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Health and Human Services Committee
February 08, 2017

[LB50 LB456 LB605]

The Committee on Health and Human Services met at 1:30 p.m. on Wednesday, February 8, 2017, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB50, LB456, and LB605. Senators present: Merv Riepe, Chairperson; Steve Erdman, Vice Chairperson; Sue Crawford; Sara Howard; Mark Kolterman; Lou Ann Linehan; and Matt Williams. Senators absent: None.

SENATOR BRIESE: (Recorder malfunction--No recording for LB605) (Exhibit 1)...weeks with a number of organizations in the state representing Nebraskans with disabilities. As a result of this work, I have an amendment which I would like to present to the committee for your consideration. And you should have received that amendment by now. The amendment simply makes two changes to the green copy: it adjusts the language to be what is called People First in the description of individuals with disabilities; and also updates the definitions of what constitutes a disability to reflect federal language along the lines of the Americans With Disabilities Act. Specifically, LB456 recognizes that individuals with disabilities face societal biases relative to their ability to successfully parent children and they suffer on account of this. This bill provides that an individual's disability shall not serve as a restriction or denial of visitation, custody, adoption, or foster parenting status if it's otherwise in the best interest of the children to allow such arrangement. If the disability is alleged to have a detrimental impact on a child, the party raising such an allegation must demonstrate by clear and convincing evidence that it does so endanger the child. If this burden is met, the individual with the disability has the opportunity how supportive parenting services will alleviate those concerns. The court may then require such supportive parenting services to be put into practice. And if a court finds that supportive parenting services are not a reasonable accommodation to prevent a denial or limitation on the rights of the individual with the disability, the court must make written findings as to why that is so. This bill was designed to give children of Nebraskans with disabilities the best chance of having a happy, loving, and successful life with their own parents, and to make sure that children in need of adoption or foster parenting aren't denied a loving home simply because someone who wants to give the child that home has a disability. I thank you for the opportunity to be here and I would welcome any questions that you might have. [LB456]

SENATOR RIEPE: Thank you very much. Questions? Senator Howard. [LB456]

SENATOR HOWARD: Thank you, Senator Riepe. And thank you, Senator Briese, for bringing this bill. You and I have spoken about this and so I just want to get some questions on the record. Stepping back for a moment, I think this is a really admirable bill and I think the goals that it contains are really important for our state. That being said, let's dig into the language a little bit. [LB456]

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SENATOR BRIESE: Sure. [LB456]

SENATOR HOWARD: And so on Line 8 it calls it family and dependency law. Do we call our family law statutes dependency law statutes? [LB456]

SENATOR BRIESE: Dependency law is not a term that I'm familiar with. [LB456]

SENATOR HOWARD: Okay. [LB456]

SENATOR BRIESE: I think we could perhaps strike that language there, perhaps "family law", or simply "legal proceedings relative to custody visitation", etcetera. So I would think that would be a reasonable change there in my view. Because again, dependency is somewhat of a foreign term, yes. [LB456]

SENATOR HOWARD: Yeah, I had just never...I always hear family law, I never hear dependency law. [LB456]

SENATOR BRIESE: Yeah, I don't disagree. [LB456]

SENATOR HOWARD: And when we're talking about a foster care proceeding, generally a foster care placement is made by a case manager. Do we have foster care proceedings? Is that what they're called? [LB456]

SENATOR BRIESE: That's a good question, I'm not...I can't answer that question. [LB456]

SENATOR HOWARD: I just want to make sure if we're going to reach in to a proceeding we want to make sure that we're clear on which one we're reaching in to. [LB456]

SENATOR BRIESE: True. That's a good point. [LB456]

SENATOR HOWARD: And then my next question is on Line 20 on Page 1 of the amendment, and that's around children who could be parented by individuals with disabilities. And I think it goes back to I think a core question for me, which is sort of the difference between a family law and custody, visitation, adoption, and guardianship proceeding versus a foster care hearing or a check-in. Because I believe the "could be" is around a foster care placement, rather than custody and visitation. Is that sort of an accurate view? [LB456]

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SENATOR BRIESE: That would be my assessment too. I wouldn't argue with that, no. [LB456]

SENATOR HOWARD: Okay. And then on the second page, one of the things that stuck out with me on Line 18 was a basis for denial of foster parenting status. And we've done a lot of work in previous years around kinship placements. And I believe kinship placements are probably part of some of the concerns here if there's a disabled kin relative. And so I think if we're going to move forward, we want to make sure that the kin statutes are included in this, as well as the foster parenting statutes. Does that make sense? [LB456]

SENATOR BRIESE: Yes. That would probably be advisable, I would think. [LB456]

SENATOR HOWARD: And then I was hoping...I'll finish, I have two more comments. One is on Line 29, "The court may require that such supportive parenting services be put in place..." however, for foster care, kinship, even a guardianship proceeding, if it's in the best interest of the child the court "shall" require those supportive parenting services. So I'm not sure if you want to clarify between a custody visitation case versus a foster kinship or guardianship placement in terms of what the court has to provide in terms of supportive services. [LB456]

SENATOR BRIESE: I would think the "shall" language would be preferable to the permissive language there. In the event that the court determines that such custody, visitation, guardianship, foster care, adoption is awarded I think perhaps that change would be advisable. [LB456]

SENATOR HOWARD: Perfect. And then the last one is I'm hoping you can walk us through this is not a committee that generally deals with burdens of evidence or burdens of proof. [LB456]

SENATOR BRIESE: True. [LB456]

SENATOR HOWARD: And so I'm hoping you can walk us through the burden of proving by clear and convincing evidence. [LB456]

SENATOR BRIESE: It's been a couple decades since I practiced law. [LB456]

SENATOR HOWARD: Me too. [LB456]

SENATOR BRIESE: But clear and convincing evidence I think could be replaced by a preponderance of the evidence. I think that might be sufficient in that situation. So in other

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words, more likely than not, I think would be comparable to clear and convincing evidence. I'm not...that would be my recollection anyway. So that language could be replaced. [LB456]

SENATOR HOWARD: Okay. When we're...and we're thinking of the context of a proceeding, which sort of meets the aims of this legislation more effectively? Clear and convincing or preponderance? [LB456]

SENATOR BRIESE: I would probably stick with clear and convincing, personally. [LB456]

SENATOR HOWARD: Okay. [LB456]

SENATOR BRIESE: But if one was troubled by that language, preponderance might suffice. [LB456]

SENATOR HOWARD: And I'm not troubled by the language at all. More, I just want to make sure that we understand what that means and that we have a record of your intention for it. [LB456]

SENATOR BRIESE: Sure. From my viewpoint, probably a higher standard the better. And clear and convincing might be slightly higher than preponderance. [LB456]

SENATOR HOWARD: Okay, thank you. [LB456]

SENATOR RIEPE: Okay. Additional questions, Senator Howard? [LB456]

SENATOR HOWARD: No thank you. [LB456]

SENATOR RIEPE: Okay. Others, any other questions? Seeing none, we will hope that you will be around for closing. [LB456]

SENATOR BRIESE: I will. You bet. Thank you. [LB456]

SENATOR RIEPE: Okay. Additional proponents, supporters of this piece of legislation. Welcome. [LB456]

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DALE JOHANNES: (Exhibit 2) Good afternoon, Senators. My name is Dale Johannes, D-a-l-e J-o-h-a-n-n-e-s, and I'm here to testify in support of LB456 on behalf of the Nebraska Planning Council on Developmental Disabilities. Although the council is appointed by the Governor and administered by the Department of Health and Human Services, the council operates independently and our comments do not necessarily reflect the views of the Governor's administration or the department. We are a federally mandated independent council comprised of individuals and families of persons with developmental disabilities, community providers, and agency representatives who advocate for system-changing quality services. LB456 would make it illegal to discriminate against individuals solely on the basis of their disability in adoption, custody, visitation, foster care, and child welfare cases. This legislation would strengthen the protections for parents with disabilities in custodial matters. I am here today because my wife and I have two adopted children from overseas and we both have a disability. I had a brain injury when I was 17 and my wife has been diagnosed with epilepsy. My wife and I have both graduated from the University of Nebraska, and my wife has also graduated with her master's degree. Even before we were married we decided that an overseas adoption was going to be the path for us, the path that we would follow, because of our medical histories. We felt this way because in the United States when a woman puts their child up for adoption they are often given the choice as to which families they will allow to adopt their child. And while my wife and I are healthy by most accounts, each of us does have a medical history that on paper could be used against us. We adopted my daughter from China from the Waiting Child program. What the Waiting Child program is, is a child who has a medical disability and will likely need additional care once they are adopted. We felt it would be hypocritical of us not to go this path because of our life histories and our medical histories. In 2007, we adopted my daughter, Ava, who was born with bilateral club feet. When we decided we wanted to adopt a second child, we naturally thought we would go back to China so Ava had someone else in the family who looked like her, and we knew the adoption process. Less than a year after adopting Ava, we found that China had changed their adoption laws and they would now not allow individuals with epilepsy to adopt, even though it has been under control for years. We then literally checked all over the world for countries that would allow us to adopt, and we found very few options. We ended up adopting my son, Zach, from Ethiopia in 2008. Not all families are going to have the means for overseas adoptions as we did, especially families who have dealt with a disabling condition in their lives. LB456 would not only level the playing field in adoption, but it will also protect families from being torn apart because a parent has a disability. One in 10 children have a parent with a disability. As recently as 2016, parents in 35 states could lose their right to be a parent simply because of a disability. Slowly states are passing laws to treat parents with disabilities fairly. With LB456, Nebraska will be one of those states confirming the Rehabilitation Act of 1973 and the 1990s Americans With Disabilities Act to ensure all families, including those with disabilities, are treated equally. LB456 will also show that, unlike communist China, where families with disabilities are not allowed to adopt, in Nebraska all families are treated equally. The council recommends changes to LB456 to reflect People First Language and to include the

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federal definition of disability under the ADA, American With Disabilities Act, in order to clearly state the scope of the affected persons with disabilities impacted by this legislation. I urge you to pass LB456 on behalf of Nebraska parents who have disabilities. Just because a parent has a disability does not mean they have an inability to parent. Thank you for your consideration. [LB456]

SENATOR RIEPE: Thank you. We may have some questions. [LB456]

DALE JOHANNES: I'm good with that. [LB456]

SENATOR RIEPE: How old are your children now? [LB456]

DALE JOHANNES: My daughter is...she would kill me...12 and my son is 8. [LB456]

SENATOR RIEPE: Very good. Okay. [LB456]

DALE JOHANNES: And yeah, she's doing well. [LB456]

SENATOR RIEPE: Thank you. Questions of the committee? Seeing none, thank you for being with us. More proponents? [LB456]

AMY BURESH: Good afternoon, Senators, it's a privilege to be here before you today. My name is Amy Buresh, B-u-r-e-s-h, I live here in Lincoln. And I am very much in favor of this bill. I am here in my capacity as president of the National Federation of the Blind of Nebraska. In 2006 on May 2, at 10:26 pm, a 7-pound, 10-ounce, 21-inch baby boy arrived into our world. Like many first-time parents, my husband Shane and I naturally had questions, the normal questions that any first-time parents would have. But thanks to organizations like the National Federation of the Blind and the supportive family we found there, and the excellent training and skills that we received from the Nebraska Center for the Blind, we knew that even though we had these questions we were going to be okay; even though many around us weren't so sure how that was going to happen. Soon after Noah's birth, we didn't even have his name picked out yet, and so still all the, you know, hormones and all the crazy stuff going on we were visited by a social worker. He came in, note pad in hand, with a mile-long list of questions. Were we prepared at home? How would we feed our baby? How would we change and bathe him? How would we know when he was hungry? How would we know if he was going to be scooting, crawling, or otherwise getting into harm's way? Well, I thought to myself, like any other new parent would. Now I don't know about you, they had also asked if we had anyone ready to permanently move into our home to help us take care of our new baby. And, you know, I don't know about you, but

no matter how much you love your parents or you in-laws, but to have them move back in with you or you move back in with them...not so much a fan of that. So, you know, we had heard of things like this happening to other blind parents around the country, but this was 2006. This couldn't be, shouldn't be happening to us today. I wanted to cry, I was freaking out. My husband, as he usually is, was really strong and practical and calm. And so we sat and talked with him and answered his questions, and we had asked him if there were any other parents who received visits like this. And he reluctantly had to admit that there were not many, only those if they thought there was a situation that warranted special extra attention or there may be some certain potential risks or for concern did people receive these visits. So we collected ourselves and took another deep breath, and we went through the list of long questions that he had. And, you know, thanks to a lot of other blind parents that we knew and mentoring that we had received, we were prepared. We had answers to a lot of the questions that they did have. And so for instance, you know, bells on shoes to hear where the kids go, and Tic Tacs in pockets on the playground, and just lots of other things. And so after what seemed like an eternity, he finally left our room satisfied that we were going to be okay to take our baby home. Have there been other issues? Yes, certainly. Like on a flight coming home from a conference I was speaking at in Ohio, a well-meaning but questioning flight attendant had lots of questions and tried to take our baby and move him where he thought he should be, and could we keep him strapped-in properly in the car seat, and oh my gosh are you going to drop him. I'm thinking, how did you even expect that we got here on our own and did all these other things? I understand the questions, but they do get a little old after a while. And, you know, one of the things that we believe in the National Federation of the Blind is that with proper training and a positive attitude that we can go out and live the lives that we want. Today I am here not only representing and speaking for myself, but for other blind Nebraskans around the state. You know, I know that we're not alone in these types of experiences. Others have certainly had more egregious experiences than we have. If you look, there are lots of cases and examples on the Internet of recent cases even back, you know, as far as 2010; and in the past present couple of years in Maryland, Colorado, California, and several other states of experiences that blind parents have had regarding custody. And a real famous one in Missouri in 2010, where an infant was taken away from the hospital and then, thankfully, with advocacy reunited with her parents. And there is a member of our organization who was not able to travel here today, she does not live in Lincoln, and I have permission to briefly share her story. This was some 30-35 years ago. She had her children taken away, and so she was denied that awesome privilege of parenting her children, and now is also denied the privilege of being able to be a good grandma to her grandchildren. She does know them today to some capacity, but certainly not at the level that she would like to have had done. Thankfully, she's also been able to now receive training from our center here in town and she also is a member of our organization, which has helped to strengthen and empower her. And so we're really glad for that. But we want to see that this does not happen again in the future. [LB456]

SENATOR RIEPE: Okay. We are running close to our time. Maybe if you want to... [LB456]

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AMY BURESH: Okay. So on Valentine's Day in 2014, our daughter was born, and it was the best Valentine's Day that we could ever have imagined. My life and the lives of many blind Nebraskans here are ordinary. It's the life that we have chosen, juggling all the balls in the air and all that kind of thing. But it's the life that we have chosen to live, and we're glad to live in a country and a nation where we do have the right to do that. And we're here today just to ensure, well, we are very blessed in Nebraska to not have a long litany of egregious examples of where custody is denied. We just want to have something on the books so that if something were to happen custody would not be denied on the sole basis of one's blindness. If you take a child away from a blind person solely on that merit, it would be like saying I'm going to take your children away because you have red hair, which I do, just because it's rumored that red heads have really nasty tempers. It's just a characteristic of mine, and that is just like my blindness. It's just a characteristic. [LB456]

SENATOR RIEPE: In fairness to...thank you. [LB456]

AMY BURESH: And so I thank you very much for your time today and consideration of this bill. [LB456]

SENATOR RIEPE: Thank you. Are there questions from the committee members? Seeing none, thank you very much. Enjoy Valentine's Day. More proponents, please. [LB456]

JONATHAN SCHERLING (THROUGH TRANSLATOR): (Exhibit 3) Thank you so much for your time. My name is Jonathan Scherling, J-o-n-a-t-h-a-n S-c-h-e-r-l-i-n-g. I am the Nebraska Association of the Deaf president, representative for those who are deaf and hard of hearing throughout the state. And I am here today as in support of this bill. And the reason why this bill disproves that we can grow a family through our own language, our own culture, and passing down those language and culture. As you notice, the representative of parents with disabilities don't have the service based on the services of denial are being limited for visitation or custody. Parents, those have the right...it should not be denied the right to parent children due based on their disability themselves. I don't have children, but I have parents who are deaf, who had taught me what's right and wrong, who have the right of a language with American Sign Language. They have taught me how to become and independent person through experiences. I am a deaf individual and I have experienced discrimination throughout my life, but keeping strong and persevering is what's important. I wouldn't be here without my parents. I have a college degree and I teach at the University of Nebraska of Omaha, and that is due to my parents. And they are deaf, but they had taught me through sign language, through communication, that family is key and communication is key with family. If I was taken away from them with the basis of them having deaf or with that disability, I mean, there are many of us and members who have parents with a disability. They have the rights with children and concerns that both kids who are deaf and

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hearing. The concern that only the discrimination through employment, through school, and now parents, and what's faced through those experiences day to day. I want to thank you, senators, and Senator Briese, for introducing and recognizing this bill and this right for this community and throughout the state of Nebraska. Thank you so much for your time. [LB456]

SENATOR RIEPE: Thank you. Are there questions from the committee? Seeing none, thank you very much for your testimony. [LB456]

JONATHAN SCHERLING (THROUGH TRANSLATOR): Thank you. [LB456]

SENATOR RIEPE: Are there other proponents? How many testifiers do we have, can you raise your hand? Thank you. Please proceed. [LB456]

DR. PETER SEILER (THROUGH TRANSLATOR): (Exhibit 4) May I proceed? [LB456]

SENATOR RIEPE: Yes, please. [LB456]

DR. PETER SEILER (THROUGH TRANSLATOR): My name is Dr. Peter Seiler, P-e-t-e-r, last name S-e-i-l-e-r. Obviously I am a deaf individual. I want to tell you that I grew up with five children in my family, all who were not normal. Why? Because they could hear. I had to teach all of them how to become normal with me. My deafness was my normal. I'm also the secretary of the Nebraska Association of the Deaf. I am retired school superintendent, obviously my deafness was not a barrier for my skills. I do want to share one story with you today, this story does not reflect on our current chief and executive officer for DHHS, it was a story from a previous DHHS representative. I had one father who was a deaf individual, his children were hearing, it was a five-year-old child. DHHS got involved in some way and there was a mistake by DHHS. But nevertheless, they were convinced the judge that this man, his deafness, he would not be able to be a good father. So they took the child out of the home. Nebraska Commission for the Deaf and Hard of Hearing, they went to the judge and explained that this father there was nothing wrong with him. DHHS couldn't communicate, they used the five-year-old child to try and interpret to the father, which is actually against state law at that time. So the judge agreed to put the child back into the home and DHHS took several months prior to letting the child go. And they, the reason why is because they felt the judge was wrong. So we had to go back to the judge and explain that it was not right. Finally, the child was back with the father, and the reason was the attitude of the people, the person with a disability would not be a good parent and that attitude. And more testimony you'll hear them, they themselves have disabilities and they are fine. Probably more appropriate for five children all went to college. I have on PhD in mathematics and mechanical engineering, I have one daughter and one son that did computer graphics, one did construction management, one did business administration. I'll tell you that

disability is not a problem, that probably helps the child become more mature than most other children. So I just want to point out that I do drive. People ask me how do I drive. I said, well, how many accidents do you have? And they say, oh, five or six. And I have three in my lifetime, two of which were my fault and one which was not. My wife, who is hearing, she has seven. See? So the deafness is not the issue, we learn to use our eyes to look around. And also for bicycling for BRAN, Bike Ride Across Nebraska. Some people ask me, how do you bike ride on the highway? I say, same as every hearing individual, you use your eyes, look around, I keep my mouth shut. I also ran half marathons. My daughter, one of them, she ran an ultra. She would tell people my dad had run a half. I can do the same thing. And you see Jonathan Scherling, who was up here, his parents are deaf and are fantastic, this is a fantastic gentleman that they raised. The National Association of the Deaf is elite...in the Nebraska Association of the Deaf within the state. [LB456]

SENATOR RIEPE: I think we're at our red light. Can you try to conclude, please. [LB456]

DR. PETER SEILER (THROUGH TRANSLATOR): And so it should be considered for on basis only for the child being a disability is the same as for color, race, discrimination against ethnicity, and religion, or disability. There should never be the reason why that person saying that they would not have the skills for protecting the child. But I thank you so much and I hope that you are in favor of determining that LB456. And thank you to Senator Briese also for introducing this bill. We need more senators like him and more allies that are like him. Thank you. [LB456]

SENATOR RIEPE: Thank you. Are there questions from the committee? Senator Williams. [LB456]

SENATOR WILLIAMS: Thank you, Chairman Riepe. And thank you, Dr. Seiler, for being here. A couple of quick questions. Where were you superintendent? [LB456]

DR. PETER SEILER (THROUGH TRANSLATOR): The Illinois School for the Deaf and the Arkansas School for the Deaf. I was principal at the Nebraska School for the Deaf prior to it closing also. [LB456]

SENATOR WILLIAMS: Thank you. And your testimony explained your unusual email address. Thank you for being here. [LB456]

DR. PETER SEILER (THROUGH TRANSLATOR): Thank you. Any other questions? [LB456]

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SENATOR RIEPE: Thank you. Additional proponents? [LB456]

DR. PETER SEILER (THROUGH TRANSLATOR): Thank you. [LB456]

SENATOR RIEPE: Please proceed. Thank you. [LB456]

LINSAY DARNELL, JR. (THROUGH TRANSLATOR): Good afternoon, Senators. Thank you for having me here today, and I thank you, Chairman. I can almost see you over there. Just recently, the two gentlemen that had come up here...I do want to add that Jonathan himself, Jonathan Scherling, his parents are also deaf. And when I was looking at this and reading this, the visual comments that have come through... [LB456]

SENATOR RIEPE: Could we interrupt and have you state your name and spell it out for the record, please? [LB456]

LINSAY DARNELL, JR. (THROUGH TRANSLATOR): Oh, yes, I apologize. I'm getting a little ahead of myself. My name is Linsay Darnell, Jr., L-i-n-s-a-y D-a-r-n-e-l-l, Jr. [LB456]

SENATOR RIEPE: Thank you. [LB456]

LINSAY DARNELL, JR. (THROUGH TRANSLATOR): I want to also say that my parents were both also deaf. I couldn't even begin to imagine if what happened back in 1969 if someone had thought and decided that my parents were not good enough and they had taken me away from them. And my brother also, who is also deaf. And I lived here in Nebraska my whole life and it is wonderful to be here. And I own my own business of...I have a consulting business and I travel around the whole U.S. providing leadership training and consulting to different agencies and organizations and board training and leadership and so forth. I fly probably 14 times within the year. And imagining...I think it's interesting, the very archaic thought, that if you looking at a parent and seeing their disability and determining that they don't qualify to take care of children, I find that that kind of thinking is back done in the early 20th Century, is very archaic. And now today, it's 2017 and it's still happening. So looking back and remembering back in 1995, around then, parents had come up to me who were deaf and they asked for my help. They had taken the children away from these parents, and they were young, they were in their 20s at the time, looking for lawyers, and they couldn't afford a lawyer. But with the good leadership that we have in the Nebraska Commission for the Deaf and Hard of Hearing, that would not happen today. But back in the day, those parents they were at a loss of what to do. Their children had been taken away and unfortunately, I never saw them again. So I pray that they did get their children back. One story that I constantly like to brag about is Isabella Graves. She is a student at Seward

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High School, Senator Kolterman could be maybe familiar with her. She is with the Junior Nebraska Association of the Deaf, and she is a fantastic individual. She is considering becoming a lawyer herself. Two years ago, she had gone to the National Junior Association of the Deaf conference and competed for the Junior National Association of the Deaf ambassador program, and she was selected to represent the whole nation by whole nationwide with Junior NAD. Last year, Senator Kolterman had actually proposed that the legislation recognized her for her success. And that afternoon, both I and Jonathan Scherling were here and Isabella had come also. And the senator had presented her a plaque and she was elated with that experience that she had. After that, we had gone and we met with the Governor. Prior to that, we were warned that the Governor may be about 10 minutes of the time. But when we actually met with him, the secretary they said hold up that they had a plan. They had wasted 30 minutes with her. But my point, she herself has to have parents. So if you just suppose if somebody back at the time when she was born, they say, well, those parents aren't good enough, Isabella Graves would not have become the person she is today. Looking at those things you have to consider to make sure that with this bill goes through. Thank you so much for your time. [LB456]

SENATOR RIEPE: Thank you. Are there questions from the committee members? Seeing none, thank you very much for being with us today. [LB456]

LINSAY DARNELL, JR. (THROUGH TRANSLATOR): Thank you. [LB456]

SENATOR RIEPE: And we will move on to additional other proponents. [LB456]

CHRISTINE BOONE: Good afternoon, Senators. My name is Christine Boone, C-h-r-i-s-t-i-n-e B-o-o-n-e; I'm from the metropolis of Pickrell, Nebraska, and very happy to be here before you today. I know that you've heard a lot of proponents for this bill and I submit to you that we, as persons with disabilities, are very passionate about the rights of parents with disabilities to bear and raise our children. And while Nebraska has a really fairly excellent track record on this issue, with a few overly concerned social workers notwithstanding, we've seen a lot of justice miscarried in other parts of the country. By way of background, I am myself the parent of two grown and very successful children, now young adults. I am also a lawyer, I've been an administrator of statewide programs, and an acting school superintendent as well. So blindness did not stand in the way for me raising my own children. And in fact, I had a travelling husband who was away from home for most of each school year as a consultant, except on weekends. So conferences, music practice, sports, you know, all those things were in my hands as they would have been as a single parent. And I appreciated my ability to do those things. But I want to tell you briefly about a really good friend of mine who did not live in Nebraska but who was a successful gentleman. He was a farmer raising chickens and beef and crops. He then went off for training and became a vocational rehabilitation counselor, then became the director of

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independent living programs in his state. He married and had a child, and unfortunately that marriage ended in divorce, and his wife decided that she wanted full custody of their daughter. And in going after that custody she used his blindness as a reason to argue to the court that he would not be a fit father. Now, he had done nothing wrong, he had raised his child as would any good father. He went to her school conferences, he read to her, he's a very good cook, he's an excellent traveler, he took her to school, he played with her. His wife actually made up things that never happened and to say that while he was playing with her she was almost killed on numerous occasions. Her family happened to have a lot of money, and the tragic outcome of that custody battle was that my friend lost custody of his daughter. He was able to appeal and eventually did receive fully-shared custody. And his daughter, as she grew older, eventually chose to live permanently with her father. So the story has a, well, it has a good ending. But I don't know if it was happy ending, because he missed a number of years with her. And she was impacted, and even his wife was impacted because she was able to get away with those kinds of shenanigans. And so, you know, I have been asked why we want to do this in Nebraska because we do have a really good track record of supporting all parents, including parents with disabilities. But these things are never a problem until they're a problem. And that sounds obvious to say, but we don't want that to be able to happen in either a parenting case, a custody case, a foster care case, or an adoption case. So I want to give tremendous thanks to Senator Briese for introducing this legislation, and I thank all of you for listening. And I really appreciate your time this afternoon. [LB456]

SENATOR RIEPE: Thank you very much. Are there questions from the committee? Seeing none, thank you very much. [LB456]

CHRISTINE BOONE: Thank you. [LB456]

SENATOR RIEPE: Do we have another proponent coming forward here? [LB456]

CARLOS SERVAN: (Exhibit 6) Good afternoon, Senators. I brought my testimony here, I'm going to be very short. My name is Carlos Servan, C-a-r-l-o-s S-e-r-v-a-n, I'm from Lincoln, Nebraska. I'm the deputy director of the Nebraska Commission for the Blind, we come here in support of LB456. And Dr. Van Zandt, the executive director of the agency is out of town, so she asked me to come to show support. All I can say is that we as an agency have experience working with blind individuals and also with some other disabilities; and those disabilities limitation to be good parents, foster parents, or adopted parents. That's all we wanted to say. Any questions for me? [LB456]

SENATOR RIEPE: Thank you. Are there questions? Where is your office at? [LB456]

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CARLOS SERVAN: 4600 Valley Road, here in Lincoln. [LB456]

SENATOR RIEPE: Here in Lincoln. [LB456]

CARLOS SERVAN: I want to thank Senator Briese for his support as well. [LB456]

SENATOR RIEPE: Are there additional questions? Seeing none, thank you so much for being here. [LB456]

CARLOS SERVAN: Thank you. [LB456]

SENATOR RIEPE: Appreciate it. Other proponents? [LB456]

MICHAEL CHITTENDEN: (Exhibit 5) Good afternoon again, senators. My name is Michael Chittenden, M-i-c-h-a-e-l C-h-i-t-t-e-n-d-e-n. I am the executive director for the Arc of Nebraska. I'm going to talk a little bit about the history of how people with IDD specifically, because we've heard from a lot of other proponents, and I do this to put a historical background on it because these things were all acceptable at the time, and we need to think about that as we think about what we're doing today, which might seem acceptable--or some of the practices we think are acceptable--but how will history judge us. People with intellectual and developmental disabilities have historically had decisions made for them, not with them: institutionalization, medical decisions, unnecessary guardianships, sterilization, electric shock therapy, Thorazine cocktails. these are all examples of how people have been treated in the past. We have seen changes, the Arc has been at the center of these: home and community-based services, the Americans with Disabilities Act, the Olmstead decision, People First, Money Follows the Person. We are on a better trail, we are progressing. However, there is still an area that's lacking. People with intellectual and developmental disabilities are lacking in the area of relationships, intimacy, marriage, and family. People with IDD are still not recognized as full citizens when it comes to the basic human right of relationships and all they entail. All people need unpaid relationships in their lives, friendships, a boyfriend or girlfriend, a romantic partner, a spouse. These things help us to live strong and healthy lives. With some of these relationships there are side effects. One of the most popular is having offspring...that's from personal experience, I can't speak for everybody. Sorry, I lost track. Anyway, LB456 hits an important aspect--people with disabilities are just as able to be as good parents as are typical people. Having a disability should not automatically preclude one from having this right. With the proper guidance, counseling, education, and adaptive equipment when necessary, there is nothing a typical parent can offer that a disabled parent cannot. LB456 moves Nebraska in a positive direction. Any community that excludes a person from a full and happy life is not an inclusive one. It's time to recognize people with disabilities fully-functioning citizens and ensure their rights. We have a saying--we

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talk about presuming ability, not presuming disability. And as to a question that was asked before of Senator Briese, we also would like to see "clear and convincing evidence," not just the presumption that somebody might...a preponderance of evidence. We want clear and convincing evidence that a person could not be a parent with a disability. The Arc supports this bill and we applaud Senator Briese for his concern and forward thinking about people with disabilities. [LB456]

SENATOR RIEPE: Thank you. Are there questions? Seeing none, thank you very much. [LB456]

MICHAEL CHITTENDEN: Thank you, Senators. Have a great day. [LB456]

SENATOR RIEPE: Thank you. Are there additional proponents? Seeing none, are there any opponents? Any in opposition? Seeing none, are there any testifying in a neutral capacity? Seeing none, we will invite Senator Briese to come up and to close. [LB456]

SENATOR BRIESE: Well, thank you, committee, for hearing this bill today. And I would ask for your support of LB456. I feel this bill is a solid, commonsense legislative proposal that both protects the rights of individuals with disabilities and protects the best interests of children. Furthermore, this bill, if enacted into law, will help to encourage individuals with disabilities to participate in foster care, guardianship, and adoption proceedings. Thank you again, and I'd be happy to answer any questions you might have. [LB456]

SENATOR RIEPE: Are there questions? I have a couple. [LB456]

SENATOR BRIESE: Sure. [LB456]

SENATOR RIEPE: Is this the first time that you're aware of that this legislation has been introduced in Nebraska? [LB456]

SENATOR BRIESE: As far as I know, yes. I can't be sure of that. [LB456]

SENATOR RIEPE: Are you familiar with any other states that have similar legislation? [LB456]

SENATOR BRIESE: Yes. I don't recall how many. Yeah, I'm not sure how many. [LB456]

SENATOR RIEPE: Okay. Do you know if there's any... [LB456]

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SENATOR BRIESE: But it's my understanding there are a few anyway. [LB456]

SENATOR RIEPE: Okay. Is there any case law in the state of Nebraska? [LB456]

SENATOR BRIESE: Not that I'm aware of. [LB456]

SENATOR RIEPE: Okay. Other questions? Tyler, do we have any letters? [LB456]

TYLER MAHOOD: (Exhibits 7, 8, 9, 10, 11, 12, 13) Yes. I have a letter from the Nebraska Commission for the Deaf and Hard of Hearing, signed by John Wyvill, in support; letter from Voices for Children, signed by Julia Tse, in support; a letter from the League of Human Dignity, signed by Kathy Kay, in support; a letter from Nebraska Statewide Independent Living Council, signed by Michael Reed, in support; a letter from the Nebraska Statewide Independent Living Council, signed by Kathy Hoell, in support; a letter from Deanna Henke, representing herself, in support; and a letter from Barbra Dohmen of the Nebraska Statewide Independent Living Council in support. [LB456]

SENATOR RIEPE: Thank you, Senator Briese. It sounds like you've made a lot of people happy. So congratulations to you. [LB456]

SENATOR BRIESE: Thank you for hearing us today. [LB456]

SENATOR RIEPE: With that, we will conclude the hearing. We do conclude the hearing on LB...yes, sir? [LB456]

SENATOR BRIESE: In response to your question regarding other states, I'd be happy to look into that and maybe give the committee an idea. [LB456]

SENATOR RIEPE: Okay, that would be great. Any help we can get. We are closed on LB456, thank you very much. Thank you all for coming. We're going to take a break. [LB456]

BREAK

SENATOR RIEPE: We are going to reconvene as the Health and Human Services Committee. We appreciate your being here. We understand, Senator Schumacher, this is your...is this your third opening today for a bill? [LB50]

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SENATOR SCHUMACHER: No, actually it's my first. We were listening to the Governor tell us how everything is going to be wonderful. That's still going on in Revenue Committee. [LB50]

SENATOR RIEPE: So you're... [LB50]

SENATOR WILLIAMS: Is that part of your testimony? [LB50]

SENATOR RIEPE: You are here filled with enthusiasm. [LB50]

SENATOR SCHUMACHER: Always. [LB50]

SENATOR RIEPE: Thank you for being here, we appreciate it very much. We're opening on LB50 and we would invite you to proceed. [LB50]

SENATOR SCHUMACHER: Thank you, Chairman Riepe, members of the Health and Human Services Committee. My name is Paul Schumacher, S-c-h-u-m-a-c-h-e-r, representing District 22 in the Legislature, and here today to introduce LB50. LB50 is part of the continuing saga of mental health in this state. Years ago we had state mental health hospitals, and when those became economically and politically and culturally unpopular we decided we were going to do something. And what we did is we eliminated them with the notion that they would be replaced by community mental health facilities. And that's how we were going to try to address the bulk of our mental health problems, largely drug and alcohol and some of those genetic things that just are out there in the system. And the way we tried to do that was by a development of a thing called mental health regions, and I think there are six of them in the state, different groups of counties in those different regions. And we were going to put wise people in charge of the mental health regions: one person from each county board in the district. So you might have 20 representatives of district...of county boards that are charged with managing the district. And we were going to have supervising those districts kind of a mental health czar in the Department of Health and Human Services. And that person was supposed to coordinate; keep everything on track; make sure the state money, which can get into tens of millions, with federal money probably hundreds of millions of dollars; and it's a big-time enterprise. What isn't available in that big-time enterprise is a way to track a lot of the metrics, a lot of the needs, whether or not those needs are being met, what planning is being done, where the facilities that these mental health regions contract with. If you have a little shop consisting of a couple psychologists and you hang out your shingle and you get a contract to see some of the people who are supposedly mentally ill in you district, how that's working, whether or not all those little shops that might be under contract generally controlled by an administrator or a couple administrators by these mental health regional districts, regions; whether that's all piecing together. So this is an attempt to go and accumulate what should be already available, whether it's at the regional level or at the

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state level, and get a detailed report of the providers, of the programs, of the needs, a picture of the expenses over the last five years, how much the administrators for example of these regions are being paid. It appears that they're paid...or their boards have approved payments that are rather well, exceeding some of the top people in the Governor's Office in some cases; plus access to automobiles, health insurance, and all those kind of things. So that the Legislature, in making the determination of whether this kind of concocted system is working well, whether it should be replaced, whether or not it's being managed and supervised well from the state level so that we would have an ability to get a handle on what is an increasing problem and probably an underfunded problem. And that's particularly true when we consider that probably between 20 and 40 percent, depending on who you listen to, of our prison population or jail population are mental health problems. And they get to be in those facilities because there's quite frankly no other place to put them. And they are our biggest mental health facilities. One of the things that the metrics that is being requested here is how are the people who are mentally ill and dangerous brought into the system, how are they handled once they're in the system. We have a really kind of crazy way of doing that. When a police officer, who has got a million other things to do besides pretend that he's a psychologist or she's a psychologist picks up somebody who is having a mental episode what do you do with them? Where do you plug them into the system at? How long do you wait when you take them to a mental health facility? Are there mental health facilities available, are you stuck with just taking them to the Lincoln Regional Center? What if the private operation contracted by the region says: uh-uh, this potato is too hot for us to handle, we don't want to take him in? How many times does that happen? How many times of when they call the regional center is there not a place available? Once we have that kind of data and can document that kind of problem we can answer the question: is it smart to have the policeman be the intake agent for our mental health system on people who are really disturbed? You might even hear a story today coming from someone who knows about how long it took to get a guy who wanted to eat people put into the Lincoln Regional Center. Kind of a pretty dangerous creature, particularly if you're walking around with a bottle of ketchup or something and looking like you would be good to have for lunch. So this is what this is about, this is trying to get the data. It should already be existing, so hopefully what we're trying to do is organize the data. If it isn't existing already, if we don't know what some of these numbers are, then we really have a worse off system than what we think because we don't even know which direction to point the ship in because we don't have a compass. So that's what this bill is about, and I would welcome any questions. Hopefully there's at least one person behind me, maybe more, who have direct and recent experience in this area. I do have some experience dating back to the era when I was county attorney. But we have a real mental health problem and this is a little effort to try to get a handle on it. [LB50]

SENATOR RIEPE: Okay. Thank you very much. Are there questions from the members?
Senator Linehan. [LB50]

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SENATOR LINEHAN: Do any of the groups now, do they have to report to the State Department? Is there any reporting process now? [LB50]

SENATOR SCHUMACHER: There may be an informal reporting process. I've been told by DHHS that they have in various flavors this information, but it's not organized. And it's certainly not easy to say, okay, I'm in the Legislature, you tell me what you know. Because it just it's more on a working level than it is a report level. [LB50]

SENATOR LINEHAN: Okay, thank you very much for bringing this. Appreciate it. [LB50]

SENATOR RIEPE: Other questions? Senator Erdman. [LB50]

SENATOR ERDMAN: Thank you, Senator Riepe. Thank you, Senator Schumacher. Explain regional behavior health authority. [LB50]

SENATOR SCHUMACHER: That is what is called the regions. And as I understand it, back...well, when I was county attorney back in the '80s, gee, that was a long time ago, the various counties in an area got together in an interlocal agreement to provide for mental health. And they all anted-up so much money and I think there was a little state kickback into it too. And then we still have the mental health hospitals: Hastings and Norfolk and those places. Well, in the 1990s the Legislature did what it thought was smart and eliminated those mental health hospitals and also authorized, kind of blessed, transformed, whatever, these interlocal agreements into these regional authorities. I think there's six of them, and they all have a collection of counties, and those counties all ante up a little bit into the kitty, and they all send a representative to the meeting and talk to the administrator about what they're doing. And that's...there's some of them that reportedly are doing a good job and some that you got to scratch your head with. And they're all struggling in rural areas with not having enough mental health professionals there, but that's how we do mental health. So how does this bill gathering that information make more providers available? [LB50]

SENATOR ERDMAN: So how does this bill gathering that information make more providers available? [LB50]

SENATOR SCHUMACHER: It identifies the needs. It does not make more, it's a reporting bill. It doesn't fund any new providers, but it gets us an idea of where we're short on providers, where we have gaps in services. If somebody in an area of the state does not have adequate mental health providers in the area it will at least tell us that. Perhaps then a future Legislature can appropriate money or set up a program to supplement those particular regions. If you don't have

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the data in the beginning, it's hard to be very data-driven. You just kind of by guess and by golly. [LB50]

SENATOR ERDMAN: You correctly described the bravery of the health authority, I was on one of those. And we didn't need this act or this information to understand we were short of people, we had that, we had figured that out. But we had more people that needed services than we had providing service, and we didn't need no statute change or information to be gathered to figure out we were short. [LB50]

SENATOR SCHUMACHER: Right. But and you probably had a good handle on that from that perspective. But to get money out of Lincoln and to get the apparatus that divvies up money among the various regions and to know how much should be in the pot to start divvying up, you need to have some type of reporting mechanism. And I don't think this is a terribly expensive thing to do, and that data should be in existence already. And you probably know it in your head for your area of the state. [LB50]

SENATOR ERDMAN: I think the fiscal note was like \$200,000 or something, wasn't it? [LB50]

SENATOR SCHUMACHER: That was for some computer...all these fiscal notes that you see on these things have got some big computer figure--\$80,000, \$100,000. And sometimes that's between departments. So it's not really an expenditure, it's this department charging that administrative services for computer time that we're already paying for anyway. [LB50]

SENATOR ERDMAN: Well, I would assume our region probably sent that information to somebody that we were short. [LB50]

SENATOR SCHUMACHER: And they may very well have, but you can't get it that easily on this end of the pipe. [LB50]

SENATOR RIEPE: There was a study conducted, and I haven't seen the results of it, but I will explore to find those out, on behavioral health within the last...at least I know since I've been here in the last two sessions. I don't know whether there was a final report, and if there was if it shed any light in terms of some of the issues of behavioral health in terms of a comprehensive plan. Or did that influence you in any way? [LB50]

SENATOR SCHUMACHER: My involvement from this is coming from the locals' perspective, much like Senator Erdman. You hear the squawking of just not enough services and not enough mechanisms and people riding around in police cars because there's really no place to take them

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on a quick basis. And that's my...now, I do understand that some of this undercurrent of gee, we got to be doing something better because we can't afford to put these people in pen. Some of that undercurrent did give rise to a study, I think it may have even been last year. I wasn't on the committee. [LB50]

SENATOR RIEPE: You were or were not? [LB50]

SENATOR SCHUMACHER: I was not. But I understand they studied it. And I have not seen their report, but it's fair to say that ongoing stream of data is important for the Legislature to be able to address the issues that I'm sure they talked about, and probably in the same circles we talked about a lot of things. [LB50]

SENATOR RIEPE: I think as the Health and Human Services Committee we should see that report. [LB50]

SENATOR SCHUMACHER: Probably should. [LB50]

SENATOR RIEPE: Question that I have too...oh, I'm sorry. Let me. It seems to me that maybe rather than outcome reports, we need to look at some common process for data and information to be able to go in so that we logically can sort it out so that we have meaningful statistics in various categories. Because I don't think we're alone in not having a comprehensive mental health statewide program. I'm just trying to say it's awfully hard to put it together at the end, as opposed to trying to get it...like sorting eggs, you know? Get it set up at the front and then you get what you want. [LB50]

SENATOR SCHUMACHER: And that may be some of how they set up these forms with the \$200,000. I don't know, but to get the egg cases set up right. [LB50]

SENATOR RIEPE: Yeah. Senator Crawford, do you have a question? Oh, Senator Howard. [LB50]

SENATOR HOWARD: Thank you, Senator Riepe. As a point of clarification, were you referring to the Mental Health Task Force through the Legislature that Senator Bolz chaired? [LB50]

SENATOR RIEPE: A friend to it? [LB50]

SENATOR HOWARD: When you were talking about referring. [LB50]

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SENATOR RIEPE: I didn't know there was a classification of "friends." [LB50]

SENATOR HOWARD: When you were referring to the report, are you talking about the Mental Health Task Force that the Legislature conducted? [LB50]

SENATOR RIEPE: All I knew there was one, I think it was commissioned by the Executive Board. [LB50]

SENATOR HOWARD: Oh, okay. I think that's the Mental Health Task Force that Senator Bolz chaired. Their report was released December 15. [LB50]

SENATOR RIEPE: Sounds right. [LB50]

SENATOR HOWARD: And I believe it's on the web site for the Legislature. But I wanted to ask you a question. We received a list from the Division of Behavioral Health of all of the reports that they do, which are a lot of reports, some pertaining to the information that you're requesting and some not so much. The one that I think reaches as closely to what you're asking for are the division and region annual reports, which they are supposed to give to us once a year, each region. Do you know are we getting them? Do they cover what you feel needs to be covered in those annual reports? [LB50]

SENATOR SCHUMACHER: When I was poking around...well, I've been poking around in this for two years. When I was poking around in that time period, nobody came to me with a here's a simple report. We went to the regions, said can you give us your budget numbers; can you give us your minutes; can you give us copies of your contracts; can you give us a list of your providers. And that was all very piecemeal. I think if this would have been a nice, pretty report they would have laid it on my desk and said, here, go away. But there wasn't. And I have no doubt that somehow or another that through the mechanisms some of this information is known to folks in management and DHHS. But it sure isn't the kind of thing that somebody can lay on your desk and say, here, this is how much this region is costing us; The administrator is payed so much and gets a car and health insurance to boot; there are six other people in the head office; they got 25 contracts with various psychology shops; and this is how many times there was a cost over or under or within their budget; or they're carrying so much in a little side kitty that they've been saving up for something or another. I understand some of them carry those. If there was such an easy thing, I didn't get to see it. [LB50]

SENATOR HOWARD: Thank you. [LB50]

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SENATOR RIEPE: Okay. Are there additional questions? Seeing none, thank you. Thank you for your creative ideas all the time too. Will you be staying to close? [LB50]

SENATOR SCHUMACHER: Depends whether or not I get pulled from the room here to go over to Judiciary. And then once I'm done there, I get to come back and find out how everything is wonderful. [LB50]

SENATOR RIEPE: It's good to know you're very busy. Do we have proponents? People that would...we do. [LB50]

ELIZABETH LAY: Good afternoon. My name is Elizabeth Lay, and I am a deputy county attorney in Platte County, Nebraska. And this is I think my fourth session to testify on this particular issue. Some of you are familiar with me. And I'm going to try really hard to collect my thoughts and keep them positioned towards this bill that we're dealing with today. And I understand most of you are probably looking at this bill saying why do we need more of this; why do we need more reports, or whatever it might be. But one thing that I have seen is that we lack consistency across the regions as a whole. And so one of the reasons that this bill is particularly...I feel is particularly important is because it does give some consistency to the reporting requirements for the regions as a whole. And so, you know, I really thought that we were making some progress with this particular subject, if no other progress than just getting the lines of communications opened up here in the Legislature and across the state as a whole; trying to figure out what we can do in our local communities to make this problem better. But then, you know, I open up the newspapers and I realize that we're trying to take staff positions away from the Lincoln Regional Center, after I just spent two months in the month of December and January trying to get someone in. And I actually had to make the call to try to facilitate that process, because he was making life miserable in the hospital for everyone else. And so after waiting two months to try to get that person in, I'm seeing...and then also hearing how funds from probation, which is, you know, an alternative program that we use because our mental health system is lacking so much, that's getting funded too after a couple of years ago we had a presumption of probation put into place. And so that's very reminiscent of 2004, when we shut down the mental health centers without putting those funds right back into the community where they go. And so I feel like at this point maybe as much progress as I thought was being made isn't, and maybe what we need to do is start with the small things like this. Maybe what we need to start with is a bill that gives the regions consistent reporting requirements across the board, so that when we want to know this information, so that when someday disaster strikes this state and as a Legislature you finally realize that this is an issue that's coming to your doorstep and that you need to fix you'll already have the information you need in a simple report that you can use to make the right decisions moving forward on this particular issue. Right now, we've spent how much money and how many years doing needs assessments and strategic planning to implement a program that we don't even know if it's going to work. Well, if you do this, if you have these

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consistent reporting requirements across the board, then you'll already have the data that you need and it will be the right data that you need to make the types of decisions that you'll need to make to kind of restructure this program and figure out a way that it's going to work for this state. So I don't think it's asking any more of the regions. And I have to tell you right now, if we're talking about adding a new program and it's going to...or a new position, and it's going to cost \$90,000 to get someone to analyze this, well then I'm going to apply. Because that's a lot more than what I make for what I do, and I myself have, you know, have to do a lot with this particular type of data in my county. To try to figure out, you know, as a deputy county attorney, that deals with this particular issue where do we go from here when there aren't resources available. How do we deal with that fact? How can I help the region help me, is that's kind of my role. How can I help them help me when I'm sitting on my bed at 2 o'clock in the morning trying to find placement for someone who is assaultive and combative and we don't have a hospital that will take that person? You know, I don't think that we're asking too much by asking them to consolidate this data into a way that's more useful to you when you finally realize as a Legislature that this is a problem that's not going away. This is a system that does need to be reconstructed at several different levels, and you need the data at your fingertips to be able to make sound decisions when doing that. No one wants another 2004, when we just shut everything down and do something without thinking about the long-term picture. No one wants that. We want you to have...I want you to have the information that you need to make a better decision than that. And I think this particular bill allows for that cohesiveness across the board, for well you will have the same types of data and the same information from each region in a type of report that will give you information that you need to restructure the system. Thank you for hearing me. [LB50]

SENATOR RIEPE: Thank you. I know we have seen you before, and you are a very strong advocate. You're very persistent and we appreciate that as well. Are there questions? Senator Crawford. [LB50]

SENATOR CRAWFORD: Thank you, Chairman Riepe. And thank you for being here again. I do very much appreciate your work and your advocacy. Do you regularly report...some of the items in the report are probably things that the region would need to get from people like you, so do you regularly report to your region the number of people are needing to come into custody or are...on some of the figures that are in the bill, are those things that you regularly report to your region or get asked to report to your region? [LB50]

ELIZABETH LAY: No, I'm never asked about information or data. And for the most part, if you were to ask the Department of Behavioral Health about data in Platte County, it's going to be significantly different than the data that I would give you. Every, you know...last session I sat here during the task force I testified that a total overall there's approximately 150 EPCs in Platte County per year, that would be in total adult and juvenile. I was...a few months later I had to

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answer a response from, well, I was given the ability to answer a response from the Department of Behavioral Health where they piece by piece tried to take apart every bit of my testimony to show that it wasn't true and that what I was saying wasn't true. But indeed, when I hand-counted every EPC that we had done over the course of the past year, it was indeed 150. A little over 100 being adult EPCs and the remainder of those being juvenile. And so I get pushback on my numbers, you know, I was just in a meeting where I was told we had in Platte County 27 EPCs from June to December. And I thought that can't be right, I'm sitting at those hearings, that's too low, I know how many we've done. So I went back and again hand-counted each EPC that we had done. And indeed, it was 55, as opposed to the 27 that was being reported. And so the place that that data is being pulled from is not something that I'm familiar with because I'm not ever asked about the activity that goes on in my office. I mostly just have to defend what...I have to defend my experiences when I put them out there for you to know what's going on. So when I testify to these things, I'm testifying based on my experience alone as a deputy county attorney. And then in turn, I normally have to defend those things to the Department of Behavioral Health. So, you know, honestly if I sit here, and I'm answering honestly, I don't know that the data that you will get from this will be correct. But it's something. [LB50]

SENATOR CRAWFORD: So I guess as a follow-up I would ask if we're wanting to get the best data we can to make these decisions would you see it appropriate for us to ask county attorneys for the EPCs, the number of health calls received by law enforcement and detentions resulting from the calls? That's one of the items here. Is that something that would it be appropriate to ask offices like yours for that data? [LB50]

ELIZABETH LAY: I mean, I think that it would. I think that it's another piece of the puzzle for, you know, this consistent reporting requirements that we're trying to get put into place. I think taking into account the people that are in the trenches. I mean, I think it's great that they ask for reporting requirements from...or that they ask for reports from hospitals and places like that. But it just doesn't always seem that the data matches up. So I think county attorneys' offices, you know, sheriffs' offices, law enforcement offices we are right there when these things are happening. We keep those records, we have that data, we have those case management systems that tell us that we're, you know, we're experiencing a significant increase in mental health type cases in our counties. We have that data and I have been waiting for two years. I have been waiting since I started testifying to be asked to be a part of that process. I have been waiting, it hasn't happened. All I've done is all I've had to do up to this point, all I've been asked to do is defend my own experiences that I present to you. That that's basically my role once I walk out of here is just to defend what I say here. I would expect nothing less this time either. [LB50]

SENATOR CRAWFORD: So just to clarify, you have this data available but you have not been asked by the region or by the Division of Behavioral Health to provide that data in your time in your office? [LB50]

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ELIZABETH LAY: No. [LB50]

SENATOR CRAWFORD: Thank you. [LB50]

SENATOR RIEPE: If you had a quarter of a million dollars, would you rather spend a quarter of a million dollars on reports or on services? [LB50]

ELIZABETH LAY: Well, that's a very difficult question. [LB50]

SENATOR RIEPE: Intended to be. [LB50]

ELIZABETH LAY: If I had a quarter of a million dollars to do what I see fit to do with it as me, Elizabeth Lay, deputy county attorney, I would spend it on services. But if you have a quarter of a million dollars to give to the region or the Department (sic) of Behavioral Health to spend it on what they see fit, I don't trust that it's going to go for the types of services that I need in my community. I don't know that it's going to go to the types of services that are going to fill the gaps that we're seeing occurring across the board. So it definitely depends on who is spending the money as to what my answer would be with that, would be there. [LB50]

SENATOR RIEPE: What influence do you have in your region over your...out of the six regions in the state? I mean, do they look to you? Do you give them information and what your needs are and do they respond to it? I'm trying to figure out if there's, you know, some huge gap going on here. [LB50]

ELIZABETH LAY: I think the regions, my region particularly, they do try to respond to local needs as much as possible. But I think that they would agree that there are service gaps, or gaps in the service resources that we have in our communities, that there is no providers for those services. I think everyone, every region, would agree that there is not enough space at Lincoln Regional Center. I think every region would agree that there is not a step-down type model being used for people coming out of Lincoln Regional Center to go into a safe living situation and not just be turned out onto the street. When it comes to local control, I think I work very well with our particular region. However, I think people are worried about keeping their jobs. That's all there is to it. And so I can go and complain and they can say, yes, we hear you. But I don't know that they're going to go and complain to Sheri Dawson, I don't know that Sheri Dawson is going to go to complain to Governor Ricketts because people are worried about keeping their jobs. It's just a fact of life, it's the way it goes. And so I don't know...do we work really well with our region and our local? Yes, we do, and I'm very glad that we do. Because, you know, if we didn't, nothing would get done. And that's me, that's me being...excuse me, but that's me being a pain in

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the bottom. That's probably why they work so well is because I'm screaming and tantruming (sic) and yelling at the top of my lungs to try to get resources in for the people in my community. And if other people aren't doing that, well, then I can't say as to how well their regions are listening to them. You know, sometimes I think my region has to listen to me because I'm the one that's screaming the loudest. I don't know that that's a sustainable business model in a service-oriented business like mental health. [LB50]

SENATOR RIEPE: It's not all the time we get a champion that's willing to be persistent and use their higher voice to get what needs to be done too. So are there other comments or questions? Senator Williams. [LB50]

SENATOR WILLIAMS: Thank you, Chairman Riepe. And thank you, Ms. Lay. I would suggest that we as a Legislature or certainly we as individuals recognize we do have a problem. But we also don't have money. And the director of the region that I'm in, Kathy Seacrest, has talked to me until she's blue in the face about we've got to maintain where we are. My question is were you instrumental in the drafting of this legislation? [LB50]

ELIZABETH LAY: I did look over it, I added some things to it. One of the things that I added is that I wanted them to have to report to the Legislature or to the Department of Behavioral Health, not only what types of resources were available in the region, but where those resources are located. Because a lot of times what we hear is the behavioral health authority saying, well, we have all these resources in our community, we have all these resources in our region. But what they don't say or what they leave out is that those resources, like for example in our region, those resources might be in Norfolk, but we still have people from Cherry County that need those. And that's going to be very difficult for people to come in from that, you know, that length away to use that particular resource. And so one of the things that I thought was extremely important if you're talking about a needs assessment and you're trying to be thorough is not only knowing what resources are available in your region, but where those resources are located and how hard is it going to be for someone who is on the outskirts of that region to make it in to actually use those. Because those barriers to care are very important in trying to figure out whether or not you're actually able to service your target population. And so, you know, that was one of the things that I added in was we need to know not only what resources are available, but how easy are they to access. That's what we were supposed to do when we put all of these things in our community so to speak. Though they didn't go into our communities, they went into one community in a region most likely. And so that was one of the things that I would have liked to have seen more... [LB50]

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SENATOR WILLIAMS: And I also wanted to be clear at least in my understanding of an answer you had to Senator Crawford. You have information available from your office on some of the things listed in here, certainly not all of them. Correct? [LB50]

ELIZABETH LAY: Right. No, not all of them. Obviously we wouldn't have any information on the salaries from the regions and things like that. [LB50]

SENATOR WILLIAMS: Right, thank you. [LB50]

SENATOR RIEPE: Thank you for being here. [LB50]

ELIZABETH LAY: Thank you for listening. [LB50]

SENATOR RIEPE: You've made a contribution and we appreciate that. Other proponents? Seeing none, any opponents? Anyone neutral? Tyler, do we have any letters? [LB50]

CLERK: Yes. I have a letter signed by William Spaulding of the Nebraska Psychological Association in support. [LB50]

SENATOR RIEPE: Okay. Senator Schumacher is not able to be here with us for the close, so we will consider the hearing on LB50 closed. Thank you very much. That concludes our hearing for today. We will be excusing. [LB50]