CAMPBELL: Senator Cook, go right ahead. [LB555]

SENATOR COOK: You can't tell quite with the line of vision. Thank you for coming. [LB555]

IVAN GILREATH: Thank you. [LB555]

SENATOR COOK: Is this going to support a basketball program at Boys and Girls Club? I know there's one very active one that convenes through Boys and Girls Club. Does it...does this money...and maybe this is a better question for the agency. Does it go to the after-school program in terms of the study skills, or would it just go kind of into a pile for the board to distribute? [LB555]

IVAN GILREATH: Our programs, we have programs in healthy lifestyles, which is the basketball you would talk about, character and leadership development, and academic success. We would pinpoint this money toward our academic success programs. There are several of them, but, in particular, this Readers to Leaders program is a program that many would benefit from in our area. You can pretty much estimate what the incarceration rate will be in future years by the reading level of young people, and young people who fall behind by the fourth grade tend to not catch up. So we would tend to...we would try to focus this money on that program. We also would try to increase the number of young people who are in that program, because there is young people right now who are not in that program because they don't know about it. We'd increase the awareness. Or they can't get there, so this would allow us to increase the transportation capabilities to get more young people in those programs so they can benefit from them. [LB555]

SENATOR COOK: Okay, thank you. [LB555]

SENATOR CAMPBELL: Other questions? Senator Howard, I apologize. [LB555]

SENATOR HOWARD: I apologize, Madam Chairwoman, I thought of another, and I am so sorry. [LB555]

SENATOR CAMPBELL: No, you go right ahead. [LB555]

SENATOR HOWARD: How are you monitoring academic success? Is it through parent reporting? [LB555]

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IVAN GILREATH: We have several ways, so I'll refer back to the Readers to Leaders program. The Readers to Leaders program has a preassessment. So all the seven- and eight-year-olds that come into the program we have trained reading specialists who do an assessment of their reading skill level when they come into the program. And then, when they finish the program, we do a postassessment. So we know, from our own outcome data gathering, where their reading level was when they came in, where their reading level is when they go out. When you start to look at programs like Power Hour, we rely more on incentives to our students for self-reporting. They will bring in their report cards, and we will see how they're doing on their report cards. When they've gone through Power Hour, we will then see, have they made significant improvement in the areas where they were struggling--math, science, reading, or whatever it is. So we have both the outcomes that we monitor and measure, as well as the self-reporting. But we have to incent them to bring those report cards in. [LB555]

SENATOR HOWARD: Okay, thank you. [LB555]

IVAN GILREATH: Can I go back and answer a question from earlier? [LB555]

SENATOR CAMPBELL: Sure, absolutely. [LB555]

IVAN GILREATH: There was a question earlier...there were two questions, and both were along the same vein. One was about other programs throughout the state that could benefit from this. And there clearly are a lot of programs around the state that do very, very good things. So, yes, there are other programs that could benefit from this. But there also are some programs that do it better than others. And so it's very important that the monies be funded with organizations that have proven outcomes, that have proven difference-making techniques, have trained people on site who can deliver the programs at the level that the kids deserve them to be delivered. And when you have organizations like the Boy Scouts, which is a great organization, they tend to deal more with volunteers that come in. We have reading specialists who are on payroll, who are trained to deliver these types of programs on a daily basis. So it's just something, as you look to distribute funds, have to see what the capabilities of the organizations are and do they have proven outcomes. [LB555]

SENATOR CAMPBELL: Would this fit a program...and I apologize. I just know that it formerly used to be Camp Fire and now has another name in Omaha. [LB555]

IVAN GILREATH: Completely KIDS. [LB555]

SENATOR CAMPBELL: Yes. [LB555]

IVAN GILREATH: Yes, Penny Parker, (inaudible) great organization. [LB555]

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SENATOR CAMPBELL: Would that... [LB555]

IVAN GILREATH: They would...they could benefit from this. [LB555]

SENATOR CAMPBELL: Okay. [LB555]

IVAN GILREATH: I mean, there's certain...you know, I don't even know if I could do this. But there's certain organizations that have great reputations. We're one of them. Completely KIDS is certainly one of them as well. Girls Inc. is one of them. There is a number of organizations that have great reputations. Unfortunately, not all of them do, you know, so there's some organizations that don't have the best reputation. And it would be incumbent upon whoever distributes these funds to make sure that the organization is the very best for young people. [LB555]

SENATOR CAMPBELL: And is Lincoln and Omaha the only two in the alliance? [LB555]

IVAN GILREATH: There are others--Grand Island. [LB555]

SENATOR CAMPBELL: Hmm. [LB555]

IVAN GILREATH: There used to be an organization in Chadron, but I don't believe that it still is in existence. [LB555]

SENATOR CAMPBELL: Okay, thank you very much. Any other questions? Thanks for your testimony today. [LB555]

IVAN GILREATH: All right, thank you. [LB555]

SENATOR CAMPBELL: Our next proponent. Good afternoon. [LB555]

CONNIE DUNCAN: Good afternoon. [LB555]

SENATOR CAMPBELL: And you go right ahead whenever you're ready. [LB555]

CONNIE DUNCAN: (Exhibit 9) All right. Good afternoon, Chairwoman Campbell and members of the Health and Human Services Committee. My name is Connie Duncan, C-o-n-n-i-e D-u-n-c-a-n, and I appear before you today in support of LB555. I have been a member of the board of directors of Boys and Girls Club of Lincoln/Lancaster County for four years. As Mr. Dean mentioned in his testimony, we have seen enormous success through the efforts to expand Power Hour, the daily, after-school homework help program for all students attending the Boys and Girls Club. In the areas of math and reading, test scores average 15 to 20 percent proficiency increases from 2011 to

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2012, which was the highest increase for LPS middle schools. This effort was done through collaboration and commitment by not just the board of the directors of the club and of Mr. Dean and the professional staff, but through our interactions with Lincoln Public Schools. I firmly believe that these successes are not just a reflection of Boys and Girls Club, but that of LPS as well. Together we have achieved great things. If we are fortunate to receive funding under LB555, we will only continue to grow and to achieve in even better things. My husband and I became involved with the Boys and Girls Club in 2007 when we were asked to chair the committee to raise funds in order to open a Boys and Girls Club here in Lincoln, Nebraska. We toured a club in Omaha and were impressed with their success with students of poverty. I, myself, have worked with students of poverty--or, as I like to say, students of promise--as a teacher in LPS for 17 years, as well as my current position at Southeast Community College as retention specialist for the Learn to Dream Scholarship. I truly believe that the Boys and Girls Clubs help students that need us the most. They provide a safe place for students to go to after school, get help with homework, work to raise their reading and math scores, participate in clubs, and gain confidence as they move forward in their educational career. Our goal, as citizens of Nebraska, should always be to raise children to be productive, caring individuals that make a difference in our state. We need the Boys and Girls Club to help us guide our students of promise today more than ever. In conclusion, Madam Chairwoman and members, I support LB555 and ask that you advance it for consideration by the whole Legislature. I would be happy to try to answer your questions. [LB555]

SENATOR CAMPBELL: Thank you, Ms. Duncan. Are there questions from the senators? Thanks for your service on the board. [LB555]

CONNIE DUNCAN: You're welcome. [LB555]

SENATOR CAMPBELL: Our next proponent. Go right ahead. [LB555]

ANNETTE SMITH: (Exhibit 10) Good afternoon, Chairwoman Campbell and members of the Health and Human Services Committee. My name is Annette Smith, A-n-n-e-t-t-e S-m-i-t-h, and I appear before you today in support of LB555. I have been associated with the Boys and Girls Clubs of the Midlands as a Guild board member and as a member of the board of directors for seven years. As Mr. Gilreath indicated, there are four individual clubs under the banner of the Midlands Club, and we see a diversity of programming at our clubs that addresses the many needs of our youth. Of these programs, I would like to highlight the Readers to Leaders program today, and here's why. Recently I read some chilling facts. The National Adult Literacy Survey reported that the percentage of prisoners in U.S. jails who tested at the two lowest levels of reading proficiency is 70 percent; the U.S. Department of Justice and U.S. Department of Commerce estimates that 30 percent of federal inmates, 40 percent of prison inmates, and 50 percent of persons on death row are high-school dropouts. Dr. Andrew

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Sum and his colleagues at Northeastern University found that young people who drop out of high school are 63 percent more likely to be incarcerated or otherwise institutionalized than their peers with four-year college degrees. So the question comes to my mind, do we want to help build healthy, responsible, and productive citizens, or do we want to build prisons? I vote to invest the dollars in the former rather than the latter. The specific goal of the Readers to Leaders program is for participants to be reading at grade level before fourth grade. The potential support provided by LB555 would help make it possible for more students to have access to this program and to other programs of the Nebraska...that Nebraska students and families truly need. I believe, and I believe I speak for my fellow board members, that Boys and Girls Clubs would be able to continue to achieve great success with this additional funding. In conclusion, Madam Chairwoman and committee members, I support LB555 and ask that you advance it for consideration by the full Legislature. I would be happy to answer your questions. [LB555]

SENATOR CAMPBELL: Thank you, Ms. Smith. Are there questions from the senators? Thanks for your testimony and also for your participation on the board. [LB555]

ANNETTE SMITH: Thank you. [LB555]

SENATOR CAMPBELL: Uh-huh. [LB555]

ANNETTE SMITH: I'm happy to do it. I enjoy it. [LB555]

SENATOR CAMPBELL: That's apparent. Good afternoon. [LB555]

JAY SEARS: (Exhibit 11) Good afternoon. Madam Chair, members of the committee, for the record, I am Jay Sears, J-a-y S-e-a-r-s, and I am here today representing the 28,000 members of the Nebraska State Education Association. NSEA does support LB555 and, as you can see in my written testimony, there is a number of reasons why. First of all, I'd like to thank Senator Nordquist for always watching out for the whole education of children. And I think that's important as, you know, probably my first time in I don't know how many years ever addressing the Health and Human Services Committee as we're talking about education. But a number of agencies and a number of people play an important role in the education of our children, and so that's one of the reasons we support the use of the TANF funds to extend the learning day for students. As you probably know, there are many different kinds of extended days, extended programs out there. But what brought our attention to the bill was focusing on those programs that actually do increase student achievement, and they aren't all drill-and-kill programs. They have fun in them; they make things. But they are aligned to the curriculum that the students are learning in the classroom, and that's what our members like about the fact that, you know, we only get students, our K-12 students, during the day, you know, maybe at the most seven hours for an instruction, you know, five days a

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week for 36 weeks is not a lot of time to learn all the things children need to learn today. So we support the bill and hope that you do...if you put it together with other legislation, that's fine. But get it out there so that there are more opportunities for more of our kids. I think you will find also, in many of our rural districts, there are partnerships where after-school programs are taking place, and they are increasing student achievement for our students because they are aligned with what's happening in the school system also. So I'll thank you very much for the opportunity to testify before you, and that ends my testimony. [LB555]

SENATOR CAMPBELL: Thank you, Mr. Sears. Are there questions from the senators? I do want to sort of respond to your question or your comment about you're used to being in front of the Education Committee. I have to tell you there was great discussion, and Senator Krist and I serve on the Executive Board, which is the Referencing Committee for the Legislature. And there was a debate; it went back and forth between whether this bill should go to Education or whether it should go to the Health and Human Services Committee. The reason it is here and the importance for the senators that they need to consider is this is the use of TANF funds. [LB555]

JAY SEARS: Right. [LB555]

SENATOR CAMPBELL: And this committee has responsibility in working with the department as it utilizes TANF funds. So that's why it's here... [LB555]

JAY SEARS: Yes. [LB555]

SENATOR CAMPBELL: ...and not at the Education Committee. [LB555]

JAY SEARS: And, Senator, if I may? I think it's a good place to be because we need to look at all the partnerships in this state. [LB555]

SENATOR CAMPBELL: Um-hum. [LB555]

JAY SEARS: Everyone has an important part to play, and definitely Health and Human Services, not just because you have some money, but because you also think about the care of our youngsters. So thank you very much for putting it in your committee. [LB555]

SENATOR CAMPBELL: Yes, thanks, Mr. Sears. Oh, Senator Krist, I'm sorry. [LB555]

JAY SEARS: Senator. [LB555]

SENATOR KRIST: I would like to make a comment while you're here and energize a conversation, and I'm sure I'll get the opportunity to talk to the department as well. But the one thing that I see is missing from this may be an amendment that calls for the

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distribution of these funds going to an evidence-based program where we see the program going to where it needs to go. [LB555]

JAY SEARS: Right. [LB555]

SENATOR KRIST: That will be a part of this that potentially is a model that's already in place with those that have been mentioned previously. But an academic, evidence-based assistance, which would fall into NSEA's bailiwick, I would think. [LB555]

JAY SEARS: Right. Right, yes. [LB555]

SENATOR KRIST: So I would hope that you would, if Senator Nordquist is asked to amend it and put more of an evidence base, in terms of distribution, that NSEA could assist in that role. [LB555]

JAY SEARS: We'd be glad to, Senator. Thank you. [LB555]

SENATOR KRIST: Thank you. [LB555]

SENATOR CAMPBELL: Any other questions or comments? Thank you, Mr. Sears. [LB555]

JAY SEARS: Thank you very much. [LB555]

SENATOR CAMPBELL: Our next proponent. Those to wish to testify in opposition to LB555. Those who wish to testify in a neutral position. Good afternoon, Director. [LB555]

THOMAS PRISTOW: (Exhibit 12) Good afternoon, Senator Campbell and members of the committee. Good to see you. My name is Thomas Pristow, T-h-o-m-a-s P-r-i-s-t-o-w, and I'm the director of Children and Family Services at the Department of Health and Human Services. LB555 would require the department to utilize \$750,000 in TANF funds to establish the Preparing Students for Educational Success Fund. The purpose of the program would be to provide grant awards to nonprofit organizations developing after-school programs. As technical points: The department is concerned about discrepancy in the bill relating to the target population for these programs--eligibility requirements for TANF benefits in free lunch or free milk programs are not the same; if TANF funds are to be used, the program must clearly identify which of the four purposes of TANF it is intending to meet, and this is not included in the bill; the bill makes reference to the investment of the \$750,000 in TANF funds--the department cannot move or transfer TANF funds as required in LB555; also, the federal Administration for Children and Families office has advised the department that TANF

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funds are intended to be accessed as needed and cannot be held in an interest-bearing account. Importantly, the department also has concerns with this and three other legislative bills introduced this session. In addition to this bill there is LB236, LB368, and LB508. All contain new appropriations for TANF block grants, and those funds are totaling \$8.6 million each year. TANF is not an entitlement program. It is a block grant, meaning that Nebraska receives a specific amount of federal funding for the program. In past years the department was not fully expending the TANF block grant and, therefore, a balance accumulated. In fiscal year 2011, the department requested, and the Legislature approved, using some of these funds for TANF-funded programs in the department that had previously been funded with state General Funds. Beginning in 2011, the department expended more than the annual block grant awards of \$57.5 million and has continued that level of spending during the current biennium, and it is in the budget request for the next biennium. If these four bills are enacted, the department estimates the annual TANF block grant will be spent, and the additional, unspent TANF block grant balances will be depleted by 2015. This will result in the need for increased General Fund appropriations of \$6.4 million in fiscal year '15-16 and almost \$28 million for fiscal year '16-17 to finance the current TANF-funded programs that I have. Without these bills and with current spending assumptions, we believe the accumulated fund balances will be sustained through at least fiscal year 2020. Thank you for the opportunity to speak to you, and I hope I can answer any questions you may have. [LB555]

SENATOR CAMPBELL: Thank you, Director. Questions? Senator Howard. [LB555]

SENATOR HOWARD: Thank you, Director Pristow, for your testimony. Can you talk to me about the differences between TANF eligibility and free- and reduced-lunch eligibility? You mentioned it in your testimony. [LB555]

THOMAS PRISTOW: Yes, I can. [LB555]

SENATOR HOWARD: Thanks. [LB555]

THOMAS PRISTOW: In order to use TANF funds there's four requirements, and I can read them for you. The four purposes of TANF are to assist needy families so their children can be cared for in their own home; preventing out-of-wedlock pregnancies; encouraging the formation and maintenance of two-parent families; and reducing the dependency of needy parents by promoting job preparation, work, and marriage. We have an Employment First Contract that that last one details towards. [LB555]

SENATOR HOWARD: And then what's the free- and reduced-lunch eligibility requirements? [LB555]

THOMAS PRISTOW: I don't have that. I think it's more open though. I mean, I think it's

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a much more open process, but I can't speak to that. It's just different than the TANF eligibility. [LB555]

SENATOR HOWARD: Okay, thank you. [LB555]

THOMAS PRISTOW: You're welcome. [LB555]

SENATOR CAMPBELL: Director, would you repeat the second one of that list? I was trying to write as fast as you were talking. [LB555]

THOMAS PRISTOW: (Exhibit 13) I can give you this. Would you like a copy, ma'am? [LB555]

SENATOR CAMPBELL: Oh, that would be great. [LB555]

THOMAS PRISTOW: I can just give you this. I don't have anything else to read from, but... [LB555]

SENATOR CAMPBELL: You can just, yeah, hand it to the...so that we have it. We'll give it to the clerk so we have it for the record. But, yeah, that might be helpful. In the TANF funds, have we used the TANF funds for any grant making like this to other agencies? I'm assuming we have. [LB555]

THOMAS PRISTOW: We have. We use TANF funds for childcare, for women's health alternatives, ADC cash assistance, and some child welfare services that fit within those four categories that I just mentioned. [LB555]

SENATOR CAMPBELL: Okay. But at this point, we've not utilized TANF funds as to help the child attain some academic... [LB555]

THOMAS PRISTOW: As prescribed by the bill that's... [LB555]

SENATOR CAMPBELL: Right. [LB555]

THOMAS PRISTOW: No, we have not. [LB555]

SENATOR CAMPBELL: Okay. Questions? Senator Krist. [LB555]

SENATOR KRIST: What's the waiver authority for the use of TANF? [LB555]

THOMAS PRISTOW: I don't know the answer, Senator, to that. I'm sorry. [LB555]

SENATOR KRIST: So my point is that if it doesn't fit uniquely or positively into one of

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those categories, what option do we have? And I'd appreciate it if you could just get back to us and let us... [LB555]

THOMAS PRISTOW: I will definitely get back. In fact, I can probably do it before the end of this hearing. [LB555]

SENATOR KRIST: Okay, thank you. [LB555]

SENATOR CAMPBELL: Okay, that would be great. And I'm assuming that, at this point, in some of the other issues that you raise, it might be helpful to sit down--and I don't know whether you have--with Senator Nordquist in his office or his office and work through any of those. I'm seeing Senator Nordquist nod. But it may be that they want to work through any other questions. [LB555]

THOMAS PRISTOW: I'd be glad to discuss it with the senator if he'd like. [LB555]

SENATOR CAMPBELL: Okay, any other questions from the senators? Director, I much appreciate the fact that you not only submit the letter, but you're here to talk to us, and we appreciate that. [LB555]

THOMAS PRISTOW: It's my pleasure. Thank you, Senator. [LB555]

SENATOR CAMPBELL: Um-hum. [LB555]

THOMAS PRISTOW: Thank you. [LB555]

SENATOR HOWARD: Kathy, I actually had one more. [LB555]

SENATOR CAMPBELL: Oh, I'm sorry. [LB555]

THOMAS PRISTOW: Oh. [LB555]

SENATOR HOWARD: I'm so sorry. [LB555]

SENATOR CAMPBELL: No, no, no, that's...you're fine. [LB555]

SENATOR HOWARD: Do you anticipate expending all of your TANF funds this year? [LB555]

THOMAS PRISTOW: Absolutely, yes, and in fact... [LB555]

SENATOR HOWARD: But you haven't done so in past years? [LB555]

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THOMAS PRISTOW: We didn't in the past, and then we accumulated an unspent balance. And, over the past two years, we've exceeded the budget expenditure. That's why we've used some of the unspent balance to offset. And that's why, if we continue to do that, we have enough funds through 2020; and if we don't do that then we will run short of funds--it's in my testimony--2015, I believe. [LB555]

SENATOR HOWARD: Okay, thank you. [LB555]

THOMAS PRISTOW: You're welcome. [LB555]

SENATOR CAMPBELL: The questions that Senator Howard's asking are very valid here because probably one of the other things that we should look at in relation to this is a breakdown of what we do use the TANF funds for,... [LB555]

THOMAS PRISTOW: Right. [LB555]

SENATOR CAMPBELL: ...because that's how this bill got here. [LB555]

THOMAS PRISTOW: Right. [LB555]

SENATOR CAMPBELL: And it may be that the committee needs some more education on TANF. [LB555]

THOMAS PRISTOW: Right, and I'm drilling down to find out exactly how...a couple years ago, when the move...when the Legislature approved a move from some of the TANF funds to free up General Funds, exactly how that played out. [LB555]

SENATOR CAMPBELL: Okay. [LB555]

THOMAS PRISTOW: And I think that worked toward some protection-of-safety issues. [LB555]

SENATOR CAMPBELL: The use of TANF funds was made, at one point, Director, to shore up the lead agency. There was a transfer at the beginning, I think, of 2010. And that's certainly how the interest of this committee became involved. But whatever you might be able to provide for us in terms of what they are, you know, sort of a list of what they're used for, and any definitions would greatly help us... [LB555]

THOMAS PRISTOW: I'd be glad to do that. [LB555]

SENATOR CAMPBELL: ...because I don't know that we've had a lot of education. The continuing members have followed this issue to some extent. But even for the four of us it might be helpful to see exactly what they're used for and the criteria and to check on

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Senator Krist's question on a waiver. Senator Krist. [LB555]

SENATOR KRIST: Just one follow-up. That time, 2009, '10, and even part of '11 were not happy times. We were borrowing for where we needed to, to make ends meet someplace else. And we also had a privatization effort that caused a lot of upheaval. So, potentially, in the waiver process we could also go back to our Appropriations Committee, which I actually know somebody who was on Appropriations, and find out if there might be a payback in terms of funding some of this and maybe not dipping into TANF or replenishing TANF if that color of money is appropriate to do so. [LB555]

THOMAS PRISTOW: Right. [LB555]

SENATOR KRIST: So that's...it's not that I want a waiver and dip into it again; it's where I want to see the guidelines that give us the authority to do something within. Can we replenish it? Can we...like a Health Care Cash Fund. If we keep spending at the rate we are, we're going to spend ourself out of a Health Care Cash Fund, so we have to find a way to replenish or not touch the corpus, so. [LB555]

THOMAS PRISTOW: Understood. [LB555]

SENATOR KRIST: Okay, thanks. [LB555]

SENATOR CAMPBELL: That would...any of that background would be helpful. [LB555]

THOMAS PRISTOW: I should be able to get that to you within two days (inaudible). [LB555]

SENATOR CAMPBELL: Okay, that would be great. We will probably come back to all of these bills early next week, so I would think by Monday or Tuesday that would be helpful. [LB555]

THOMAS PRISTOW: Be great. [LB555]

SENATOR CAMPBELL: Is that okay, Senators, if we kind of set that time line? So whatever information you think might give us some education on TANF would be helpful. [LB555]

THOMAS PRISTOW: I'd be glad to. Thank you. [LB555]

SENATOR CAMPBELL: All right, thank you, Director. [LB555]

THOMAS PRISTOW: You're welcome. Thank you. [LB555]

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SENATOR CAMPBELL: Are there any other testifiers in a neutral position? Okay, Senator Nordquist, I know you want to close. [LB555]

SENATOR NORDQUIST: (Exhibit 15) Yes, thank you. Thank you, Madam Chair and members of the committee, for your attention to this issue. Just a few points here. As far as the four purposes of TANF, I certainly see the potential definition fitting within several of those. We're talking about ensuring that children can be cared for in their own homes. I think that, as these parents are trying to transition off of TANF, ensuring that there are sufficient supports in their family to prevent situations where abuse and neglect would arise, I think, is absolutely, absolutely important, a key role for us as legislators. And I think it would fall under that, certainly, preventing out-of-wedlock pregnancies, but I don't want to attest to one of those specifically right now. What I will do is go to the states that have done this and used the TANF funds for these purposes and see how they have defined it because this is very much modeled after what Michigan and Indiana have done, and they would have to have the same guidelines for TANF. As far as the TANF dollars, I know you have other bills that would address those. The balance at the end of 2016 would be \$21.8 million currently. This would reduce that by \$1.5 million because it's a two-year appropriation. I'll hand...I have a breakdown here of the key areas of the...where we're spending the \$64 million a year of TANF that Liz has provided me, and we can make a copy of that, that shows where that's broken down. I do think, just overall, this bill is about breaking into the cycle of multigenerational poverty. As I said, we do have a number of programs in place to try to transition parents off of these programs to work. But as they're making that transition, if they don't have supports at home or they don't...or the kids aren't getting the supports that they need, they're going to be going down the same path. And that's what this bill is focused on doing, breaking the cycle and ensuring the children are getting...and, granted, it's not going to cure every issue across the state. But the more kids that we can get up to reading level, give them the supports they need to be successful academically, that is the surest way to break the cycle of poverty. Thank you. [LB555]

SENATOR CAMPBELL: Thank you, Senator Nordquist. Any follow-up questions from the senators? I'm double-checking, Senator Howard. (Laughter) [LB555]

SENATOR NORDQUIST: And I'll certainly work with the department on the...as far as the money going to a cash fund as opposed to being directly appropriated. That's a simple amendment. [LB555]

SENATOR CAMPBELL: Okay. [LB555]

SENATOR NORDQUIST: And then Senator Krist's suggestion also, I will follow up on that. [LB555]

SENATOR CAMPBELL: All right. Thank you, Senator Nordquist. [LB555]

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SENATOR NORDQUIST: Thank you. [LB555]

SENATOR CAMPBELL: And with that we will close the hearing on LB555. [LB555]

SENATOR CAMPBELL: We will take a five-minute break and then come back for the last bill, and Senator Krist will be handling that for me. [LB555]

BREAK

SENATOR KRIST: Well, hi, Senator Campbell. [LB270]

SENATOR CAMPBELL: Hi. [LB270]

SENATOR KRIST: Thank you for coming. With all due respect, you can continue anytime you'd like to. [LB270]

SENATOR CAMPBELL: Thank you, Senator Krist and colleagues on the Health and Human Services Committee. LB270 requires...oh, I'm sorry. It's Kathy Campbell, K-a-t-h-y C-a-m-p-b-e-l-l. [LB270]

SENATOR KRIST: I was just about to remind you. [LB270]

SENATOR CAMPBELL: I know. You'd think I'd get the drill here. LB270 requires that no later than September 1, 2013, the Department of Health and Human Services submit a state plan amendment or waiver until...under the federal Social Security Act, to the federal Centers for Medicare and Medicaid Services. The amendment or waiver is to provide coverage under the designated medical assistance programs for home and community-based services specifically for children with severe emotional disturbances, must serve youth who are 4 through 20 years old that have been deinstitutionalized or diverted from a psychiatric hospital-level of care. Services under the waiver shall include, but not be limited to: attendant care, independent living and skills building, short-term respite care, parental support and training, professional resource family care, and facilitation of wraparound services. Wraparound services are strength-based individualized, community-based services for a family with a child with serious emotional disturbance. I am introducing LB270 in response to two reports completed as a result of the LR37 legislation passed last session. First is the Medicaid crossanalysis...systems analysis completed by the Public Consulting Group. The analysis was conducted as a result of the LR37 Health and Human Services Committee interim study on child welfare and LB821. The goal of the analysis was to: one, identify state General Funds being used in order to better utilize federal funds; identify resources that could be better allocated to provide more effective services to at-risk children and juveniles in their transition to home-based and school-based interventions; and, number three, to provide

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information which would allow the replacement of state General Funds for...to serve at-risk juveniles with federal funds. The Public Consulting Group incorporated recommendation in the Medicaid analysis and concluded and included in their report that Nebraska consider additional forms of 1915i state plan amendment or 1915(b) and (c) Medicaid waivers that could be used to target children and develop a coordinated set of services. The report suggests that Nebraska consider implementing a 1915(c) Medicaid waiver used to provide home and community-based services. The report highlights the number of states that have implemented, quote, the growing use of these waivers for children with serious emotional disturbance or...also known as SED. In addition to the Medicaid analysis, another report, an evaluation completed as a result of LB1160, was an assessment of child welfare services in Nebraska completed by the Center for the Support of Families and Hornby Zeller Associates in November of 2012. Included in that report is a study of residential placements for children. The study found that, during the three state fiscal years 2010 through 2012, 1,898 children were in or at least one residential placement at some time, experiencing a total of 3,103 placements during that period. Among the children who experienced at least one residential setting during the three-year period, 1,490, or 79 percent, were removed, at least in part, for child behavior reasons, including child drug or alcohol issues. Nearly 19 percent of all residential placements during this three-year period ended less than one month after they began, and nearly 5 percent ended within three days. What this suggests is that youth who stay in residential settings very short periods of time probably do so more than once. The youth themselves are typically older youth with behavioral issues, and most of the placements are not in large institutions but, at that point, in therapeutic group homes. Almost certainly many of these children could have been accommodated in a less-restrictive setting, and I think we've certainly heard some of that as we work through the PRTF issues. In most human service systems, many of the costs are concentrated on relatively few clients. If, as suggested above, many of the very short-term residential placements are not due to the youth's actual need for residential care, but to features of the current operation of the child welfare system, repeated short-term residential placements identify a group of youth whom the system has...particularly difficult serving. And so we are talking about, sometimes, a very narrow percentage of that population. Accordingly, the Medicaid waiver for serious emotional disturbances for home and community-based services could be an option for addressing some of the needs of these high-need children. And we continue to talk about what's the best way to serve them. Services under the waiver would include, as previously mentioned, attendant care, independent living, short-term respite care, and so forth. Finally, we will continue to monitor the federal activity because we are aware that there are potential issues regarding enabling language for 1915(c) waivers at the federal level. So this bill may be impacted by federal inaction, and we're watching that. I want you to note, committee, that, as we read the reports this summer in the office, and as the consultant reports came forward and we heard all those reports, I felt it was important that we not just say, that's a great report, thank you very much, and put it along with our large stack, but that we take the time to examine some issues that the

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consultants brought forward. So this may be a little different. We may not have very many testifiers. I think there are a lot of people who looked at this bill and went, what are they really doing here? I mean, I think this is kind of a way to discuss it, and I very much appreciate that the department is here. I fully expect that they may testify in a neutral or in opposition to it. But it opens for us the discussion of this issue, and I think that's what we intended with this bill. Any questions? [LB270]

SENATOR KRIST: Any questions for Senator Campbell? Senator Howard. [LB270]

SENATOR HOWARD: Can you talk to me about why you chose the age range that you did? Was that a requirement of the waiver? [LB270]

SENATOR CAMPBELL: Yes. [LB270]

SENATOR HOWARD: Okay, 4 to 21. [LB270]

SENATOR CAMPBELL: It's contained in the federal. [LB270]

SENATOR HOWARD: Okay, perfect. Thank you. [LB270]

SENATOR KRIST: Any other questions? Thank you, Senator Campbell. I'm sure you'll stick around to close. [LB270]

SENATOR CAMPBELL: I will. Thank you. [LB270]

SENATOR KRIST: Let's start with the proponents. First proponent, please. Hi, there. Welcome. [LB270]

SARAH FORREST: (Exhibit 16) Thank you. Good afternoon, Senator Krist and members of the Health and Human Services Committee. My name is Sarah Forrest, S-a-r-a-h F-o-r-r-e-s-t, and I'm a policy coordinator for child welfare and juvenile justice at Voices for Children in Nebraska. I'm here today to express our support of LB270, which requires the Department of Health and Human Services to apply for a waiver for home and community-based services for youth. Children and youth with mental and behavioral health needs should receive the care that they need in the least restrictive environment possible. This allows them to have those key developmental experiences which allow them to go on to have a bright and successful adulthood. As Senator Campbell mentioned, this was identified in a number of the reports that came out of the LR37 process and the Children's Commission bills, and we're very excited to see it put forward. We think that this will benefit all of our children in Nebraska, but will be specifically important to contributing to child welfare and juvenile justice system reform in our state in a number of ways. First, we know that children and youth continue to be made wards of the state to access services. Often this pushes them deeper into the

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system and inappropriately results in their placement in residential settings. If community services were available, this may not be the case. Obviously, removing children from the home does have unintended consequences and can be traumatic for children. In 2011, 40 percent of our court entries in Nebraska were youth 14 years and older, so that's nearly half of all kids coming into our child welfare system as state wards were teenagers. Over 20 percent of cases reviewed by the Foster Care Review Office in that same year identified the youths' own behaviors as the primary reason for their entry into our child welfare system. Obviously, this is a costly way of responding to youths' real needs and may not be the most effective way of getting them the services that they need. We already have projects underway in the state of Nebraska to try to reduce this issue of making children wards to access services. Probation's Juvenile Services Delivery Project, which Senator Krist has worked on, is seeking to give youth services in new ways, keep them in their communities. And we've seen some preliminary success with that, and we think that this waiver could help build on those projects which are already underway. This leads me to my next point. As we look at juvenile justice system reform, especially in Nebraska, we're aware of the need to enhance community-based services for youth, often those who have behavioral and mental health needs. There are a number of bills and a number of committees this year that are looking closely at how we do this. But we know that when youth can be kept close to home their outcomes are better; when their families can be engaged, their outcomes are better. And so enhancing the services that we provide to children, keeping more of them close to home, in their communities, this is just better for kids and we should be pursuing all options. So, in conclusion, LB270 offers some key opportunities to strengthen the reform of our child welfare and juvenile justice systems and to ensure that all kids in Nebraska are getting the services they need. We thank this committee and Senator Campbell for their continued leadership on this topic and urge you to advance the bill. I would welcome any questions that you have. [LB270]

SENATOR KRIST: Thank you, Sarah. Thank you for what you do. Any questions for Sarah? I would just note that this morning we reviewed the pilot program, which is a pew inside this church, if you will,... [LB270]

SARRAH FORREST: Yes. [LB270]

SENATOR KRIST: ...and its successes. And the number is 80 percent in-home services in that pilot program, which means we're saving money and we're doing the right thing by including the family in that,... [LB270]

SARAH FORREST: Um-hum. [LB270]

SENATOR KRIST: ...which is true community based, as opposed to those juveniles that are still in the DHHS system--67 percent of them are out-of-home services and, in some cases, the sad story of becoming a ward of the state and what happens after that has

happened. So I think there's evidence-based information out there that tells us that what you've been espousing to us for the last few years is right on target. So thank you very much for your testimony. [LB270]

SARAH FORREST: Well, thank you, Senator Krist. [LB270]

SENATOR KRIST: Next proponent. Good afternoon. [LB270]

BETH BAXTER: (Exhibit 17) Good afternoon, Senator Campbell and members of the Health and Human Services Committee. My name is Beth Baxter, B-e-t-h B-a-x-t-e-r, and I'm here today representing the Nebraska Association of Regional Administrators, a coalition of administrators of the six behavioral health regions across the state. I serve as the administrator for Region 3 Behavioral Health Services, which encompasses 22 counties in the central part of the state, and I'm here to support LB270. Senator Campbell, thank you very much for introducing this bill. Senator Campbell has identified kind of the impetus for this bill in terms of the cross-systems analysis report. And in reading that report I think it provided a variety of strategies that we can utilize to maximize the resources in serving children and families. So I'm happy to see that this bill has come forward to support the application and development of a home and community-based services waiver. Youth with serious emotional disturbances include children and adolescents with chronic depression, major conduct disorders, substance abuse problems, and other behaviors that are challenging for families and communities. National prevalence data indicates that one in ten children have a serious emotional disturbance, and we know that many of these youth are first identified in schools, in child welfare, in juvenile justice, and that they often claim a great deal of attention because of the wide gap between the types of intensive services they need and the services that are available for them. Senator Campbell and Sarah identified the various types of services that are identified within this potential waiver, and we know that these services have, in other studies and in other programs, have produced very positive outcomes for youth and in reducing...keeping them at home, reducing their stays in restrictive levels of care as well. Many states, including Wisconsin, Vermont, Kansas, Indiana, Mississippi, and New York, have successfully utilized the 1915(c) waiver, the home and community-based services waiver, to provide community-based alternatives to psychiatric residential treatment facilities and other restrictive levels of care. These waiver services have been effective in helping children and their families achieve better treatment outcomes, as well as being cost-effective for states. LB270 identifies the types of services to be provided, those that can support youth in their home, provide them in a timely manner, return to home if they happen to be in out-of-home care at the time, and also in preparing older youth for adulthood. We know from the testimony of LR537 in October of 2012, regarding youth aging out of the foster care system without appropriate preparation, that these youth just generally don't fare well going into adulthood. They have challenges in completing their education, in finding employment. We see them more and more in the criminal justice system and just struggling with

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overall self-sufficiency. LB270 will ensure that appropriate services are available for these older youth to effectively prepare them for adulthood in a proactive manner. This bill also identifies the utilization of the facilitation of wraparound services to be included in this waiver. The Regional Behavioral Health Authorities have been providing a program, entitled the "Professional Partner Program," which is the facilitation of wraparound services. We've been doing this since 1995 with demonstrated success in helping youth who experience a serious emotional disturbance and their families to achieve positive outcomes. These youth that are served through this program experience significant functional impairments and are at risk of being placed out of their home, because of a behavioral health need, in order to access behavioral health services; they're at risk for committing juvenile offenses, for school disruption, for truancy, and dropping out of school. Last year, the six behavioral health regions served 1,147 youth in these professional partner programs across the state. These youth, on average, experienced clinically significant improvements in their functioning, and 95 percent of these youth remained in their home, within their school. So we know that these outcomes can be positive for kids through using wraparound facilitation. I would like to encourage the committee to advance this bill and would be happy to answer any questions that you might have. [LB270]

SENATOR KRIST: Thanks, Beth. Thanks for coming. Any questions? Senator Gloor. [LB270]

SENATOR GLOOR: Thank you, Senator Krist. Thanks for making the drive in, Beth, appreciate it. With the outstate behavioral health regions, do we have the wraparound services necessary to effectively provide the care? [LB270]

BETH BAXTER: We don't have all of the services that are necessary and, frankly, we struggle with capacity, having adequate capacity to serve the need. One of the things in the wraparound process is using a system-of-care approach. It's individualized, so that helps us in rural areas to kind of identify those, sometimes, what we call, informal supports in communities to help families, to help them engage in and help their youth achieve positive outcomes. We never have enough services, no, and we never have enough capacity in what we have. [LB270]

SENATOR GLOOR: Okay, thank you. [LB270]

SENATOR KRIST: Thank you, Senator Gloor. Any other questions for Beth? Okay, thank you. [LB270]

BETH BAXTER: Thank you. [LB270]

SENATOR KRIST: Thanks for coming. Hi. [LB270]

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JAMES GODDARD: (Exhibit 18) Good afternoon. My name is James Goddard, that's J-a-m-e-s G-o-d-d-a-r-d, and I am here today to testify on behalf of Nebraska Appleseed. Nebraska Appleseed is a nonprofit organization that fights for justice and opportunity for all Nebraskans. I'm here today to testify in favor of LB270. The Medicaid home and community-based services, or HCBS, allows states to provide an array of services to people in the community instead of in an institution. LB270 would provide access to services such as independent living, respite, and, importantly, wraparound services for children with serious emotional disturbances. We feel like this is a really important bill because of the stories that we continue to hear through our intake and information line. Over the last, I would say, 12 to 24 months we've continued to get calls from families who are pushed to the brink because they have a child that cannot get the behavioral health service that they need. Some of these families think about relinquishing their child into the child welfare system to get treatment and, unfortunately, some families we've spoken to actually do take that step, and we feel like LB270 can help to avoid that tragic circumstance. We do want to note, at the same time, that Medicaid-eligible children are eligible for all mandatory and optional services under the Early Periodic Screening, Diagnosis, and Treatment, or EPSDT, program that allows children to get a fairly broad array of services when they are medically necessary. At the same time, the supplemental services under HCBS waivers complement EPSDT services and provide things like wraparound. In addition, this sort of service can help fill the gap between high-level institutional care and limited, community-based services. In closing, we just want to thank the committee for its continued dedication to the LR37 process and everything that you continue to do for children's behavioral health in Nebraska. With that, I would like to urge you to advance the bill and be happy to answer any questions I can. [LB270]

SENATOR KRIST: Thank you, Mr. Goddard. Any questions for Mr. Goddard? Senator Crawford. [LB270]

SENATOR CRAWFORD: Thank you, Senator Krist, and thank you for your testimony and your work for these children. [LB270]

JAMES GODDARD: Thank you. [LB270]

SENATOR CRAWFORD: Could you just give us...talk a bit about the way in which the services, what would be provided by this bill, move beyond the EPSDT services that you just discussed that are available, like how do you see what...the services that are provided through that, and then how does this move beyond that? [LB270]

JAMES GODDARD: It is a hard acronym, EPSDT. I mess that up regularly myself. Well, there is a certain amount of overlap. In EPSDT you can get things like case management, personal care services, or other home and community-based care. But the major difference is most of what you can get under EPSDT is considered, in

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general, a medical sort of service. And the waiver services allow you to go beyond that into doing things that, although they don't seem exactly medical, it's something that the child actually needs; things like homemaker services, home health aides, personal care, respite is a specific one. So there is a certain amount of overlap between EPSDT and what you might be able to get under the waiver, but there...the waiver is more broad and also more targeted, in this case, to kids with serious emotional disturbances. [LB270]

SENATOR CRAWFORD: Okay, thank you. [LB270]

JAMES GODDARD: Sure. [LB270]

SENATOR KRIST: Thank you, Senator Crawford. Any other questions? Thank you, Mr. Goddard. [LB270]

JAMES GODDARD: Thank you. [LB270]

SENATOR KRIST: Next proponent. Seeing none, first opponent. Welcome, Ms. Chaumont. [LB270]

VIVIANNE CHAUMONT: Hi, Senator Krist. [LB270]

SENATOR KRIST: How are you? You have another injury. [LB270]

VIVIANNE CHAUMONT: (Laugh) I do. [LB270]

SENATOR CAMPBELL: Did you miss that? [LB270]

SENATOR KRIST: I missed that, yeah. [LB270]

SENATOR CAMPBELL: She broke her... [LB270]

SENATOR KRIST: Oh, my goodness. [LB270]

VIVIANNE CHAUMONT: I do have another injury. [LB270]

SENATOR KRIST: I'm sorry. [LB270]

VIVIANNE CHAUMONT: My children are thinking of getting me one of those Life Alert buttons for Mother's Day. [LB270]

SENATOR KRIST: You know you can't leave your house. It goes out of range if you... [LB270]

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VIVIANNE CHAUMONT: (Exhibit 19) Yes. (Laughter) This time I forgot to even take my phone, so. Okay. Good afternoon, Senator Krist--sorry--and members of the Health and Human Services Committee. My name is Vivianne Chaumont, V-i-v-i-a-n-n-e C-h-a-u-m-o-n-t, director of the Division of Medicaid and Long Term Care for the Department of Health and Human Services. I'm here to testify in opposition to LB270. LB270 requires Nebraska Medicaid to submit either a state plan or a waiver under 1915(c) of the federal Social Security Act with the Centers for Medicare and Medicaid Services, known as CMS, to provide coverage under the Medicaid program for home and community-based services for children with serious emotional disturbance. The differences between a 1915(c) waiver and a state plan amendment are significant. The bill leaves it up to the department to decide which option to implement without any indication as to what is the intended goal of the new program. Waivers have client caps and require Medicaid cost neutrality. Please note that the CMS requirement is cost neutrality for the Medicaid program, not cost neutrality for the state budget. Under the state plan, once a population is defined, all clients that meet the definition have to be provided the services. Either way, any client who is found eligible qualifies for all covered benefits in the Medicaid program. Financial eligibility for children who are eligible for waiver services is calculated based on a household of one, so that the income of the parents is not counted at all. According to the Centers for Disease Control and Prevention, the parents of 14.5 percent of children 4 to 17 years of age who have talked with a healthcare provider or school staff about the child's emotional/behavioral difficulties report that their child has a serious difficulty. In Nebraska, 14.5 percent of the total population of children and young adults aged 4 through 20 would be estimated at 68,379. Without more clarity in the bill, or as implemented by the department, this population is potentially eligible for this new program. In addition to the bill not identifying the purpose of the program or indicating which option the department should implement, the bill does not define the term "serious emotional disturbance." There are a variety of definitions available in the literature for that term. The impact of the program is different depending on what definition is used. The bill states that children 4 to 21 are eligible for the program. However, according to state statute at 68-915, Nebraska Medicaid covers children under 19. Nebraska Medicaid currently covers 19- to 21-year-olds if they meet another eligibility group, that is, if they're pregnant or disabled. They're adults. LB270 appears to expand Medicaid by adding a new eligibility group. Whether or not the state plan option could cover this new eligibility group is uncertain. The bill does not clearly define the level of care necessary to meet the new program's criteria. Individuals under 1915(c) waivers need to meet an institutional level of care; that is, but for the community services the individuals would be in an institution. Individuals who have been deinstitutionalized or diverted from a psychiatric hospital-level of care are very different from individuals who meet that institutional level of care at assessment. The state plan option does not require individuals to meet an institutional level of care at assessment, which opens that notion much more and makes it even more important to clarify...carefully define the eligible group. What does it mean to have been deinstitutionalized? If the child was institutionalized without medical

necessity, is that child eligible? If a parent asks for a child to be institutionalized and the child was not, is that child now considered diverted from a hospital? The targeted population needs to be carefully defined because everyone that meets it will be eligible for full Medicaid benefits. In order for CMS to approve either option, we would have to establish that the services provided under the waiver are not duplicative of existing Medicaid state plan services. LB270 requires coverage of services which are currently covered under the state plan; specifically, professional resource family care and wrap services that might include many individual therapeutic services, like intensive outpatient therapy, are offered to individuals in the community-based setting. The bill needs to define what wrap services are envisioned. The bill's requirement to submit a state plan amendment or a waiver by September 1, 2013, is not realistic. Waivers under 1915(c) require significant time and planning. A state plan to accommodate this population will require comparable activities. Each service must be defined with specificity. Providers for these services need to be identified, and the qualifications for those providers need to be detailed. The methodology for the rates has to be established for each new service. The methodology...for the waiver, a level-of-care assessment has to be developed; for the state plan, a service evaluation has to be created. The development of quality assurance measures are mandatory and are specific to the services offered under either option. Strategies to evaluate those measures also have to be developed. Additionally, criteria need to be established to identify when an individual no longer qualifies for the new services and how to transition the individual from those services. The filing of either option requires stakeholder meetings and input. Extensive financial analysis is part of the required submissions. Additionally, services must be based on a clinical standard that is identified through a needs-based evaluation. This evaluation must be done independently, with a conflict-free evaluator, with the resulting information used to create an individualized service plan. This individualized plan must be patient centered, and the Medicaid recipient must actively participate in the development and planning process. This would require more resources not currently available. As a result of all the issues referenced above, it was very difficult to prepare a fiscal note. Development of waivers is a data-intensive process. The Home and Community-based (sic) Services Aged and Disabled Waiver is 170 pages long. In the time frame available, it is impossible to do the type of analysis needed that would be required in a waiver submission. Regardless of all the problems discussed above, LB270 is an expansion of Medicaid eligibles and an expansion of Medicaid services. For all these reasons, the department opposes LB270. I'm happy to answer any questions. And I'd like to correct some information that was previously provided. HCBS waivers, or the 1915i, would allow...limit to kids 18 and under. The Michigan waiver, for instance, is you have to be under 18. And then, about EPSDT, my favorite Medicaid acronym, EPSDT covers state plan services for children that might not otherwise be covered for adults, like dental. Some states don't cover dental for adults, but they cover it for children. The services that James mentioned, like personal assistant services and some of the other service--respite--some of the other services that are...I don't think respite is. But several of the services he mentioned are

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state plan services, which we already cover in the Medicaid program, so there would be no need to cover them in the waiver. I'd be happy to answer any questions. [LB270]

SENATOR KRIST: Thanks for your testimony. I'll just say, for the record, it's good to see you here, in person, and also to bring your concerns here. This is the beginning of the discussion, obviously. Senator Campbell said that in her opening. So the fact that many of us are just seeing this now is not surprising because it is a complicated issue, and it's going to start a discussion that will probably last for at least a year. But again, thank you for personally coming and testifying. Any questions for the director? Senator Howard. [LB270]

SENATOR HOWARD: Thank you, Senator Krist. In your fourth paragraph you mention financial eligibility for children who are eligible for waiver services is calculated based on the household of one. [LB270]

VIVIANNE CHAUMONT: Right. [LB270]

SENATOR HOWARD: If we did a state plan amendment, would it still be calculated on a household of one, or would it be calculated based on family size? [LB270]

VIVIANNE CHAUMONT: The state plan amendment that we're...that is being envisioned here is a 1915i waiver, and I believe that we would be talking about a household of one. What that means is that you look at the child as the household, you determine what income that child has, which, in most cases, is zero, and so the child is eligible if they meet the criteria, regardless of the financial position of the parents. [LB270]

SENATOR HOWARD: Are there differences between a waiver and a state plan amendment? You mentioned that, in the third paragraph, that there are significant differences. Is there a difference in eligibility? [LB270]

VIVIANNE CHAUMONT: Yes. [LB270]

SENATOR HOWARD: Okay. [LB270]

VIVIANNE CHAUMONT: Well, in this...well, if there...if it's a state plan amendment, you have to offer it to everyone in the state that meets the criteria. If it's a waiver, you can put a cap on it, you can limit services, you can do it...Michigan's is by county. There's different things that you can do on it. The little bit of confusing part, and I don't mean to get into a medically "geeky" conversation here, but the 1915i HCBS waiver, CMS has just said, can be a state plan waiver. [LB270]

SENATOR HOWARD: Um-hum. [LB270]

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VIVIANNE CHAUMONT: So it still meets...has to meet all the waiver criteria, but you put it in the state plan. All the work and everything still has to be done. And that's the thing where you have to be really careful because once it's in the state plan it applies to everyone that meets the criteria. [LB270]

SENATOR HOWARD: So...and then the total population of children and young adults would have to be covered, regardless of their income? [LB270]

VIVIANNE CHAUMONT: Depends on how you do it. [LB270]

SENATOR HOWARD: Okay. [LB270]

VIVIANNE CHAUMONT: Um-hum. [LB270]

SENATOR HOWARD: All right, thank you. [LB270]

VIVIANNE CHAUMONT: But in...I...yeah. In a lot of states, they're calculated as a household of one. [LB270]

SENATOR HOWARD: ...as a household of one. Do we calculate them currently as a household of one for our Medicaid program? [LB270]

VIVIANNE CHAUMONT: For home and community-based services, most... [LB270]

SENATOR HOWARD: Okay, for any other services? [LB270]

VIVIANNE CHAUMONT: No, and the difference between...oh, I know. Sorry. [LB270]

SENATOR HOWARD: Sorry. [LB270]

VIVIANNE CHAUMONT: The difference between home and community-based services and state plan services is that, through a home and community-based services waiver, you are covering services that wouldn't otherwise be covered in the state plan. And they tend to be the nonmedical services, which is another issue, because what are you talking about when you say wraparound? Family therapy? Someone mentioned family therapy before--already covered. So they tend to be services that are...well, they are all services that aren't covered. So, for instance, in the adult aged and disabled population, they would be...I can't remember what they call it here. Skilled...oh, gosh, what's the...not nursing homes, the other thing...assisted living, sorry, assisted living facilities, which Medicaid wouldn't otherwise cover except for this population in HCBS, so. [LB270]

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SENATOR HOWARD: Okay, and how many state plan amendments do we have currently? [LB270]

VIVIANNE CHAUMONT: There is one state plan, and I just sent a report that lists all of the state plan amendments and waivers and rules and everything that have been done. We have to amend the state plan all the time. Sometimes it's very simple; this would be very difficult, time-consuming. It's just not realistic for September 1, 2013. [LB270]

SENATOR HOWARD: Thank you. [LB270]

SENATOR KRIST: Is that all? [LB270]

SENATOR HOWARD: Maybe. [LB270]

SENATOR KRIST: Okay, just wait. So it's complex. That's the bottom line. [LB270]

VIVIANNE CHAUMONT: It is a very complex thing to do. [LB270]

SENATOR KRIST: Okay. Could you clear up one thing for us? [LB270]

VIVIANNE CHAUMONT: Sure, um-hum. [LB270]

SENATOR KRIST: And I know the answer, but I want to make sure we get there. You say, in the last few lines of the first page, at least our text, that the Nebraska Medicaid plan covers children and cuts off at 18, and then we continue on with the 18- to 21-year-olds in another eligibility group, yet the federal age parameters cover 0 to 21. Could you clear that up? [LB270]

VIVIANNE CHAUMONT: Yes. States, you know, there's optional populations and there's mandatory populations, so CMS says, these people...you have to cover pregnant women up to 133 percent. Nebraska covers pregnant women up to 185 percent. You have to cover children up to...through 18. States have the option to cover 19-year-olds and 20-year-olds. Nebraska has not chosen to cover 19-year-olds and 20-year-olds. [LB270]

SENATOR KRIST: So, under that definition, assuming that we get into the Medicaid expansion area, will we have a choice whether or not to cover up to 18 or go to 21? Can you talk to that yet, or do you know? [LB270]

VIVIANNE CHAUMONT: Yeah. Adults are considered, for purposes of...19 and above are considered adults. [LB270]

SENATOR KRIST: With the Affordable Care Act, by the parameters of the Affordable

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Care Act? [LB270]

VIVIANNE CHAUMONT: Currently, in Medicaid,... [LB270]

SENATOR KRIST: Okay. [LB270]

VIVIANNE CHAUMONT: ...19 to 21, except for those states that choose to cover 19- and 20-year-olds. So, in Nebraska, 19 and above are considered adults. [LB270]

SENATOR KRIST: Thank you for clarifying that for the record. [LB270]

VIVIANNE CHAUMONT: Um-hum. [LB270]

SENATOR KRIST: Any other questions? All right, thank you. Thank you, Director. [LB270]

VIVIANNE CHAUMONT: Thank you. [LB270]

SENATOR KRIST: Any other testimony in opposition? How about neutral? Thanks for coming. That closes our hearings for the day. Any comments from the Chair? [LB270]

SENATOR CAMPBELL: No. I...we will work with the director and come back to you. If there are...there are no other hearings for the day, so we will conclude. And thank you all very much for coming. (Exhibits 20, 21, 22) [LB270]