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Transcriber's Office

Health and Human Services Committee
March 03, 2016

[LB674 LB697 CONFIRMATION]

The Committee on Health and Human Services met at 1:00 p.m. on Thursday, March 3, 2016, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB674, LB697, and gubernatorial appointments. Senators present: Kathy Campbell, Chairperson; Sara Howard, Vice Chairperson; Roy Baker; Sue Crawford; Nicole Fox; Mark Kolterman; and Merv Riepe. Senators absent: None.

SENATOR HOWARD: Good afternoon and welcome to the Health and Human Services Committee in the Nebraska Legislature. I'm Senator Sara Howard. I represent District 9 in midtown Omaha and I serve as Vice Chair for the committee. Senator Campbell will be joining us very soon. As per usual, we start with introductions on my right.

SENATOR FOX: Senator Nicole Fox, District 7, which is downtown in south Omaha.

JOSELYN LUEDTKE: Joselyn Luedtke, committee counsel.

SENATOR CRAWFORD: Good afternoon. Senator Sue Crawford, District 45, which is eastern Sarpy County, Bellevue and Offutt.

SENATOR RIEPE: Merv Riepe, Legislative District 12, which is Omaha, Millard and Ralston.

ELICE HUBBERT: Elice Hubbert, I'm the committee clerk.

SENATOR HOWARD: Okay, we ask that you turn off your cell phones and although handouts are not required, if you do decide to bring handouts with you, we do require 15 copies. If you will be testifying, we ask that you use one of the orange sheets and that you state your name and spell it for the record, both first and last name for the transcribers. We do use the light system, although for appointments we don't really use the light system. So as we will be going along, for the first three appointments we won't be using the light system. With that, I will open up the hearing for Roger Wells for an appointment to the Nebraska Rural Health Advisory Commission. Good afternoon.

ROGER WELLS: (Exhibit 1) Good afternoon. My name is Roger, R-o-g-e-r, Wells, W-e-l-l-s, and I'd like to address you any way possible, but first I'd like permission to use my cell phone for my notes. [CONFIRMATION]

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SENATOR HOWARD: Yes, absolutely. [CONFIRMATION]

ROGER WELLS: Thank you. My goal for the committee is to first ask for you to let me help you. Okay. If you have issues, problems, concerns, I've had 28 years in the small town of St. Paul, Nebraska. I'm pretty well-versed, I've been working at the national level, at the National Rural Health...sorry, the public Office of Rural Health Policy as well as now work as a member of the National Rural Health Association board of trustees. So any questions, comments...if I can help you, I would be happy to. First of all, I'd like to have any questions from you. [CONFIRMATION]

SENATOR HOWARD: Well, we usually start by inviting you to tell us a little bit about your background. And this is a reappointment to the Rural Health Advisory Commission, correct? [CONFIRMATION]

ROGER WELLS: That is correct. I served six years and left the Rural Health Commission to go to the American Academy of Physician Assistants board of directors for six years. I stopped that initial activity secondary to being home with my family; that's when my kids grew up, and I wanted to be around them. And then I was reappointed to this committee as well as then started working out to the national levels. I started out as an instructor at the Kearney State College, as a head athletic trainer taking care of injury. Decided I didn't like taking care of injury. There's better things to do than work with sports, and then there was lives that being hurt and people sacrificing your life in the name of sport. And I thought there was better things to do, went back to the PA school. Presently I have one son who is a--excuse me, he'd shoot me--resident; he's now a fellow at the university in critical care pulmonary. I have a daughter who works at the Med Center as a PA. And she was in Tekamah as a recipient of a Rural Health grant, and she is now working in pain management...inpatient pain management (inaudible). And then I have a daughter who is now finishing her master's degree in dietetics, with her thesis being on Vitamin E. [CONFIRMATION]

SENATOR HOWARD: Wow. That's very impressive. Very impressive children. That's wonderful. [CONFIRMATION]

ROGER WELLS: It's due to my wife, not me (laughter). Absolutely was, because we felt that the foundations began at home. And that foundation at home becomes--with education, going to the library, having library reading classes--identifying working with a whole person, not just the issue with the family themselves of creating a score or a ranking. That just did not work for us at all, so we were happy with them. [CONFIRMATION]

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SENATOR HOWARD: That's wonderful. Are there questions from the committee? Senator Riepe. [CONFIRMATION]

SENATOR RIEPE: Thank you, Senator Howard. Thank you for being with us. I guess you live in St. Paul. [CONFIRMATION]

ROGER WELLS: Yes, sir. [CONFIRMATION]

SENATOR RIEPE: My question would be simple and that is, what do you feel is your number one health issue in a community like St. Paul, or actually in your St. Paul? [CONFIRMATION]

ROGER WELLS: Okay. My concern is the change in medicine without understanding where we're changing or why we're changing, whether we're in St. Paul or whether we're anywhere in the United States. The issue is that people are making rules and shifting, cost shifting, and my concern is cost shifting. If you tell me that you're saving money by doing something, that means somebody else is doing it to get by to make it. So if I have a CAT Scan that I want to do, I have to preauthorize that. That costs me money. I do not get caught. I don't get reimbursed for that. Oh, by the way, I can't do an echocardiogram because you have chest pain, not unless it's preauthorized even though I'm pretty sure I know what it is. That's cost shifting. It's costing shifting me, it's costing me time and place and I don't have the resources to do that. And so what happens now is, people are asking for outcomes-based medicine. Oh, by the way, you've got to have \$14,000-a-day compensation of some type to pay for your IT program for electronic medical records. Oh, now you've got to have a...just give me a broadband to be able to do it. Some my biggest concern is whenever a legislative or a governmental appointment or some kind of process is in place to look at the total cost, because it's not cost...it's not saving money. It's only shifting the problem to somebody else's portfolio. So if someone brings in something that's going to say I'm going to save money by doing something, the answer is, then who is footing the bill? Because most people are very responsive to their patients. They really care about them. They're there only for that. They're there as a person to help another person grow and become something, not to make money off of it anymore. Those people are pretty much gone. And so my concern is whenever legislation or a rule is made, how does that really affect the cost in the population and if it's really going to help thousands of people. Are we changing one thing because of one patient--and it may be a good idea--but we're hurting the whole rest of the group? [CONFIRMATION]

SENATOR RIEPE: Okay. Thank you. I think you've thought about that before. [CONFIRMATION]

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ROGER WELLS: Oh, yes, sir; I have thought about it many nights. It is...example is if I'm required to be in the hospital because I have to be around for an x-ray, because we can't do it unless there's a provider present, it sounds great from Washington, D.C., where that particular law...but it has no probability of any intent or harm in St. Paul, Nebraska. And so whether it's preauthorization from Medicaid thing, or cutting 2 percent off of this because we can afford to do it, then where is the cost shift going to go? That 2 percent is going to come out of somebody, somewhere, somehow. You can't keep reducing. Most of the time if we increase the basic needs, everything else takes care of itself. [CONFIRMATION]

SENATOR RIEPE: Thank you. [CONFIRMATION]

ROGER WELLS: Sure, my pleasure. [CONFIRMATION]

SENATOR HOWARD: Other questions? Senator Crawford. [CONFIRMATION]

SENATOR CRAWFORD: Well, I found your last statement very intriguing so I'm just going to follow up on that... [CONFIRMATION]

ROGER WELLS: Sure, be happy to. [CONFIRMATION]

SENATOR CRAWFORD: ...in terms of rural healthcare increasing the basic...you said, if we increase the basic needs, other things take care of themselves. I just wonder if you would elaborate on what that means in rural healthcare. [CONFIRMATION]

ROGER WELLS: I would be happy to. Thank you, Senator Crawford, and thank you for all your support you've given us. When we look at patient needs, we look at basics. That may need to be a colonoscopy, but in other needs it has to do with providing services such as dental care. The kids come in with four or five cavities, but they only get paid by the dentist to fix one or two and then they have to wait until the next year by which time the whole mouth is full of infection. They've already been in. They've had ear infection five to six times, now they catch...they have asthma which increases their reactivity. That's just one case. Also if we take care of things like the EMS, we are now required to do so many things that we have a poor number of respondents to come and join the EMS volunteer squads because the requirements are so high. And so when we look at those things, we look at basic needs. So when I look at it, I look at, okay, psychiatric, social, emotional, and physical need for a person to live a happy life. I just finished a book, on the way here, about this dynamic of how do we learn and when do we quit. And we quit when I'm pushing a button to get things done. In fact, if you look at the buttons that are being pushed, even in education, we see that we learn to teach to the education button, but not to educate the

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people. Okay? So, now we're cheating to teach to the test so that I can be a good teacher to get a pay raise rather than to educate the person. And so now we're doing that in medicine to learn how to answer the right questions to get a CAT scan or whether it's to get my teeth fixed or whether I have glaucoma in my eye and I have diabetes and I need to have another exam even though it's not time for and nobody wants to go get it. It's basic healthcare needs that we need to look at. So in my thing would be wellness exams, preventive exams that are accepted by the American College of...who cares, but by a reputable community evaluator, and then look at those basic needs. That needs to be taken care. Not to be able to say certain items are necessary or not, but look at national standards. And so when we look at all these individuals, basic needs becomes, to kids ages two through six--and at that time between the ages of two through six, these kids will now develop what they're going to be 85 percent of the time the rest of their life. So if engrained to them, cheating, smoking, alcohol, etcetera, they will become the same. That's what their peer group is. And so when we look at the new research from the University of Nebraska Medical Center, they were finding that those people that have adequate peer support in appropriate programs actually can bust out of areas that they don't need to be in. So those basic needs are mostly for me, ages two through five. Then I don't worry so much about the other people because I see too many people that have things they don't need, cars, you know, meal tickets, those kinds of things. Because we took care of them here, then the basic needs will be taken care of out here. [CONFIRMATION]

SENATOR CRAWFORD: Thanks. [CONFIRMATION]

SENATOR HOWARD: Any other...? Senator Riepe. [CONFIRMATION]

SENATOR RIEPE: I have a follow-up question. I assume you're on the staff of the Howard County Medical Center? [CONFIRMATION]

ROGER WELLS: Yes, sir, I am. [CONFIRMATION]

SENATOR RIEPE: And I assume that they have electronic medical records. [CONFIRMATION]

ROGER WELLS: Yes, sir, they do. [CONFIRMATION]

SENATOR RIEPE: I have a curiosity question in the sense of, do they or do you have scribes? [CONFIRMATION]

ROGER WELLS: No. [CONFIRMATION]

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SENATOR RIEPE: So you are the button pushers as opposed to a scribe doing it. I was just curious. [CONFIRMATION]

ROGER WELLS: Absolutely. I'm glad to answer your question. That's a good question because we've looked into that. The scribe has been looked at because it does three things. It frees the provider from having to do tedious tasks. The second thing, enjoyment levels of the provider now is better interaction with their patients because they're not looking back and forth, right? And the third thing it does is it speeds up the transaction between the patient with better outcomes because there's better communication. The downside is because of the cost we're not able to do that. So what I've done, Senator, is I'm actually using Dragon. Dragon is a word recognition program. I'm the only one doing that right now on a trial basis because it's very expensive, but I've done very well. And now my documentation is better than my peers and some of the providers. And they're looking at it to see instead of pushing buttons, I can click but within that click now, I can add things that no one else can add. Otherwise, it looks like a...it's just redundant from one time to the next, so being able to do that. So scribes are wonderful thing. We do not create enough income to be able to have that for six or eight providers. And they also turn over so it becomes a logistic problem to have that number of people continuing to work and understand what you want from them. [CONFIRMATION]

SENATOR RIEPE: From a...I think sometimes where this comes into play is where you have extreme or critical physician shortage. You know, if the physicians are trying to see 30 patients a day, and I don't know, how many patients a day do you have to see? [CONFIRMATION]

ROGER WELLS: I'm mostly internal medicine so I only see around 16 to 18 patients a day because they're complex and Medicare requires so much documentation. So being the older gentleman in the group, I tend to see all the sicker, more chronic patients. [CONFIRMATION]

SENATOR RIEPE: Okay. Thank you. [CONFIRMATION]

ROGER WELLS: You bet. [CONFIRMATION]

SENATOR RIEPE: Thank you very much. [CONFIRMATION]

SENATOR HOWARD: Any other questions from the committee? Seeing none, I have to ask, in St. Paul, that's where the Sweet Shoppe is, isn't it? [CONFIRMATION]

ROGER WELLS: Yes, it is. [CONFIRMATION]

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SENATOR HOWARD: With all the cookie jars. [CONFIRMATION]

ROGER WELLS: All the cookie jars, yes, it is. [CONFIRMATION]

SENATOR HOWARD: Oh, it's wonderful. You were remiss in not bringing us all cinnamon rolls. [CONFIRMATION]

ROGER WELLS: Yeah, we've gone to them at the time when I started with two physicians and one PA and myself. Now, we have four physicians and we have four physician assistants providing healthcare to the community. Senator Campbell, thank you for all your help. Appreciate it. Please, my opening comment was, let me help you. I will be happy to at anytime. [CONFIRMATION]

SENATOR CAMPBELL: Thank you. [CONFIRMATION]

SENATOR HOWARD: And this will close the appointment hearing for Mr. Roger Wells. Thank you for your time today. [CONFIRMATION]

ROGER WELLS: Thank you. [CONFIRMATION]

SENATOR HOWARD: And Senator Campbell has joined us and so I will pass the baton over to her. [CONFIRMATION]

SENATOR CAMPBELL: All right. And our next is Dr. John Craig. While Dr. Craig is making his way to the front, do we have anyone in the room who wishes to testify on any of the appointments today? Just want to figure time. Okay. Dr. Craig, welcome. [CONFIRMATION]

JOHN CRAIG: (Exhibit 2) Thank you, good afternoon. [CONFIRMATION]

SENATOR CAMPBELL: Again... [CONFIRMATION]

JOHN CRAIG: Yeah. [CONFIRMATION]

SENATOR CAMPBELL: ...we get to see you. So tell us a little bit about yourself, an update. [CONFIRMATION]

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JOHN CRAIG: Yeah, so I am originally from Minden, Nebraska. I did my undergraduate in college at UNK just right down the road and then, for the last seven years, have been living in Omaha going to UNMC. Did med school at UNMC and then I am just completing residency at UNMC in the next three months. After that, I'll be going back to Minden. So I've accepted a position there at the Kearney County Health System and so I'll be a family physician there.
[CONFIRMATION]

SENATOR CAMPBELL: So you've been the student representative, would that be right?
[CONFIRMATION]

JOHN CRAIG: Yeah, resident. Yep. [CONFIRMATION]

SENATOR CAMPBELL: The resident. Is there an...I don't want to say undergraduate. It's by someone who is in medical school because you've been there from your residency.
[CONFIRMATION]

JOHN CRAIG: Yeah, I don't think so, Roger. No, just resident only. [CONFIRMATION]

SENATOR CAMPBELL: Okay. Excellent. Well, you were...I think...were you here last year with us? [CONFIRMATION]

JOHN CRAIG: Yeah, last January. [CONFIRMATION]

SENATOR CAMPBELL: Yes, I'm thinking, Dr. Craig's back. Do we have to reappoint the resident every year? [CONFIRMATION]

JOHN CRAIG: Yeah, I think because of the turnover and things, there is a...I took over from one of my counterparts and so it was kind of a half appointment and then this is the...
[CONFIRMATION]

SENATOR CAMPBELL: Okay. Complete. So at the end of the year, so then you will cycle off of the Commission and someone new will take your place... [CONFIRMATION]

JOHN CRAIG: Yep, yes, ma'am, yeah. [CONFIRMATION]

SENATOR CAMPBELL: ...from a residency program of the state. [CONFIRMATION]

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JOHN CRAIG: Yep, yep. [CONFIRMATION]

SENATOR CAMPBELL: Okay. So the two residency programs would be what, UNMC and Creighton? [CONFIRMATION]

JOHN CRAIG: Yeah, and then there's one in Lincoln as well. It's affiliated with St. E's Hospital. [CONFIRMATION]

SENATOR CAMPBELL: Oh, okay. Lincoln Medical Education maybe? LMEF maybe? [CONFIRMATION]

JOHN CRAIG: Yep, yep. [CONFIRMATION]

SENATOR CAMPBELL: Okay. So what has struck you as you've served on the Commission starting from January? [CONFIRMATION]

JOHN CRAIG: Yeah, so I've just been...it's been neat for me to be a part of kind of a, I would say, governing body that helps rural health in the state. One thing that has been really important to me growing up, I've known that I wanted to be a family physician from a very, very young age and so being a part of something that kind of helps push rural medicine has just been...it's been awesome for me and I've really enjoyed it. So it's been neat in talking with the experience of the more senior members on the panel, just the more seasoned people, just the experience and wealth of knowledge that they have as well in terms of kind of the more of the regulatory aspects of rural health, so. [CONFIRMATION]

SENATOR CAMPBELL: Excellent. So what do you think the Commission will be tackling in the time you have left? [CONFIRMATION]

JOHN CRAIG: Yeah, so one thing, you know, I hope that we can tackle is the new bill that was...kind of started last year for the finance of helping pay back some of the long-term residency. I think that's important. You know, while I have been serving on the board I've been more of kind of my ear to the ground in terms of the debt of some of my colleagues and it's just astounding. You go down the line and, you know, most average debt of a resident is about \$150,000 and that's just for medical school. A lot of those people come into medical school having undergraduate debt too. Luckily I didn't, but a lot of people did. And so I've got friends that have, you know, debt up to \$250,000, \$275,000 from medical school just depending on where they went and things like that. So it's astounding. So that's going to be a big piece in my opinion and I hope to get it through. [CONFIRMATION]

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SENATOR CAMPBELL: Senator Kolterman, are you working with... [CONFIRMATION]

SENATOR KOLTERMAN: Marty. [CONFIRMATION]

SENATOR CAMPBELL: ...Marty Fattig on the issue. [CONFIRMATION]

SENATOR KOLTERMAN: I've been to several of their meetings (inaudible).
[CONFIRMATION]

SENATOR CAMPBELL: And you had talked about introducing an appropriations next year, not this year, right? [CONFIRMATION]

SENATOR KOLTERMAN: In light of where we're at financially, we didn't bring anything this year. [CONFIRMATION]

SENATOR CAMPBELL: Okay. So you have a good advocate here with Senator Kolterman.
[CONFIRMATION]

JOHN CRAIG: Yeah, yeah, I know. [CONFIRMATION]

SENATOR CAMPBELL: And it's great to see senators who will be here for a period of time pick up that interest in the rural health because I'm just a huge proponent of the Rural Health Advisory Commission and have spoken about it on the floor several times. Because the amount of effort that goes into the data you get on shortages, it's just amazing to me.
[CONFIRMATION]

JOHN CRAIG: Yeah, yeah, you bet. [CONFIRMATION]

SENATOR CAMPBELL: Senator Kolterman. [CONFIRMATION]

SENATOR KOLTERMAN: Yeah, I'm just curious, you're going back to Minden.
[CONFIRMATION]

JOHN CRAIG: Yeah. [CONFIRMATION]

SENATOR KOLTERMAN: So will you be employed by the hospital? [CONFIRMATION]

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JOHN CRAIG: Yeah, so there was a point in time where the hospital and the clinic in Minden were split. In the last ten years they've kind of joined forces. It's a county-owned clinic and hospital now. There's no physician ownership whatsoever which works out nice for someone getting out of residency who doesn't necessarily want the burden of owning a practice, can go and just take care of patients and not worry about the business side as much.
[CONFIRMATION]

SENATOR KOLTERMAN: Do you know if Minden has any kind of physician patient-centered medical home involved? [CONFIRMATION]

JOHN CRAIG: Yeah, so patient-centered medical home is getting big and so I think that they...I don't know if they have an employed kind of set-up, patient-centered medical home, but that's one of the things I love about rural medicine. And that's something that I've noticed over time as I've learned more about patient-centered medical home and things. We have one at our clinic in Omaha where I practice now, you know, is that rural medicine is really a patient-centered medical home. You know, it is. That's what I love about it that, you know, both myself and my nurse and if there's a PA or NP on my team, you know, they know our patients. And you see those patients, not only their medical issues, but also you know about their financial issues, their, you know, psychological issues, things like that as well. So that's one of the things I love about it. As far as I know at this point in time, it's not a set-up model. I think a lot of clinics are going to be going in that direction. And since I've kind of helped a little bit set up ours in Omaha, the Durham Outpatient Center Clinic, I hope to bring that piece...some of that knowledge to Minden.
[CONFIRMATION]

SENATOR KOLTERMAN: And just again, these are just curiosity questions, but then if you go to work there, do they refer most of their referrals, I mean, for a larger hospital, you send them to Kearney or Hastings? What is the majority of that...? [CONFIRMATION]

JOHN CRAIG: It seems about 50-50, so I...Roger and I were talking earlier. I like to moonlight and so I've gone down there and covered the ER and worked clinics several times in the last year--probably ten or so, potentially more. And it seems about 50-50...about 50 percent of the people, or maybe a little bit more, to Kearney than to Hastings, but I would say, yeah, we send a lot of our stuff out like that, all of our referrals. [CONFIRMATION]

SENATOR KOLTERMAN: And Minden is a critical access hospital. [CONFIRMATION]

JOHN CRAIG: Yeah, they are, so. Just recently remodeled two years ago, yeah.
[CONFIRMATION]

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SENATOR KOLTERMAN: A lot of money in it. [CONFIRMATION]

JOHN CRAIG: Yeah. [CONFIRMATION]

SENATOR CAMPBELL: Any other questions, Senators? Senator Riepe. [CONFIRMATION]

SENATOR RIEPE: Thank you, Senator Campbell. First of all, we're obviously always excited when we see a practitioner who is interested in going to serve the western part of the state. My question is, in going into Minden, are you there replacing another physician or is this a brand new office? [CONFIRMATION]

JOHN CRAIG: Yeah, there's two physicians and then three nurse practitioners and a physician's assistant out there right now. And so I'll be joining that group. One of the more senior partners is going to start backing away a little bit more from call, but he'll still be practicing for...he plans on practicing for five years after I start. [CONFIRMATION]

SENATOR RIEPE: Okay. Thank you. [CONFIRMATION]

SENATOR CAMPBELL: Any other questions? Dr. Craig, thank you so much for serving. I mean, we are indebted to the people who step forward to help on the Commission. And should you ever have the opportunity to meet and sit down and talk to Dr. Gerald Luckey... [CONFIRMATION]

JOHN CRAIG: Oh, I know him. [CONFIRMATION]

SENATOR CAMPBELL: You know Dr. Luckey? [CONFIRMATION]

JOHN CRAIG: Yeah, so I did my rural...so during residency, we have to do two. I did mine in David City. So, yeah, I love Dr. Luckey. [CONFIRMATION]

SENATOR CAMPBELL: He's...for my colleagues, he helped us a lot on LR22 and 422, was part of the work group and he is just a huge advocate and really has...what would I say, stepped up the effort on patient-centered medical home. He is quite a physician and a long-term thinker. [CONFIRMATION]

JOHN CRAIG: Absolutely, and a wealth of knowledge too. [CONFIRMATION]

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SENATOR CAMPBELL: Yes, and a wealth of knowledge. Dr. Craig, we wish you the very best in Minden and thank you so much again. [CONFIRMATION]

JOHN CRAIG: Thank you. [CONFIRMATION]

SENATOR CAMPBELL: Okay. Our last gubernatorial appointment for the day is Dr. Rebecca Schroeder. Dr. Schroeder, good to see you. This is also a reappointment. [CONFIRMATION]

REBECCA SCHROEDER: (Exhibit 3) That is correct. [CONFIRMATION]

SENATOR CAMPBELL: So tell us a little bit about yourself. [CONFIRMATION]

REBECCA SCHROEDER: All right. Well, I am a clinical psychologist. Grew up in northern Minnesota and went to undergrad there, graduate school at the University of Nevada, and I ended up coming to Nebraska through the Norfolk Regional Center and their predoctoral internship program. And once I was in Nebraska, I ended up staying here so I've been here since the late 1980s. I live in Curtis, Nebraska, which is a very rural community. I had the interesting experience the other day of driving through eastern Nebraska and some of the small towns there. I went, this isn't rural; there's towns all over the place. Curtis is in Frontier County between North Platte and McCook and it is very rural. It's about 800 people and we are the metropolitan area of that county. [CONFIRMATION]

SENATOR CAMPBELL: Excellent. And so you practice in both Curtis, and I thought you said...and North Platte. [CONFIRMATION]

REBECCA SCHROEDER: And North Platte, that's correct. [CONFIRMATION]

SENATOR CAMPBELL: So, and you're with the Regional Medical Center, am I...Great Plains. [CONFIRMATION]

REBECCA SCHROEDER: No, that was prior experience. [CONFIRMATION]

SENATOR CAMPBELL: Oh, okay. [CONFIRMATION]

REBECCA SCHROEDER: When I first moved out to that area, I had a job at the hospital. [CONFIRMATION]

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SENATOR CAMPBELL: Okay. So, you're now on...in private practice. [CONFIRMATION]

REBECCA SCHROEDER: Yes, I'm in private practice. [CONFIRMATION]

SENATOR CAMPBELL: This is your second term, right? [CONFIRMATION]

REBECCA SCHROEDER: I have been on the Commission, I think since 2004. I'm not sure how many terms that is, but it's a few. [CONFIRMATION]

SENATOR CAMPBELL: And what observations would you have about your time on the Commission? [CONFIRMATION]

REBECCA SCHROEDER: I think that there's been a real learning curve that has happened with me as I've become more and more aware of what are the rural health issues, what are the behavioral health issues in the state. And I've really become aware of how important it is to recruit homegrown--like Dr. Craig--people who have grown up in a small town---it helps, you know--who have the knowledge and the willingness to go to school and to get them to come back to those areas. We know, and research shows, that people who grew up in a small town are more likely to stay in a small town later. [CONFIRMATION]

SENATOR CAMPBELL: Exactly. Questions, Senators? Senator Riepe. [CONFIRMATION]

SENATOR RIEPE: I'll try to be brief, but thank you for being here and thank you for serving. The question I have is with your mental health background, we've talked so much as a committee and as a Legislature about mental health issues, whether it's from incarceration down to rural communities... [CONFIRMATION]

REBECCA SCHROEDER: Yes. [CONFIRMATION]

SENATOR RIEPE: ...and stigmas and stereotypes and all that kind of stuff. What do you think you can bring to the Commission, or have you brought in the past, that have sort of moved us along in behavioral health? [CONFIRMATION]

REBECCA SCHROEDER: Maybe just a little bit on the awareness of what the issues are. You know, one of the biggest issues that we struggle with is access to care, and that is even more so for behavioral health than it is for medical health. A lot of the small towns have a primary care clinic. For example, Curtis does, but there are no behavioral health therapists there. And one of

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the things we've been working on in the Commission for over ten years on is trying to get some sort of integration program going where we would really, really like to see mental health practitioners in every primary care clinic. And wouldn't that be nice if you have a mom going to the doctor, her child has issues and they have parenting problems...oh, by the way, we have this therapist right here, maybe she can help you with a parenting issue. Or having someone with diabetes who has trouble with stress or a cardiac patient who is having trouble with depression. You know, obviously the mind and body go hand in hand, treating them both is so much more efficient. [CONFIRMATION]

SENATOR RIEPE: On the Advisory Board, have you had the opportunity to talk about telemedicine in terms of mental health? [CONFIRMATION]

REBECCA SCHROEDER: We have discussed that. It's here and it's growing and it's not going to go away. I see the future. [CONFIRMATION]

SENATOR RIEPE: Is it working? [CONFIRMATION]

REBECCA SCHROEDER: I think it's the future. Is it working? There are some obstacles with it. You know, it is costly, you have to have the right setup for the program, both the receiving and at the initiating and you have to have the right equipment. What I see happening, I see us going to home-based telehealth. You know, we have the Skype, we have the FaceTime. Right now those are not secure enough to provide something as confidential as a therapy session, but that's what I see happening in the next few years is that that technology will be developed. [CONFIRMATION]

SENATOR RIEPE: Thank you. [CONFIRMATION]

SENATOR CAMPBELL: Other questions, Senators, that you have? Dr. Schroeder, just one other question. So, where do you think the Commission is going in the future? What should the senators be paying attention to? [CONFIRMATION]

REBECCA SCHROEDER: I think that our number one goal has been and always will be is to recruit those individuals to the rural areas, but very closely behind that is to retain the ones that are already there. We need to take care of those people. There are some unique issues like professional isolation that occurs. There aren't many, for example, psychologists in southwest Nebraska. And if I don't come to Lincoln and I don't have the colleagues here, and that's why I love being involved in groups like the Rural Health because you do get that professional...just the professional contacts and to help avoid any kind of isolation. [CONFIRMATION]

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SENATOR CAMPBELL: Have you had any interaction with BHECN, Behavioral Health Center for Education at the University? [CONFIRMATION]

REBECCA SCHROEDER: Yes, we are affiliated with them. [CONFIRMATION]

SENATOR CAMPBELL: We may want to have BHECN talk to you in a sense that they are really trying...I mean, their emphasis out of the LB603 packages is to work in the rural part of Nebraska and it's sort of like the training, the trainer type of thing. [CONFIRMATION]

REBECCA SCHROEDER: Right. [CONFIRMATION]

SENATOR CAMPBELL: And I keep referring people to BHECN or BHECN to people, so we may give them your name and it might be worth it for BHECN to talk to the Commission sometime. [CONFIRMATION]

REBECCA SCHROEDER: I would appreciate that, sure. [CONFIRMATION]

SENATOR CAMPBELL: Giving a presentation, I think might expose the Commission to what are some avenues that BHECN can help you with. I had no idea until I had to talk to the Grand Island school people yesterday that BHECN does training for teachers throughout the state, and I did not know that. [CONFIRMATION]

REBECCA SCHROEDER: I didn't know that either. [CONFIRMATION]

SENATOR CAMPBELL: So, but they told me that it's rather lengthy. It's like nine hours of training, but the whole idea is to get educators trained in looking at behavioral health issues and how to recognize them, but I had no idea. [CONFIRMATION]

REBECCA SCHROEDER: I didn't either. Interesting to know that. [CONFIRMATION]

SENATOR CAMPBELL: So, we'll make sure...I'll make a note and we'll have Dr. Evans contact you or someone...certainly Marty Fattig maybe on the commission, see if they can come. [CONFIRMATION]

REBECCA SCHROEDER: Right. [CONFIRMATION]

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SENATOR CAMPBELL: Do you have anything else you want to share with us that...? At anytime feel free, you know, to contact us if you do. [CONFIRMATION]

REBECCA SCHROEDER: We sure appreciate all of the support that you and the committee have given us over the years and look forward to working with you in the future. [CONFIRMATION]

SENATOR CAMPBELL: Absolutely. We are big supporters of the rural health, that's for sure. Thank you and have a safe drive back. [CONFIRMATION]

REBECCA SCHROEDER: Thank you. [CONFIRMATION]

SENATOR CAMPBELL: And again, anyone who wants to provide testimony on the three nominees. Okay. That concludes our gubernatorial nominees. And I'm going to steal the agenda back again from Senator Howard. Our first hearing this afternoon is LB674. Senator Krist, thank you for your patience. The bill is to provide financial compensation for care for disabled persons. Welcome, Senator Krist. [LB674]

SENATOR KRIST: Always nice to be back here, Senator Campbell. [LB674]

SENATOR CAMPBELL: Absolutely. [LB674]

SENATOR KRIST: (Exhibit 1) Good afternoon, Senator Campbell and members of the Health and Human Services Committee. For the record, my name is Bob Krist, B-o-b K-r-i-s-t. I represent the 10th Legislative District in northwest Omaha along with the northern central portion of Douglas County which includes the city of Bennington. I appear before you today in introduction and support of LB674, the bill which is almost exactly the same bill that Senator Cap Dierks introduced in 2007. The purpose of the Dierks bill, LB635, was to help families take care of their disabled family members in their homes for fair compensation. That is my goal as well. I realize that this is late in the year, late in date, and that the fiscal note is death by fiscal note, which accompanies LB674 and that this bill will not become law this year. But this is a discussion that needs to start this year and continue until something is done for these families. It's an important bill because a hearing today is an opportunity to begin conversation in what it's going to take to solve some problems around the state. When Senator Dierks introduced the bill he had one particular family in mind, but knew it was a bill that could help other families as well. And I'm sure you on this committee, and when I sat on this committee, heard several examples of families who were taking care of their relatives in home and were professionally capable of doing that. Dee Shaffer, a mother, guardian, licensed LPN and dietician, was trying to take care

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of her son, Brian. Dee asked several state senators for assistance. Senator Dierks answered that call. Brian Shaffer is quote, the boy in the bubble, unquote. His three doctors all agree that Brian, age 36, needs 24/7 care because of his extreme condition. Brian has autism; he's unable to function at a level above the age of three. He has a host of medical problems and cannot take care of himself. Brian also has very serious chemical and environmental allergies. He must try to avoid over 100 documented items that cause him serious, and sometimes life-threatening physical reactions. You cannot enter the Shaffer home with perfume on or it will cause Brian's respiratory system to shut down. Brian cannot talk, so he must have constant monitoring to watch for allergic reactions. The next few paragraphs are painful for me to read because I have tried not to look back at a prior administration. But Senators, we have to; we have to look back at what happened in this situation. We have to realize that this is history. After the Dierks bill was introduced in 2007, officials from the Department of Health and Human Services contacted Senator Dierks and asked for a meeting. They offered to hire Dee as Brian's primary caregiver, pay her 18 hours a day for her work, the maximum allowed under Medicaid, if Senator Dierks simply withdrew his bill. Senator Dierks struggled with the request. He knew there were other families in Nebraska who would also benefit from this legislation. Senator Dierks did decide to withdraw the bill after asking and receiving a signed letter of agreement from DHHS, in other words, a contract. It put into writing what each said and had agreed to. At the time CEO Chris Peterson signed the letter and both sides honored the agreement, importantly to note, until Cap Dierks was out of office. As soon as Senator Dierks was no longer in the Legislature, the Department staff looked for many ways to stop the contract. That's a strong statement, but there are actual e-mails exchanged between DHHS staff that prove my last statement, and if you need to, I'll bring them forward. DHHS staff met, e-mailed, and plotted different ways to stop honoring this agreement once Senator Dierks was completely out of office. In October of 2011, the Department switched Brian from the Waiver Program to managed care without any explanation and stopped paying Dee. The insurance company, Coventry, her new managed care provider, refused to hire Dee and did not send anyone else to care for Brian who lives with his mother in a house that was built especially to protect Brian, the boy in the bubble. Coventry did not pay Dee for Brian's care from October of 2011 to November of 2015. Three months ago, Brian was placed back into the Waiver Program. Dee does not receive...does not receive any pay in the Chore Program for her two medical licenses and excellent medical care that's provided to keep Brian healthy. She is only paid to clean. I have handed out an article that appeared in the Lincoln Star-Journal or Lincoln Journal-Star, on December 2 of 2012. In it JoAnne Young wrote an excellent article about the Shaffer family, which appeared on the front page of the Sunday edition. It provides additional background information on the Shaffer family and the many hardships that they have had to encounter because of the Department's decision to withdraw Dee's salary. There are several important topics we, as senators, need to talk about with this bill. First, we have a Department that will contact us, make an agreement with us, sign a letter describing what each will do, and as soon as we're gone, the risk is that the CEO is replaced or for any reason this agency may decide they no longer need to honor an agreement they have

made in good faith with a state senator. Let that sink in for just a minute. In the term-limited environment we live in, how serious is that? Dee Shaffer has suffered greatly at the Department's hands. She has spent all of her personal savings, all of her retirement, all of her cash back on life insurance policies taking care of her son during the four-years-plus that she had not received a salary. The Department has no plans of paying her salary in back. This is unconscionable, to put it mildly. Senator Bloomfield and I had many meetings with the previous Department CEO and staff over four years during this time period. The Department refused to negotiate. Two lawsuits were filed initially. I asked my friend Alan Peterson to take this on and thankfully he did. The Lancaster County District ruled Brian required 24/7 of care and that Dee should be paid a maximum of 18 hours per day to provide care. Because of a technicality, the Nebraska Supreme Court dismissed the ruling. That meant that the District Court ruled and the Department decided that it was going to pursue the Supreme Court to throw it out of court for a technicality instead of helping the family. Another Lancaster County District Court ruled that there was a contract--there was a contract between the Department and the Shaffers--but because of technicality in the first case, there was no establishment of a medical necessity to pay for the 18 hours. The Department chose to spend millions of dollars again fighting this family instead of helping them. My goal with LB674 is to help family members--parents, spouses, children--to take care of family members in their home for fair compensation, if they're professionally qualified to do so. We need to decide how to do this and whether or not we can provide health insurance to those who deliver those services. The Legislature must look to the future and think about what this care would like for the residents, particularly when you look at what's happening at Beatrice...in that facility. And I know you all are very familiar with that situation. A bill such as LB674 could be an instrument...could be instrumental for the state in moving closer and making it happen. I will say, taking all the drama out of this, that this is a very serious situation. That the result, or the options here could result in a much larger price tag taking care of these people rather than keeping them in your home. And I will compliment the current Department leadership because they sought me out telling me that right now at this late hour, there's nothing we can do, but that wraparound services should be and could be looked at in terms of solving some of these problems. I thank Courtney Miller for coming in and talking to me and bringing in her staff. I thank Courtney Phillips for pulling me aside and making sure that I understood that they were going to look at this very carefully and look at those wraparound services between now and next year. Now, for those of you who will be here next year, you will see this again because this is a situation that we need to solve. I honestly believe that if we incorporate all of the different silos of money that are out there, we can find a way to keep the family whole, keep the person at home, and make sure they have quality service, again, if they're professionally cared for within the home. I'd be happy to answer any questions from the committee. [LB674]

SENATOR CAMPBELL: Any questions that you have? Senator Riepe. [LB674]

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SENATOR RIEPE: Thank you, Senator Campbell. Senator Krist, thank you for being here. Is part of your intent to keep some leverage, if you will, some pressure on this to try to see this through to the end? Is that part of your motivation? [LB674]

SENATOR KRIST: Well, this bill was scheduled late in the year for that purpose, to make sure that it was heard. I am optimistic in the fact that I don't think I have to apply pressure to CEO Phillips. I think she understands how serious it is and will help me move forward with this. But, again, if it doesn't happen that way, then the same bill will come before you next year. [LB674]

SENATOR RIEPE: Do you think the Department then will be looking at the purposes and the places where there might be, if I may use lightly, use the term loose change to help fund or who... [LB674]

SENATOR KRIST: I don't think they have to. I think they have to just see that there's a medical necessity here and look for the option to fund the programs within the scope. If Brian were taken outside of his home he would surely die, given the amount of allergies that he has. So to keep him there and to pay someone to come in from outside also exposes him to that same danger, if you come into the home with perfume or outside allergens. So I think the best option is to try to find an equitable way to pay Dee to stay in the home and do what she's doing right now. So I think that money is already available. Certainly it wasn't a \$22 million savings when they removed him off the program and put him into a situation where she wasn't getting paid. If it was, we would have seen a huge windfall in HHS in that time period that he wasn't there. So, how did it change? Why did it change? Why did we put him into managed care? Why is he now back into Waiver? Those questions need to be asked and answered. [LB674]

SENATOR RIEPE: Would the Department of HHS also be looking and saying ten years down the run when maybe family members aren't available that, you know, he doesn't sound like he's in a situation where he could go to any kind of halfway house or...maybe that's overthinking it, I don't know. [LB674]

SENATOR KRIST: Well, I think that as long as you can...and Dee actually built this house around Brian's needs. I think that you can speculate that at some point, Dee may not survive longer than Brian, so some other measures would have to be taken in building a plan. A wraparound plan for Brian, I think, starts now, so that we're able to deal with that down the road and he's not the orphan left without any care at some point. [LB674]

SENATOR RIEPE: Can't do that. [LB674]

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SENATOR KRIST: No. [LB674]

SENATOR RIEPE: Okay. Thank you. [LB674]

SENATOR KRIST: Thank you, Senator. [LB674]

SENATOR CAMPBELL: Other questions, Senators? We should note, for the record, that Senator Bloomfield also then had another case in point that he brought to the committee with the couple who had twins, I believe, or a brother and a sister, who had lived in Wayne, Nebraska, and took care of their children, and they were also taken off of certain services and it was like in that area of the state to find the people that they needed and that was another case. So, Senators, lest you think that this is the only situation, while very rare, doesn't mean that there aren't other cases that would be. [LB674]

SENATOR KRIST: In the case of that other situation that you...that we heard from Senator Bloomfield, while I was on this committee as well. Those were both medical professionals that for one...on one Tuesday afternoon they were getting paid at a certain rate, on the next Tuesday afternoon, then suddenly that went away, so. [LB674]

SENATOR CAMPBELL: Okay. Thank you, Senator Krist. Will you be staying to close? [LB674]

SENATOR KRIST: Oh, absolutely. It's that or go back to "gun" day in Judiciary. (Laughter) [LB674]

SENATOR CAMPBELL: We'll try to keep you as long as possible. Our first proponent. Good afternoon. [LB674]

ALAN PETERSON: Hello, Senator Campbell, members of the Health Committee. I'm Alan Peterson, A-l-a-n P-e-t-e-r-s-o-n. I'm an attorney and don't know very much about the exact details that are in the various regulations of HHS. There are many regulations and I'm sure most of them are justified, but I know about this one. I was one of the two lawyers that tried to help this particular person...family, that Senator Krist described to you. And so I have a perspective that is admittedly narrow, but I may be able to offer a little further explanation. The need...Senator Krist has described in terms of that one family, but there are certainly at least a few others. And this is a case where we ended up in court. HHS brought at least 15 different defenses and all were overruled by the district court...both district courts in Lincoln that heard this case. One of the cases was to determine whether or not there was medical necessity for all

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the needs that this young man, Brian, had. And the answer was yes, as Senator Krist said, it was found he did have the need under the technical meaning of medical necessity for this much care, for 18 hours a day at a fair rate of pay. That decision was reversed by the Nebraska Supreme Court, as it was said, on a technicality. Let me just take a half a minute to explain what was the technical error. Normally, you can sue an entity or a person and not have to sue their insurance company. But in this particular case, the error was that the lawyer involved, it wasn't me but it was another decent lawyer, failed to name the insurance company in the appeal to the Lancaster District Court. The Nebraska Supreme Court later, about a year later, determined, well, that was a necessary party, you should have brought in the insurance company. And so it threw out the judgment and it was too late to repair the damage. So, HHS's lower determination or administrative determination that there was no medical necessity became the rule. Too late to appeal again. And the judge's reversal of that decision was thrown out. Another case was brought, which I did handle, claiming that HHS made a contract to hire Mrs. Shaffer to take care of her son and the terms of it were laid out in a document signed by the head of HHS. That case, too, depended in part on showing medical necessity and since, because of this technical error in the first case by the other attorney, it was held to be determinative of the second case on contract. And it is interesting at every single defense thrown up by HHS was found not to be valid, but the technicality of not having named the insurance company as a party was held to be a defect for both cases. That's what happened. I make no excuses for it, it's what happened. It was unfortunate. From the perspective of an attorney and somebody who knows and did know Brian and Mrs. Shaffer very well, it is amazing how appropriate her licenses were. She's not only a licensed practical nurse but a certified dietician especially trained to take care of somebody with dietary allergies as well as environmental air allergies. And yet because of what happened in this case and one of the defenses being, oh, no, you can't take care of somebody in your own family--she lost, and Brian lost. That's my perspective and I will say, out of the kindness of Senator Bloomfield and Senator Krist, I hope myself, I mean to be kind. This poor family is left out in the cold as far as any recognition of the perfect training that Mrs. Shaffer had to take care of this problem. I heard Senator Krist talk about a wraparound workout of the solution, and boy, that seems appropriate. There may need to be some adjustments to the bill if it's brought again. It should be noted that as far as the cost of taking care of such folks who have disabilities like this, HHS did very careful studies and found that it was spending far more...far more of taking care of Brian using a variety of halfway houses, call it that, or part-time care and so forth, it just didn't work. It did work with Mrs. Shaffer at a lower cost. I question the \$22 million estimate of costs. That just is not realistic for a case of this kind and there are some other cases of this kind. Senator Bloomfield did mention one, apparently, to the committee, but there are some others. I become acquainted with them, not because of any particular expertise--I'm just a general trial attorney--but because people mention it to me and want to know whether anything can be done. This bill was a, several years ago, attempt to solve the problem of the family taking care of family and would allow that not to be a defense against a contract or a claim under one of the programs. A wraparound approach using whatever problems HHS has...HHS, excuse me, has

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would seem to be the solution. And I hope that, as you move ahead in the future, that problem...the problems that are illustrated by this case can be solved. I thank you very much for listening to me. [LB674]

SENATOR CAMPBELL: Thank you, Mr. Peterson. Questions from the Senators? Anyone? Thank you, Mr. Peterson. [LB674]

ALAN PETERSON: Thank you. [LB674]

SENATOR CAMPBELL: Our next proponent. Good afternoon. [LB674]

LINDA SCHMIDT: (Exhibit 2) Good afternoon, Chairwoman Campbell, members of the Health and Human Services Committee. My name is Linda Schmidt. That is S-c-h-m-i-d-t. Most of you know me as Senator Seiler's administrative aide, but at the time this whole arrangement started with Senator...or Mrs. Shaffer, I worked as Senator Cap Dierks' legislative aide. So that is why I am here today. Senator Dierks is not able to join us, but he is watching today on his computer, so he still is very concerned about this case. The important thing for him is that...Senator Dierks wanted you to know that he was contacted by the Department and they asked for the meeting and they made the suggestion for the agreement. This is not something that Senator Dierks looked for. He introduced the bill with full intent to carry it forward, but being contacted by the Department, holding the meeting, having them agree to terms with Mrs. Shaffer that would make their family situation much better, was very compelling to him, especially since he was not a member of the committee at the time, he was not sure if the bill would get out of committee or passed by the Legislature. This was his way to help this family at this time. He wanted to monitor how things went for the Shaffers and thought he could carry the bill at another time. That is why he made the agreement and quite frankly, he has been very shocked at the Department's decision to stop enforcing the contract after he left office and to leave this family with no assistance. He could never have imagined them knowing that she was the main source of income for her family and they let her go for four-years-plus without money to pay for Brian's needs. So with that, I would be happy to answer any questions you would have from the time period of when I was with Senator Dierks, or anything I can answer with the Shaffers. Thank you very much. [LB674]

SENATOR CAMPBELL: Questions, Senators? Ms. Schmidt, you were also the legislative aide, were you not, to Senator Bloomfield? [LB674]

LINDA SCHMIDT: Yes, I was. [LB674]

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SENATOR CAMPBELL: And so carries that on. Well, the next time you talk to Senator Dierks would you tell him that every once in a while I have a double hot chocolate just for him (laughter). [LB674]

LINDA SCHMIDT: I will certainly do that. [LB674]

SENATOR CAMPBELL: You all need to know that he sat right in front of me when I was a freshman and he would always ask the page for hot chocolate and it had to be double chocolate, so. Give him my best, would you? [LB674]

LINDA SCHMIDT: I will. Thank you so much. [LB674]

SENATOR CAMPBELL: Thank you for testifying today. [LB674]

LINDA SCHMIDT: You're welcome. Thank you. [LB674]

SENATOR CAMPBELL: Our next proponent? Good afternoon. [LB674]

MARK INTERMILL: (Exhibit 3) Good afternoon. My name is Mark Intermill, M-a-r-k I-n-t-e-r-m-i-l-l, and I'm here today on behalf of AARP. I've got a written statement and I will be brief. Just want to reiterate AARP's support for family being able to provide care and being adequately compensated for providing that care. Family caregivers provide a tremendous service to the state of Nebraska in terms of their ability of helping individuals to have a more expensive nursing facility care. We are...track closely the Medicaid expenditures on behalf of people over 65. They're growing at an average annual rate of sixth-tenths of 1 percent due, in large part, to the efforts of caregivers. We need to encourage caregivers and I think the concept embodied in LB674 allows us to do that. We recognize that there is a fiscal note attached to this bill. Our concern about the fiscal note is somewhat assuaged by the fact that we were \$138 million under budget in Medicaid last year. And part of that is due to the efforts of caregivers. So we...my encouragement to the committee is to continue to take a look at this issue. I think there are a lot of different programs that can be managed together to be able to provide support for caregivers and make sure that they're able to continue to function in that capacity. I'd be happy to try to answer questions. [LB674]

SENATOR CAMPBELL: Any questions, Senators, for Mr. Intermill? Thanks. Appreciate it. Our next proponent? Okay. Anyone who wishes to oppose the bill? Good afternoon. [LB674]

TONY GREEN: (Exhibit 4) Good afternoon, Senator Campbell and members of the Health and Human Services Committee. My name is Tony Green, T-o-n-y G-r-e-e-n, and I'm the Deputy Director for the Division of Children and Family Services here to testify in opposition of LB674. The bill before you would expand the Disabled Persons and Family Support Program which is a program that provides limited financial support to disabled individuals or families with low income or resources to maintain or obtain employment, maintain independence, or prevent institutionalization. The DPFS program is a state program supported entirely with general funds. LB674 significantly changes the nature of the DPFS program and would result in either a large increase in state expenditures or a reduction in the number of persons served. Under current parameters, eligible individuals for this program may receive funding of up to \$300 a month, or \$3,600 annually, for services such as personal care, housekeeping, transportation, special equipment and respite care. The services are intended to supplement, but not replace or duplicate support available through other programs for which the family or disabled person is eligible. Funding earmarked for this program through the legislative appropriations process is limited to \$910,000 per year and has supported an average of 382 people over the past three years. Of those, an average of 163 people, over 40 percent, lived with family each year. If the intent is to cover family members of eligible people with caregiver compensation and family coverage health insurance, the cost of the program would be substantial. LB674 expands the DPFS program's eligibility to include individuals where an out-of-home placement has been attempted but failed, and out-of-home care is possible, and for whom the cost of care at home is less than the cost to the state for institutional care. Caregivers for these individuals would be compensated at an equal or higher rate than a salaried state employee receives for similar work done at a state facility. The caregiver and his or her family would also be eligible for the same health insurance as a full-time state employee. The bill also removes the current \$300 a month cap for program-eligible persons and families. The Department estimates that setting caregiver reimbursement at a rate equal to or paid to a state employee performing comparable work would cost roughly \$117,403 per caregiver annually, assuming coverage of 24 hours of care per day. With the added extension, then, of health coverage to caregivers and their families, the state would incur costs of \$18,956 per individual for those who elect to participate. Again, using these assumptions and the current average number of eligible participants, the program would expand to over \$22 million per year. As the current bill does not set a cap on the number of eligible persons or families, that cost could be higher. As Senator Krist mentioned, the Department has met with Senator Krist and we do look forward to assembling a cross divisional team to work with his office to explore possible alternatives to address these concerns. Additionally, the Department has committed to research and reach out to other states to explore how this issue is addressed around the country. And I'd be happy to answer any questions you might have. [LB674]

SENATOR CAMPBELL: Senator Kolterman. [LB674]

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SENATOR KOLTERMAN: Thank you, Senator Campbell. Mr. Green, when you...I get what you're saying...in a way. But we have this Beatrice State Home and we're spending hundreds and thousands of dollars per person per year. And I don't even know if that could be adapted...something like that could be adapted for an individual like this. But I guess my question is, wouldn't it make more sense to leave the person in the home where they're in the surroundings, that they're with their loved ones, if we can figure out a way to do it, to do it that way rather than...everything I hear when they come in here and talk about people with disabilities, they're talking about the mainstream, get them back into the homes. It's just a question. I'm just trying to think out loud. How are we going to fix this problem because it's not just for this lady and her son? I mean, you yourself said there's, what, 300-some that we know of. [LB674]

TONY GREEN: Correct. [LB674]

SENATOR KOLTERMAN: And we're limiting it, we're beating it down and yet we're spending for 105 people down at Beatrice...a lot of money. Just a question. [LB674]

TONY GREEN: Sure. So I would respond that, you know, philosophically amongst all the divisions within the Department, we always want recipients of our program to receive those services or supports in the least restrictive environment possible, obviously. I'm here today in opposition specifically because of the program for which the bill is attached to. This program...the Disabled Persons Family Support Program is a supplemental program within our economic assistance arena of children and family services. So, as you've heard, the issues for these families and individuals that are coming forward are very complex and they cross over multiple departments--whether that's in our Developmental Disabilities Division, our Children and Family Services Division, or our Medicaid Long-Term Care Division. And so what you have right now is an opposition to this program because this is a completely state-funded small supplemental program. But you have a commitment from the Department to work with Senator Krist and his office to bring all of those divisions together to see if we can't explore, where does this fit to meet some of those needs. [LB674]

SENATOR KOLTERMAN: Do we have your word on that? [LB674]

TONY GREEN: You do. [LB674]

SENATOR KOLTERMAN: Thank you. [LB674]

SENATOR CAMPBELL: Other questions, Senators? Senator Riepe. [LB674]

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SENATOR RIEPE: Senator Campbell, thank you. Mr. Green, thank you for being here. [LB674]

TONY GREEN: You're welcome. [LB674]

SENATOR RIEPE: In your third paragraph, there's a lot of information in this letter. You talk about...it says, under current parameters, eligible individuals. Now, who are those, quote unquote, eligible individuals at this time? Or maybe let me narrow that down. Are family members considered eligible? [LB674]

TONY GREEN: Yes. So the eligibility process is a couple things. You have to be...you know as the program states it's for people to maintain or obtain employment, maintain independence, or prevent institutionalization. So that's the initial criteria that has to be met. From there, under the Disabled Persons and Family Support Program, it then moves into an income and a resource eligibility determination. And from there if the criteria of eligibility and income resources are met, you are eligible for up to the \$300 a month cash assistance to pay for things like transportation, respite care, homemaker services, things like that. [LB674]

SENATOR RIEPE: Are there any tax credits involved in this, or providing incentives for families to do this...to take care of their own? [LB674]

TONY GREEN: Not within this program, I don't believe. This is merely a...again, a 100 percent state-funded program to just supplement other programs that may not cover the full cost of what a family experiences to provide some of these services. This was a way when enacted back in 1981, a way to just enhance some of that by again a small amount, \$300 a month. [LB674]

SENATOR RIEPE: Okay. [LB674]

SENATOR CAMPBELL: Senator Kolterman. [LB674]

SENATOR KOLTERMAN: Thank you, Senator Campbell. Mr. Green, if...I take your word that you're going to try. Just off the top of your head, where would it better align? Where would this type of situation better align inside the Department? Do you have any ideas on that? [LB674]

TONY GREEN: You know, I don't know that I could say which division it best fits in, but I think it really...you know, if I had to say the three main divisions that are really doing work to tackle these issues, it would fall into the Developmental Disabilities Division, the Medicaid Long-Term Care, and Children and Family Services. Those would be the three divisions that really need to look at all of the different programs that we operate and figure out, is there a way to meet this

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type of need through one of those programs, or perhaps separate of those programs by bringing some of those together. [LB674]

SENATOR KOLTERMAN: The reason I'm asking it, it comes to mind in my area we have like a Region V services and I'm not that keen on all that yet, but is that the type of place where we could...maybe it's not always just mother, but other people helping with the situation on a 24/7 basis? [LB674]

TONY GREEN: Sure. So that program that you're referring to in your district, Senator, would be a program that's falling within the Developmental Disabilities, funded by that division. So again, I think it's really a collaborative approach to bringing all of the divisions and again, as Senator Krist mentioned, CEO Phillips has made a commitment and we will be pulling that team together and working with Senator Krist to see if we can't come up with some solution amongst all of the divisions. [LB674]

SENATOR CAMPBELL: I have had a case with a family, and it's not similar to this. It's different, but it's very complex and it dealt with behavioral health, physical health and Medicaid. Worked with that family for almost the entire time I've been in the Legislature, trying to find a solution for them. Senator Mello and I both worked with a family of Omaha again, somewhat, same time. And I want to say to the senators that however angles we've tried to take, that we ran into dead ends everywhere until Courtney Phillips showed up. And we talked to her about both those cases, and this divisional team was brought together and solutions for both of those families were reached. And for the first time, they felt like they had a solution going forward. So, Senators, what they're putting on the table in the testimony that they will look at the divisional in that last paragraph, they're serious about it, and they made a real difference for at least two families that Senator Mello and I worked with. And I'm very grateful to the Department and to Courtney Phillips for it. But there's a commitment to find a solution. Senator Krist is going to laugh, but this is like the Andy Campbell syndrome which I use all the time. But, you know, Andy Campbell had multiple problems and those have been our hardest cases in the years I've been in the Legislature. They just don't quite fit anywhere and so we can't find a solution. Now we're finding solutions; I appreciate that. Please tell the people of the Department it's appreciated. [LB674]

TONY GREEN: I will do that. Thank you. [LB674]

SENATOR CAMPBELL: Anything else, Senators? Thank you, Mr. Green. [LB674]

TONY GREEN: Thank you. [LB674]

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SENATOR CAMPBELL: Our next opponent? Anyone in a neutral position? Be a little hard to be neutral on the cases that you brought forward. Senator Krist, in closing. [LB674]

SENATOR KRIST: I'll be brief. First of all, all my references to the Department's failure was not this Department, not this leadership. This leadership, I have been also very, very impressed with. Courtney Miller and Courtney Phillips. Both are the kind of people I like to deal with--don't tell me why we can't do something, show me how I can help and we can do it. And I have all the faith in the world that that will move forward. You've heard why we can't do something in one program, one silo, and that's always been frustrating for me no matter where I've been in this committee process is because what we bring forward may be just one program. We're going to have to get outside of the silos and look at wraparound services. I think I said that in my presentation. I think you heard that from Mr. Peterson, as well as Tony. There are ways to solve these problems and better serve our constituents and not break the bank. We just have to be inventive of how...about how we bring this forward. So, this wrapping down your committee hearings, I just want to say how thankful I am to you and proud to serve with you. Thank you, Senator Campbell. [LB674]

SENATOR CAMPBELL: Thank you. Anyone else? Letters for the record. [LB674]

ELICE HUBBERT: (Exhibits 5, 6) We have two letters of support: One from the Nebraska Planning Council on Developmental Disabilities, and one from the National Association of Social Workers Nebraska Chapter. [LB674]

SENATOR CAMPBELL: Okay. That concludes the hearing on LB674 and we'll move to Senator Howard's bill, LB697, to provide for a Medicaid state plan amendment application relating to functional family therapy. Welcome, Senator Howard. [LB697]

SENATOR HOWARD: Good afternoon, Senator Campbell and members of the Health and Human Services Committee. My name is Sara Howard, H-o-w-a-r-d, and I represent District 9 in midtown Omaha. Today I bring you LB697, a bill to provide functional family therapies in the treatment of our children and families. And I'll kind of go off the cuff a little bit. I'm not asking the committee to advance this bill. We don't have to move it forward. It's very exciting for me. And I'll sort of do a little refresher about why we're here. Last year, I brought and passed LB500 which provided for Multisystemic Therapy and Functional Family Therapy together--they go hand in hand--and asked for a state plan amendment to be drafted and sent into CMS on our behalf to modify our state plan for these two services. The bill was brought to me both from the Office of Probation, which in 2013 we split off child welfare and we had the kids put into...who were court involved, put into the Office of Probation because they were struggling with the high cost of out-of-home placement. That is one of our most expensive alternatives when we have a

child who is in a situation where they cannot be at home. And they partnered with the Sherwood Foundation and conducted a study in 2014, going across the state and looking at how we could provide services in an in-home setting that reduce that recidivism where they were going in and out of homes. Often what you find is, when we remove a child from the home, we provide them a lot of services while they're in that out-of-home placement and then put them back into a home-based setting that is just as dysfunctional as it was before. And so what they found in 2014, in partnership with the Sherwood Foundation, was that there were two specific types of therapies, Multisystemic Therapy or MST, and Functional Family Therapy or FFT, that were very successful in reducing that recidivism, that in- and out-of-home placement. MST, coincidentally, was already being offered in the state in Grand Island for one provider, which means that MST was technically already covered by our Medicaid state plan under EPSDT. So if it was considered medically necessary for the child, under EPSDT we had to provide payment for it. Unfortunately, our Medicaid managed care provider, Magellan at that time, was not allowing the provider to bundle the payments. And so they had to bill out in 20-minute increments for an intensive in-home service that was sort of, you're available around the clock, but they were billing in 20-minute increments. That was very challenging. And so for...on the MST's side, we needed to put the state plan amendment in so that they could have a bundled billing system. Does that make...? I can't ask you questions, but I hope that makes sense (laughter). On the FFT side, we actually didn't have any providers for FFT, and so what we were trying to do with LB500 was, in partnership with OJS and Sherwood Foundation, we were going to pass a state plan for MST, which we did, and provide a sustainable solution for a leveraging of resources. So OJS was offered a grant for over a million dollars from the Sherwood Foundation that would train providers in MST and FFT. The challenge was, how do we sustain that program if there's no billing source for both programs that is sustainable for providers? So if it was unbundled, it's not sustainable. So through the course of our legislative action, MST and FFT went together on General File; on Select File we added an out-of-home service from Boys Town, and then removed both the out-of-home service and the FFT service due to some fiscal concerns. So MST went on in LB500 and they are asking for public comment now on the state plan. The great news is that right after I put in this bill, Director Lynch met with me and said because MST and FFT are so directly linked--MST is really just a more intense version of FFT--in the state plan that they're doing for MST, they're adding FFT already. So true to my word, I did put in a bill for FFT, but we don't have to do anything, which is very exciting. So I'm happy to try to answer any questions the committee may have, but I'm very excited that not only are we able to think of creative ways to keep kids in their homes and to create the support that families need to keep them in their homes, but I'm also very excited that we're leveraging private funding for a program that has proven results in regards to recidivism. So I'm happy to try to answer any questions the committee may have. [LB697]

SENATOR CAMPBELL: Questions? Oh, I thought you had a question, Senator Kolterman. Questions? I just want to make one comment. At NCSL this last summer I was asked to come to

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a pregroup of people working on child welfare, and we talked about what is best practice and what gets your best dollar, and this bubbled up. The family therapy was one of the top best practices--best bang for your buck, best for the taxpayer, best for the client--and, in fact, scored higher than Multisystemic Therapy. And I sat there thinking when we had this big debate about, oh, we can only put one in the budget and what do we do. If we'd had all of that research in front of us, we would have initially picked this one, probably. [LB697]

SENATOR HOWARD: Probably. Although, I think MST was an easier argument because we already had a service provider and it was already technically covered under EPSDT. [LB697]

SENATOR CAMPBELL: Senator Kolterman. [LB697]

SENATOR KOLTERMAN: Yeah, I just have a comment to make. We worked hard on the MST last year and we got that through. Now you're coming in with FFT and we're going to get that through it sounds like. It just reminds me of M-I-C-K-E-Y M-O-U-S-E (laughter). [LB697]

SENATOR HOWARD: Senator Chambers is not the only one who can sing in a committee hearing. [LB697]

SENATOR KOLTERMAN: Too many acronyms are out there. [LB697]

SENATOR HOWARD: It's okay. True story. [LB697]

SENATOR RIEPE: Look for another talent. [LB697]

SENATOR CAMPBELL: It's too bad, Senator Kolterman, that you didn't do that yesterday because very few people noticed, but the scarf I was wearing yesterday, it's a Mickey Mouse. Whenever I think I'm taking myself too seriously around here, I wear my Mickey Mouse scarf. [LB697]

SENATOR KOLTERMAN: So, seriously, are you saying we don't need to do anything with this bill? [LB697]

SENATOR HOWARD: And I asked for the very last hearing because I wanted to tell you that we didn't have to do anything. [LB697]

SENATOR KOLTERMAN: So do you want us to IPP it (laughter)? [LB697]

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SENATOR CAMPBELL: I think we'll just let it quietly fade into the sunset. Okay. Any other questions or comments or tunes? Okay. Thanks, Senator Howard. [LB697]

SENATOR HOWARD: Thank you. [LB697]

SENATOR CAMPBELL: Is there anyone in the hearing room who wishes to testify on this bill? Be careful if you come forward, let's put it that way. I don't see anyone; Senator Howard waives closing. That concludes our hearings for today. Oh, items for the...there is an item for the record. [LB697]

ELICE HUBBERT: (Exhibits 1-3) There are three; we have three letters of support from Boys Town, Nebraska Appleseed, and Voices for Children. [LB697]

SENATOR CAMPBELL: And we can respond that we were successful in getting that. [LB697]

SENATOR KOLTERMAN: Are we going to go into Exec now? [LB697]

SENATOR CAMPBELL: Yes. You want to take a five-minute break? Okay, we will be going into Executive Session, so... [LB697]